

State wants court to shelve ruling on Pascoag Reservoir

A motion filed yesterday is the first step in the state's attempt to overturn the decision that gave Vincent J. Mesolella Jr. the sole rights to Echo Lake.

By RAGHURAM VADAREVU Journal Staff Writer

The state filed papers yesterday asking a Superior Court judge to put on hold last week's ruling that former state Rep. Vincent J. Mesolella Jr. owns the Pascoag Reservoir and can restrict public access to it.

The attorney general's office and the Department of Environmental Management are asking Judge Francis J. Darigan Jr. for a stay of his ruling. It is the state's first step in its appeal of Darigan's decision. A hearing date has not yet been set.

If the stay is granted, Mesolella would not be able to bar the public from using the 355-acre reservoir until the issue was decided before the state Supreme Court, said Jim Martin, spokesman for the attorney general's office.

Mesolella said last week and reiterated yesterday the public is banned from the reservoir unless they get his permission. The reservoir, also known as Echo Lake, stretches from Burrillville to Glocester.

As of yesterday, Mesolella had not put up any no-trespassing signs. He said, "This is not a situation where I'm making this a priority. When I get around to it, I'll deal with it. "Quite frankly, I have much more important things to do."

Mesolella told local police about the ban and is expecting them to enforce it. Glocester and Burrillville police said they will enforce the law, but are limited because they are not equipped to get on the water.

Glocester Chief Jamie A. Hainsworth said the police would prevent people from using the DEM's boat launching ramp. He added, "If the boats are already in, it's going to have to go to the DEM.

"Nobody here is that good of a swimmer."

Gail Mastrati, DEM spokeswoman, said DEM enforcement officers only have the authority to get involved if a trespasser is fishing or hunting. Otherwise, the DEM will refer the matter back to local or state police.

Meanwhile, on the picturesque reservoir yesterday -- the start of Mesolella's ban -- there were no boaters, swimmers or fishermen. Only a cool breeze blew onto the reservoir's shoreline.

The calm was a far cry from 1997 and 1998, when Mesolella put up no-trespassing signs and drained the lake to a 35-year-low. He had tried to sell the property to the DEM, which refused to buy it. The DEM argued that while Mesolella owned the underlying land, the lake itself is public. This past summer, in a contentious civil trial, the state sought a permanent injunction that would have prohibited Mesolella from blocking public access to the reservoir.

During the nonjury trial, Mesolella testified that he grew frustrated that he paid taxes, liability insurance and maintenance for the property while others, including for-profit businesses, enjoyed the lake. Darigan's much anticipated decision shocked area residents, who said they were afraid of losing value on their homes and their way of life. Darigan wrote, "Private property rights are among the most important and hallowed rights enjoyed by citizens of the state. It is beyond this Court's authority to deprive a private landowner of the rights inherent in ownership because a landowner has chosen to allow others to benefit

from his property." In his decision, Darigan concluded Mesolella has the right to restrict public access to the reservoir, which his corporation, Pascoag Reservoir Dam, LLC, has owned since 1983. Darigan wrote that Mesolella "is the owner of the lake, lake bed, and dam, and may exercise all rights inherent in and consistent with existing state statutes." Darigan said the public has been able to use the lake because Mesolella and previous owners had allowed them to use it since it was created more than a century ago by mill owners.

After the decision, Mesolella and his lawyer, John B. Webster, said everyone, including abutting property owners, were banned. The state, however, says the ruling applies to the public's use of the lake through the state boat launching ramp and not to the hundreds of abutting lakefront property owners.

Yesterday Mesolella said, "I'm interested in discussing the issue with the state and if the issue of selling it comes up, I'm willing to discuss that."

At 6 last night, the police in Glocester and Burrillville had not received a single call all day about trespassing on Pascoag Reservoir.

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DEM asked to buy or lease Pascoag Reservoir

State Sen. Paul Fogarty requests negotiations between the state and lake owner Vincent J. Mesolella Jr., who approves of the overture but sees little chance that talks will be approved.

By RAGHURAM VADAREVU Journal Staff Writer

State Sen. Paul Fogarty, in a letter, has asked the director of the Department of Environmental Management to start negotiating with former state Rep. Vincent J. Mesolella Jr. on purchase or lease of the Pascoag Reservoir.

Mesolella, who has barred the public from using his 355-acre reservoir since Monday, said he thinks Fogarty's idea is "a pretty reasonable request." Mesolella nevertheless said he sees little chance that DEM will respond favorably. "We're sitting here and remain open to discussion," Mesolella said, careful not to mention a potential sale price.

DEM spokeswoman Gail Mastrati said the department received Fogarty's letter on Monday and officials will review it before they comment. The dispute between the state and Mesolella over access to the reservoir might soon go before Superior Court Francis J. Darigan Jr., who last week ruled that Mesolella owned the reservoir and could restrict public access. The attorney general's office and the DEM on Monday asked Darigan for a stay of his ruling until the outcome of the state's appeal of his decision to the state Supreme Court.

Jim Martin, spokesman for the attorney general's office, said yesterday that representatives of the attorney general have scheduled a meeting with Darigan later this week to discuss the issue.

Fogarty, a Democrat representing Glocester and Burrillville, said the state should buy or lease the reservoir to protect waterfront residents' property values and preserve public access to the lake. "It means everything to residents," he said of the placid reservoir, which stretches from Burrillville to Glocester.

Fogarty added that the reservoir, also known as Echo Lake, is also important to the local economy because it draws visitors who patronize gas stations to fuel their boats and who purchase fishing bait.

Glocester Town Council President Edward C. Burlingame called negotiations "a good beginning." He said, "It's very important to [lakefront residents] so they can go back to using the lake as they have always done." Burlingame said he would not support town purchase of the property. "I don't think we should enter into that kind of purchase. It may be open space, but it's not the open space we usual [look for]."

Burrillville Town Council President Wallace F. Lees could not be reached for comment.

If the state does enter into negotiations with Mesoella, Fogarty said, Mesoella should grant access to residents and the public during the talks. Mesoella said he would consider it, but not for the entire summer.

The negotiations should not exceed 30 days, Mesoella said. He said the talks would involve appraisals by the state, his appraiser, and an independent appraiser to settle on the property's value. If talks start, it would not be the first time Mesoella and the state have discussed sale of the reservoir.

In the summer of 1997, Mesoella had tried to sell the property to the DEM, which refused to buy it. The DEM argued that, although Mesoella owned the underlying land, the lake itself is public. In 1997 and 1998, Mesoella put up no-trespassing signs and drained the lake to a 35-year-low.

The state took Mesoella to court last summer, asking Darigan to issue a permanent injunction that would have prohibited Mesoella from blocking public access to the reservoir.

In a much-anticipated decision that shocked area residents, Darigan concluded last week that Mesoella owned the reservoir and could restrict public access to it. Darigan said the public has been able to use the lake because Mesoella, who has owned the property since 1983, and previous owners had allowed them to use it.

After the decision, Mesoella and his lawyer, John B. Webster, said everyone, including abutting property owners, were banned. The state, however, said the ruling applies to the public's use of the lake through the state boat-launching ramp and not to the hundreds of abutting lakefront property owners.

4.12.2000 00:06:48

Public be damned For more than a century, people have been enjoying the Pascoag Reservoir, a picturesque, 2-mile-long manmade lake that stretches between Burrillville and Gloucester.

No more. The latest owner, former state Rep. Vincent Mesoella, a Rhode Island power broker who chairs the Narragansett Bay Commission, has secured his legal right to keep the public out. He has been trying to do that since 1998, when he drained the lake and posted "No trespassing" signs. The people who enjoyed that lake or bought houses alongside it thinking they could enjoy it are out of luck, at least for now.

Mr. Mesoella has thus achieved his revenge on the state's Department of Environmental Management, which refused to buy the lake from him. The DEM thought that it did not have to, since tradition secured the right of citizens to enjoy that water. After all, a state boat launch had been in place at the lake since 1965, long before Mr. Mesoella purchased the property.

Certainly, as a general practice, the owner of private property should not be forced by the state to give up the use of it to someone else without compensation. On the other hand, it does seem odd that decades of tradition of public use of the lake count for nothing, which is why the state will appeal.

Beyond the strict legal questions, though, we wonder: Were people warned that they potentially had no right to boat or swim in that water before they bought homes or built campgrounds along the lake? Will they receive tax abatements as a result, which could strain town coffers? Could the state reach any reasonable accommodation with Mr. Mesoella to ensure continued public access to that water -- either by buying it (for a fair price) or assuming some of the liability for public use? Does Mr. Mesoella feel any twinge of conscience, any compunction to give something back to the people of a state that has been so good to him? Do the people who put him in positions of power and public trust feel any twinge of guilt about having elevated such a man?

4.13.2000 07:31:49

Town gains grip on sex offender center issue in The Town Council also urges the state to enter talks on buying the Pascoag Reservoir.

By RAGHURAM VADAREVU Journal Staff Writer

BURRILLVILLE -- The Town Council last night took action on the community's two most contentious and prominent issues -- a proposed treatment center for juvenile sex offenders and access to the Pascoag Reservoir.

... Audience members applauded the council's action. Later, residents who live on the Pascoag Reservoir had a reason to go home smiling.

The council, without President Wallace F. Lees and Councilwoman Jacqueline Zahn, passed a resolution urging the state to buy the Pascoag Reservoir from its owner, former state Rep. Vincent J. Mesolella Jr. Lees, who lives along the reservoir, and Zahn had recused themselves from the meeting to avoid any conflict of interest.

Before the council made its decision, the abbreviated council heard from Asst. Atty. Gen. Michael Rubin, who represented the state in the Superior Court proceeding against Mesolella last summer.

In court, the state had asked Judge Francis J. Darigan Jr. to grant a permanent injunction that would have prohibited Mesolella from blocking public access to the reservoir. In his ruling last week, Darigan concluded that Mesolella owned the reservoir and could restrict public access to it. The state will soon ask Darigan for a stay, preventing his decision from taking effect, and appeal his decision.

On Tuesday, state Sen. Paul Fogarty, a Democrat representing Burrillville and Glocester, asked the state Department of Environmental Management to start negotiating with Mesolella to buy or lease the 355-acre reservoir. Mesolella, who has barred the public from using the reservoir, has said he is open to discussing the sale.

Mesolella had tried to sell the property in the summer of 1997 to the DEM, which refused to buy it. The DEM argued that, although Mesolella owned the underlying land, the lake itself was public. A frustrated Mesolella put up no-trespassing signs and drained the lake in 1997 and 1998.