

Subject: Public Comment Docket #2021-P-W-0012 Mr. Norman Singer Subaqueous Lands Hearing June 16th, 2021

Date: Saturday, June 26, 2021 at 10:39:17 AM Eastern Daylight Time

From: David Jasinski

To: HearingComments, DNREC (MailBox Resources)

I want to refute and bring to DNREC's attention that certain assertions made in the public hearing by the applicant ,Mr. Singer, are not accurate.

1. The proposed dock violates the conservation easement. Mr. Singer stated the gangway would have "no interference" with the conservation easement. This is not accurate. The gangway is a structure, and it is being placed over the easement. A clear violation. Putting the foundation of a structure on each side of the easement, while the structure itself is over the easement, is a clear violation of the easements purpose and language. This logic could lead to the conclusion that an individual could place any structure they want completely over a conservation easement simply by ensuring the "foundation" does not touch the easement.

The possibilities for violating conservation easements throughout the state of Delaware are abundant if the applicants assertion is found valid.

The structure violates the easement specifically in the following ways:

- The easement prohibits a structure "erected or placed upon" property. By putting its foundation immediately adjacent to the easement and then extending the structure over the easement itself the gangway has in effect been "erected and placed" upon the easement.
- "Destruction of vegetation" is prohibited. The 3' wide gangway structure just inches above the ground will not allow the existing vegetation to live as it will be deprived of sunlight. Therefore the vegetation presently under the gangway will be destroyed.
- "No uses affecting fish or wildlife". The applicant provided no measurements of the water depth at the proposed location, especially during dry periods. Turtles, fish, and vegetation can be harmed if the 'floating' dock is resting on or near the lake bed as in many areas the 'lake' is only inches deep.

2. The dock projects into Lake Comegys in excess of DNREC standards. During the hearing, Mr. Singer stated "total length of the structure will extend 11 feet from the 5-foot easement." This is not accurate. The dock and pier are 11' in length by themselves. The gangway (part of the structure) is an additional 10'. The total length is 21'. The original application showed a 20' projection and no materials were submitted with the revised application showing a smaller projection into the lake. The location where the gangway will be anchored on the ground behind the bulkhead is significantly higher than the waterline (roughly 5' +/-). The application did NOT provide a revised cross section showing the waterline, height of the ground/bulkhead, and easement location to which he proposes anchoring the gangway, pier and dock. Because of the difference in elevation of the dock to the adjoining property, the gangway will need to extend at least 10' out horizontally from the bulkhead. The total projection into the lake is 21', possibly more if the gangway is constructed at a less steep angle. The original application contained a cross section showing some of this. The revised application left out all details of the projection into the lake and the vertical cross section. Had the application included a cross section showing the height of the bulkhead, easement location, and ground height where the gangway would be attached relative to the waterline, it would be clear to the public and DNREC that the projection will be 21'. Given the lake's (alleged) width of 130' , this projection exceeds the 10% regulatory maximum..

3. Overall size of project and compatibility with surroundings.. Mr Singer asserted that his proposed dock's projection into the lake is "less than any existing dock currently in the lake. So it will be the smallest dock in the lake." This is not accurate. There are no docks on the lake that project nearly as far into the lake as Mr. Singers proposed dock. All of the docks in the lake were constructed well before DNREC assumed ownership of the lake. One of the three docks projects only 7' into the lake and is just 4' wide.

Thank you for your consideration

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