

Mill Pond Property Ownership

June 14, 2000

Ownership of the Bangor Mill Pond and its flowage rights transferred from the original owner Charles U. Cross and his brother Calvin Cross to the City of Bangor when the city acquired ownership in 1974. However, local records indicate that the City of Bangor has asserted ownership and/or control over the Mill Pond for at least 50 years.

The 1880 History of Berrien and Van Buren Counties

The property was recorded in Charles U. Cross' name in 1845. When he purchased the land for "water privilege." Flowage rights begin.

At the time, the property was part of South Haven Township which was organized in 1836-7. Charles U. Cross, with James Monroe surveyed and cut a road from Kalamazoo to South Haven. He ultimately built his home in the Township and purchased the land in 1845.

In 1846 the sawmill was built and put into operation.

Brother Calvin Cross became the owner of the property and took over the sawmill operation in 1850. Calvin Cross ultimately sold the property and sawmill in 1856 to Joseph H. Nyman.

The 1880 *History of Berrien and Van Buren Counties* reports that Mr. Nyman purchased the sawmill and water privileges. This indicates that the flowage rights were actually conveyed and not simply acquired by prescription. Flowage rights strengthened. Thereafter, all property purchases along the Mill Pond only conveyed property rights to the high water mark of the Mill Pond. Riparian ownership to the river bed up to the "thread," that is the center of the middle of the river do not exist.

In 1857, Nyman raised the dam to its current level of 12 feet.

On October 14, 1853 the area was organized as Marion Township but five days later, October 19, 1853 changed its name to Bangor Township.

On March 21, 1877 the area was incorporated as the Village of Bangor.

On February 5, 1968 the area incorporated as the City of Bangor.

The sawmill continued to operate into the early 1950's.

The current dam was constructed in 1973.

The City of Bangor acquired the property and its flowage rights in 1974. Also in 1974, the City obtained a permit from the Michigan Department of Natural Resources to maintain a six-foot water head. Ownership recognized by State of Michigan.

OWNERSHIP BY FLOWAGE RIGHTS

Miller, Canfield, Paddock and Stone, Kalamazoo

“The City of Bangor’s rights to the Mill Pond, and to flood the Mill Pond bottomlands by reimpoundment are known as “flowage” rights. Flowage rights are property rights acquired by the city through acquisition of the property now known as Lions Park. That property was owned by the owners of the mill and the dam which were built on that property. The flowage rights acquired by the previous owners of the dam are attached to, and benefit that property, in much the same way as an easement for access for access may benefit one property by burdening (or running across) another.”

CONCLUSION

The City acquired the flowage rights when it acquired the property. Thus, adjacent property owners of the Mill Pond have riparian rights to the high water mark of the old Mill Pond. Property along the Mill Pond that may have been purchased prior to 1845 may have riparian rights to the thread of the Black River. However, no such record of prior ownership was found in any search of records or the history of the area.