

*From Pre-trial memorandum*

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**STATE OF RHODE ISLAND PROVIDENCE SC  
SUPERIOR COURT**

**JAN REITSMA, in his capacity as Director, RHODE ISLAND DEPARTMENT OF ENVIRONMENTAL  
MANAGEMENT and SHELDON WHITEHOUSE. ATTORNEY GENERAL OF THE STATE OF RHODE  
ISLAND**

**V.**

**CA. No. 98-1946**

**PASCOAG RESERVOIR & DAM, LLC**

**STATE'S PRE-TRIAL MEMORANDUM**

**I. INTRODUCTION & SUMMARY**

History does not record the reaction of the mill owners of Pascoag and Harrisville who owned and controlled Pascoag Reservoir up until the early 1980s (and who were, therefore, Defendant's predecessors) upon learning in 1965 that the State was then installing, without their permission, a highly visible public boat ramp, some of which actually rested on their Reservoir's bottom. However, viewed from the standpoint of self-interest, this would have actually been a welcome encroachment. The same association of mill owners who owned the bottom of the water-body also owned some of the waterfront land along its shores. The State boat ramp would increase the boating accessibility of their waterfront holdings surrounding the reservoir and thereby increase the value of those lots. With the advent of the State boat ramp facility, there would now be a permanent, reliable, convenient and well-maintained conduit for recreational boating which prospective lot purchasers could count on to launch their boats and thereby fully enjoy their prospective summer homesites. Since the mill owners were just on the verge of platting-out, for sale or lease, those same waterfront lots, this enhancement came at an opportune time.

When the mills eventually failed, whatever interest the mill owners had in both the underwater property and the still-unsold waterfront lots fell into the hands of associated with the principals of the Defendant and, eventually, the Defendant corporation itself. This set of firms continued and accelerated the mill owners' program of taking advantage of the value contributed by the State boat ramp facility by leasing-out, plating-out, and selling-off the waterfront lots surrounding the Pascoag Reservoir.

Now, the Defendant, having (actually or by succession) taken advantage of the enhancement to value provided by the boat ramp for 34 long years, and having thus successfully marketed the great bulk of readily developable shore front lots, seeks to close

**off the boat ramp and close the Reservoir to residents and visitors alike. Fortunately, several well-recognized rules of law will prevent this disruption of the well-settled investment-backed expectations of the public-as-a-whole and the lot-purchasers in particular. With respect to the intrusive portion of the boat ramp itself, the applicable doctrine is adverse possession. With respect to the use of the Reservoir, the doctrines are: (1) implied-in-law dedication; (2) implied-in-fact dedication; (3) prescription; (4) inherent navigability; and (5) riparian rights.**