

DEEP CREEK DISPATCH

Summer, 1999

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

Eugene Lynch Speaks about Lake Sale at POA Membership Meeting

Eugene Lynch, Deputy Chief of Staff to Governor Glendening, spoke at the June 26 POA general membership meeting concerning the pending sale of Deep Creek Lake and the "buffer strip" to the State of Maryland. Lynch is the chief negotiator for the state with GPU.

Lynch gave a brief history of events that led to GPU's decision to sell "the lake" and the State's decision to purchase. Basically, deregulation of the power industry and the decision that FERC regulations did not apply to Deep Creek Lake led to the present situation. GPU decided to become a power distribution company, and was no longer interested in being a power generating company. Thus the Deep Creek hydroelectric generating plant and "the lake" were put up for auction, along with the rest of GPU's generating capacity. The State was concerned about the future of the lake and asked GPU to remove "the lake" from the auction package. The basis of this arrangement was that the State would pay a fair market price.

There are three groups of property: (1) The land under lake water to elevation of 2462' which is the height of the spillway; (2) The required buffer strip to a certain elevation and the "Safety Strip" which was created by FERC regulation and is an elevation of 2466' plus 25 feet horizontal; (3) and the out parcels which total between 550 and 600 acres. These out parcels are properties between the "Safety Strip" and what most property owners know as "the Pennelec line." Lynch reminded those in attendance that very very few of these out parcels are of sufficient size to be developed. They either do not meet Lake Watershed Zoning, have no sewer access or septic field permits, or no road access.

What are all three types of lake property worth? There are multiple methods to figure the worth. These range from about 5 to 40 million dollars. GPU reminded the state that they have a responsibility to stock holders, and according to the Public Service Utilities Commission they can't "give it away."

How much should the state contribute? There are three groups of people involved. First are the tax payers of Maryland, second are those who own down to the "Safety Strip",

and third are those who have property adjoining the "Pennelec Line", but do not own down to the "Safety Strip." As stated in the letter of intent between the State and GPU, the first group will pay \$7.8 million. The second group will not need to pay any more.

To protect the third group, GPU and the state have agreed: (1) the adjacent property owners will be given the opportunity to purchase the land between their property line and the "Safety Strip" at a fair price. (2) GPU will not create a rental structure. (3) At the end of five years any property not sold will revert to the State. The intent of "no rental structure" is that a third party can not purchase the property above the "Safety Strip" and charge the adjacent landowner rent to cross the property in order to gain access to the lake. GPU has agreed to no rent structure, but does not want to give the adjacent land owner an exclusive right to purchase the adjoining GPU property. The State wants to protect the adjoining property owners' continued use of the lake.

Lynch explained that a letter of intent is just that—it is not a binding contract. For a land deal of this size and complexity, the negotiations are progressing well. The remaining problem is to determine a mechanism by which GPU will make their out parcels available to the adjacent property owner at fair price. There are two possible outcomes: (1) agreement on how to establish a fair market price will be achieved or (2) there will not be an agreement, and the case could go to condemnation. Lynch did not use that word, as the state does not want to make reckless threats. The "C" word was supplied by Roger Titus, POA President. However, Lynch explained that this would be a long drawn out process with no guarantee of the outcome. A jury would decide the price, and juries are unpredictable.

Lynch also took time to deny several rumors. First GPU never agreed to sell the entire lake property for \$12 million. The 550 to 600 acres of "out parcels" are not worth \$30 million. That would only be true if it was all developable. In fact very very little meets the criteria of (1) one acre, (2) road access, and (3) sewage disposal.

Roger Titus explained that those who wished to determine the location of the "Safety Strip" in front of their property should visit the Garrett County Court House in Oakland to view one of the 85 maps which show the property lines for the entire lake area, the 2462' and 2466' elevations, the

“Safety Strip” and the location of homes. These maps were prepared for GPU by surveyor Morgan France several years ago.

It was also explained that the County is reviewing the Deep Creek Watershed zoning ordinance to prevent new structures closer to the lake which would block existing lake views and other problems which might arise from the change of ownership and new property boundaries.

Lynch accepted questions from those POA members present.

Q. Where does the dam fit in to all this?

A. The dam and the hydro generating plant have been sold to Sithe Energy who will operate and manage the facility.

Q. How could GPU profitably sell the fractional acre property between my property and the “Safety Strip?”

A. There are two main ways to compute the value. First compare to previous “buy downs”, and secondly to look at “incremental value.” As an example, a 1.1 acre lot is not worth 10% more than a 1.0 acre lot. It is worth just a little bit more. That little bit is “incremental value”.

Q. If a property is currently entitled to a dock permit, will it continue to be after the transactions are complete?

A. Yes. That is the intent.

Q. What will the public be allowed to do on the 550 to 600 acres of “out parcels” if they become State property?

A. (From Paul Durham, lake manager) The same as they now do on the buffer strip, i.e. walk or fish. They can not camp, beach or dock a boat. That is the status quo. The State does not intend to build a bicycle trail.

Q. Will the State buy all of the “Safety Strip?”

A. That is the most likely outcome. It is possible that the 25 feet beyond the 2466’ elevation could be sold to an adjacent property owner.

Q. Is the price for the out properties going to be the same for all properties?

A. That is not yet decided.

Q. Who will determine the restrictions on the “out properties?”

A. A combination of County and the owner. For example GPU could lay a Conservation Easement on the entire 550 to 600 acres, then give that easement to the County. GPU could then sell the underlying fee. In that case the adjoining property owner, who purchased the property, would have exclusive use, but could not build on the property.

Q. Will there be any changes in the water level?

A. There are two permits, one is the dam maintenance and operation permit which basically states that the owner can’t let the dam fall down. The second is the water use permit. The state has had formal requests from the white water

rafters for the State to hold hearings requesting changes.

Q. Does the water use permit terminate at the sale of the lake?

A. The Attorney General says it does not. (Language in the permit appears to say exactly the opposite.)

Q. The value of a buy down to the “Safety Strip”, would depend on zoning restrictions on those “out parcels” put in effect by Garrett County. What is the timing of the County process with respect to the State’s negotiations.

A. At the time a buy down is offered, the restrictions would most likely be known.

Q. Has GPU offered the “out parcels” to the State?

A. No. We have asked them for a specific number. We have not yet received a number.

Q. Does the State plan to “monument” its boundary?

A. I can’t say. But if an adjacent property owner bought to the State Line, his survey would show the boundary.

Q. Would the prohibition of rental structure prevent GPU from selling the 550 acres of “out parcels” to a third party for resale to adjacent property owners?

A. Probably, unless there were many safeguards.

(Ed Schultz of GPU also answered that they would probably hire a real estate broker to handle the transactions.)

Q. If three adjoining lake properties have about 1/3 of an acre between their boundary and the “Safety Strip”, and they can not build on it or rent to each other why would they buy it?

A. Exactly. That is why those properties are not worth very much.

Q. If those three properties are put together, they make a one acre building lot.

A. It still needs road and sewer access, and it still must meet the zoning setback requirements, and with those restrictions, it still is not worth very much.

At the conclusion of the question and answer session POA president Roger Titus made a few closing remarks. When this whole process of the acquisition of Deep Creek Lake began, the state officials at that time were basically saying, “I’m from the government, I’m here to help you, and we’ll tell you when the deal is done”. With Lynch there has been a complete about face. He has been a straight shooter, and very open with the POA and Garrett County officials. We owe him a great thanks.

Proposed Deep Creek Lake Policy and Review Board

Retired Circuit Court Judge, Fred Thayer, presented the plans for a new Deep Creek Lake Policy and Review Board. The nine member board would consist of (1) the local Delegate or his designee, (2) a Garrett County Commissioner, (3) a representative of the Garrett County Chamber of Commerce, (4) a representative of the POA, and (4) five appointees by the Governor, one of whom must be a representative

of the Maryland Bass Association and a resident of Garrett County, a resident of Garrett County, and three at large members. Thus the nine member board will contain six residents of Garrett County.

The consent of this board will be required before any regulation changes, including permit fees. A new appeals procedure will be introduced, so that appeals from DNR permit action will go to the Circuit Court. 25% of the funds derived from the permit fees will go to the Garrett County Commissioners.

“DNR Secretary, John Griffin, Fired”

So read the headline in the July 10 edition of *The Baltimore Sun*. Gov. Glendening appointed Assistant Secretary Sarah J. Taylor-Rogers to Secretary of the DNR. She will run a department with 1,600 employees and a budget of over \$200 million, and management of 365,000 acres.

In Memorium

It is with great sadness that we report the death of Robert Squibb on July 13 at his residence at Deep Creek Lake. He was a long-time member of POA and its board, and had served for many years as secretary. His father was a founder of the POA. He will be sorely missed.

Lake Water Levels

The American Whitwater Association has been very active requesting additional water in the Upper Yough. This water, of course comes from Deep Creek Lake. They have requested public hearings on the matter. The dates have not been announced. Your POA will be in attendance; however, we urge as many of you as possible to attend these hearings. As a point of reference, in the entire year of 1990 there were 3,519 customers on the Upper Yough. Although we don't have exact figures, we suspect that there are many more users of Deep Creek Lake every weekend!

POA General Membership Meeting

The next general membership meeting of the POA is Saturday Aug. 21 at 8:30 am at the Garrett Community College Gymnasium. We urge you all to attend. New Board Members will be elected.

An Opportunity to Help Garrett County

In recent years the POA has worked with the business community on common goals. And we have an appointed position on the Chamber of Commerce Board of Directors. We include the following message from Ken Wishnick, the Executive Director of the Chamber of Commerce.

POA—PROPERTY OWNERS' ASSOCIATION OF DEEP CREEK LAKE, INCORPORATED

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RENEWAL

NEW MEMBER

CALENDAR YEAR 1999 DUES—\$30.00

Name _____ Home Phone _____

Lake Location _____ Lake Phone _____

Mailing Address _____

City, State, Zip _____

Legal Residence: Deep Creek Lake Other

Comments _____

Date _____ Signature _____

Business Executives Needed

Do you own or run a 25+ employee company located outside Western Maryland? Are you willing to have lunch with us and advise Garrett County Officials on Economic Development solicitation strategies? If yes we'd like to hear from you.

The Garrett County Chamber of Commerce, in cooperation with the County's Economic Development Department, is in need of focus groups to help guide business recruitment strategies. As you may be aware, our county is seeking to diversify our employment base, and we have some excellent facilities available in three industrial parks.

As in any marketing program, how the product is packaged is everything. We need a few qualified "package testers" to help refine our approach. If you are able to help, please respond, by phone (301-387-4368), FAX (301-387-2080), e-mail to ken@garrettchamber.com, or stop by the visitor center on US 219 in McHenry.

POA Board Members

Howard Bailie	301-387-6639
Mike Belmonte	301-387-6371
Roger Dandridge, PO Box 3002, Swanton, MD 21561	
Barbara Elster	301-387-4093
Katheryn Gemberling	301-384-2850
Bob Heslin	410-557-9063
Anne Horowitz	301-656-7204
Steve Jellinek	301-718-7231
Jonathan Kessler	301-387-6229
Ed King	301-387-5702
Tom Myers	301-387-9162
Carole Perez	301-387-5406
Ted Rissell	301-387-6463
Jack Seelig	703-323-7076
Roger Titus	301-365-2930
Lindsley Williams	202-537-4884
Helga Williamson	301-929-9099

Property Owners' Association of
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