

April 2009

Dear Beaver River Property Owner's Association Member,

The President's letter for April is the same letter (below) that was mailed to all property owners of record. The purpose of the letter was to inform everyone of the ownership status of the docks at Grassy Point and the associated liability insurance. At the BRPOA meeting by majority vote two proposals were presented. The participation and involvement from the Beaver River community that is directly affected by these proposals were invited to voice their interest. The BRPOA historically has provided services to the area and is asking for the public's support so they can continue to do so.

Please let us hear from you by Memorial Day weekend.

Thank you,

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*Letter below:*



Dear Beaver River Property Owner,

This letter is being sent to all property owners of record in Beaver River to inform them of a situation regarding the docks at Grassy Point.

The Beaver River Property Owner's Association (BRPOA) obtained a permit from the NY State Dept. of Conservation (DEC) in 1969 to allow the construction and presence of the docks on state-owned land. Since that time, the BRPOA has maintained and funded the docks by direct expense to the Association, donations from individuals, and the Beaver Flow Fish and Game Club. This arrangement to provide docks for everyone's use worked well until three years ago. At that time, BRPOA was presented with two new problems: the NY State DEC enforcement of all dock removal off state-owned land on the Stillwater Reservoir, and liability insurance coverage to protect the BRPOA and its members.

In an effort to assure permission for the docks to remain at Grassy Point, a search was made to locate the permit issued by the DEC. Once found, confirmation of rights of use was made with all parties involved: then Ranger Terry Perkins, DEC officials and legal counsel, the BRPOA Board of Directors and membership. That search validated information that every user of the docks must understand.

**OWNERSHIP OF THE DOCKS:** The permit applied for by then-BRPOA President Ben Edic was issued to the Beaver River Property Owner's Association exclusively. Permits issued by the State

cannot be transferred, conveyed, or released to any other person or entity. If the original holder of the permit wishes to relinquish their entitlement they must cancel their interest and, if another party wants the same permit, they must reapply with the State. The encompassing problem is the DEC no longer issues permits for docks because the DEC did away with permits for all docks. To acquire permission to have a dock on the Stillwater Reservoir, the applicant must now have riparian rights. Grassy Point is state owned land and no riparian rights are available for docking purposes.

Many of you may recall a special bank account in the name of the designated BRPOA “dock chairman” and a representative from the Beaver Flow Fish and Game Club that was set up years ago for the purpose of maintaining the docks. The intent was to share the responsibility with both organizations to provide dock service for everyone. That account is active still; however, BRPOA dock chairman Don Phelps is now the only person responsible for its existence. The account is not associated with the BRPOA nor the Fish and Game Club. Ownership of the docks is the BRPOA’s unquestionably. Money donated for the expenses of the docks does not give the donator rights of ownership by law. Therefore, this solely burdens the BRPOA with full liability. Any incident of claim would be brought against the BRPOA; consideration first comes from the Association, then the officers, then the members. Chances of claims are more probable now than ever. Exposure is great. Unlit docks for summertime use and often concealed docks in winter pose high risk. To safeguard against this liability risk, insurance had to be purchased. Why would anyone join the BRPOA with possible claim from the docks against their personal assets? The BRPOA would then dissolve, as would the permit, and consequently the docks.

LIABILITY INSURANCE FOR THE DOCKS – The BRPOA called numerous insurance agencies for the liability insurance. No company would insure the Association because the BRPOA does not own the land the docks occupy. This created quite a dilemma for the Association. Do we abolish or not?

BRPOA RAIL PERMIT – In 2003, the Thompsons requested a railroad permit from the NY State Dept of Transportation (DOT) to safely transport their daughter to school. The DOT denied their request, giving the reason that “individuals” could no longer be issued a permit for railroad use. This endeavor was brought to the attention of many legislature and government authorities by the Thompsons at the time. Realizing their situation, the BRPOA offered to apply for the permit. To do this the BRPOA also had to apply for incorporated status and meet all additional terms set forth within the permit including liability insurance in the amount of \$3 million dollars. Senator Seward paid for the insurance for the first year of operation to help the Thompsons. For the Thompsons to utilize this opportunity they had to join the BRPOA by paying their \$10.00 annual dues as only members were covered under the BRPOA railroad permit. The Thompsons opted not to join and consequently the permit was not used and the insurance cost wasted. No rail activity occurred.

In 2004, the permit had to be renewed and insurance paid once again. Three BRPOA members privately purchased their own hi-rail (track) vehicles to keep the permit active. The personal cost for those purchasing hi-rail vehicles was substantial. Each had to take classes to be certified operators on the rails and pay for highway insurance, highway inspection, railroad inspection, purchase dispatching radios and

pay \$900.00 each for their share of required liability insurance. This continued for 2005, 2006 and 2007. Each year the hi-railers equally divided the cost of insurance and paid it themselves.

BEAVER RIVER ACCESS – In 2007, when it was discovered no insurance company would insure the BRPOA docks, the logical last attempt was for the BRPOA hi-railers to solicit the company that provides the railroad insurance to see if they would consider including the BRPOA docks (as the Association now had a 4 year relationship of good standing with them). Fortunately, the underwriter agreed to include the docks as both involve transportation concerns, exactly what railroad insurance is for. The better news is the underwriter agreed to do so without a premium increase. Therefore in 2007, the BRPOA hi-railers paid the \$2625.00 premium and covered the BRPOA docks for \$9 million dollars *at no cost to the Association*. In 2008, the BRPOA held discussions as to how this coverage for the docks could continue. It is not fair to expect 3-5 members to bear all the insurance expense for the BRPOA. By a majority vote, the BRPOA agreed to pay the full premium of \$2625.00 for the insurance. This seemed fair.

REASON FOR THIS LETTER TO YOU – Now that we all are working from the same set of facts, and everyone knows the history of how we got to this point, we need to figure out a fair way to continue to offer the same services to everyone involved. To summarize:

- The BRPOA exclusively owns the docks by permit from the DEC - a permit that can't be replaced if canceled.
- The BRPOA exclusively holds the railroad permit for use by any member, with requirements of liability insurance.
- The BRPOA can't get separate liability insurance for the docks because the docks are on state land.
- The DEC is actively enforcing removal of other docks on the Stillwater Reservoir without riparian rights.
- BRPOA docks are protected by permit.
- The only available insurance is to insure under the hi-railers' permit insurance.

The hi-railers have other less costly options to satisfy their insurance requirement but it would exclude dock coverage. Both permits (rail and dock) entitle access options to Beaver River. Regardless of whether you use one, both, or neither is not the issue. We never know when the method you use may change for whatever reason. We would be very short-sighted to forfeit one for cost or selfishness.

There is another possible solution for the docks, and that is to turn the current docks over to the State. By contract agreement the docks would become state property and the State would be liable for any potential claims; however, the BRPOA would be required to maintain the docks according to the State's specifications at our expense and our labor. It sounded like a good solution until we learned that the

State prohibits any overnight parking just as they do in Stillwater at the launch. Also there is no assurance the State may not change or withdraw the agreement, at will, at any time in the future. For these reasons the BRPOA felt this was not a viable option.

At the last BRPOA meeting, the membership chose two options to resolve this insurance need without jeopardizing any of the services, conveniences, and access options we currently have. The BRPOA decided by majority vote to divide the insurance cost into thirds being shared equally by the BRPOA, the BRPOA hi-railers, and then asking the Beaver Flow Fish and Game Club to contribute a third. This proposal would be a pilot program for the 2009 season only. Any individual that would like to make personal contributions towards the insurance or towards dock repairs may still do so, and all money donated in that capacity will be deducted from the total before the thirds are calculated.

A “backup” proposal, also voted on by the majority, is for the BRPOA to divide the cost equally between all “units” using the permits. The BRPOA does recognize the value of service for public use of the docks. It was decided 4 dock spaces would remain public. The remaining spaces would be available to purchase with a season’s pass noted by sticker, first offered to BRPOA members for a lesser fee. If any dock space remained unused the remainder would be available for non-members at a higher fee. Each hi-railer on the permit would pay the fee, same as those buying dock spaces. The number of “units” using the permit would cover the insurance premium.

The BRPOA has heard outrageous stories circulating about ownership of the docks, that only a select few can operate the rails, that the hi-railers are getting free insurance at the cost of others; that anyone can have their own dock at Grassy Point and so on. Regardless of what you may have heard in the past, this letter is the situation. The supporting information is available for anyone to review.

Beaver River is unique; it is unlike any other community. The reasons each of us have chosen Beaver River as our retreat is as vast and different as we are as individuals. However there are common interests and appreciations we share collectively that continually make us return, and that is the glue that holds our tiny community together. BRPOA supports protecting Beaver River’s unique character, viewscape and pristine environment, and its privacy from the world. Our projects historically have been to provide the property owner better community services and quality of the time spent there. As a property owner you have a vested interest in the outcome of these proposals. We ask that you become involved. Voice your ideas, join the BRPOA if you choose, and help us to continue to provide for you the docks and other amenities. This decision must be rendered by Memorial Day Weekend. If you are a member of the BRPOA, the Fish and Game Club, or neither, please become involved and voice your interest.

***Thank you for taking the time to read this very important message.*** If you have any questions regarding the Association or the information within this letter, please feel free to contact me or any of the Board of Directors. You may also wish to visit our website at [www.beaverriverpoa.com](http://www.beaverriverpoa.com). We look forward to hearing from you.

Sincerely,

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