



# Town of Fort Ann

## Lake Hadlock Dam Collapse

### Report of Examination

Period Covered:

July 2, 2005 — September 10, 2012

2013M-60



Thomas P. DiNapoli

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# State of New York Office of the State Comptroller

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## **Division of Local Government and School Accountability**

May 2013

Dear Town Officials:

A top priority of the Office of the State Comptroller is to help local government officials manage government resources efficiently and effectively and, by so doing, provide accountability for tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of local governments statewide, as well as compliance with relevant statutes and observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations and Town Board governance. Audits also can identify strategies to reduce costs and to strengthen controls intended to safeguard local government assets.

Following is a report of our audit of Town of Fort Ann, entitled Lake Hadlock Dam Collapse. This audit was conducted pursuant to Article V, Section 1 of the State Constitution and the State Comptroller's authority as set forth in Article 3 of the General Municipal Law.

This audit's results and recommendations are resources for local government officials to use in effectively managing operations and in meeting the expectations of their constituents. If you have questions about this report, please feel free to contact the local regional office for your county, as listed at the end of this report.

Respectfully submitted,

*Office of the State Comptroller  
Division of Local Government  
and School Accountability*

# Introduction

## Background

The Town of Fort Ann (Town) is located in Washington County and has a population of approximately 6,200 residents. The Town Board (Board), which comprises five elected members, the Town Supervisor and four Board members, governs the Town. The Board is responsible for the general management and control of the Town's financial affairs. The Town Supervisor is the chief executive officer and chief fiscal officer of the Town and is responsible for virtually all of the Town's financial duties.

The Town provides a variety of services to its residents, including street maintenance and improvement, snow removal, justice court, fire protection, and general government support. The Town's 2012 adopted budget contained total appropriations of approximately \$2.2 million. The Town derives its revenues mainly from real property tax, sales tax and State aid.

The Lake Hadlock Park District (District), which was created on October 21, 1976, has 349 parcels which are assessed a special district tax to pay for the District's maintenance and improvements.<sup>1</sup> The District's 2011 expenditures were \$468,021. The Lake Hadlock Dam (Dam), which is located within the District, was under repair from September 2004 to May 2005. On July 2, 2005, the Dam collapsed, causing extensive damage to the Dam and the surrounding area including Goodman Road in the Town. The Town had three active capital projects during our audit period. These capital projects included the reconstruction of the Dam and Goodman Road.

Our office was contacted by multiple Town officials and residents of the District expressing concerns about the use of and accounting for proceeds to finance the repair and reconstruction associated with the collapse of the Dam. As a result, we initiated an audit of the capital projects associated with the repair and reconstruction of the Dam.

## Objective

The objective of our audit was to review the Town's accounting for the two capital projects associated with the collapse of the Dam. Our audit addressed the following related question:

- Were the proceeds received and spent for the capital projects associated with the collapse and reconstruction of the Dam properly accounted for?

<sup>1</sup> According to Town Law, maintenance and improvements are wholly the responsibility of the District.

**Scope and  
Methodology**

Our overall goal was to review the Town's accounting for the capital projects associated with the collapse of the Dam. To accomplish this, we performed an initial assessment of controls over the capital projects associated with the collapse of the Dam. Based on that evaluation, we determined that limited risk existed in most of the financial areas we reviewed. We did determine that risk existed regarding the proceeds received and spent, and, therefore, we examined the way proceeds were received and spent, for the period July 2, 2005, to September 10, 2012.

We conducted our audit in accordance with generally accepted government auditing standards (GAGAS). More information on such standards and the methodology used in performing this audit are included in Appendix B of this report.

**Comments of  
Local Officials**

The results of our audit and recommendations have been discussed with Town officials and their comments, which appear in Appendix A, have been considered in preparing this report. Town officials agreed with our finding.

## Lake Hadlock Dam Collapse

The Board is responsible for the effective financial planning and management of capital projects in the Town. As such, the Board is responsible for establishing an adequate system of controls so each capital project is properly established and managed and that all funds are properly accounted for. These controls should ensure that projects are properly planned, funding is authorized,<sup>2</sup> and costs are within approved levels, appropriate, and accurate. The Board should seek requests for proposals or competitive bids for the work performed to ensure that contracts are awarded on the most favorable terms and conditions for the taxpayers. These controls should also ensure that projects are completed timely, any amendments to project plans are valid and subjected to Board review and approval, and all projects comply with relevant laws and policies.

The Lake Hadlock Dam (Dam), which is located in the Lake Hadlock Park District (District), was under repair from September 2004 to May 2005. On July 2, 2005, the Dam collapsed, causing extensive damage to the Dam and the surrounding area. There were two capital projects initiated as a result of the Dam collapse. One was for the reconstruction of the Dam and the other was for the repair of Goodman Road. We found that the Town properly accounted for the proceeds received and spent on these capital projects. The combined costs of the projects totaled approximately \$6.7 million (see Table 1).

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<sup>2</sup> When a town is financing a capital project with the proceeds of bonds or bond anticipation notes (BANs), Local Finance Law requires that a bond resolution be adopted, providing a description of the project, the estimated maximum cost, and a plan of financing the total cost of the project. The proceeds of bonds or BANs can only be expended for the purpose for which the obligations were issued or, if there are excess proceeds, to pay the debt service on those obligations.

<b>Table 1: Summary of Projects</b>			
	<b>Dam Reconstruction</b>	<b>Goodman Road</b>	<b>Total</b>
<b>Funding Sources</b>			
BANs Issued	\$4,800,000	\$1,000,000	\$5,800,000
Grants Received	\$1,000,000	\$0	\$1,000,000
Total Funding for Projects	\$5,800,000	\$1,000,000	\$6,800,000
<b>Project Expenditures</b>			
Engineer Fees	\$1,022,906	\$31,411	\$1,054,317
Attorney Fees	\$204,276		\$204,276
Stabilization	\$656,239		\$656,239
Construction Cost	\$3,866,020	\$870,481	\$4,736,501
Insurance	\$73,301		\$73,301
Total Project Expenditures	\$5,822,742	\$901,892	\$6,724,634
Excess (Shortage) of Funding Sources	(\$22,742)	\$98,108	\$75,366

Dam Reconstruction Project — At the start of the project, the Board sought requests for proposals for engineering services and bids for the stabilization and reconstruction of the Dam. The project was originally estimated to cost \$3.3 million. The Board established a budget for the project<sup>3</sup> and authorized \$3.3 million in BANs to finance the project. Once the Town started the project, it encountered unexpected environmental issues and more damage to the area than originally anticipated. These issues caused the project’s cost to increase to \$5.8 million.<sup>4</sup> The Board then authorized an additional \$1.5 million in BANs to finance a portion of the increased cost. In addition, the Town received a \$1 million grant from the Department of Environmental Conservation for sediment removal associated with the Dam breaching and the outlet works rehabilitation project.

Because of the \$2.5 million increase in the project’s cost, we reviewed all three of the change orders<sup>5</sup> that were associated with construction costs of \$306,956 and stabilization costs of \$380,000. We determined they were valid and Board-approved. We also reviewed all 233 claims associated with this project and the annual BAN principal and interest payments. We determined they were for appropriate project purposes and correctly allocated to the project.

Goodman Road Project — The Board established a budget of \$1 million and authorized the use of BANs of \$1 million to finance the

<sup>3</sup> On June 12, 2006, the Board established the original budget totaling \$3.3 million.

<sup>4</sup> On October 10, 2006, the Board increased the budget to \$4.8 million. On March 27, 2007, the Board increased the budget to \$5.8 million.

<sup>5</sup> The \$2.5 million increase in project costs were attributable to increased engineering fees, legal costs, insurance, and construction costs.

project. The cost to repair the road came in under budget and totaled \$901,892. The remaining BAN proceeds of \$98,108 were used to make payments on the BAN. We reviewed all 17 claims associated with this project and the annual BAN principal and interest payments. We determined they were for appropriate project purposes and correctly allocated to the project.

In March 2012, the Town received a settlement of \$3.9 million from the construction company that originally repaired the Dam prior to its collapse. The Board allocated \$544,000 to pay off the outstanding balance on the BAN for the road project and the remaining \$3,356,000 to the outstanding debt from the original repair in 2004 and the subsequent reconstruction in 2005.<sup>6</sup> As of September 2012, the outstanding BAN balance for the reconstruction was \$1,694,000.

In addition to the costs associated with the reconstruction of the Dam and the road, there were extensive legal bills associated with the collapse of the Dam. The Town was involved in litigation with the construction company that originally repaired the Dam prior to its collapse on July 2, 2005. In addition, the Town received numerous Freedom of Information Law requests and incurred legal costs for the issuance of BANs to finance the projects. As a result, the Town incurred legal costs totaling approximately \$350,000.<sup>7</sup> Because of the large amount of legal expenses, we reviewed all the legal bills. We found they were properly allocated to the appropriate projects or to the District in general.

Overall, we found that the Town properly accounted for the proceeds received and spent for the projects associated with the collapse of the Dam in accordance with the Board's actions to establish and finance the projects.

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<sup>6</sup> At this time, there was \$5,050,000 still outstanding. This included outstanding debt from the original project that was completed prior to the Dam collapse.

<sup>7</sup> \$204,276 of legal fees were allocated to the projects, while \$145,582 were allocated to the District.



**APPENDIX A**  
**RESPONSE FROM LOCAL OFFICIALS**

The local officials' response to this audit can be found on the following page.

Town of Fort Ann  
80 George Street  
Fort Ann, NY 12827

Darlene Z. Dumas

Supervisor

May 1, 2013

NYS Office of the State Comptroller  
Division of Local Government and School Accountability  
One Broad Street Plaza  
Glens Falls, NY 12801

Att: [REDACTED]

Dear [REDACTED]:

This letter is in response to the preliminary audit draft report on the Town of Fort Ann Lake Hadlock Dam Collapse.

After reading the draft report I find that I am in agreement with the findings of the Comptroller's office. I believe that they did a thorough audit with regards to the capital projects associated with the collapse and reconstruction of the Hadlock Dam.

Since there were no recommendations from the Comptroller's office that would eliminate the need for our Town to provide you with any CAPs, I would like to thank you, [REDACTED] and the rest of your staff for performing this audit and how pleased we are with the results of this draft report.

Sincerely,

Darlene Z. Dumas  
Fort Ann Town Supervisor

## APPENDIX B

### AUDIT METHODOLOGY AND STANDARDS

To accomplish our objective, we interviewed appropriate Town officials and employees, reviewed records, and examined pertinent documents for the period July 2, 2005, to September 10, 2012, that related to the Lake Hadlock Dam collapse and reconstruction. Our procedures included the following:

- We reviewed documents to determine when the Lake Hadlock Park District was established.
- We interviewed Town officials and employees to gain an understanding about the Dam repair and the subsequent collapse on July 2, 2005.
- We interviewed Town officials and employees to gain an understanding about the capital projects the Town approved regarding the Dam reconstruction and Goodman Road repair.
- We reviewed Board minutes to determine if the Board sought requests for proposals or bids for the capital projects.
- We interviewed Town officials and employees and reviewed Board minutes, Bond Anticipation Note (BAN) documents, bank statements (wire transfers), and the general journal, general ledger, and BAN schedule to gain an understanding of the financing for the capital projects.
- We reviewed Board resolutions regarding the state of emergency declared by the Board for Goodman Road.
- We reviewed BAN documents and financial records to determine if the proceeds from the BANs were allocated correctly.
- We reviewed financial records to determine if cash receipts and disbursements for the capital project for the Dam were properly allocated.
- We reviewed all the claims paid from January 1, 2005, to February 5, 2010, that were allocated to the Dam, totaling approximately \$5.8 million.
- We reviewed financial records to determine if cash receipts and disbursements for the repair of Goodman Road were properly allocated.
- We reviewed all the claims paid from January 1, 2005, to December 31, 2006, that were allocated to Goodman Road, totaling approximately \$902,000.
- We reviewed the legal bills from January 1, 2005, to March 31, 2012, totaling approximately \$350,000, to determine if they were properly allocated.

We conducted this performance audit in accordance with generally accepted government auditing standards (GAGAS). Those standards require that we plan and perform the audit to obtain sufficient,

appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

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**AND SCHOOL ACCOUNTABILITY**

Andrew A. SanFilippo, Executive Deputy Comptroller  
Nathalie N. Carey, Assistant Comptroller

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