

DEEP CREEK DISPATCH

Spring, 1998

Newsletter of the
Property Owners' Association
of Deep Creek Lake, Incorporated

The President's Letter

Dear Property Owner,

My comments to you are vitally important at this point in the life of Deep Creek Lake. The _____ was intentionally delayed because until the events of the week of June 1, 1998, we had nothing of substance to report to you on the lake sale. Now that the State of Maryland has entered into an exclusive agreement with the owner of the lake, GPU (General Public Utilities), to negotiate the lake's purchase by the State, I can tell you what your Board of Directors has been doing, and our analysis of what the State's future role might be, and how it may affect you.

POA Effort to Respond to GPU's Announced Intent to Sell the Lake

As previously reported to you, we learned in the Fall of 1997 that GPU and its subsidiary Pennsylvania Electric Company (aka PENNELEC), owner of the lake since its beginning, intended to sell the lake at auction along with all of its non-nuclear generating assets.

To be able to respond appropriately and be considered a responsible bidder by GPU, we negotiated and executed a Memorandum Agreement with Paul C. Rizzo & Associates, an independent power producer. Rizzo came highly recommended, and is the operator of various hydro-generating facilities in the U.S. and overseas. He built and operates the hydro-generating facility on the Army Corps of Engineers dam at Confluence, PA, on the Youghiogheny.

We also appeared before a special meeting of the Garrett County Commissioners early in February. Our objective was to form a Consortium consisting of the POA, Rizzo, the County and hopefully the State of Maryland. At that time we had various meetings with State Officials, inviting them to participate with us.

The Garrett County Commissioners voted to join us. The State did not.

The purpose of the Consortium was simple:

1. Convince GPU to negotiate with us rather than keep the lake in the auction process. (We did not want the lake to be owned by an entity whose only qualification was having been high bidder!)
2. Use private sector money for the acquisition.
3. Acquire local control over the lake utilizing a conservancy which would have given all interested parties a voice in the future of the lake. The conservancy would have held title to the lake bed and buffer strip.

To further promote the Consortium concept we met with GPU representatives and with their investment banker, Goldman Sachs. We also opened discussions with financing institutions and also veri-

fied that Rizzo and his firm had adequate financing for the power plant purchase.

Although the Consortium never got to the point of negotiation of a sales price with GPU, we expected a significant portion of the purchase price would be paid by the independent power producer (IPP) on the assumption that the best indication of value would be the revenue stream from power production. The remainder would have been financed over a 20 to 30 year period using tax exempt bonds costing each lake property owner no more than \$2 per month, and possibly much less.

We submitted a "Conceptual Proposal" to GPU and received a response that we were qualified under their guidelines. We also agreed conceptually with Rizzo on what his requirements would be for water and other needs, and were satisfied that the current lake water level requirements would not change.

The County Commissioners, to advise them on the lake sale, formed a commission chaired by retired circuit court Judge, Fred Thayer. I, as your POA president, was appointed to that commission along with 14 other Garrett County citizens.

On March 13, Governor Glendening sent a letter to GPU asking that the lake be separated out, and to express the State's strong desire to protect the lake. His letter indicated the State would determine, in the months to come, the nature and extent of its participation in the divestiture process.

In response to the Governor's letter, I and two other POA Board members met with the Secretaries of DNR and Economic Development on March 26 and shared with them our conceptual proposal and again sought their support.

At a meeting in the Commissioners' offices on April 18, State officials, led by the Secretaries of DNR and Economic Development, informed the Special Lake Sale Advisory Commission of the State's intention to take the lead in acquiring the lake. They requested the Consortium to discontinue its efforts to negotiate a purchase price with GPU.

Shortly after their visit, in an effort to assist the State, I provided to the offices of both Secretaries the Consortium's objectives, issues to be confronted, options available to complete the acquisition, reasons why GPU should negotiate with the state, and a draft acquisition agreement.

It made no sense for the State and Consortium to compete with each other, so after the April 18 meeting, the Consortium ceased direct efforts with GPU, but continued to monitor the situation.

The State agreed to keep Garrett County elected officials advised of events. However, their first communication came with the public announcement from Annapolis on June 2 of the completion of a Memorandum of Understanding with GPU.

The State Agreement: What It Says and How It May Affect the Future

It is much too early to tell if State ownership will ultimately benefit those of us who enjoy the lake, or if it will result in change over time that will adversely affect this wonderful resource. The Consortium's attempt was to "privatize" the lake and assume local control. The State's ownership may or may not result in any local involvement.

Certainly it is not unusual for a government entity to own a lake. We can only hope that as both future owner and regulator of the lake, State officials will be understanding and responsive to our interests.

Our interests are not selfish nor complicated. They are:

1. Maintain and retain the natural and environmental beauty that exists both on the lake and in the immediate surrounding area.
2. Keep buffer strip use fees as low as possible.
3. Maintain access to the buffer strip, and not permit usage of the buffer strip that would detract from our land values.
4. Maintain lake water levels, especially during the warm months, to enhance recreational uses of the lake.
5. Maintain policies that protect land values, the fishermen, and white water rafters.

A careful analysis of the Memorandum of Understanding along with my comments follows:

- A. **Negotiations are exclusive as between the State and GPU.** That means the Consortium or any others may not negotiate with GPU.
- B. **The lake will not be part of the auction process.** This is what we wanted.
- C. **The State is purchasing the lake only, not the hydroelectric station. The power generating station will remain as part of the assets to be auctioned.** This may or may not be good for us. Prospective bidders tell us it makes the acquisition of the hydro facility a riskier proposition. Only time will tell. (See additional comments).
- D. **Boundaries and provision for easements and rights of way will be in the final agreement.** This should protect our access to the buffer strip, however boundaries could **change**.
- E. **Price will be based on Appraisals.** This is the only way GPU can proceed in a negotiated transaction.
- F. **The parties expect the sale to be completed on or before Sept. 30, 1998.** The timetable is very aggressive, especially for a government entity.
- G. **If the timetables are not met, any agreement can be terminated.** This puts pressure on the State to meet the schedule. It also suggests that the Consortium should stay alive and ready to act on a moment's notice if something goes awry in the negotiations between the State and GPU.
- H. **The State will consider GPU's request for modifications to the Water Appropriation Permit.** This provision is the most troublesome to all of us. To enhance the marketability and ultimate selling price of the hydro generating facility, GPU would prefer few restrictions on the use of lake water. This would give the new owner total flexibility in power generation. To widen the "Rule Bands" (the restrictions on water levels in the lake) could mean significant draw downs in July, August, and September. Those of us who were here in the 40's, 50's, 60's and early 70's know what that means! And I think the rest of you do too!

Even more troubling is their agreement to not decrease releases

for white water and for fishing recreation on the Youghiogheny. In effect they are saying they may agree to increases which would lower water levels even further. We respect the rights of our friends downstream, but it would seem that recreation on the Yough may be given preference to recreation on Deep Creek Lake! There should be a good balance.

Depending on how this is ultimately resolved, the State's action could have serious negative effects on lake property values, and lake businesses dependent on tourism. **All of you Maryland residents need to contact your friends in Annapolis and tell them that the current "Rule bands" (water use regulations) are just fine and should not be altered!**

- I. **The State will manage the lake.** This is the current model. However there is an Advisory Committee representing local interests to advise DNR. No mention is made as to the continuation of that function.
- J. **All negotiation will be confidential.** The State and GPU will decide what is right; local interests will not be a party or have input. We have already seen a complete blackout on the State's stated plan to communicate with local officials between April 18 and June 2.
- K. **The agreement terminates if there is no sale agreement by July 31, 1998.** Again this is a very aggressive schedule. It is attainable, but will take a concerted effort by State officials.

Final Comment: The State of Maryland's expressed intention to acquire Deep Creek Lake is not inconsistent with a government's desire to protect its resources and people. As with any agreement the devil is in the details. We can only hope our folks in Annapolis keep those of us on the ground in Garrett County in mind and seek our advice and counsel.

We had a good "Private Sector Plan", but we all knew from the outset that the State was a likely final owner. The publicity generated by the lake sale in the Washington, Baltimore and Pittsburgh news media has far outweighed anything one could afford to buy. Generally the stories have been favorable when discussing the "Lake Experience" and the natural beauty of the area.

All of us in our own way can play a role by urging our friends, lawmakers, and elected officials in Annapolis and Oakland to provide for a substantial role in the management of our lake by those who reside here or earn a living from lake related businesses. We need those in Annapolis to recognize the importance of our input and direct involvement in management of the lake.

Gerald A. Polansky
President, POA

Membership Meetings

A general membership meeting will be held Saturday June 20 at 8:30 am at the Garrett Community College auditorium. Learn more about the pending lake sale, the aquatic weed, and operation of the Deep Creek Sanitary District. The next meeting will be Saturday August 22 at 8:30 am at the Garrett Community College Continuing Education Building Room 305. Non members are always welcome, but you may pay dues and join at the door. Coffee and doughnuts will be available prior to the meetings.

County Action

It is our understanding, that State land purchases in Garrett County of more than 100 acres must be approved by the Garrett County Commissioners. In order to have a voice in the management of the most important resource in their county they must stand firm. If you are a Garrett County resident, let the commissioners know where you stand.

The Weed

Most of you will remember the severe weed growth in many of the lake's coves last summer. Pieces of the weed were also found floating on the surface of deep water. The stuff fouled the rudder and centerboard of your correspondent's sailboat causing vibration and loss of speed. In our cove, power boats could barely get to deep water, and had to stop and back down or otherwise clear the weed from the propeller. According to Bill Sisler of Bill's Marine, a number of power boats encountered serious problems due to plugged cooling water inlets. Answers as to the identification of the weed were hard to come by.

According to lake resident Jim Simms, Dr. Dan Terlizzi, an Agriculture Extension Agent, and aquaculture specialist at the University of Maryland has identified the aquatic weed as American Elodea (*Elodea canadensis*). It is said to be fairly common in northern lakes and rivers. Generally, it is not considered a problem weed; however ... "where it becomes entangled in the boat motor prop it is a problem."

Likewise, your correspondent provided a sample of the weed to Ken Langeland, Associate Professor with University of Florida Center for Aquatic Plants. After growing some Deep Creek weed in his laboratory he identified the plant as *Elodea nuttalli*.

The good news is it is NOT Hydrilla. It is *Elodea*, but we may have to let the experts decide which *Elodea*. *Elodea* is native to America, and some experts report as many as nine species, of which *Elodea canadense* is the most widespread with *E. nuttalli* having the second widest range in North America. It is of course entirely possible that we have both species.

On the plus side, aquatic plants are a beneficial and necessary part

of fishing lakes and ponds. They are a vital first link in the food chain. Plants in ponds, lakes, and streams convert solar energy into stored chemical energy and contribute to dissolved oxygen in the water. They are an important food source for invertebrates which are a major food source for small fish. Submerged aquatic plants serve as escape cover for fishes.

On the minus side such plants sometimes interfere with boating swimming, fishing and other uses of lakes or ponds. Plants can also harm the fishing potential of a body of water. An excess of decaying plants can lower the amount of oxygen in the water to a level that can kill fish. In some waters, an abundance of plants overprotects sunfish and other prey species, allowing them to overpopulate and outstrip food supplies.

We have come across four methods to control *Elodea*. Aquatic herbicides can control the plants, can be expensive, may need to be applied frequently, and can be hazardous if misused. Dr. Terlizzi suggested 2,4-D amine or Aqua-Kleen. It is not clear if it would be safe to swim in waters so treated, or what it might do to fish or those who eat the fish.

A second method is introduction of grass carp (*Ctenopharyngodon idella*). These fish can eat 2-3 times their weight each day, and may gain 5-10 pounds in a single year. They can grow to 100 pounds. Fortunately grass carp will not reproduce in ponds or lakes, although some experts have advised the use of sterile grass carp. We have no knowledge of what problems the introduction of such a fish to Deep Creek Lake might create.

Third, it is possible to remove *Elodea* by mechanical means. This might help in a localized area, next to a dock, but the literature indicates that only a few pieces floating in the water is one means of

POA—PROPERTY OWNERS' ASSOCIATION OF DEEP CREEK LAKE, INCORPORATED POST OFFICE BOX 816 • McHENRY, MD 21541 • (301) 387-4455

RENEWAL

NEW MEMBER

CALENDAR YEAR 1998 DUES—\$30.00

Name _____ Home Phone _____

Lake Location _____ Lake Phone _____

Mailing Address _____ Winter Address (if different) _____

City, State, Zip _____ City, State, Zip _____

Legal Residence: Lake Other

Comments _____

Date _____ Signature _____

propagation. Last year, we noted a clump that had washed to shore apparently being eaten by a deer!

Fourth, it has been suggested that if the lake is drawn down in the winter to expose much of the bottom of the shallow coves, the freezing temperatures will kill the Elodea.

In short, none of these methods seem ideal. We do NOT recommend that any of you buy grass carp, or throw 2,4-D into the lake. Raking the material away from around your dock may help, if you remove it from the water.

Dave Baker of the DNR attended the most recent POA Board of Directors meeting. The DNR agrees that it is Elodea. However, since it is native to the area, they consider it a natural phenomenon and have no plans to control its growth. Conditions appear to be ideal for more Elodea this summer, however we have seen no signs as yet in our cove.

If you have a problem with weed in your area of the lake, and live in Maryland, we suggest that you write your delegate and state senator. Sufficient pressure from many delegates might get action from the DNR.

We have learned that Hydrilla may be able to grow in waters as cold as Deep Creek. It can spread from cuttings. A boat from further south, launched at Deep Creek, could bring the dreaded weed to Deep Creek with a few cuttings carried on the boat or trailer.

PWC'S

We note that several marinas have requested, and received permission to convert some of their rental boat slips to PWC's.

We have learned, that some lakes, rather than ban PWC's, have banned 2-cycle engines effective five or ten years in the future. Outboards and PWC's are available as 4-cycle engines. They are quiet, compared to 2-cycle engines, are more efficient, and provide reduced emissions and pollution. Could this be in the future for Deep Creek?

Membership

As of June 3, POA membership was 1066. 1996 was our best membership year with over 1150. In 1997 we had 1063, so we are already ahead of last year. With the concern about lake ownership, please help us help you and join today. As the State negotiations proceed and as future management issues of the lake are considered, the POA needs to be ready to respond in a timely manner. We may require employment of outside experts to assist us in our efforts to have a voice in lake management. To do so we need additional operating funds. One way to help is to join the POA if you are not already a member. Another is to send us a donation—any amount. Just mark it Lake Purchase Fund. To join just clip the membership form at the end of your newsletter and mail along with \$30 to the POA, Box 816, McHenry MD 21541. Maryland residents, remember to contact your elected officials in Annapolis.

The winter issue of the included a dues notice and return mail envelope. We have learned that some of you did not receive a separate dues notice or envelope. We apologize for the inconvenience.

Ethics

So that everyone understands, it is important to point out that POA Board members serve without compensation of any kind. Furthermore, at Board of Directors meetings we discuss and emphasize the potential for the appearance of conflicts of interest and discourage behavior that might cause a perception of conflict.

Maryland Tourism Board

We are pleased to report that Gerry Geisler, a Garrett County resident, has been appointed by Governor Parris Glendening to the Maryland Tourism Development Board.

Oakland Bypass

There will be a public meeting June 18 from 5:30 pm until 8:30 pm at Southern High School concerning the location of a US 219 Oakland Bypass.