

## PROPERTY RIGHTS: 9 THINGS EVERY LAKEFRONT PROPERTY OWNER AT SMITH MOUNTAIN LAKE SHOULD KNOW...

CUT UNNECESSARY REGULATORY BURDEN, INC.

1. AEP's Federal operational license is a contract between the Federal Energy Regulatory Commission (FERC) and AEP. Neither the FERC nor AEP have the federal authority to regulate State or County governments or their citizens. The only power AEP has to control a property owner's recreational access is through AEP's State property rights. AEP's license grants it zero authority to change your recorded property rights without your agreement.
2. Around 1960 AEP wrote flowage right and easement deeds for all lake front parcels. At that time AEP had no license requirement to permit docks, regulate shoreline or control our recreational access. Local governments were responsible for land use and development in the project, guided by federal and state regulations. In 1998 AEP agreed to amend its license, which required it to regulate and limit shore owner recreational access to the lake. AEP's renewed license imposed far more restrictive lake access terms on shore owners, but the underlying recorded flowage easements were not and could not be changed.
3. Our right of recreational access to the lake is guaranteed by two key recorded documents: the property deed that describes your property and the appurtenant original 1960 flowage easement. Both of these documents travel with the title of your property when it is sold. Regardless of who owns the land under the water, the flowage easement guarantees property owners the right to use the flowage easement for recreation.
4. AEP's federal license requires it to obtain necessary property rights either through purchase, other agreement or through eminent domain. When the new federal license was signed by AEP (effective 1 April 2010) AEP was required to certify that the company held all necessary property rights to implement the new license and the Shoreline Management Plan (SMP). AEP's certification to FERC stated: "LICENSEE HAS OBTAINED ALL FLOWAGE RIGHTS NECESSARY FOR ADEQUATE OPERATION OF THE PROJECT EITHER IN FEE TITLE OR EASEMENTS. ALL PROPERTY RECORDS ARE KEPT ON FILE WITH THE LICENSEE." Their certification is untrue; consequently AEP is in violation of its federal license.
5. AEP demands you sign its mandatory "permit" to build, repair or maintain docks, remove vegetation and stabilize shoreline. This so called "permit" was authored by AEP and was not approved by the FERC, nor is it a requirement in AEP's license. This "permit," if you agree to its terms, significantly restricts your deeded rights of recreational access. Signing this "permit" places you under the control of AEP's SMP and its federal license. AEP can revoke its permit at any time and for any reason, including if AEP determines your dock is no longer in the "public interest."
6. AEP has no legal authority (federal or state) to demand a property owner sign its permit and surrender your deeded right of lake access. The Federal Power Act also requires AEP to resolve any property dispute with the property owner in a state court of appropriate jurisdiction. We believe AEP is illegally steering lakefront owners to surrender their land rights without paying additional condemnation damages. FERC is complicit in AEP's effort.
7. AEP filed its latest lawsuit in Federal Court to purposely avoid the issue of property rights. It accuses the property owner of violating the Federal Power Act and AEP's federal license. A property owner cannot violate the Federal Power Act or AEP's license, only FERC and AEP can do so.
8. If the AEP v. Nissen case is lost, then every shoreline property owner's land value will be negatively impacted. We can expect to be paying permit fees and annual fees for docks and improvements in the near future. We can expect AEP to continue to interfere in the sale of property by citing inconsequential "violations" of SMP regulations and halting closings. This is happening today; AEP usually waits until there is a sale closing to interfere, when the parties are most vulnerable. Our lakeshore owner community must advance a united front to vigorously defend our rights to enjoy and use our property, consistent with recorded property rights and the laws of our Commonwealth.
9. **C.U.R.B** is a 501c(4) not-for-profit Virginia corporation that is raising funds to mount a vigorous defense of our property rights. Contributions anonymous and cannot be discovered. [Contact-us@curb-ferc-aep.com](mailto:Contact-us@curb-ferc-aep.com) to discuss and make your donation today at [www.curb-ferc-aep.com](http://www.curb-ferc-aep.com).