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# CURB UPDATE

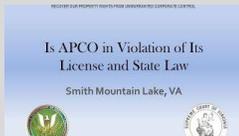


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OUR MISSION IS TO EDUCATE AND INFORM ...

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## ***A Few Pertinent Snippets from the Lakes' Early History ...***

Historical newspaper articles and pertinent correspondence clearly demonstrate that Appalachian harbored no intention of regulating shorelines, the building of docks, boat ramps beaches, marinas, or navigation on Smith Mountain and Leesville lakes prior to and post recordation of flowage easement deeds.

***Franklin News Post Thursday, June 20<sup>th</sup>, 1957*** Dam Runs into Opposition Residents Protest Bridge Plan. "The company proposes to purchase or obtain flowage rights on all land to be flooded. They will probably purchase more land than that was flooded because certain individuals will want to sell their entire farm where large portions are being flooded. ... On the other hand we feel that the remaining property owners will be more than compensated by reason of having the most ideal shoreline for recreational purposes on the entire project." James L. White Roanoke District Engineer for Appalachian Power

***Appalachian Power Company Letter, 17 June 1964*** to US Coast Guard  
"We believe that Coast Guard jurisdiction over both the Leesville and particularly the upper reservoir, commonly known as the Smith Mountain Reservoir, would be highly desirable and we would like to prevail upon the Coast Guard to assume such jurisdiction." Dorman M. Miller, Asst. to the Gen. Mgr.

***Franklin News Post, November 23<sup>rd</sup>, 1967*** ... Almost \$2-1/2 Million was spent on development.  
"These figures were revealed in a survey recently completed by Appalachian Power Company, D.C. Kennedy, Roanoke Division manager of Appalachian, in releasing them said that the figures "continue to substantiate early predictions that the reservoirs would create a large market for homes, businesses and other water recreational-oriented activities." Kennedy pointed out that Appalachian's survey did not include estimates on boat docks, boat ramps, piers and other water facilities unless they were built in conjunction with a dwelling."

***"The existence of the flowage easement does not deprive its grantor from exercising the rights of fee simple ownership that were unaffected by that flowage easement."*** (Va. Supreme Ct. *SML Yacht Club v. Ramaker 2001*)

***APCO Common Practice*** -- APCO allowed (without permit) the owners of shoreline in Union Hall to build a road/causeway to access Contentment Island for residential development in the 1980s. APCO allowed (without Permit) the Vista Point Condominiums to be constructed in the project boundary in Pittsylvania County. Approximately 13 residential homes on SML sit atop piers driven into the lake bottom. Between 1960 and 2003 APCO allowed (without permit) approximately 6,500 residential docks to be constructed on Smith Mountain and Leesville Lakes; and numerous commercial marinas (e.g. Lakeside, Lumpkin's, SM Dock & Lodge, BayRoc, Webster's, Mitchell's, Bridgewater, Indian Point, Saunders/Parkway, Crazy Horse, Gills Creek, Camper's Paradise, SML Yacht Club, etc.)

***"Absent express restrictions imposed by the terms of the grant, a grantor of property conveys everything that is necessary for the beneficial use and enjoyment of the property."*** (Va. Supreme Ct. *Brown v. Haley, 1987*)



## **Your Questions Answered ...**

***What were the true intentions of the parties at the time flowage easements were negotiated, granted and recorded?***

ANS. Appalachian Power had no license requirements in 1960 to regulate uses in the project, control shorelines, or permit docks, beaches, boat launches, etc. Consequently they did not regulate. Instead they encouraged the US Coast Guard, the Army Corps of Engineers, and State and local governments to regulate navigation, dredging, boat docks and zone the shorelines to regulate its uses.

From the Franklin News Post, Thursday July 3<sup>rd</sup> 1959: James Jones Appalachian Power Company, industrial development planner, said the following to the Franklin County Board of Supervisors regarding SML: "We don't know what is going to develop down there in the next 10-15 years but we want to set up regulations now to govern the situation." Then Jones told the group "You have two years to do some orderly planning instead of waiting until the last minute to do panic planning as is usually done when people suddenly realize situation that faces them."

