

**DEED OF CONSERVATION EASEMENT**

THIS DEED OF CONSERVATION EASEMENT ("Conservation Easement") made this 18th day of May, 2001, by and between DOUGLAS L. SITES, ("Grantor(s)"), and The State of Maryland to the use of the Department of Natural Resources ("Grantee"),

WITNESSETH

WHEREAS, by Contract of Sale approved by the Board of Public Works on February 9, 2000, the Pennsylvania Electric Company agreed to sell and the State of Maryland agreed to buy the bed of Deep Creek Lake and certain surrounding parcels of property, known collectively as Parcel 2, subject to the imposition of a conservation easement upon the State's purchase of certain portions of the property;

5.00  
20.00  
25.00  
Ref # 0401 Rct # 71505  
DKM 0303 Bk # 1397  
Mar 29, 2001 10:55 AM

WHEREAS, of the property purchased from Pennsylvania Electric Company, the State shall retain a portion of Parcel 2 contiguous to Deep Creek Lake to be reserved for public use; reserve additional land as necessary to protect the Lake's natural, recreational, scenic, and aesthetic resources; correct and delineate boundary lines; and to provide for public access to the Lake;

WHEREAS, of the remaining portions of Parcel 2, in addition to other options the State shall resell to contiguous property owners, certain parcels, subject to this Conservation Easement;

WHEREAS, Grantors herein own in fee simple real property situate, lying and being in Garrett County, Maryland, contiguous to Deep Creek Lake, thereby making them eligible to purchase a portion of Parcel Two subject to this Conservation Easement; and

WHEREAS, the within Grantors have availed themselves of the opportunity to purchase property ("Property") and are willing to grant this Conservation Easement on the Property, thereby restricting and limiting the use of the Property as hereinafter provided in this Conservation Easement for the purposes set forth below.

WHEREAS, the purpose of the Conservation Easement is to prevent development and maintain the beauty and recreational purpose and to conserve the natural and scenic qualities of the environment of Deep Creek Lake and the surrounding area;

NOW, THEREFORE, in consideration of the facts stated in the above paragraphs and the covenants, terms, conditions and restrictions (the "Terms") hereinafter set forth, the receipt and sufficiency of which are hereby acknowledged by the parties, the Grantors unconditionally and irrevocably hereby grant and convey unto the Grantee, its successors and assigns, forever and in perpetuity a Conservation Easement of the nature and character and to the extent hereinafter set forth, with respect to the Property:

Exd. and Del. to  
Stover & Sherbin  
05/30/01

ARTICLE I. DURATION OF EASEMENT

This Conservation Easement shall be perpetual. It is an easement in gross and runs with the land as an incorporeal interest in the Property, enforceable with respect to the Property by the Grantee against the Grantors and their personal representatives, heirs, successors and assigns.

ARTICLE II. PROHIBITED AND RESTRICTED ACTIVITIES

A. Industrial or Commercial Activities on the Property

Industrial or commercial activities are prohibited on the Property, except, with the approval of the Grantee, for activities necessary to support and gain access to lake-related, commercial and recreational uses permitted by the State of Maryland on immediately contiguous State land or on Deep Creek Lake, at the time of the proposed activity.

B. Construction and Improvements

No building, facility, means of access, fence or other structure shall be permitted on the Property, except: (1) pedestrian pathways or stairways constructed with wood, stone, or permeable surfaces of natural materials to provide access to the lake or improvements on the Property from the contiguous property; (2) with the approval of the Grantee, utilities to serve commercial or recreational facilities on the contiguous State land; (3) structures identified on a plat of Parcel 2 as recorded among the Land Records of Garrett County, Maryland in Plat Drawer P, File 134 or in the records of the Department of Natural Resources, provided that such structures were permitted by the Department or its predecessor in title prior to the Grantor's ownership of the Property; and (4) as subject to the approval of the Grantee, temporary structures with a footprint no greater than 120 square feet.

C. Transferable, Cluster and Other Development Rights

The Grantors hereby grant to the Grantee all transferable, cluster or other development rights under any present or future law that are now or hereafter allocated to, implied, reserved or inherent in the Property, and the parties agree that such rights are terminated and extinguished, and may not be used or transferred to any portion of the Property, or to any other property, nor used for the purpose of calculating permissible size or lot yield of the Property or any other property.

D. Trees

There shall be no burning, cutting, removal or destruction of trees, shrubs and other woody vegetation (collectively "Vegetation"), except: subject to the approval of the Grantee (1) Vegetation that is dead, infested or diseased; (2) Vegetation necessary to control erosion; (3) Vegetation necessary to provide reasonable access to Deep Creek Lake; and (4) Vegetation cut,

maintained, or removed pursuant to a forest management plan that has been approved by the Grantee and prepared by a professional forester registered in Maryland. Trimming and maintenance of Vegetation that has been planted by the Grantor or a predecessor in title to the Grantor on the Property is permitted; provided, that the Grantor or the Grantor's predecessor provides written documentation to the Grantee of the type and location of the Vegetation prior to maintenance or trimming.

E. Dumping, Placement or Storage of Materials

No materials may be dumped or stored on the Property, including, but not limited to, ashes, trash, garbage, rubbish, abandoned vehicles, abandoned vessels, abandoned appliances, and abandoned machinery.

F. Excavation of Materials

Excavation or mining of the Property is prohibited, including, but not limited to, removal of soil or sand, except, with the approval of the Grantee, for temporary excavation: (1) to maintain access to Deep Creek Lake; or (2) to repair and extend a septic system or well that has failed on a contiguous property, so long as the failure is not due to increased use, occupancy, or size of the contiguous dwelling that the septic system or well serves, in violation of any health laws, ordinances, regulations or permits.

G. Wetlands

No diking, draining, filling, dredging or removal of any wetland or wetlands is permitted. "Wetland" or "wetlands" means portions of the Property defined by any State or federal laws as a wetland or wetlands at the time of the proposed activity.

H. Signs and Billboards

No signs, billboards, or outdoor advertising displays may be erected, displayed, placed or maintained on the Property except temporary signs not exceeding six square feet to advertise the property's sale or rental.

I. Public Access

This Conservation Easement does not grant the public any right to access or any right of use of the Property.

J. Reserved Rights

Except to the extent that prior written approval of the Grantee is required by any paragraph of this Article, all rights not prohibited by this Conservation Easement are considered to be consistent with the Terms of this Conservation Easement and require no prior notification

or approval. If the Grantors have any doubt with respect to whether or not any particular use of the Property is prohibited by the Terms of this Conservation Easement, the Grantors may submit a written request to the Grantee for consideration and approval of such use.

ARTICLE III. ENFORCEMENT AND REMEDIES

A. Remedies

Upon any breach of the Terms of this Conservation Easement by the Grantors, the Grantee may exercise any or all of the following remedies:

1. institute suits to enjoin any breach or enforce any covenant by temporary and/or permanent injunction either prohibitive or mandatory; and
2. require that the Property be restored promptly to the condition required by this Conservation Easement.

The Grantee's remedies shall be cumulative and shall be in addition to any other rights and remedies available to the Grantee at law or equity. If the Grantors are found to have breached any of the Terms under this Conservation Easement, the Grantors shall reimburse the Grantee for any costs or expenses incurred by the Grantee, including court costs and reasonable attorney's fees.

B. Effect of Failure to Enforce

No failure on the part of the Grantee to enforce any Term hereof shall discharge or invalidate such Term or any other Term hereof or affect the right of the Grantee to enforce the same in the event of a subsequent breach or default.

C. Right of Inspection

The State of Maryland, acting by and through the Department of Natural Resources, the Grantee, their respective employees and agents, have the right, with reasonable notice to the Grantors, to enter the Property at reasonable times for the purpose of inspecting the Property to determine whether the Grantors are complying with the Terms of this Conservation Easement.

ARTICLE IV. MISCELLANEOUS

A. Future Transfers

By executing this Conservation Easement, the Grantors acknowledge that this Conservation Easement is permanent and is binding on their heirs, personal representatives, successors or assigns.

B. Effect of Laws Imposing Affirmative Obligations on the Grantors

In the event that any applicable State or federal law imposes affirmative obligations on owners of land which if complied with by the Grantors would be a violation of a Term of this Conservation Easement, the Grantors shall: (i) if said law requires a specific act without any discretion on the part of the Grantors, comply with said law and give the Grantee written notice of the Grantors' compliance as soon as reasonably possible, but in no event more than thirty (30) days from the time the Grantors begin to comply; or (ii) if said law leaves to the Grantors discretion over how to comply with said law, use the method most protective of the purpose of this Conservation Easement set forth in the recitals herein.

C. Notices to the Grantee

Any notices by the Grantors to the Grantee pursuant to any Term hereof shall be sent by registered or certified mail, return receipt requested, addressed to the current address of the Secretary, Department of Natural Resources, with a copy to Manager, Deep Creek Lake Natural Resources Management Area.

D. Approval of the Grantee

In any case where the terms of this Conservation Easement require the approval of the Grantee, such approval shall be requested by written notice to the Grantee. After consultation with the Deep Creek Lake Policy Review Board, approval or disapproval shall be given promptly and in writing; in the event the request is disapproved, a statement of the reasons for the disapproval shall be given.

E. Condemnation

Whenever all or part of the Property is taken in the exercise of eminent domain, so as to abrogate, in whole or in part, the restrictions imposed by this Conservation Easement, or this Conservation Easement is extinguished, in whole or in part, by other judicial proceeding, the Grantors and the Grantee shall be entitled to proceeds payable in connection with the condemnation or other judicial proceedings in an amount equal to the current fair market value of their relative real estate interests. Any costs of a judicial proceeding allocated by a court to the Grantors and the Grantee shall be allocated in the same manner as the proceeds are allocated.

F. Construction

This Conservation Easement shall be construed pursuant to the purpose of this Conservation Easement and the purposes of Section 2-118 of the Real Property Article of the Annotated Code of Maryland, and to the laws of the State of Maryland generally.

G. Effect of Laws and Other Restrictions on the Property

The Terms of this Conservation Easement shall be in addition to any local, State or federal laws imposing restrictions on the Property and any real estate interests imposing restrictions on the Property.

H. Entire Agreement and Severability of the Terms

This instrument sets forth the entire agreement of the parties with respect to the Conservation Easement and supersedes all prior discussions, negotiations, understandings or agreements relating to the Conservation Easement. If any Term is found to be invalid, the remainder of the Terms of this Conservation Easement, and the application of such Term to persons or circumstances other than those as to which it is found to be invalid, shall not be affected thereby.

I. Successors

The terms "Grantors" and "Grantee" wherever used herein, and any pronouns used in place thereof, shall include, respectively, the above-named Grantors and their personal representatives, heirs, successors, and assigns and the above-named Grantee and their successors and assigns.

J. Real Property Taxes

Except to the extent provided for by State or local law, nothing herein contained shall relieve the Grantors of the obligation to pay taxes in connection with the ownership of the Property.

K. Captions

The captions in this Conservation Easement have been inserted solely for convenience of reference and are not a part of this instrument. Accordingly, the captions shall have no effect upon the construction or interpretation of the Terms of this Conservation Easement.

IN WITNESS WHEREOF, the Grantors have hereunto set their hands and seals in the day and year above written.

WITNESS/ATTEST:

Tamara F. Beachy

GRANTORS:

*[Signature]* (SEAL)  
DOUGLAS L. SITES

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\_\_\_\_\_ (SEAL)