

Cedar Meadow Lake Watershed District

- Newsletter -

October 2011

Court of Appeals Issues Favorable Ruling

A much-awaited decision of Central Water District Associates' ("CWDA") appeal seeking higher interest on the jury verdict was issued on September 26th. In its decision, the Massachusetts Court of Appeals determined that CWDA should have been entitled to compounded interest rather than statutory simple interest. This adds approximately \$127,000 to the amount our District owes CWDA, a much lower amount than the additional \$815,000 that CWDA was seeking.

CWDA sued the District following the 1997 eminent domain taking by our District seeking higher compensation than the amount paid by the District. This matter languished for 12 years while CWDA made numerous unsuccessful attempts to stop the Massachusetts Department of Revenue from attaching liens to Cedar Meadow Lake, Burncoat Pond and Stiles Reservoir in their attempt to collect \$1.5 million in unpaid taxes owed by Raymond Shea Sr., the managing partner of CWDA. The suit was finally heard in a Superior Court jury trial in August 2009. The jury concluded that, at the time of the taking, the dam and land under Cedar Meadow Lake was worth \$1.1 million more than was paid by our District.

Just prior to the start of this trial, CWDA sought higher interest rates than prescribed by statute on any subsequent jury verdict. Rather than use interest rates tied to U. S. Treasury notes, CWDA sought to tie interest rates to AAA rated bonds. They also sought compounded interest rather than simple interest. The trial judge, Judge McCann, bifurcated the interest matter from the main trial with the understanding that a separate trial would be conducted to decide the interest rates to be applied to any jury verdict amount. At the conclusion of the main trial our attorney sought, and was granted, a "summary judgement" concerning the interest issue, meaning that there would be no trial to decide this issue. CWDA appealed Judge McCann's ruling. Legal briefs were entered by both sides and oral arguments were made before the Massachusetts Court of Appeals in February 2011.

The additional \$127,000 in interest resulting from the higher court decision brings the total amount currently owed CWDA to \$1.7 million. CWDA could still appeal the interest matter to the Massachusetts Supreme Court. We will continue to follow this matter closely and keep you informed.

Dam Repair Update

Exploratory excavations were made on the dam crest on September 29 under the supervision of Fuss & O'Neill Engineering, and with the approval of the Office of Dam Safety. The purpose of this work was to find the source of the leaks that caused the sinkhole to develop on the dam crest on August 28. It was important that this work be performed while water levels were still high. As a result of this exploratory work, repair efforts can now be better directed later this year when the lake is drawn down.

