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Pascoag Reservoir owners sue state

- They seek compensation for any loss of the lake's value resulting from an access dispute with the state.

BY LIZ ANDERSON

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BURRILLVILLE -- The owners of the Pascoag Reservoir fired a new salvo in the battle over the disputed waterway yesterday, demanding in a federal court lawsuit that the state pay them damages for lost value.

The state Supreme Court ruled 3 to 2 in June that the public had the right to use the lake for recreational purposes. That ruling appeared to end a four-year battle over access to the 2-mile-long lake, which spans the Burrillville/Glocester line.

But the owners of the lake, Pascoag Reservoir & Dam LLC, contend that the ruling amounted to the state taking the property without compensation -- money they now are seeking through the U.S. District Court.

In addition to compensation for the land, the owners, who include former state Rep. Vincent Mesolella Jr., want:

- Reimbursement for taxes and local fees they have paid on the property
- A declaration the state is responsible for repair and upkeep of the dam and reservoir.
- Attorney's fees.

The lawsuit names as defendants Jan Reitsma, head of the state Department of Environmental Management, and Atty. Gen. Sheldon Whitehouse.

"We can't do anything with that property, period, as the situation currently exists," said Barry Kusnitz, the lawyer for Pascoag Reservoir & Dam. "The state has taken 350 acres and doesn't want to pay for it. It's an outrageous situation."

The reservoir, also called Echo Lake, was created in 1860 by a group of mill owners who used it to power their factories. Mesolella and a partner became the sole owners of the reservoir in the early 1980s by buying up various mill companies that held stock in the former Pascoag Reservoir Corp.; they incorporated the current company six years ago.

Mesolella raised the issue of public use of the lake in a dramatic fashion in 1997, when he posted a "no trespassing sign" at a state boat ramp at the Glocester end of the lake and asserted he controlled public access to the water.

The state took him to court, arguing the boat ramp, built in 1965, had been in place without objection for so long that the reservoir's owners had given up the right to protest.

The state Supreme Court sided with the state and ruled it was too late for the lake owners to seek any compensation. The high court decision overturned a Superior Court decision 14 months earlier in favor of the reservoir's owners.

Responding to the Supreme Court decision in June, Joseph S. Larisa Jr., Governor Almond's chief of staff, had said any discussions about buying the land from Mesolella's company were made moot by the ruling.

"Why would you pay for something you already own?" he asked.

Gail Mastrati, a spokeswoman for the DEM, said late yesterday that her agency had not received notice of the lawsuit and she could not comment on it.

Jim Martin, a spokesman for the attorney general's office, said his office had received a fax about the case but had not been served with the actual complaint.

"My understanding from speaking with the attorneys, though, is the issues being raised are similar to those issues which have already been resolved and acted upon in state court," Martin said. "Our position has been pretty clear through the state court process, and the state court ruling was pretty clear."

Kusnitz said he had looked into the possibility of appealing the state Supreme Court decision to the U.S. Supreme Court, but decided suing in U.S. District Court "was the best way to bring all of the issues that are outstanding to a head."