

Deep Creek Lake Policy and Review Board
Regular Quarterly Meeting
Garrett County Health Dept.
Monday October 27th, 2014

In Attendance: Chairman Dr. David Myerberg, Bob Browning, Robert Hoffman, Susan Fowler, Barbara Beelar, David Moe, County Commissioner Robert Gatto, Major Daryl Anthony, Senator George Edwards, Delegate Wendell Beitzel, Lake Manager Eric Null, Assistant Attorney General Mark Talty, and 12 Members of the Public.

Meeting was called to order at 6:05 by Chairman Myerberg.

Action Agenda: Chairman Myerberg asked if there were any changes or corrections to the August 4, 2014 minutes. Barbara Beelar stated that she has requested the boat launch data but had not stated for how long, Chairman Myerberg stated that it is listed in minutes, Barbara stated she wanted it for the year by month, Major Daryl Anthony will gather this information. Barbara asked that the first two sentences be stricken out under Sediment Study, that they were posted in April. Chairman Myerberg approved the change. Chairman Myerberg asked for a motion to accept. Motion made by Barbara Beelar, seconded by Susan Fowler, all approved. Minutes were accepted with corrections.

Old Business:

Watershed Management Plan Update:

Chairman Myerberg stated that the Watershed Management Plan was approved by the County Commissioners and the DNR. At this time County Commissioners have agreed to wait until the new term of County Commissioners to officially adopt the Watershed Management Plan. The Commissioners will also wait until the new County Commissioners take office to assess possible alternate funding sources to implement the plan.

Commissioner Gatto restated that plan was approved and awaits incoming board.

Sub Committee:

Canada Geese

Paul Peditto spoke at the meeting by tele conference. Mr. Peditto stated that in 2013 that twenty nests were located and ninety eggs were oiled, 2014 twelve nests were located and fifty eggs were oiled. The reproduction of adult birds was down in 2014. The northern end of the lake had more nesting adults than the Southern end. Sky Valley, Thousand Acres have more numbers of geese. In the past two years a total of three hundred potential adults have been removed from the population, in future years two to three thousand potential adults could be removed from the DCL population as long as egg oiling persists in spring.

Mr. Peditto stated that Rob Harvey and the Wildlife staff have done a great job this year. Dr. Myerberg asked if there were plans to do the same work next year, if time and staffing permitted. Mr. Peditto stated oiling was the most discrete method of control and approved by the majority of stake holders, and that oiling would continue at Deep Creek Lake.

Managed hunting is another option for Canada Geese control. Mr. Peditto stated himself, Eric Null, Rob Harvey, and Jim Mullins had toured the Green Glade area to see if a strictly managed hunt would be possible. Mr. Peditto confirmed that there were a few areas where distance regulations would permit the stationing of vessels for hunting, but there is a very small window from the time that the docks are removed and lake covers with ice to perform the hunt successfully. Dr. Myerberg asked for comments and concerns. Mr. Hoffman asked about oiling versus lethal methods. Paul stated that oiling alone will not rapidly reduce the goose population. The hard winters in Deep Creek Lake will cause some mortality and limit the Geese on DCL when it freezes over, but the geese will find open water near by. Oiling will not be the sole solution for the population reduction of the geese.

Mr. Peditto stated Broadford Lake is a potential location for lethal control in winter due to Broadford Lake providing an open water environment through most of the winter. Broadford Lake is not conducive to goose nesting; therefore oiling eggs at Broadford Lake would not be an option. Wildlife staff will be talking with County staff to assess the possibility of managed hunting at Broadford Lake.

Dr. Myerberg asked Mr. Peditto to assemble a few paragraphs of information that can be sent to stakeholders to inform them of the possible management efforts. Barbara Beeler will distribute information to FODCL, Mr. Hoffman to the POA, and Mr. Browning to the Chamber. Susan Fowler asked if the hunting would take place by land or boats. Mr. Peditto stated that the hunting would be from boats in designated areas that would be marked with buoys where the hunting vessels would have to anchor.

Lake Budget and Strategic Planning

Dr. Myerberg stated he was unable to schedule everyone to attend the meeting. The meeting will be postponed until next quarter.

Laws and Regulations impacting to Watershed

Dr. Myerberg stated Barbara Beelar had a number of comments on the compendium that were forwarded to all members of the committee.

Barbara Beelar made comments on omissions of text issues and pasted in areas of omissions. She had three major question areas: 1. State Boat Act. 2. Fisheries Service 3. Dredging.

Mr. Hoffman stated that the compendium was prepared by funding of the DNR and instead of prolonging the updating of the compendium, that one office should be responsible for updating the document.

Dr. Myerberg asked Senator Edwards and Delegate Beitzel when would be the best time according to the legislative sessions to update the compendium. After much discussion it was decided that the first of September would be the most appropriate time to update the document since that time of year would allow, all new legislation and most regulations to go into effect.

Dr. Myerberg introduced Assistant Attorney General Mark Talty and asked if his office could update the document on September first and if they would work together with the PRB to make these changes. Dr. Myerberg asked for a proposal to make September 1st the date to make these changes to the legal compendium. Ms. Beelar recommended a proposal to Secretary Joe Gill that he assign staff to do an annual update of the compendium and let the Secretary set the due date for the update. Mr. Browning stated that updates go beyond an annual basis; he feels that after September would be more appropriate to update the plan. Senator George Edwards stated if they pass any rules or regulations that could pertain to the compendium in the 2015 legislative session that they are added right away and forego any updates until new rules and regulations are passed in future sessions. Dr. Myerberg will write a letter to Secretary Gill and send it to everyone on the committee to review.

Update on Hydrilla

Mr. Hoffman, read an email that Bruce Michael submitted, which said they found two more patches of hydrilla, one in Green Glade Cove and the other in Back Bay during the summer. Two other patches were found during the lake-wide fall survey, one in Thousand Acres and the other located adjacent to the Sorbus Lane area of the Blakeslee Development. All patches were treated with contact herbicides. He also stated in his correspondence that the block treatments performed this season were successful and provided excellent control of the hydrilla, with little loss of native SAV's in treatment areas. DNR will conduct similar hydrilla control efforts in 2015. Bruce Michael provided a map that has 19 stars, showing the individual hydrilla patches that have been discovered and treated on Deep Creek Lake.

Dr. Myerberg asked Mark Talty if they were working on the opinion regarding boat cleaning station as requested by Senator Edwards and Delegate Beitzel. Mark stated a draft opinion has been assembled by the Attorney General's Office. There will be an open review of the opinion by the Attorney General's Office. The document is still in the revision phase.

Ms. Beelar wanted to make sure that any anticipated regulations did not include only cleaning stations, that they should have to clean the vessel before entering Maryland waters. Mr. Talty stated they are checking to see if they can legally stop and inspect a vessel. Mr. Talty stated that stopping a vessel is a Constitutional issue and that the Attorney General's Office is still reviewing the status. Any proposed regulation changes will be presented to the PRB for review. Mr. Browning stated that only 60% of the boats

launched at DCL are launched from the State Park ramp so prevention would be difficult even if facilities were installed at the ramp.

Dr. Myerberg asked Senator Edwards and Delegate Beitzel if some regulatory changes are needed to allow the inspections and mandate cleaning of vessels. Senator Edwards stated that if regulations can be changed or added to allow for these precautions that the PRB would review and comment of any proposed regulations.

Mr. Browning stated that the best control effort is public education and paper publications.

Ms. Beelar stated there is a COMAR regulation 08.02.19.01htm: (See attachment)

Ms. Beelar stated that there are proposed regulatory documents concerning invasive SAV species in the seven states area located in the western United States. Dr. Myerberg asked if there are articles and legal documents on the seven states with these regulations. Dr. Myerberg will be glad to send a link to this article, and that any proposed regulations for DCL needs to be made scientifically and with concern to how much regulation should be imposed and how much work DNR would have to perform.

Sedimentation Study:

Dr. Myerberg had an opportunity to read the sedimentation study and stated that it is an enormous document at 212 pages long, but the text of the Sedimentation Study is only 40 pages. Dr. Myerberg feels everyone on the PRB should read the document. After reading the document he does not believe that a subcommittee is needed to review and comment on the document. Dr. Myerberg would like to have a representative from the Baltimore based firm, Whitney, Bailey, Cox that completed the sediment study attend a meeting and review how they arrived at their conclusions. Dr. Myerberg stated that he found a vast amount of interesting information in the report that raises more questions than it answers. One is Agriculture and development, Pawn Run and Red Run Coves are good comparisons. The study states that Pawn Run has large areas of agriculture and development, the cove also has higher sediment accumulation when compared to other coves. Red Run Cove has very little agriculture and development, likewise it has very little sediment. The study states that shoreline erosion and riparian buffer contribute far less sediment than agriculture and development.

Ms. Beelar stated that the Watershed Plan Steering Committee should be used as a model for how to address the Sedimentation Study. Ms. Beelar would like to refer to dredging as sediment removal since there are other options besides dredging. Ms. Beelar stated that the study does not identify the sources of sediment in each coves and provide other options to remove the sediment. She believes that there are more than two major sources of sediment and that a tributary study is needed. Ms. Beelar stated that the Friends of Deep Creek Lake urge the formation of a sub-committee to review the sediment survey.

Mr. Hoffman stated that the study did list the causes and solutions of sedimentation, but there were not costs associated with the remediation of sediment causes. Mr. Hoffman

stated that there was a meeting held on Saturday night to discuss the options of localized dredging in small areas of coves. Dr. Myerberg asked if there would be any information from the meeting the PRB could review. Mr. Hoffman stated that there would be minutes from the meeting.

Dr. Myerberg stated that he was now convinced that there should be a subcommittee to review the Sedimentation Study.

Delegate Beitzel stated that dredging is costly but there could be funding opportunities that could help cover a portion of the expense, but they would require match funding.

Ms. Beelar stated that the cost of not dredging will be more considering that sediment is still accumulating in the coves, If dredging is not done soon the volume of material that will need to be removed will increase. She also stated that there has been no cost benefit analysis performed for dredging DCL.

Delegate Beitzel stated that if people in coves want to dredge, the cove owners could incur the lion's share of the cost of dredging such as happens with sewer lines.

There was agreement that the PRB should form a sub-committee to review the sediment study.

Update from County Commissioner:

Mr. Gatto; The Watershed Plan was accepted but tabled for the New Board of Commissioners to pass. The water and sewer master plan for Garrett County has been approved. The plan sets new district boundaries. An important area of the master plan is the Sandy Beach area, this area is the site of the proposed return route of the Western Conveyance Sewer Line. The Western Conveyance line also has a crossing located in Deep Creek Lake, which is being ironed out between the County, DNR, and MDE. The Sandy Beach area could become a court issue if the property owners refuse the service of the Western Conveyance.

The State Highway and Department of Transportation performed their annual tour; the department expressed their concerns about their role in the Watershed Plan and moving forward with proposed projects.

The Deep Creek 2014 event is over. It provided good exposure for the County. Final revenues and economic gains are currently being calculated.

Ed King is giving a presentation on the history of the Deep Creek Lake at Uno's.

Commissioner Gatto thanked everyone for their patience with him over the last four years.

New Business:

Formal introduction of Assistant Attorney General Mark Talty,

Mr. Talty comes to DNR with four years of employment in a private practice. Mr. Talty hopes to become more active with issues at Deep Creek Lake. He introduced the accepted structure for communication between PRB and the Attorney General's Office. Issues that the PRB would like to consult the Attorney General's Office about are to be discussed by the Policy and Review Board. When the Board agrees on the issue to be presented, the chairman will present the issue to the Lake Manager. If the Lake Manager determines that an Attorney General's office review is needed, then the Lake Manager will forward the issue to Mr. Talty.

Dr. Myerberg asked if there was any objections to this process, none were noted, so process will proceed as stated by Mr. Talty.

Ms. Beelar asked about the consumer protection action that was sent to the Attorney General's Office in regards to the advertisement depicting properties that were for sale at DCL. The properties in question included a dock slip and boat, but had no access or eligibility to the Buffer Strip. Mr. Talty stated the he contacted the Attorney General's Office Consumer Protection Division and spoke with Patrick McCauley the assistant AG in that division. He informed Mr. Talty that the seller stated that the dock slip was with a local marina and that none of the lots had been sold.

Public Comments:

Richard Matlick first commented on the geese program stating DNR came up with a solution and now it is trying to get the problem under control. He also commented about the Sediment Study stating how long are you going to do study after study, something needs to be done, don't just close the door because of insufficient funds. He feels that there are more causes of sediment than what is listed in the study.

Next meeting is January 12th, 6 pm, Garrett College

Dr. Myerberg asked for motion to adjourn. Mr. Hoffman made the motion, Ms. Beelar seconded, all agreed. Meeting adjourned.

Respectfully Submitted,

Misty Moon
Administrative Specialist
DCL NRMA