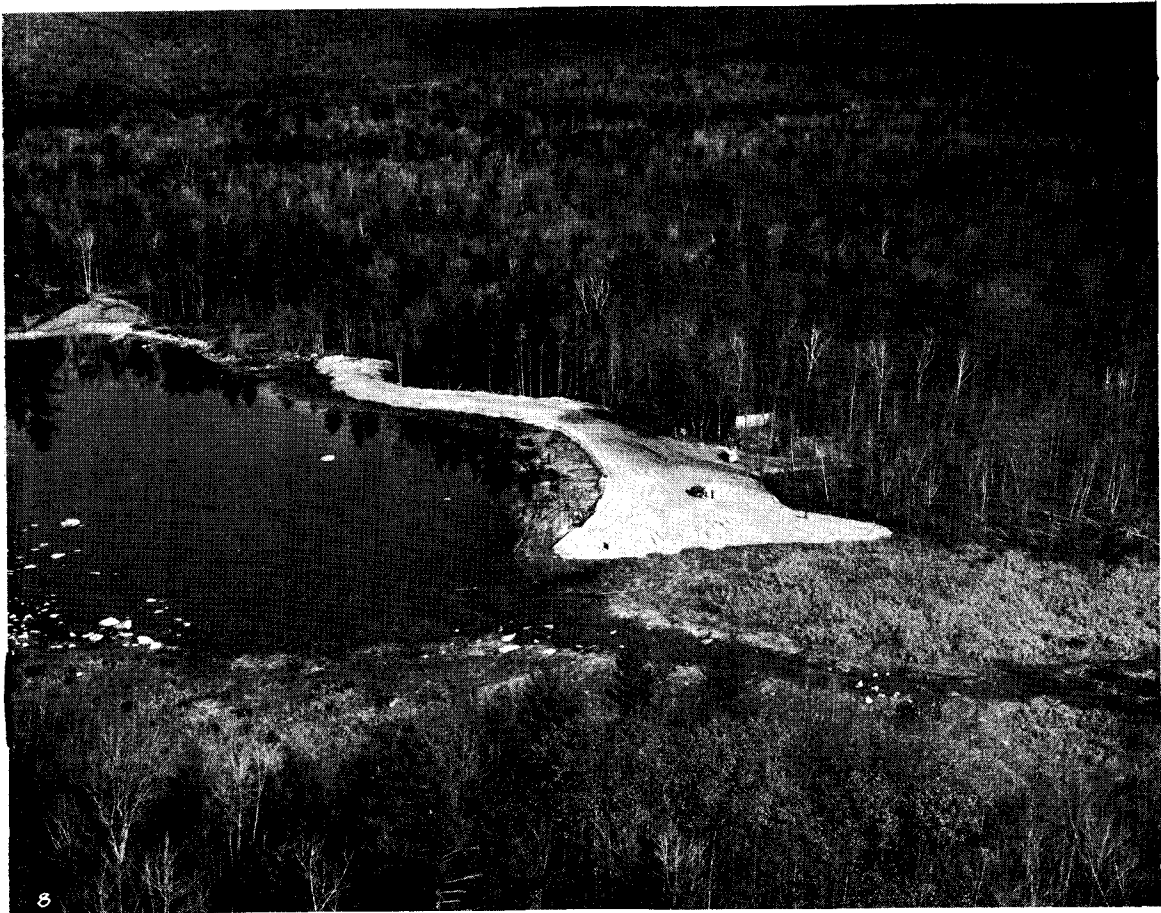


# Sturtevant Bay Filling: A Landmark Case



by Malcolm Taylor

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*Bulldozer must clear obstruction along the shore of Squam Lake before fill can be trucked in and smoothed. Trees and large boulders pose the biggest problem to the establishment of the "1/2 mile of beach." (photograph by Malcolm Taylor)*

## Sturtevant Bay Filling: A Landmark Case

The Squam Lakes' dispute over a valuable wetland area and a proposed 600-lot development

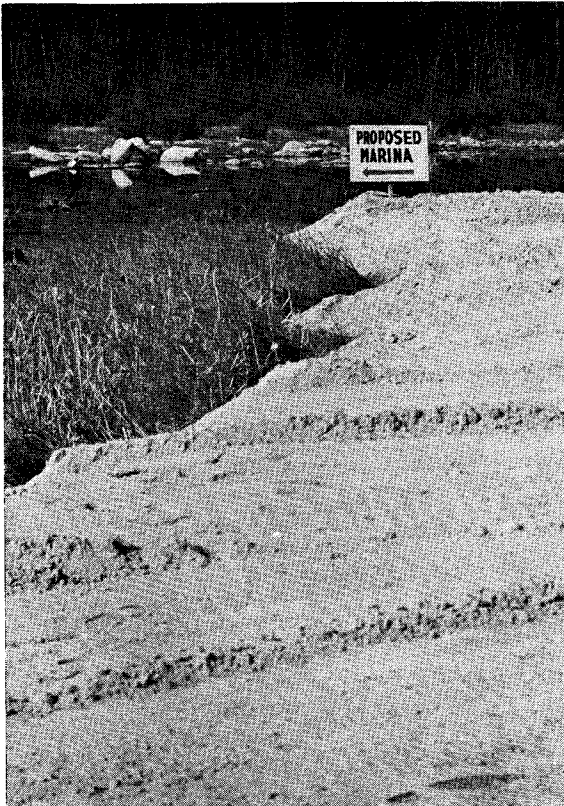
by MALCOLM TAYLOR

IN EARLY June of last year a group of residents at Center Harbor notified the New Hampshire Water Resources Board in Concord of an impending danger of fill being placed in the bed of Squam Lake. In turn the Board responded by notifying officers of the Asquam Lake Beach and Ski Club, Inc. in Sturtevant Bay of the New Hampshire statutes concerning the filling of such lands and the attorney for the developers stated they would comply.

However sometime late in July fill was placed in a small area of lake bottom which brought an immediate re-

sponse from town officials who, once again, notified the Water Resources Board of this new violation.

Appearing on the scene shortly afterward were state engineers who completely surveyed the waterfront of the proposed 600-lot development. Center Harbor selectmen assisted in the determination to locate public ownership below the mean high water level of 561 feet above sea level and July 28th saw the town notified to the effect that the state's survey was completed and that the land promoters and development trust would subsequently petition



*This photograph shows an area illegally filled by the Asquam Lake Beach and Ski Club, Inc. at Sturtevant Bay in Center Harbor. Sign indicates proposed location of marina to serve the 600-lot development. Mean high water level brings the lake about half way up the sides of the fill piles trucked into the area. (photograph by Malcolm Taylor)*

for permission to fill a part of Squam Lake as provided by law.

#### The Petition

"Said petitioner desires to place fill in Squam Lake, a great pond in Center Harbor . . . to an extent as follows:" went the wording of the petition dated September 28, 1966 which was posted in public places throughout the town. "Along the shore front 900 feet, into the water 10 feet, creating filled land for the purpose of beach (recreation) as per plans and specifications attached thereto," went the remaining phrase of the document; that is, except for the final sentence which read, "Said petitioner believes that this filling of said land will be in the public interest."

#### Public Hearing Ordered

By this time public attention had been generated to a point requiring the facilities of the Moultonboro Central School auditorium which was soon to be the scene of strong conservation-oriented oratory and vehement opposition!

The school building was well on its way to full capacity long before the time set for the public hearing and soon it became evident that opposing forces were strong, very strong.

Biologists representing the New Hampshire Fish and Game Department and their Director examined the damages that had been incurred to wildlife as a result of the filling already completed. Conservationists (as individuals and as organizations,) expounded the values of such wetlands toward the overall balance of the lake's wildlife population.

Lawyers, presented the views of their abuttor-clients and lake residents, spoke of pollution, undue tax burdens brought on by a sudden concentration of people in the area, and of aesthetics. Almost every phase of the damaging effects already done at the bay and what was to be done in the future was brought out at the hearing.

Various law makers representing their legislative districts added implications as to needed restrictions and the meeting went into the late evening hours. Departing the hearing almost everybody felt sure definite progress had been made.

#### The Turning Point

The definite turning point in whatever public sentiment the developers had mustered came the morning following the hearing at Moultonboro. My telephone started to ring at an early hour with complaints from Sturtevant area residents that filling operations had resumed! All this seemed too preposterous to believe. A trip to the construction site quelled any doubts I might have had. As I drove into the development the scene yielded one large bulldozer being fed by no less than three

dumptrucks and piled up Squam Lake!

Telephones rang in the offices of the Water Resources, Fish and Game Department, the State General and even in the homes. "I actually the development urged" to cease the operation until public opinion could be re-established. After completing a

The next day saw engineers and a promoter representing the promotion made the show there were 3000 cubic yards illegally filled. Engineers were not allowed to return until their final filling was in excess of 3000 cubic yards on public lands and in violation of Lake contrary to New Hampshire state

#### Fill Removal Ordered

On the first day the contractor was ordered to remove all of the fill. The same bulldozer filled the lake bed in and above the fill back and above the fill out by engineers. Fully impossible for the contractor to push back every fresh muck made g this day much of the fill and contested dirt Lake. As it is much of the waterfront into Squam's "A" and has been carried many hundred yards

Despite heavy restrictions continued until the summer when the Center Harbor requested an official investigation by Water Resources Department observations by state the law.

Later in November the entire Board was asked to recommend to the council that permit

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Telephones rang next at the Concord offices of the Water Resources Board, Fish and Game Department, Attorney General and even the Governor. Eventually the developers were "strongly urged" to cease their waterfront alteration until public ownership lines could be re-established. This they did only after completing a full day's work.

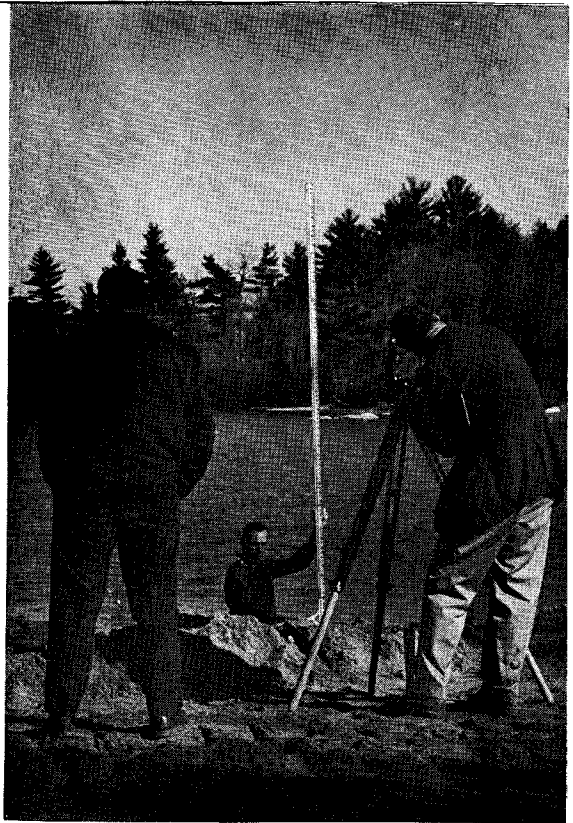
The next day saw the return of state engineers and a private surveyor representing the promoters. Previous calculations made the preceding summer showed there were approximately 1200 cubic yards illegally placed and the engineers were not yet finished. The same crew returned the following day and their final findings indicated an excess of 3000 cubic yards placed upon public lands and in the bed of Squam Lake contrary to RSA 482:41A of the New Hampshire statutes.

#### Fill Removal Ordered

On the first day of November the contractor was ordered by the developer to remove all of the illegally placed fill. The same bulldozer was placed in the lake bed in order to push the fill back and above a guideline staked out by engineers. However it was utterly impossible for the struggling machine to push back everything as ordered for fresh muck made going too tough. To this day much of the illegally placed and contested dirt still rests in Squam Lake. As it is much of the mud created by the waterfront work has sifted out into Squam's "A" classification waters and has been carried in suspension many hundred yards.

Despite heavy rains removal operations continued until the 4th of November when the Center Harbor Selectmen requested an official statement from the Water Resources Board as to whether observations by state officials satisfied the law.

Later in November I received word that the entire Board had met and voted to recommend to the governor and council that permission to the Asquam



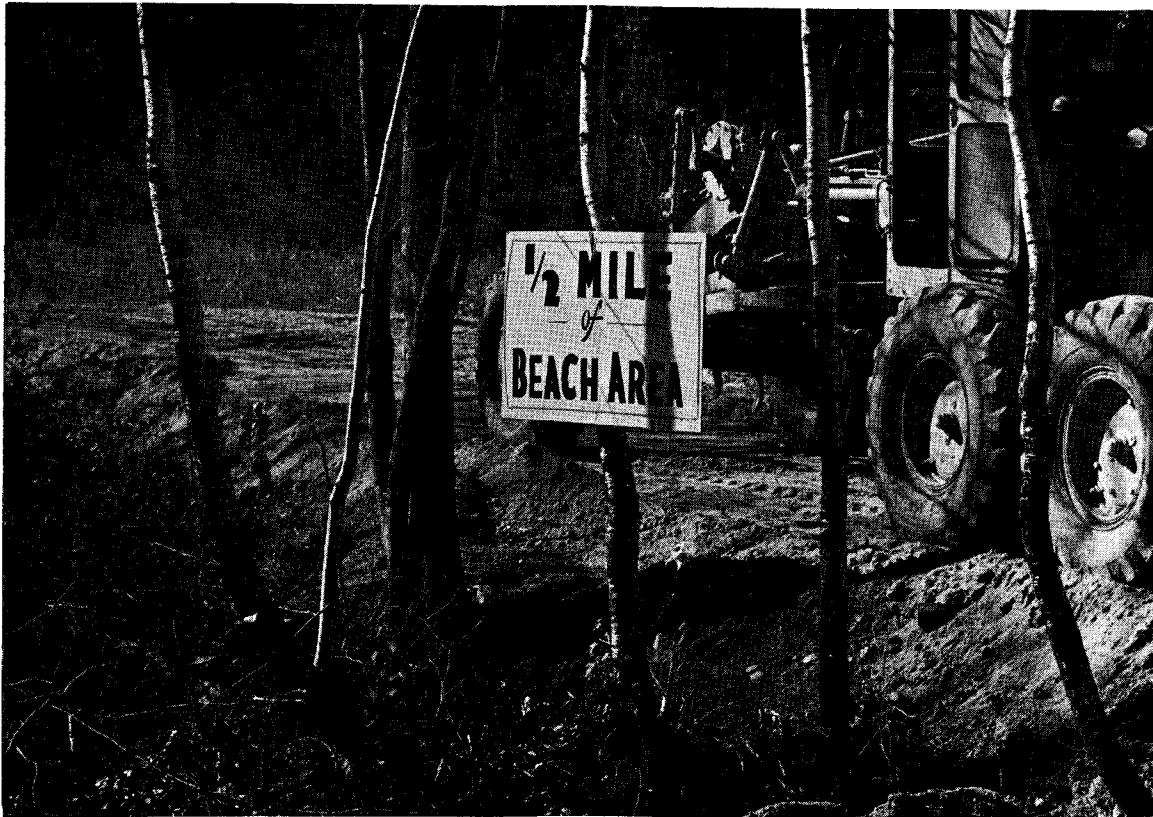
State engineers establish the line between private and public ownership at Squam Lake's controversial Sturtevant Bay development. At left is an official from the N. H. Fish and Game Department. (photograph by Malcolm Taylor)

Lake Beach and Ski Club, Inc., allowing filling of specified portions of Squam Lake, not be granted.

At their regular December 12th meeting Governor John W. King and the Council resolved "... and further voted to accept the decision of the Water Resources Board denying a petition for putting fill in Squam Lake by Squam Lake Development Trust."

#### In Retrospect

"The Sturtevant Bay Case," as it has come to be known, points out the many needs in the field of shoreline development and water pollution control. At the bottom of such increasing assaults upon our shores is also a general ignorance or disregard of what sewage systems are capable of and the ability of certain soils to absorb wastes in addition to the ill effects of filling.



The back area of the proposed beach to be created shows bad forestry practices. Land to the left is wetlands and when lake is at mean high water level it is covered by water. Grader smooths the fill being trucked in. (photograph by Malcolm Taylor)

Many such operators also assume that subsequent subdivision of already divided lands will continue to increase the overall value of their holdings. It may for the developer but we now know, through experience, there is a point of diminishing real estate returns when an area of land is continually subdivided.

A certain parcel of land, by its physical characteristics alone, can only "safely" support a given number of people, to say nothing of aesthetics or the effects upon the natural environment.

#### Court Decree

A joint complaint brought by the towns of Center Harbor, Moultonboro, Sandwich, Ashland and Holderness and four individual abutters on July 18, 1966 (a month after the first complaint of possible illegal filling) resulted in the eventual citation of the Squam Lake Development Trust before the

Belknap County Superior Court for review of the facts into possible future pollution of Squam Lake.

As a result an agreement was reached and on September 28th when the court issued a decree (Equity No. 7912) placing certain sanitary restrictions upon the developers to prevent pollution of the "A" classification waters.

Some of these restrictions as set forth in the court order to be enforced by local and state authorities are:

1) each lot owner is to see to it that a percolation test is performed upon his land to determine the maximum elevation of the ground water table during the season of highest water, locations of impervious strata or rock formations, etc., and to report this to the State of New Hampshire.

2) before any sewage disposal system may be installed on any lot the following minimum requirements shall be met.

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A. Maximum elevation of the ground water table shall be 4 feet below the surface during all seasons.

B. areas having percolation rates in excess of 30 minutes per inch shall not be used for a ground disposal of sewage.

C. a lot of not less than 20,000 square feet shall be required in areas where percolation rates are between 20-30 minutes per inch.

D. two-bedroom dwellings shall have at least 750-gal. capacity septic tanks.

E. all sewage systems shall be designed to allow for the addition of leaching trenches in the future.

F. no lot sold within 200 feet of the shores of Squam Lake shall have a subsurface sewage disposal system (due to the swampy nature of that land).

There are sixteen such stipulations in all and which have since been agreed to by all the parties involved.

But what of the unsuspecting property-buying public who flocks to our state to fulfill a desire to have a place on the lake? Some sort of educational program is needed to inform future landowners of inherent obligations placed upon them through purchase

of such lake lots. Many will discover, after having passed the papers, that they are required by law to install more expensive systems than originally anticipated, or worse still, that they will not be allowed to install any underground system!

These people, searching for better ways to spend their leisure time, looking for year round residence or retiring to our lakes now see only the advertising of the "land hucksters" which, as in the case of the Asquam Lake Beach and Ski Club, Inc. in Center Harbor, says, "Swimming . . . with wide, safe, sandy beaches," or "Hunting . . . wildcat, lynx . . ." and ultimately, "Big Squam is a 'Class A' lake . . . meaning the clearest, cleanest water possible . . ."

But posted at the entrance of this development is a sign which reads "PRIVATE — MEMBERS ONLY" standing in sharp contrast to the September 28th petition presented by the developers stating that they believe what they are doing is in the public interest.

COVER PICTURE: Sturtevant Bay, Squam Lake. Picture taken at the time developers were ordered to stop filling.

Photo by Bradford Washburn.

Reprinted from the Spring 1967 issue of FOREST NOTES, official publication of the Society for the Protection of New Hampshire Forests, 5 South State St., Concord, N. H. 03301.