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'Exclusive use' retained by GSL permit holders

By HEATHER NELLIS, Recorder News Staff

JOHNSTOWN — In a rare show of communication with public speakers during its meetings, the Hudson River-Black River Regulating District Tuesday heeded insistent requests to use former permits and signs allotting for Great Sacandaga Lake permit holder's "exclusive use" of lakefront properties.

The Sacandaga Protection Committee, the group formed to protect the interests of the lake community, was represented Tuesday by Attorney Daniel A. Spitzer of Hodgson Russ LLP of Buffalo. Spitzer spoke during the public comment period to ask for the reinstatement of permit holders' signs posting the property from public use.

Hudson River area Administrator Michael Clark said new signs and permits without the "exclusive use" terminology about three years ago. Board member Ronald Pintuff said the switch was made in anticipation of a new set of permit system rules. Clark said "several hundred" new signs have been posted as the result of sales of properties and issuance of new permits, and thousands of the original signs are still in the field.

In the eleventh hour of a rule-making process to update the permit system last June, the state Department of Environmental Conservation voiced its opposition to the permit holders' "exclusive use" of state-owned land, and because the department has oversight of the district, said it would not authorize the new set of rules without opening up the lake's shoreline to public use.

The regulating district approved the department's recommendations, causing an uproar from the permit holders. Responding to the reaction, Judith Enck, then-Secretary of the Environment, pulled the rules from Gov. David Paterson's Executive Offices several weeks later.

The Sacandaga Protection Committee was then formed, collecting more than \$160,000 in donations for legal representation from Hodgson Russ. Almost immediately, permit holders were advised to contact the law firm if their signs had been replaced without the aforementioned language.

The lake group also successfully moved to become intervenors in a lawsuit against the regulating district filed by National Grid last week, which challenges the validity of the permit system.

"We have a common interest here," Spitzer told the board. "Your compliance with move us significantly down the path of cooperation."

He told the regulating district board that without that verbiage, property values had the potential

to plummet approximately 70 percent, posing significant financial consequences for local communities and the district, whose own taxes could rise to compensate for the change.

At first, board Chairman Phillip Klein said because the new set of rules was never adopted, the existing rules are still in effect, which means the permit holders' use of the land has not changed.

"The rules have been in existence for umpteen years. There has been no resolution or change that impacts that at all. Most of the signs that say exclusive use are still out there," Klein said. Still, Spitzer reminded the board that permit holders have until the end of the month to file grievances against their assessments.

"We want the signs to reflect the rules. It's very simple to avoid any unnecessary financial risk ... Let's not give DEC a leg up," he said.

Against recommendations from regulating district Executive Director Glenn LaFave and General Counsel Robert Leslie, who reasoned the issue was not on the meeting agenda, Pintuff moved to issue the signs and permits branded with "exclusive use" on them "and get it over with."

Everyone except for board member and Vice Chairman Pamela Beyor voted in agreement. She said the move is a "knee-jerk reaction."

"This is obviously a major issue that came up during the rule-making process ... there could be unintended consequences," she said.

Considering the regulating district is under significant financial constraints, Spitzer said the committee will pay for the creation of new signs and printing of new permits. The district obliged.

The last time a Recorder reporter observed communication with the public during the comment portion of the district's meetings was June 2009 in Inlet, when a century of permit holders stormed the meeting to vent their opposition to the board's approval of DEC's aforementioned recommendations about the lake's shoreline.