

Laurel Evans

Subject: FW: Leland Dam Issue

From: Deborah Allen <dallen@leelanau.gov>

Sent: Sunday, July 9, 2023 7:52 PM

To: Steve Christensen <schristensen@leelanau.gov>; Kama Ross <kross@leelanau.gov>

Subject: Fwd: Leland Dam Issue

Steve and Kama,

Sorry for the delay in sharing this opinion from the Attorney. It is reassuring that the county is protected regarding the foot bridge use, and is justified in posting signs for Authorized Personnel only (which in essence could be guests of Falling Waters going to the Cove Restaurant).

We will also be having the County's Risk Management company assess the Dam Control Center and foot bridge in the next month.

I would like to request a more formal approach to addressing a process for when it is appropriate to adjust the lake level, to protect the County and the employees who are tasked with this responsibility.

I'd be happy to meet to discuss options.

Thank you,

Deb

Sent from my iPhone

Begin forwarded message:

From: Deborah Allen <dallen@leelanau.gov>

Date: June 27, 2023 at 5:24:49 PM EDT

To: Tim Perrone <tperrone@cstmlaw.com>

Subject: Re: Leland Dam Issue

Excellent...

Thank you!

Deb

Sent from my iPhone

On Jun 27, 2023, at 3:46 PM, Tim Perrone <tperrone@cstmlaw.com> wrote:

Deb:

Under the terms of the various conveyance and easement documents pertaining to the Leland Dam and the footbridge, Leelanau County is responsible for maintenance and repair of the footbridge immediately upon and over the Leland Dam. However, the County is not required under the Americans with Disabilities Act to make the footbridge over the Leland Dam accessible to persons with disabilities.

Title II of the ADA applies to public entities such as Leelanau County. Under Title II, public entities are not required to make each of their existing facilities accessible. Rather, public entities are only required to make each service, activity or program conducted by the public entity, when viewed in its entirety, to be readily accessible to and usable by persons with disabilities. 28 CFR §35.151(a).

Unlike Title III of the ADA, which requires privately-owned public accommodations to remove architectural barriers where those methods are readily achievable, Title II only requires public entities to make their programs accessible, except where to do so would result in a fundamental alteration to the nature of the program or in undue financial or administrative burdens. Thus, Title II does not require removal of architectural barriers where removal would be required under Title III.

As you informed me, the footbridge is not used for any County program, activity or service open to the general public. Rather, the County only uses the footbridge for its employees to gain access to the Dam for purposes of operation, maintenance and repair of the Dam and the footbridge. The County has been granted easements across the adjacent properties to gain access to the Dam and the footbridge.

Besides the limited use by the County, the footbridge is legally allowed to be used only by the invitees and licensees of the Falling Waters Lodge and the Cove Restaurant under the terms of easements granted by the County to the owners of those properties to traverse across the Carp River a/k/a the Leland River.

The County has granted easements to the owners of the two properties adjacent to the Dam allowing for use of the footbridge by their invitees and licensees. The footbridge is otherwise not available for use by the general public. Under the express terms of the various Grants of Easement, those adjacent property owners are legally responsible for any liability incurred by the use of the footbridge by their invitees and licensees.

The County has legal liability arising out of or in connection with the use of the footbridge by the County, its invitees, agents or licensees, subject to governmental immunity. There is an exception to governmental immunity for a defective public building. MCL 691.1406. However, there is liability only if the governmental agency had actual or constructive knowledge of the defect and, for a reasonable time after acquiring knowledge, failed to remedy the condition or to take action reasonably necessary to protect the public against the condition. Knowledge of the dangerous and defective condition of the public building and time to repair the same shall be conclusively presumed when such defect existed so as to be readily apparent to an ordinary observant person for a period of 90 days or longer before the injury took place.

In summary, the County does not allow the general public to use the footbridge, and the footbridge is not itself a County program, activity or service for which accessibility is required under the ADA. The County is not responsible to remove any architectural barriers on the privately-owned properties adjacent to the Dam and footbridge. Thus, the County may restrict access to the footbridge by the general public, but may not interfere with the use of the footbridge by the easement owners' invitees and licensees. The County is responsible for the repair and maintenance of the footbridge, and should strive to prevent the existence of a defect.

Please contact me if you have any questions, or wish to discuss further.

For deeper background information and details, you may consider the following:

By Court Order, Leelanau County is responsible for maintaining the normal lake level of Lake Leelanau, which is controlled in part by the Leland Dam. In 2004, the County acquired title to the Dam from the Newby Company, which also owned the Falling Waters Lodge, as the prior owner was not financially able to meet State-mandated maintenance obligations for the Dam, whereas the County would have the benefit of assessing the costs to the benefitted owners of land abutting Lake Leelanau.

The Dam is encroached on both sides of the Carp River: on the north by the Cove Restaurant, and on the south by the Falling Waters Lodge. In 2004, the County granted easements for the Falling Waters Lodge to rest upon the County's premises, and for the Newby Company and its heirs, successors and assigns to traverse across the Carp River upon and over the footbridge immediately above the Leland Dam, but not to impinge or impair the County's ability to inspect, repair, reconstruct, replace and maintain the Leland Dam.

The Newby Company agreed to assume liability and hold the County harmless from any and all liabilities, demands, claims, suits, losses, damages, causes of action, fines or judgment costs, attorney and witness fees and expenses, arising out of or in connection with the use of the footbridge by the Newby Company, its invitees, or licensees.

The County subsequently sought to clarify its ownership of the Dam, in light of concerns raised by the owners of the Cove Restaurant, the Wanroys, who claimed ownership of the riverbed under the Dam through the center thread of the river.

On August 2, 2005, the Wanroys executed a Quitclaim Deed, conveying to the County their interest in the Leland Dam Site, including the deck, and all appurtenances and fixtures to the Dam structure, but reserving unto themselves title to and ownership of the physical structure of the Cove Restaurant, and continued access and use of the Restaurant. The Wanroys also reserved a perpetual easement to Bay 4 of the Dam for the support beams and footings for the overhanging restaurant structure.

The Wanroys also executed a Grant of Easement to Leelanau County, granting the County a non-exclusive easement for ingress and egress over the Cove Restaurant property for the purpose of gaining access to the Leland Dam Site, including unobstructed access to Bay 4, and the operation of a control room in Bay 4.

The Grant of Easement further stated that the County agreed to assume liability for and hold the Wanroys harmless from any and all liabilities, demands, claims, suits, losses, damages, causes of action, fines or judgment costs, attorney and witness fees and expenses, arising out of or in connection with the use of the footbridge by the County, their invitees, agents or licensees, provided same are not caused by the intentional negligent acts of the Wanroys, or their employees, agents, invitees or assigns.

Contemporaneously with the conveyance of the Wanroys' property interest to the County, on August 3, 2005, the County executed a Grant of Easement to the Wanroys, for a non-exclusive easement to traverse across the river upon and over the footbridge

over the Dam, and the County agreed to not relocate or permanently remove the footbridge without the grantees' prior written permission.

The Grant of Easement further stated that the County shall be solely responsible for maintaining the footbridge, and shall not allow it to become unsightly or a nuisance. The Wanroys as grantees (for themselves and their successors in interest) agreed to assume liability for and hold the County harmless from any and all liabilities, demands, claims, suits, losses, damages, causes of action, fines or judgment costs, attorney and witness fees and expenses, arising out of or in connection with the use of the footbridge by the grantees, their invitees, or licensees, provided same are not caused by the intentional negligent acts of the County, its employees, agents, invitees or assigns.

Let me know if you need anything further.

Timothy M. Perrone
Cohl, Stoker & Toskey, P.C.
(517) 372-9000
tperrone@cstmlaw.com

This transmission is intended to be delivered only to the named addressee(s) and may contain information that is confidential, proprietary, attorney work-product or attorney-client privileged. If this information is received by anyone other than the named addressee(s), the recipient should immediately notify the sender by E-MAIL and by telephone (517-372-9000) and obtain instructions as to the disposal of the transmitted material. In no event shall this material be read, used, copied, reproduced, stored or retained by anyone other than the named addressee(s), except with the express consent of the sender or the named addressee(s). Thank you.

From: Deborah Allen <dallen@leelanau.gov>
Sent: Wednesday, June 21, 2023 12:40 PM
To: Matt Nordfjord <mnordi@cstmlaw.com>; Tim Perrone <tperrone@cstmlaw.com>
Subject: Leland Dam Issue

Matt and Tim,

Please see the attached document from 2005 regarding the "easement" granted for the walkway over the dam. It is my understanding that the dam, and the walkway over the dam, was sold to the County in for \$1 following the attached easement due to additional liability issues.

The current issue is that the walkway (not the original structure) on/over the dam in question connects two businesses the Falling Waters Hotel, and the Cove Restaurant in Leland. The walkway has been utilized by the public for decades to transverse the two establishments and for foot traffic to access Fishtown.

However, a recent inquiry to the Building Safety Office at the County determined that the current structure as a public footpath does not meet Code in that the bridge connects to the Falling Waters structure and at that point the access to Falling Waters is not ADA compliant.

Clarity is sought as to what liability does the County incur if it continues to allow public access on the bridge, knowing that there is a concern about code on the Falling Waters site?

Thank you,
Deb

Deborah Allen, County Administrator

Leelanau County Government Center

Main: 231-256-8100

Cell: 231-866-1077

Fax: 231-256-0120

dallen@leelanau.gov

The information contained in this communication is intended for the use of the recipient named above and may contain confidential and/or legally-privileged information. If the reader of this communication is not the intended recipient, do not read, copy, disseminate or distribute it. You are hereby notified that any dissemination, distribution, or copying of this communication, or any of its contents, is strictly prohibited. If you have received this communication in error, please re-send this communication to the sender and delete the original message and any copy of it from your computer system. If you need any additional information, please contact the sender at 231.256.8100. Thank you.



MICHIGAN MUNICIPAL
RISK MANAGEMENT
A U T H O R I T Y

August 4, 2023

Deborah Allen, County Administrator
Leelanau County
8527 E. Government Center Drive
Suttons Bay, MI 49682

RE: Park Risk Review

Dear Ms. Allen,

Thank you for meeting with me on July 18, 2023. The purpose of the visit was to conduct a risk control assessment of the county park locations for liability and safety to augment your organization's risk management program. The scope of my review primarily addressed the following:

General Park Safety Recommendations

- Consider implementing an asset management program for county buildings and equipment. This will help in establishing funding requirements for life expectancy, replacement, repair, and maintenance needs.
- Develop a maintenance plan for county park equipment and facilities. Document inspections and any work performed. Keep the documentation records onsite for three years, file them for five years and archive for seven years before destroying them. Pull out any reports that are related to a claim until the claim is closed.
- Replace/repair any wood picnic tables that have splinting or cracking to reduce the potential for injury.
- Install hot coal containers at all parks that have grills to reduce the potential for fire.
- Install flammable storage cabinets at county maintenance buildings for the storage of flammable liquids to reduce the potential for fire.
- Unfortunately, we are unable to recommend asset management contractors due to liability.

County Dam and Walkway

- Review the contract for the walkway access requirements. Does the walkway have to be open for public access or hotel guest access? If it doesn't have to be open for either we recommend the walkway be closed and only county employees have access.
- To reduce risk on the walkway if hotel guests are required to use it by contract, limited access

is preferred. Guests should have a controlled entrance and exit installed that works with the hotel guests room access cards.

- If the walkway is found to be a public access path it should be handicap accessible and updated with any new construction.
- The walkway should have a structural engineer inspect it for structural integrity to determine the life expectancy, repairs/replacement needed on walkway structure components, determine what is the maximum weight allowed on the walkway at one time and establish a maintenance program.
- Install at least a six-foot barrier to prevent the potential for falling through the openings that exist in the walkway at this time. The metal posts are a head entrapment for young children, as well as the bottom of the barrier that has a gap opening.
- Inspect the wood on the walkway for cracked and deteriorated wood that needs to be replaced and/or resealed to prevent splinters and cuts. Check the nails for trip hazards on the wood walkway.
- The lights running along the walkway have open copper wiring exposed and should be removed/replaced to reduce the potential for electrical shock.
- There should be a written policy on who has the authority to raise and lower the lake level and under what parameters. The dam authority should be required to make that decision and develop the policy.
- The access door to the dam pump room should be secured. Consider installing an electronic card reader access that allows the county to regulate who has access to the room and record when the door is opened and by whom.
- The dam control room access door should have a sign posted on the door to read as follows “Leelanau County Dam Control Room - Employees Only”.
- Remove storage of materials from the outside of the dam control room door that are not owned by the county. Any damage to the private materials and equipment stored in the space at this time could be a claim against the county for replacement of damaged items.

Old Settlers’ Park

- Mount the fire extinguisher in the grub shack.
- Paint the gazebo to stop the exposed wood from deteriorating.
- Replace or add new surface material under the playground equipment. The material should be at least 8 inches deep and should extend at least six feet around the perimeter of the equipment. The swing set needs material added in front and behind the set. As a guide, measure the height of the top bar and extend the surfacing a distance equal to twice the height of the bar. The material should extend at least six feet outside the swing set.
- The S-hooks on the swing seats must not be wider than the thickness of a dime.
- The county should be responsible for renting out the chapel and require a rental form with a release of liability waiver and insurance requirements when appropriate. Please review the attached Risk Transfer Manual and Community Property Rental and Use and Management of Sports Fields brochure for more information.
- Resurface the wood on the monkey platform. Install wood fence on the metal wire to eliminate the head entrapment hazard. Resurface the wood on the stairway down to the dock

- and trim the trees that are low and may cause a person to fall.
- Fill in the dirt next to the dock to eliminate the hole that is a trip hazard.

Myles Kimmerly Park

- When renting out the soccer and baseball fields, require a rental form with a release of liability waiver and insurance requirements when appropriate. Please review the attached Risk Transfer Manual and Community Property Rental and Use and Management of Sports Fields brochure for more information.
- The rubber cover on the playground equipment platform is cracked and worn off, exposing the metal and causing it to rust. Remove the cracked rubber, clean the metal and resurface the rubber. The main structure posts have a cracked plastic covering which allows rain to get inside the metal post and the plastic covering causes the metal to rust. This is an old design and is no longer used because of the plastic cracking. There is no real fix to this issue, you should plan to replace this piece eventually.
- Replace or add new surface material under the playground equipment. The material should be at least 8 inches deep and should extend at least six feet around the perimeter of the equipment. The swing set needs material added in front and behind the set. As a guide, measure the height of the top bar and extend the surfacing a distance equal to twice the height of the bar. The material should extend at least six feet outside the swing set.
- All playground sites should have age-appropriate signage or stickers posted on the equipment stating what age groups it was designed for.

Veronica Valley Park

- Install a ladder at the fishing ponds to aid someone that may fall into the water to exit.
- The Mack bridge has openings in the rails more than four inches and is a head entrapment and fall through hazard. Install boards to reduce the opening to smaller than four inches.
- Replace or add new surface material under the playground equipment. The material should be at least 8 inches deep and should extend at least six feet around the perimeter of the equipment. The swing set needs material added in front and behind the set. As a guide, measure the height of the top bar and extend the surfacing a distance equal to twice the height of the bar. The material should extend at least six feet outside the swing set.
- The walking trail system should have plants and tree limbs trimmed back from the trail at least three to four feet from the trail and tree limbs trimmed at least nine feet above the trail to reduce the risk of injury to visitors.
- The covered bridge should have the rail system extended down the sides of the approach to the bridge to reduce falls over the drop off on the sides as discussed. The bridge has openings in the rails more than four inches making it a head entrapment and fall through hazard. Install boards to reduce the opening to smaller than four inches.



MICHIGAN MUNICIPAL
RISK MANAGEMENT
A U T H O R I T Y

MMRMA Services and Resources:

MMRMA’s risk control consultants specialize in public-entity risk management in all municipal areas, including law enforcement, fire/EMS, public services, corrections, and parks & recreation. In addition to onsite visits and consultations, MMRMA offers a library of model policies and other resources in the “Members Only” section of our website, www.mmrma.org. Member employees can request a login and subscribe to newsletters and training announcements and view upcoming committee meetings, training, and important deadlines.

MMRMA also helps members mitigate loss exposures through Risk Avoidance Program (RAP) Certification and accreditation (CAP) grants. Applicants can request reimbursement for specialized equipment, risk reduction initiatives, training, and accreditation programs. Details about RAP/CAP grants are available on the website. Please contact MMRMA’s Risk Control team whenever you have questions about available services, training, or resources.

I appreciate you and your staff making my visit productive and enjoyable. If I may assist you now or in the future, please contact me.

Sincerely,

Terry Van Doren

Terry Van Doren, CPSI, CYSA, CYSC
MMRMA Senior Risk Control Consultant

cc: Matt Coulson, MMRMA Risk Manager

Attached Resources: Risk Transfer Manual; Community Property Rental and Use and Management of Sports Fields brochures; Facility Condition Assessment Program

**QUIT CLAIM DEED
STATUTORY FORM FOR CORPORATIONS**

KNOW ALL MEN BY THESE PRESENTS: That NEWBY COMPANY, INC.

an Illinois corporation, whose address is c/o 200 West Cedar St.
Leland MI 49654

Quit Claims to THE COUNTY OF LEELANAU

whose street number and postoffice address is Leelanau County Courthouse, Leland, Michigan
49654

the following described premises situated in the Township of Leland
County of Leelanau and State of Michigan, to-wit:

See legal description attached as Exhibit A.

This conveyance is exempt from real estate transfer taxes pursuant
to MCL 207.505(a) and MCL 207.526(a).

for the sum of One (\$1.00) Dollar.

Dated this 1st day of January, 2004.

Signed and sealed in presence of

Signed and Sealed:

Riley A. Newby
Georgia J. Newton

By Riley A. Newby (L.S.)
Its President

STATE OF MICHIGAN
COUNTY OF _____ ss.

By Joanna R. Newby (L.S.)
Its Secretary/Treasurer

The foregoing instrument was acknowledged before me this *1) 5th day of January 2004

by *2) Riley A. Newby and Joanna R. Newby

*3) President and Secretary/Treasurer of

*4) Newby Company, Inc., a *5) Illinois corporation

GEORGIA J. NEWTON
Notary Public, Leelanau County, MI
My Commission expires My Commission Expires Dec. 26, 2006

*6) Georgia J. Newton
Leelanau Notary public,
County, Michigan

*Note: (1)insert date (2)insert name of officer(s) (3)title(s) of officer(s) (4)name of corporation acknowledging
(5)state or place of incorporation (6)signature of person taking acknowledgment

Please note the following
1. The name of each person who signs this instrument shall be legibly printed, typed or stamped upon such instrument immediately beneath the signature of such person.

2. If the notarial act is performed outside the State of Michigan, the acknowledgment must show the rank or title and serial number, if any, of the person taking the acknowledgment. The official seal of the person performing the notarial act outside the State of Michigan should be affixed to the deed.

Drafted by: Timothy M. Perrone
(P37940)
Business Address:
601 North Capitol Ave.
Lansing, MI 48933

After recording return to:
Grantee

A

CERTIFICATE OF SURVEY

Page 2 of 4

01 783/223

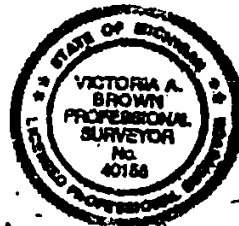
LELAND DAM LEGAL DESCRIPTION

Part of Lot 1 of Block 2 and part of Lots 3 and 1 of Block 4, E. E. Chandler's 2nd Addition to the Village of Leland, all in part of Government Lot 7, Section 9, T30N, R12W, Leland Township, Leelanau County, Michigan, more fully described as follows:

Commencing at the Southeast corner of Lot 1, Block 2, E. E. Chandler's 2nd Addition to the Village of Leland; thence N 73°03'05" E, 26.14 feet to the Southeast corner of the South wall abutment and the POINT OF BEGINNING; thence, along the South dam wall abutment, N 38°36'27" W, 84.22 feet; thence, N 51°23'33" E, 59.54 feet to the North wall abutment; thence, along said North wall abutment, S 38°36'27" E, 63.50 feet to the Northeast corner of said abutment; thence S 30°44'49" W, 58.38 feet to the inside edge of the South wall abutment; thence, across the end of said abutment, S 49°48'41" W, 4.91 feet to the POINT OF BEGINNING. Containing 0.10 acres.

Subject to and together with all agreements, easements, and restrictions as recorded in Liber 438, Page 14, and Liber 337, Page 166, of Leelanau County Records.

Subject to and together with all other agreements, easements and restrictions of record, if any.



by: *Victoria A. Brown*
 LICENSED LAND SURVEYOR
 LIC. # 40158

REVISIONS:	PART OF BLOCKS 2 & 4, E. E. CHANDLER'S 2nd ADDN. TO THE VILL. OF LELAND, SEC. 9, T30N, R12W, LELAND TWP., LEELANAU CO., MICH.	LEELANAU LAND SURVEYING P.O. BOX 701 LELAND, MI. 49654 (231) 256-7352		
	CLIENT: LEELANAU COUNTY	DRAWN: JLH	DATE: 11-25-02	SHEET: 3 of 3
				JOB No: 02117

02117a.DWG

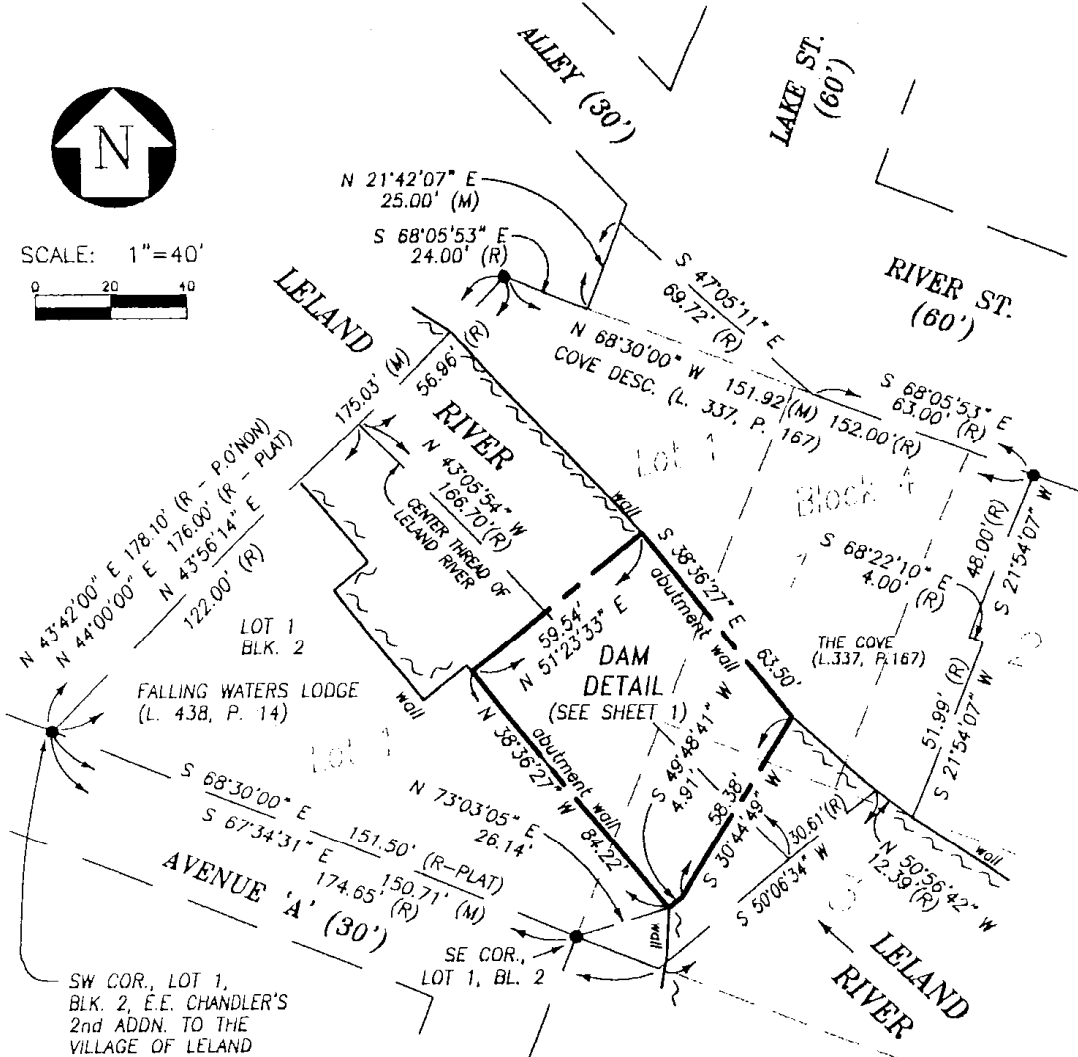
CERTIFICATE OF SURVEY

BEARINGS SHOWN ON THIS SURVEY WERE DETERMINED IN THE FOLLOWING MANNER:
Based on the plat of E. E. Chandler's 2nd Addition to the Village of Leland.



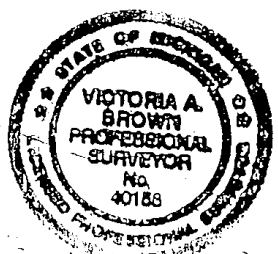
SCALE: 1"=40'
0 20 40

01 783/224
Page 3 of 4



LEGEND:

- = IRON (FND)
- R = RECORD
- M = MEASURED



I hereby certify that I have surveyed and mapped the land above platted and/or described on October 23, 2002 and that the ratio of closure of the unadjusted field observations of such survey was 1/5,000+ and that all of the requirements of P.A. 132, 1970 as amended have been complied with.

by: Victoria A. Brown
LICENSED LAND SURVEYOR
LIC. # 40158

REVISIONS:	PART OF BLOCKS 2 & 4, E. E. CHANDLER'S 2nd ADDN. TO THE VILL. OF LELAND, SEC. 9, T30N, R12W, LELAND TWP., LEELANAU CO., MICH.	LEELANAU LAND SURVEYING P.O. BOX 701 LELAND, MI. 49654 (231) 256-7352
CLIENT: LEELANAU COUNTY	DRAWN: JLH	DATE: 11-25-02
SHEET: 2 of 3		JOB No: 02117

CERTIFICATE OF SURVEY

BEARINGS SHOWN ON THIS SURVEY WERE DETERMINED IN THE FOLLOWING MANNER:
Based on the plat of E. E. Chandler's 2nd Addition to the Village of Leland.

DAM & IMPROVEMENT DETAIL

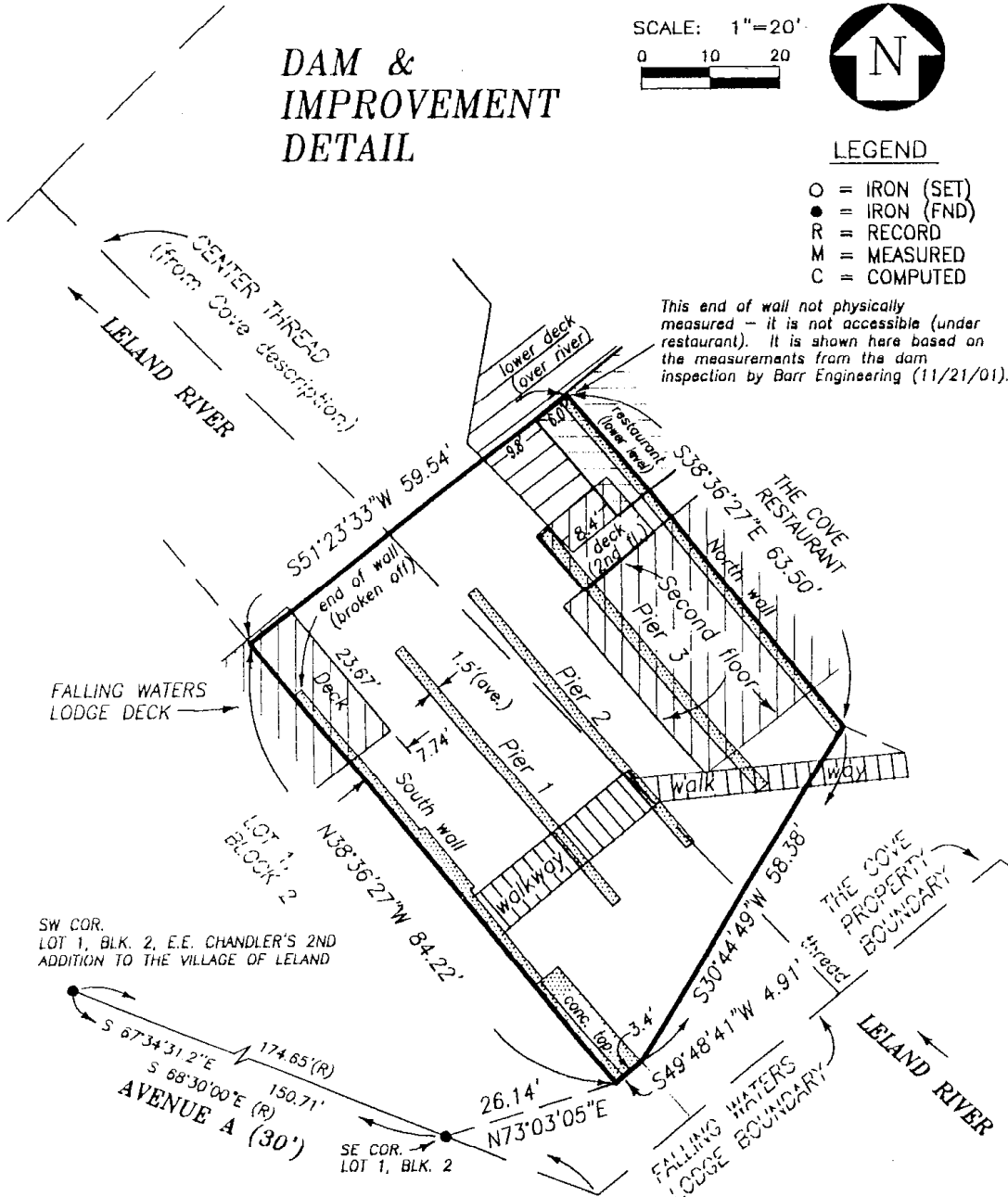
SCALE: 1"=20'
0 10 20



LEGEND

- = IRON (SET)
- = IRON (FND)
- R = RECORD
- M = MEASURED
- C = COMPUTED

This end of wall not physically measured - it is not accessible (under restaurant). It is shown here based on the measurements from the dam inspection by Barr Engineering (11/21/01).

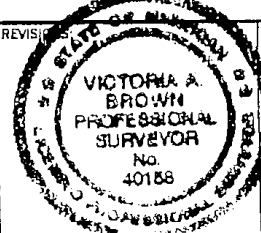


SW COR.
LOT 1, BLK. 2, E.E. CHANDLER'S 2ND
ADDITION TO THE VILLAGE OF LELAND

SE COR.
LOT 1, BLK. 2

I hereby certify that I have surveyed and mapped the land above platted and/or described on October 23, 2002 and that the ratio of closure of the unadjusted field observations of such survey was 1/ 5,000+ and that all of the requirements of P.A. 132, 1970 as amended have been complied with.

by: *Victoria A. Brown*
LICENSED LAND SURVEYOR
LIC. #40158



REVISION: PART OF BLOCKS 2 & 4,
E.E. CHANDLER'S 2ND ADD.
TO LELAND, SEC. 9, T30N,
R12W, LELAND TWP., LEELANAU
CO., MICHIGAN.

LEELANAU LAND SURVEYING
P.O. BOX 701
LELAND, MI. 49654
(231) 256-7352

CLIENT: **LEELANAU COUNTY**

DRAWN: JLH	DATE: 11-25-02	SHEET: 1 of 3	JOB No: 02117
---------------	-------------------	------------------	------------------

01 783/225
Page 4 of 4

Leelanau Conservation District
112 W. Philip Street P.O. Box 205
Lake Leelanau, MI 49653
231-256-9783 or 256-9669
FAX: 231-256-7851

Easements

Post-it® Fax Note	7671	Date	# of pages ▶
To	John P	From	Steve C
Co./Dept.		Co.	
Phone #		Phone #	
Fax #		Fax #	

John
Working on address for
the Dam.

Billing Address → 301 E. Cedar St.
P.O. Box 1107
Leland, mi 49654

Barbara Kirt 7P
Leelanau Register of Deeds
Recording Fees: 0.00
BARB Date 08/03/2005 Time 13:20:44
Page 1 of 7 01 865/100

GRANT OF EASEMENT

This conveyance is made on August 2, 2005, between Richard Wanroy and Phyllis Wanroy, husband and wife, whose address is 506 Front Street, Suttons Bay, Michigan, 49682 ("Grantor"), and County of Leelanau, with principal offices at Leelanau County Courthouse ("Grantee"), upon the following terms and conditions.

1. Purpose. Grantor and Grantee own adjacent parcels of land, Grantee wishes to acquire an easement from Grantor across Grantor's real property which will burden Grantor's parcel for the benefit of Grantee's adjacent parcel.
2. Burdened Property. Grantor is the owner of land in Leland Township (Village of Leland), Leelanau County, Michigan, described as follows: See Attached Legal Description (the "Burdened Premises").
3. Benefitted Property. Grantee is the owner of adjoining land in Leland Township (Village of Leland), Leelanau County, Michigan, described as follows: See Attached Legal Description (the "Benefitted Premises").
4. Consideration. In consideration of One Dollar (\$1.00) and the mutual promises contained herein.
5. Description of Easement. Grantor grants to Grantee a non-exclusive easement for ingress and egress as described on the Attached Legal Description (Easement Premises) for the purpose of gaining access to the Leland Dam Site, including but not limited to unobstructed access to Bay 4 of the Leland Dam Site as described on the attached Exhibit B, and the operation of a control room in Bay 4. The access route over the Deck Easement "A" is expressed as a general location. It is anticipated that Grantor may use a portion of the Easement Premises for placement of restaurant tables and other items associated with Grantor's business, in which case Grantee may gain access by deviating from the easement path by way of other parts of the Burdened Property.
6. Restrictions.
 1. Grantee shall use the Easement Premises for power lines and data transmission lines to the control room in Bay 4, and otherwise for pedestrian (foot) traffic only;

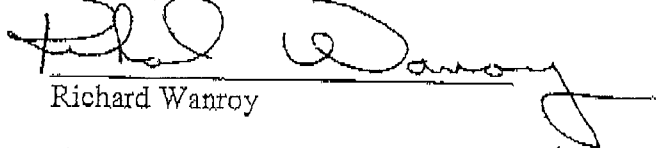
- 2. Grantee's installation of power lines and data transmission lines shall be limited to the easement area described in Exhibit B; as Easement B.
- 3. Grantee shall use the Easement Premises during normal business hours only (8:00am to 5:00pm Monday through Friday, no weekends), except in the case of emergency or with the prior consent of Grantor. Grantee shall have emergency access to the control room in Bay 4 at all times. Grantor shall provide Grantee with a key to any locks used to prevent access to Bay 4.
- 4. Any physical modifications to the Burdened Property necessitated by access to the Benefitted Property for the installation and maintenance of power lines and data transmission lines to the control room in Bay 4 shall be restored to their original condition by Grantee at Grantee's expense.

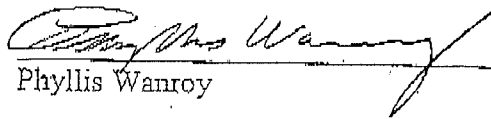
7. Interest in Realty. The easement over the Burdened Premises is for the use and benefit of the Benefitted Premises and is to be an appurtenance to the Benefitted Premises and run with the land. The Grantee agrees to assume liability for and hold the Grantor harmless from any and all liabilities, demands, claims, suits, losses, damages, causes of action, fines or judgment costs, attorney and witness fees and expenses, arising out of or in connection with the use of the footbridge by the Grantee, their invitees, agents, or licensees, provided same are not caused by the intentional or negligent acts of the Grantor, its employees, agents, invitees or assigns.

8. Assignment. This grant of easement shall be binding upon and inure to the benefit of the parties hereto, their heirs, representatives, successors and assigns.

This conveyance is exempt from real estate transfer taxes pursuant to MCL 207.505(a) and MCL 207.526(a).

GRANTOR


Richard Wanroy


Phyllis Wanroy

01 865/101

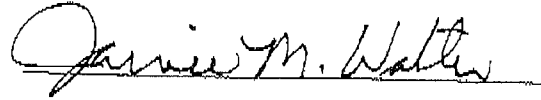
Page 2 of 7

STATE OF MICHIGAN)
COUNTY OF LEELANAU)

Page 3 of 7

01 865/102

The foregoing instrument was acknowledged before me this 2 day of August, 2005, by Richard Wanroy and Phyllis Wanroy, husband and wife.



Prepared by:
Timothy M. Ferrone (P37940)
Cohl, Stoker, Toskey & McGlinchey, PC
601 North Capitol Avenue
Lansing, Michigan 48933
517.372.9000

JANICE M. WALTER
Notary Public, Leelanau County, MI
My Commission Expires 12-15-2006

Acting in Leelanau
County, MI

N:\Client\Leelanau\Agreements\Wanroys\Grant of Easement 02.wpd

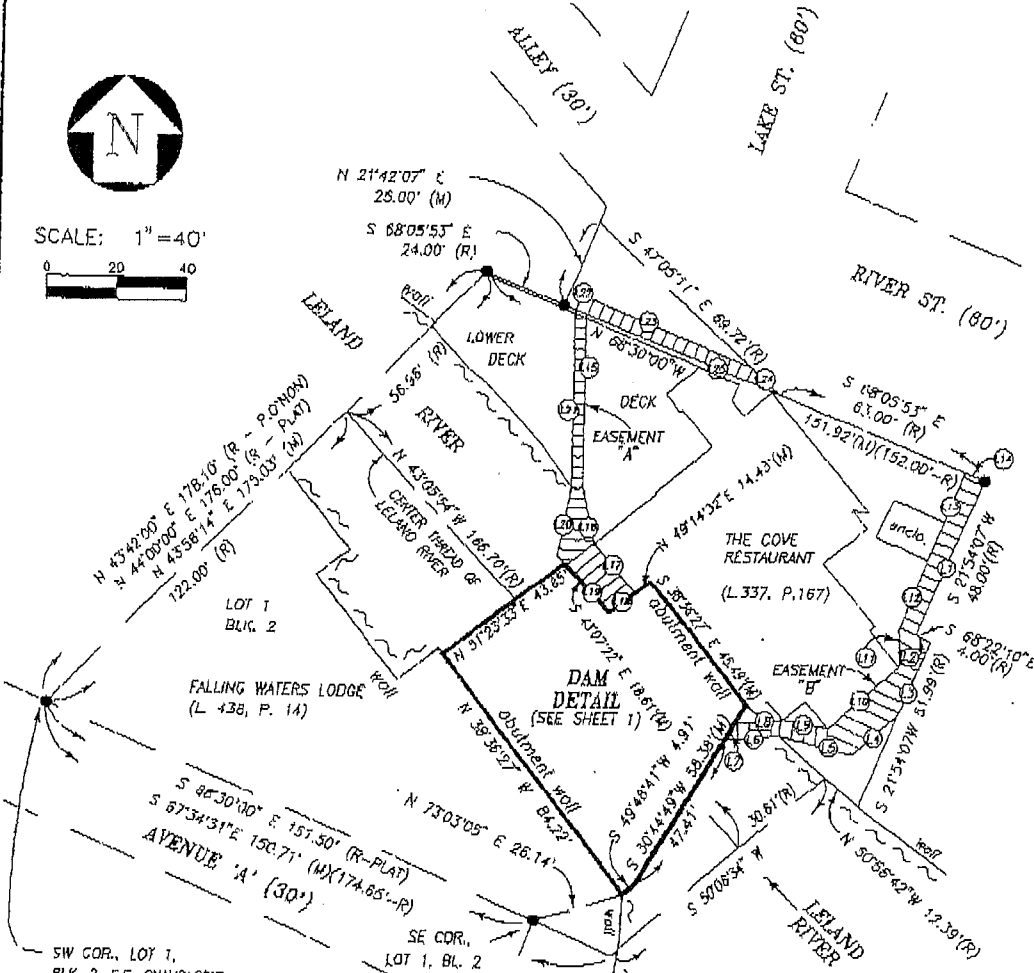
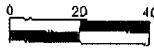
Burdened Premises

CERTIFICATE OF SURVEY

BEARINGS SHOWN ON THIS SURVEY WERE DETERMINED IN THE FOLLOWING MANNER:
Based on the plat of E. E. Chandler's 2nd Addition to the Village of Leland.



SCALE: 1" = 40'



LEGEND

- = IRON (FND)
- R = RECORD
- M = MEASURED

EASEMENT "A"	
L15	S 00°04'42" E 48.48'
L16	S 12°22'08" E 17.14'
L17	S 39°24'30" E 18.19'
L18	S 49°14'32" W 8.85'
L19	N 43°07'22" W 22.08'
L20	N 09°56'04" E 20.76'
L21	N 00°04'42" W 49.67'
L22	N 21°30'08" E 5.00'
L23	S 68°30'00" E 49.22'
L24	S 46°16'33" E 13.51'
L25	N 66°29'52" W 58.55'

EASEMENT "B"	
L1	S 21°39'01" W 48.91'
L2	S 84°36'25" E 4.60'
L3	S 22°43'04" W 22.58'
L4	S 47°45'01" W 17.24'
L5	N 75°52'02" W 21.29'
L6	S 84°15'45" W 14.78'
L7	N 30°44'49" E 5.04'
L8	N 63°47'29" E 13.56'
L9	S 80°27'18" E 12.75'
L10	N 47°45'01" E 26.33'
L11	N 02°05'38" W 10.89'
L12	N 20°52'39" E 21.72'
L13	N 24°02'29" E 27.53'
L14	S 68°30'00" E 4.34'

I hereby certify that I have surveyed and mapped the land above plotted and/or described on October 23, 2002 and that the ratio of closure of the unadjusted field observations of such survey was 1/ 5,000+ and that all of the requirements of P.A. 132, 1970 as amended have been complied with.

by:
 LIC. # 01158 SURVEYOR
 No. 10189

REV. JOHS

Revised 5/6/05-added walking easements.

PART OF BLOCKS 2 & 4,
F. E. CHANDLER'S 2nd ADDN.
TO THE VILL. OF LEELAND,
SEC. 9, T30N, R12W, LEELAND
TWP, LEELANAU CO., MICH.

LEELANAU LAND SURVEYING
P.O. BOX 701
LEELAND, MI. 49654
(231) 256-7352

CLIENT:

LEELANAU COUNTY

DRAWN:

JLH

DATE:

5-6-05

SHEET:

2 of 4

JOB No:

02117

02117a DWG

01 865/103

Page 4 of 7

From: [Steve Christensen](#)
To: [Laurel Evans](#)
Subject: FW: South Lake Leelanau Lake Levels
Date: Thursday, August 10, 2023 1:38:39 PM

From: Steve Christensen
Sent: Wednesday, August 9, 2023 10:21 AM
To: Kama Ross <kross@leelanau.gov>; andrewdavidwarner@gmail.com; Garth Greenan <garth_gr@yahoo.com>; richard_thompson@charter.net
Subject: FW: South Lake Leelanau Lake Levels

More info on the lake

From: Deborah Allen <dallen@leelanau.gov>
Sent: Friday, August 4, 2023 4:07 PM
To: Steve Christensen <schristensen@leelanau.gov>
Subject: FW: South Lake Leelanau Lake Levels

As Chairman of the Leeland Dam Authority would you consider attending the BOC meeting on Tuesday to make public comment, or to respond.

Sorry, but this issue is gaining momentum.

Deb

Deborah Allen
County Administrator
Leelanau County Government Center
Suttons Bay, MI 49682
Phone: 231-256-8100
Cell: 231-866-1077

From: Doug Rexroat <drexroat@leelanau.gov>
Sent: Friday, August 4, 2023 9:22 AM
To: Deborah Allen <dallen@leelanau.gov>
Cc: Ty Wessell <twessell@leelanau.gov>; Jamie Kramer <jkramer@leelanau.gov>; James O'Rourke <jorourke@leelanau.gov>; Kama Ross <kross@leelanau.gov>; Gwenne Allgaier <gallgaier@leelanau.gov>; Melinda Lautner <mlautner@leelanau.gov>
Subject: FW: South Lake Leelanau Lake Levels

I am copying you all on this email I received. I too have a modest cottage on the South end of Lake Leelanau and have observed the same problems, as have my neighbors. I think this problem is exacerbated by the slow addition of sediment in both the narrows and the Leland river, which restricts flow from the south end of the lake. I do not know what has

changed in the dams operation, but this is particularly concerning given the fact that we have had a very dry summer. In a normal summer the problem would be even worse.

Thank you

Douglas Rexroat
County Commissioner District 3
drexroat@leelanau.gov

From: Melissa Crump <mcjams3@charter.net>
Sent: Friday, July 28, 2023 5:04 PM
To: Doug Rexroat <drexroat@leelanau.gov>
Subject: South Lake Leelanau Lake Levels

Commissioner Rexroat,

My name is Chris Crump resident on South Lake Leelanau District 3, I am writing this communication to make you aware and bring resolution to the excessively high lake levels this year on South Lake Leelanau. I understand the court mandated levels and the restructuring of the Leland Dam Authority. Whomever is directly responsible this year is really failing us residents on South Lake Leelanau. Shores eroding among other flooding issues. I have been a resident of South Lake Leelanau since 2016, the flooding, over flowing shores of South Lake Leelanau is unacceptable. Please read this complaint at the next board meeting for discussion and resolution. Also please do everything in your power to return the operation of the dam and lake levels to the historic operation whereas the dam was operated at a lower level during summer, lowering South Lake Leelanau yet the flowing water stayed at within court ordered levels on north lake even though the dam was lower the water flowed at the higher level. Whatever changed in the operation of the dam from the past several years to this year is flawed, need to get back to the historic operation, not the flawed operation of this years dam levels

Thanks- Hope you can help-

All South Lake Leelanau Residents that have flooding issues due to poor operation of the Leland Dam

Sent from [Mail](#) for Windows