

Property Owners' Association of Deep Creek Lake, Inc.
PO Box 816 McHenry, MD 21541



February 19th, 2019

Dear Secretary Grumbles,

We appreciate the opportunity to provide input to the MDE process of renewing the June 1, 2011 Deep Creek Lake (DCL) Water Appropriation Permit (Permit). We provide this input on behalf of our members and their interest in the health of the lake in general, and in recreational boating in particular. We recognize that there are other stakeholders with fully legitimate and important interests, and that MDE will engage all stakeholders in an attempt to provide an equitable and balanced permit outcome. We look forward to participation in the upcoming stakeholder meetings---listening, learning, and providing constructive input.

Discussion--We recognize that it can be difficult to satisfy all stakeholder interests, especially in a “dry year”. As is well understood, POA concerns relate to late-season water levels which deny dock access to a significant number of recreational boaters. An analysis of bathymetry data provided by DNR shows that roughly 200, increasing to 350, docks will experience access problems even at the late-season LRB levels. In other words, the current LRB is already *a compromise from the viewpoint of recreational boaters*. Further, the current permit allows the LRB to be “breached” by up to 1’ in order to preserve selected whitewater and protocol-driven “temperature enhancement” releases. Note that these latter releases are executed independent of water level at the time. Finally, and most significantly, *the current permit does not explicitly recognize lake recreational boating as an important “use”*.

As you know, these concerns were recognized in the 2016 *Deep Creek Watershed Management Plan* and led to a plan recommendation to “develop a water budget that affords equitable allocation of the resource for consideration by MDE” (Goal 12). We understand that the Deep Creek Watershed Foundation (DCWF) funded an independent engineering firm effort (Century Engineering) to develop a so-called Water Budget Model (WBM), and we have tracked developments with great interest. This predictive model has been demonstrated to MDE and Brookfield personnel. We understand that Brookfield intends to “continue to fine tune this tool and is committed to working together with the DCWF towards getting the model to a point where it’s another resource for [them] to call on when necessary.”

Our perspective is consistent with MDE/Brookfield/DCWF discussions as we understand them. We believe that predictive features such as those embodied in tools such as the WBM will support the ability to anticipate and respond to opportunities (“wet years”) and inevitable, though fortunately infrequent, stakeholder competition for scarce water during certain conditions (“dry years”). More specifically, we believe that active management of the lake’s water and leveraging predictive

capabilities, will provide “win-win” support of stakeholders during “wet years”. For instance, such predictive capabilities will allow for advanced identification of additional whitewater releases while assuring that the LRB is not violated. Of course, a drought condition can be so severe that a threat to the LRB is unavoidable, but anticipation of such extreme conditions using proactive management methods will minimize adverse impact on all stakeholder interests. Importantly, we can project that “wet years” will be much more frequent based on current permit experience (6-7 out of 8 years). The net situation will be a “win” for all, providing improved dock access for recreational boaters and more whitewater releases (with significant advance notice) over the permit period.

Recommendations---Based on the foregoing discussion, we offer the following recommendations:

1. *Add language in the permit to specifically acknowledge lake recreational boating as a “use” or objective to be supported.* This seems only reasonable and is consistent with COMAR prioritization of recreational boating on state-owned lakes.
2. *Modify current permit provisions to fully protect the LRB as a true minimum as the boating season progresses.* As noted above, there are significant late-season dock access issues even at the current LRB levels.
3. *Include a permit requirement for management of lake waters using tools with predictive capability---along with associated operating processes and protocols---to both support the above recommendation on LRB protection and to identify the discussed “win-win” opportunities as allowed by “high” water level conditions.* Again, it is projected that the “win-win” situations will far outnumber those requiring some “dry year” adjustments of releases. Regarding any needed adjustments to protect the LRB, the capability to predict/anticipate should allow “smoothing” of any undesirable impacts. Further, it is understood that management processes and protocols will likely evolve as Brookfield gains experience with its enhanced suite of tools, including the WBM.
4. *Institute an MDE/Brookfield effort to explore--based on both historical experience and current operating data--the possibility of increasing late-season LRB levels, during “wet year” conditions, without unacceptable impact on releases for other “uses”/stakeholders.* This recommendation is motivated by the above-presented analysis results showing significant dock access issues even at current late-season LRB levels. Brookfield would of course need to “design” the specifics of such an effort, but it seems that structured record-keeping against a defined set of “what if” scenarios (e.g., implementation of a 6”-1’ increase) might well yield practical and equitable results for all stakeholders. It is understood that there would need to be some definition of what constitutes a “wet” year---e.g. water level at X’ on a selected August date.

We recognize that recommendations 3 and 4 above imply development of an operations management plan which leverages available tools-- and lays out processes and protocols-- to satisfy the requirements of the renewed permit in terms of releases and water levels. As suggested in recommendation 4, predictive capabilities should allow the exercise of various water level scenarios and release strategies pursuant to the development of operating decision protocols. This will be particularly important for the management of hopefully rare “dry season” issues. In this context, we would be happy to engage--along with other stakeholders---in any solicitation of “consumer reaction” that MDE and Brookfield would view as helpful.

Considerations regarding the Brookfield request for an increase in the annual average daily withdrawal volume---We appreciate being informed of this request in Brookfield's January 29 notice and invitation letter. The described request is for a roughly 36% increase in gallons per day (from 94,000,000 to 128,000,000) with the rationale being to "account for higher flow volumes into Deep Creek Lake during years of high precipitation". Such a request is surely understandable with respect to additional hydroelectric power generation, but it does raise questions about the impact on water allocation for other uses/stakeholders. For instance, the above recommendations envision using that same wet year "extra" water to achieve "win-wins" for both lake recreational boater and whitewater activities. We, of course, do not understand the specifics of Brookfield's plans. *Therefore, we strongly urge that Brookfield be asked to describe, at one of the upcoming stakeholder meetings, their plans for increased withdrawal and the projected impacts on lake water levels and releases for other uses. Comments should be solicited and considered as input to the MDE permit renewal process.*

We thank you in advance for your consideration and look forward to constructive discussion of our views and recommendations at the upcoming stakeholders' meetings.

Best Regards,

Sincerely,

A handwritten signature in blue ink that reads "P. W. Weiler". The signature is written in a cursive, slightly slanted style.

Paul Weiler
President

cc: Lee Currey, Director, MDE Water and Science Administration;
Saeid Kasraei, Administrator, MDE Water Supply Program;
John Grace, Division Chief, Source and Administration Division, MDE Water Supply Program