

204
EDMUND O. LUTHY,
P.O. BOX 232,
CINCINNATI, OHIO.

December
Fourth,
1913.

Mr. Wm. S. Lodge,
c/o B. Lodge & Company,
91 N. Pearl St.,
Albany, N.Y.

Dear Sir:-

Your letter of 2nd inst., received this morning and contents fully noted. I shall await your further report from Mr. Wickes.

It appears that no one is positive that the dam was cut out by Mr. Newton. Mr. McKim wrote me that he had corresponded with Mr. Newton regarding the dam at the time we had the reconstruction in view, in fact it was through Mr. McKim that I learned Mr. I. C. Newton purchased the property at the end of the lake from the Isaac-Harris Estate. If Mr. Newton resented the matter of repairing the dam, it must have been through correspondence between Mr. McKim and himself, for I have never written or spoken to Mr. Newton, in fact, do not know him.

While, as Mr. McKim stated, there is no law to compel the owner of the land upon which the dam is located, to maintain the same, I believe that the Conservation Commission has authority to compel Mr. Newton, as owner of the land, to replace and restore this dam at his expense, if he destroyed it.

It would be impossible and impracticable to construct a concrete dam at this time of the year. I am of the same opinion as you and Mr. Wickes, ~~provided~~ the Conservation Commission cannot compel Mr. Newton to restore the dam, it ought to be rebuilt immediately of wood, if the Conservation Commission will approve that construction, but in the event that we should rebuild it, what assurance or protection would we have ~~in the event~~ should it again be demolished? Will you ascertain, if our Association should rebuild this dam, whether the Conservation Commission will protect and safeguard it against further destruction?

I have in my hands, as Treasurer, \$90.00 (\$10.00 of which came to me yesterday from Mrs. Cowan when she heard of the trouble with the dam). If the Conservation Commission will not compel Mr. Newton to rebuild the dam and refuses to construct it themselves, levying the assessment of the cost against the owners of the land on the lake, I would advise that you get the written approval from the Commission for reconstructing the dam of wood and

287

write Abe Moore ~~ka~~ ^{to} at once/go to work and restore the dam. I doubt whether we can construct it without the Commission's approval and we should really have their assurance of protection from further destruction.

Did you inquire of Mr. McKim regarding the matters in my letter of the 29th inst., more especially as to why the Commission did not approve our application and plans which we filed early in September?

If you think that Mr. Flint (who is personally acquainted with members of the Commission) can be of any assistance to you in the matter, I would suggest that you wire him to come on to Albany. His address is - Peter Flint,
55 East Twenty-first St.,
New York, N.Y.

If he needs any money to come on, kindly send it to him and send me vouchers and I will re-imburse you from the funds of the Association. If you have any other expense in this matter, please send vouchers to me.

I sincerely trust you may be able, being on the spot, to induce the Conservation Commission to take action against Mr. Newton, if he destroyed the dam and to compel him to restore it.

Whatever action you take in this entire matter will have my sanction.

Yours truly, *Edmund O. Luthy, Secy. Treas.*
E.C.P.O. Association

P.S. Since writing this I received a letter from Mr. Wickes, saying he had written you the same as he wrote me. Mr. Alden also wrote to Wicks and expressed himself in favor of enforcing the legal rights of the owners. Wicks cannot say off-hand what our legal rights are and says the situation is novel. I agree with both these gentlemen as soon as we ascertain if we have any cause in action. Our duty, as officers of our association, first, is to see what the Commission will do and I trust you will keep after them. Mr. Flint also wrote me at length and states, if necessary, he will come to Albany by night boat, Manhattan Line (Round-trip fare \$3.50 with state-room), spending the day in Albany. If he can assist you wire him to come on.

E.O.L.