



Pennsylvania Declares War on Private Property

And Landowners are Fighting Back!

What is it about the Little Juniata River that brings out the worst in Pennsylvania bureaucrats? Is it something in the water? Or is it some of the people who live and work along the Little J – people who also have the guts to stand up for their property rights?

Early readers of the *Landowner* will remember Herman Espy, who was attracted to PLA when DER and the Fish Commission lined up with some local agitators who were trying to force their way onto Mr. Espy's stretch of the Little J at Spruce Creek. After he became fed up with the irresponsible behavior of persons he had previously allowed to fish on his property at will, he closed his stretch of the stream, exercising his constitutionally protected right to exclude people who would seek to enter his property without permission. Mr. Espy made it stick. The Free Lunch Crowd* and their bureaucratic buddies were stymied because this Riparian Owner* had the courage of his convictions and stood up for his rights and just said No! It helped that there was no legal basis to compel Mr. Espy to open his property to the public except, perhaps, an early version of the Public Trust Doctrine,* and a flimsy legal theory conjured up by staff lawyers in the agencies. Sound familiar?



Hidden Hollow's large 4-foot by 8-foot sign announces that the battle over the Little J has just begun.

But as we all know, bad ideas – particularly ones ingrained and entrenched in largely unaccountable government bureaucracies – die hard – and Pennsylvania is no exception. The bad idea which led to all the harassment of Herman Espy has reared its ugly head again; this time to the detriment of

prominent Pennsylvania businessman and entrepreneur Donny Beaver of Bellwood and his company, Hidden Hollow Enterprises, Inc., a fly fishing business started by Mr. Beaver. The Commonwealth launched a sneak attack against them this Spring while they were in the midst of integrating Herman Espy's

* See "Definitions" on page 6.



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A Message from the President

by Keith Klingler

I'd like to start my column with special thanks to Senator Phil Gramm, for using his authority and experience to stop a proposal to award landowners for selling their land to Government, Conservancies, or Land Trusts. The proposal, and dubious policy underlying it, was part of the President Bush's "Faith-Based Initiative" and would have given landowners a 25% capital gains tax break for selling to nonprofits. I'm guessing that Vice president Cheney had a lot to do with this - it seems out of character for President Bush.

Vice President Cheney sits on the Board of the Conservation Fund, one of the most powerful Land Trusts in the country. Recently, the Conservation Fund the driving force behind the elimination of 1200 acres of private land in Clinton and Centre counties. They bought the tract, and sold it to the DCNR. Most of the money for this acquisition came from the Richard King Mellon Foundation, and the Snowmobile ATV Registration Fund. In this case, as in all other cases, the local government had no input prior to the purchase. In both counties, the government already owns 30% of the land - but that continues to mean nothing to DCNR.

The snowmobile and ATV were lured into this deal with the "promise" of new riding areas. After they agreed to support the deal with one million dollars of their registration fees, DCNR announced only 1000 acres would be opened to ORVs. After learning of this whole scenario, I called the Snowmobile Association and asked them why they advocated their money to be used for this purpose, when already, there is over 250,000 acres of public land in each county? I received a very weak answer. It became obvious they had been pulled under the big tent the Conservation Fund is trying to put together. This large land Trust seems to be inviting anyone - as long as they have lots of money.



Keith Klingler
PLA President

I also want to thank Governor Schweiker for announcing that he will sign no tax reform bill unless it includes voter approval for tax increases over the amount of inflation. This is a welcomed position when school taxes are soaring out of sight. There is still discussion on the Homestead Act. It is working fine in the districts that have adopted it. The bottom line on tax reform is, whatever form of taxes we use to fund our schools, voter approval for tax increases is a must. This would keep spending in-line by taking pressure off the school boards, and giving taxpayers more control over their own money.

I was part of the tax study committee in our local school district, and a few numbers stick in my mind. First, our teachers average salary is in the mid-forties, while the average taxpayer has a salary of twenty-five thousand per year. The average teacher increase is \$1800 per year, while the average taxpayer's is just \$500 per year. Our superintendent is knocking down \$90,000 per year with 4% annual increases. Our area school districts rank in the top 25% as far as high taxes - and the bottom 20% economically among Pennsylvania's 501 school districts. Do you see a trend here? As many of you know, our teachers' union is the largest in the state. The average PSEA employee makes \$73,000 per year.

It is time for our state legislature to get tough and pass a bill that allows voters to approve all tax increases.

In the next issue of the *Landowner*, I'll be updating you on the Forest Legacy Program, and believe me, it's going exactly like we said it would.

Stay tuned.

Keith Klingler

Meet Donny Beaver

The lead story of this special edition of the *Landowners* describes an example of government excess that is shocking. It vividly illustrates PLA's message on how the power of the bureaucracy is abused when some government initiative is narrowly focused on a targeted individual or business.

In most cases there is little doubt that the government officials taking the action truly believe it is the right thing to do. In other cases, they have been duped in to thinking it's the right thing to do. And sometimes, they just don't think. In all cases, the targeted individual is put under enormous pressure to knuckle under.

When this occurs, we all lose because the whole institution of property rights is weakened. Donny Beaver is not knuckling under and we thought readers would like to know more about him.

Tell our readers a little about your business background.

I have spent the last 30 years as a founder of new businesses, primarily developing products and services to clean up the environment.

What are some of the companies you founded?

New Pig Corporation, Industrial Maintenance Systems, LeapFrog Technologies, Global Village, ServiceMaster of Central PA and recently Hidden Hollow Enterprises.

That's a lot of different enterprises, do you still run them all?

No, my role is to develop the initial business concept and test the plan to make sure it works. Once it is determined that the concept that serves real-world customer needs, my job is to recruit financial partners to help underwrite the company as well as recruit and train the management team who will supervise the growth of the enterprise. After that is complete, I am able to move on to another startup.

It seems like you have enjoyed some successes.

I have been very fortunate in my career. Lucky to be in the right place at the right time, fortunate to have attracted fabulous partners and fellow business

associates to run the show and blessed to be able to enjoy each step of the way. As a measure of my good fortune, the companies that I have been involved as a founder or co-founder currently employ in excess of 700 folks.

Somewhere along the line your interests shifted to the fly fishing business.

When did that happen?

Actually, my very first venture was "Beaver's Custom Trout Flies" that I started in 1966 when I was 14 years old. I had a fly rod in my hand ever since I could walk, thanks to my dad and grandpaps, I started tying flies when I was ten and sold my first ones a few years later.

I continued to tie flies commercially for sporting goods stores in the Chicago suburbs while I went to college in Wheaton, IL.

I really wanted to continue in the fly fishing business after college, but I started a cleaning business that employed as many as 100 people by the time I graduated from Wheaton in 1974. So, I took a 20-year hiatus from attempting to do anything in fly fishing and worked at building these



Donny Beaver runs a family fly fishing business with wife Pam and sons Troy and Josh in Spruce Creek, PA.

other businesses.

All along, I had a strong desire to get involved in fly fishing again so in 1996 I turned over any responsibilities I had at our other companies and took the plunge.

What happened next?

From 1997 through 1999 I explored opportunities in fishing and hunting, trying to identify the best one. By 2000, I became convinced that the best potential was managing private properties with

prime limestone spring creeks for catch and release fly fishing.

Since 2000, we have been in the process of directing all our attention to that. We have developed relationships with private property owners on such famous trout streams as Spruce Creek, Penns Creek and the Little Juniata River.

Private trout fishing properties? Doesn't the Commonwealth own all the streambeds?

No. As the matter of fact, of the 10,000 or so miles of Pennsylvania trout waters it is estimated that over 90% of it is in private hands.

Maybe that's true, but it seems like a lot of the landowners allow the public access to their land.

Yes. Thousands of miles of Pennsylvania streams have been generously kept open to the public by the private landowners.

In your view what would motivate a landowner to allow the public access to his private property?

One of the principal reasons is that the Fish Commission will only stock fish on land that is open to the public. So, if you want to have the state stock fish on your stretch, you'd better keep it open to the public. Many landowners and their relatives enjoy fishing enough to feel that it was a reasonable trade-off. But there is a problem with that.

What is the problem?

The problem is that Fish Commission then sets "creel limits" that allow anglers to kill the fish that have just been put in the stream. Since the fish are hatchery-raised, they are very susceptible to getting caught in short order. Then the State has to come back and re-stock, so the catch-and-kill crowd can eradicate more fish and the Fish Commission sells more licenses... and the beat goes on.

The simple fact is that landowners have become dependent on the State to manage their private resource, which nearly automatically depletes itself on an annual basis due to the put-and-kill practices fostered by the Fish Commission.

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property on the Little J, now known as Camp Little J, into one of the premier private fishing clubs in the United States¹.

On March 27, 2002, spurred on by a highly vocal (to the point of shrillness!) member of the Eco-Alliance,* an organization pompously self-named "Citizens for Pennsylvania's Future," this Administration, without any advance notice, speaking through Christine Martin, a freshly minted Deputy Secretary in DEP's Office of Water Management and on behalf of two other agencies (DCNR and the Fish Commission) dropped a bomb on Mr. Beaver and his business partners (and, for that matter, on all citizens of Pennsylvania who are Riparian Owners). Despite her boss's contrary pronouncement quoted below, Martin declared unequivocally that the "Commonwealth owns the Little Juniata River and the associated submerged lands" (i.e., the stream bed) and that the "public has the right to fish and otherwise enjoy the use of the Little Juniata River.

Martin's salvo was not in sync with DEP senior management policy because on August 15, 2001, DEP Secretary Dave Hess had said:

"DEP does not have the statutory authority to make a final determination on the navigability of streams and rivers. Courts have also held that legislative enactment alone is not sufficient for a stream or river to be determined navigable."

or with longstanding Pennsylvania court decisions which state:

"It is no doubt the settled law of this state that a grant of land bordering on a nonnavigable or private stream extends ad filum medium aquae. The conveyance to such grantee by one who owns the land adjacent to and under the stream carries the grantees title beyond the water line of the streams, and gives him the ownership of the soil to the middle of the current."

Smoulter v. Boyd, 58 A. 144, 150 (Pa. 1904).

and

"We think that the concept of navigability should not be limited alone

by lake or river, or by commercial use, or by the size of the water or its capacity to float a boat. Rather it should depend upon whether the water is used or usable as a broad highroad for commerce and the transport in quantity of goods and people, which is the rule naturally applicable to rivers and to large lakes, or whether with all of the mentioned factors counted in the water remains a local focus of attraction, which is the rule sensibly applicable to shallow streams and to small lakes and ponds. The basic difference is that between a trade-route and a point of interest. The first is a public use and the second private."

Lakeside Park Co. v. Forsmark, 396 Pa. 389, 396, 153 A.2d 486, 489 (1959).

The purported basis for Martin's determination was her counter-intuitive declaration that the Little J is a "navigable" river. Remember, there was no court decision deciding that specific question – just a bald assertion by an agency deputy. Once she declared it to be navigable, Martin went on to say that Riparian Owners cannot prevent the public from fishing and declare that "Attempts to interfere with the public's rights, including efforts to exclude the public from fishing the Little Juniata River are unlawful ... If attempts to interfere with public rights continue, the Commonwealth intends to initiate appropriate legal action to protect the public's rights."²

Ostensibly, Martin's justification for acting in March (other than the fact that it comes at the end of this Administration when the accountability of lame duck bureaucrats is virtually non-existent and the beginning of Trout Season when it would have the maximum impact on Mr. Beaver's fishing business), was that the Commonwealth had a duty to initiate action in response to a 50 page "Complaint" filed by Penn Futures on behalf of the same local agitators from the Free Lunch Crowd (the most vocal of whom is a direct business competitor of Mr. Beaver) who have been trying to force their way onto this stretch of the Little J for years, and two of Penn Future's cohorts

from the Eco-Alliance, Trout Unlimited and the Federation of Sportsmen's Clubs. That Complaint advanced the same flimsy arguments: "The Little J is navigable and thus owned by the Commonwealth and therefore open to the public for any purpose." This was really pushing the envelope legally.

The impact of Martin's widely disseminated letter was immediate and devastating to Mr. Beaver's business. Uninvited Free Lunchers flocked to the Espy stretch of the Little J, some triumphantly waving copies of Martin's letter as they gleefully disrupted his business, sound fishery management practices and privacy. Longstanding customers cancelled reservations at Hidden Hollow's facilities in the vicinity and prospective members in the newly formed Spring Ridge Club cancelled commitments to purchase memberships, resulting in an immediate, direct economic loss in excess of \$150,000, a real crushing blow to an emerging business.

This so-called "victory" was loudly trumpeted by the Eco-Alliance and Free Lunch Crowd. Web pages were filled with defamatory information about Mr. Beaver and one of the principal instigators, PA Council of Trout Unlimited, published an seriously inaccurate account of what had happened in *Pennsylvania Trout* which is widely disseminated and read by Hidden Hollow's current and prospective customers.³ In short, Mr. Beaver and Hidden Hollow were suffering tremendous damage to their fly fishing business and professional reputation.

Even though confronted by these blatant *in terrorem* tactics and inappropriate threats of legal coercion under the full regalia of SOVEREIGN power⁴, Mr. Beaver did not knuckle under, as was obviously anticipated by this cabal of Eco-Alliance types, largely unaccountable bureaucrats and Free Lunchers who has cooked up this scheme. Instead, like Herman Espy, Donny Beaver said No. He decided to fight for his constitutional rights which, for starters, include due process of law such as advance notice and opportunity for hearing before your property is seized by the government, not to mention the bedrock protection of the Constitution – the right to

* See "Definitions" on page 6.

¹ See the PLA interview with Mr. Beaver beginning on page 3.

² Martin's asserted in her letter that the Espys had been warned for the past ten years, but that rings more than a little hollow because the Espy stretch was closed to the public more than ten years ago and the Commonwealth sat on its hands.

not have your property taken for public use without just compensation being paid - even assuming, hypothetically, someone could conjure up a legitimate public purpose for what Martin tried to do.⁵ Regrettably, it seems that many regulatory bureaucracies have a mind set that the Constitution is abrogated when they decide to push the envelope to advance some ill conceived notion of the public good.

Pleas for intervention to elected officials and others in the Administration fell on deaf ears so there was no choice but to challenge Martin's action legally.

Mr. Beaver and Hidden Hollow filed an appeal and quickly obtained an order temporarily superseding Martin's action. Just prior to a hearing on a motion for a permanent stay of the action, Martin, to avoid an adverse decision, was forced to pull in the Commonwealth's horns by issuing on June 17, a self-serving letter rescinding her March 27 letter. This cynical ploy was intended to divest (and succeeded) the Environmental Hearing Board Judges of jurisdiction over the appeal and allowed DEP to avoid scrutiny of its dirty work. But that was of little comfort or solace to Mr. Beaver because the worst damage was already done. The Genie was out of the bottle. The Free Lunch Crowd crowed, and large segments of the general public were duped into believing, that it had been "officially decreed" that the Commonwealth owned the Little J even though all that had really happened was that after Mr. Beaver called DEP's bluff, it had to back-pedal from its original hardnosed position to the transparently convenient position that the Commonwealth was merely "asserting a claim of ownership."

The raw, if not brutal, flexing of government muscle against Mr. Beaver and all other Little J Riparian Owners was more than a bureaucratic brain burp. It was a vivid demonstration of what can go wrong when the Constitution's sometimes seemingly evanescent limitations on government power are ignored.

It also has much broader implications. Hundreds of thousands of acres of privately owned riparian land in

Pennsylvania are traversed by streams which have physical and legal characteristics similar to the Little J, characteristics that Penn Future and Martin relied on as supporting their claims of public ownership of the Little J and served as the basis for the initiative against Little J on Riparian Owners. For example, many streams are on the same list of streams that DEP claims are owned by the Commonwealth (see below).

rivers of the Commonwealth, and "high roads of commerce for the transport in quantity of goods and people?" Hardly! But that is what Penn Future and Martin are arguing to buttress their flimsy claims of navigability. Of most concern, though is, like the Little J, these streams are lusted after by the Free Lunch Crowd and the Eco-Alliance. Is there a "hot" list? What stream is next? What Riparian Owners will be targeted by the Eco-Alliance? Will

Some streams DEP claims are owned by the Commonwealth!

Bald Eagle Creek	Eastern Branch of Schuylkill	Penn's Creek
Big Beaver Creek	Frankstown Branch of Juniata	Pine Creek
Big Mahoning Creek	French Creek	Quetapahilla Creek
Big Sandy Creek	Kettle Creek	Raystown Branch of the Juniata
Big Schuylkill Branch	Kinzua Creek	Red Bank Creek
Black Lick Creek	Kiskeminitas River	Shawanese Cabin Creek
Brandywine Creek	Lackawaxen River	Shenango Creek
Brokenstraw Creek	LeBeouf Creek	Sherman's Creek
Chester Creek	Little Conemaugh River	Sinnemahoning Creek & "its branches"
Clearfield Creek	Little Schuylkill River	Stoney Creek River
Conecocheague Creek	Loyalsock Creek	Swatara Creek
Conedoguin Creek	Lycoming Creek	Tioga Creek
Conestoga Creek	Mahanoy Creek	Tionesta Creek
Conewango Creek	Mahoning River	Toby's Creek
Cowanessque River	Monongahela River	West Branch of Juniata River
Dow Creek	Muncy Creek	
Driftwood Branch of Sinnemahoning	North Branch of Tuscarora Creek	
Dunning's Creek	Oil Creek	

Many streams, like the Little J, have stretches designated as navigable under Public Highway Declaration Acts passed in the late 1700s and the first half of the 1800s. For example, the Broadhead, Chest Creek, Cross Forks, Dent's Run, Elk Creek, Fishing Creek, French Creek (and tributaries), Larry's Creek, Loyalsock, Medix Run, Penns Creek, Pine Creek, Slate Run, Spring Creek, Trout Run, Wycoff Run and over 300 more streams have been so designated. Imagine the uproar among Riparian Owners along those streams when they find out that their little section of Heaven is about to be seized by the Commonwealth and invaded by the Free Lunch Crowd. Moreover, for most of these streams there are anecdotal accounts that canoes could negotiate them or logs could be floated downstream during seasonal high flow periods. Do these sound like streams that are great

the next Administration persist in this folly? Let's hope the Little J won't be the first domino to topple.

Unfortunately, we are rapidly reaching a point where the functions of and distinctions between government regulatory agencies which have devastating and awesome powers and legal resources, such as DEP, DCNR, the US Fish & Wildlife Service, EPA and the Fish Commission, and self proclaimed public interest groups and conservation organizations such as Penn Future, with huge financial resources and political influence, which comprise the Eco-Alliance, are blurred. These agencies and organizations work hand-in-hand and feed off each other in collective efforts to accomplish common environmental goals. They cite each other as authority or philosophical justification for advancing a

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³ After DEP retreated from its March 27 position of *fait accompli* to mere claim of ownership, the Fish Commission, Penn Future and the Federation have also back-peddled and posted "waffles" on their web pages, admitting that the Little J ownership issue has not been decided. PA Council of Trout Unlimited, however, has not retracted its account.

⁴ Martin's letter showed copies being sent to several Ridge/Schweiker Administration Pooh-Bahs, including DCNR Secretary, John Oliver, Fish Commission's Executive Director, Peter Colangelo, Attorney General Mike Fisher, and the local District Attorney, apparently intending to leave readers with the impression that it was a broad based government decree with the imprimatur of everyone and that violation of it result in criminal enforcement by the Commonwealth.

⁵ Why DEP was stuck taking the lead in this debacle beggars the imagination. There isn't an environmental protection issue in sight and the Boss was already on record saying DEP couldn't do what Martin did.

common agenda (usually controlling and dictating the use of private property and resources for some utopian vision of the common good) so that in practical effect, the Eco-Alliance takes on a life of its own. The difficulty comes when the Eco-Alliance agenda presses up against institutions such as private property, the Constitution and statutes and court decisions which recognize the institution of private property. The Eco-Alliance seems to view these institutions as old fashioned and quaint impediments to collectivist progress which must be circumvented or eliminated entirely.

The sad part of it is that these well-heeled and powerful people don't see anything wrong with what they're doing — in fact, they are collectively deluded into thinking they're doing good. What is sadder still is that landowners in Pennsylvania are being pushed further down the Road to Serfdom and they simply may not recognize it or worse — they think they can't do anything about it. They think "How can we fight against the Eco-Alliance with its state and federal agencies with all their regulatory power,

and the influential organizations which foment environmental extremism, funded by our tax dollars and grants from foundations?" Some observers also worry about the expanding role of environmentalist foundation executives who fund such initiatives, waving the dead hands of long deceased benefactors who accumulated vast wealth by exercising the very property rights that today are under constant attack!

The only answer is that you still own the land. It's time to take a stand. The often maligned Herman Espy, and now Donny Beaver, stood up to the Eco-Alliance and the Free Lunch Crowd. Many other Pennsylvanians have as well, but not enough.

A good way to start pushing back is to post your land. It's a simple and effective way to let everyone know ordinary citizens are fed up with the erosion of property rights in Pennsylvania and have the will to do something about it. It is more than a symbolic gesture but symbols are also important. The Constitution is a symbol — a symbol of a vision of a Pennsylvania that protects its citizens from abominations like the one this year on the Little J.

DEFINITIONS

ECO-ALLIANCE: In Pennsylvania, a consortium of conservation and environmental advocacy groups and organizations including, but not limited to, Citizens for Pennsylvania's Future, Trout Unlimited and the Federation of Sportsmen's Clubs and the Raymond Proffitt Foundation, and state and federal environmental and resource agencies which share a common philosophy and pursue an agenda hostile to private property.

FREE LUNCH CROWD: Common species in Pennsylvania consisting of large group of individuals, often from urban habitats, who, based on some false sense of entitlement, believe and behave as if they are owed something for nothing; often manifested by total disregard for the rights of others, particularly the property rights of Riparian Owners.

PUBLIC TRUST DOCTRINE: Contrived moral underpinning of the collectivist notion that the benefits of private property and economic activity must be shared communally.

RIPARIAN OWNER: Endangered species of Pennsylvania citizen who owns land on the bank of a river, stream or other water body.

PLA On the Move

In mid-August, PLA manned a booth at the 34th Annual Ag Progress Days near State College. "The comments were all positive," stated PLA President Keith Klingler. The three day event attracts nearly 45-50,000 visitors every year and is a great forum to get PLA's message out.

On June 11th of this year, PLA Vice President Robert Brace addressed the Kiwanis Club of Erie. Mr. Brace gave a history of PLA which included the video presentation of "USA v. Robert Brace & Brace Farms, Inc." which outlined his personal struggle to protect his property rights.

PLA continues to be involved with DEP's NW PA Regional Roundtable, Forest Stewardship Advisory Committee, Wetlands Protection Advisory Committee, DCNR's PNDI Advisory Committee, and the French Creek Project to insure that a voice for the private landowner is heard — loud and clear.

So, is there a better way of doing it?

I think so, by simply practicing catch-and-release many private landowners across Pennsylvania have discovered that they are able to create a much better fishery.

How so?

Well, if you put fish back, they will continue to grow and eventually reproduce. In three to five years the landowner should have not only bigger fish, but also more fish than with put-and-kill management.

But if the Commonwealth allows killing of fish, how can a private landowner prevent anglers from doing so on his land?

By managing his land. First, he must post the land against trespassers and announce to the public that he will be practicing catch-and-release on his land.

It sounds like a lot of hassle for individuals to manage.

It can be. A large portion of the fishing public respects private property rights and will honor the landowner's wishes. Unfortunately, a certain percentage will not co-operate with the landowner and the landowner has to stand up for his rights.

And, what if the trespassers refuse to leave?

Then it is time to press trespass charges.

Wow, I guess the landowner may not win any popularity contests.

For many landowners it is not a matter of how popular they are, it's a matter of their right to manage their land as they choose (as long as it does not harm anyone or break any laws in the process.)

Is there an alternative for landowners when it comes to managing this process?

Yes, to hire a professional firm to manage it for him.

And, that's what your business does?

Correct. We work with private landowners to lease and manage their properties and practice catch-and-release fly fishing. In turn, we allow limited access to the property through carefully designed programs including guided excursions and fishing clubs.

You do so for a fee?

Right again.

Don't some people object to you charging for something that they feel they should get for free?

Some do. Our services do not appeal to everyone. However, we have found that a large enough percentage of the fly fishing community is fed up with the crowded conditions and poor quality of many publicly-accessible streams and are willing to pay for a high quality experience.

OK, the landowner may have property rights, but your detractors say that you are exploiting a public resource, namely the water that runs through the property. How do you counter that argument?

First, it has been established since the days of William Penn that riparian landowners can in fact own the beds of streams and lawfully "regulate" uses, including fishing.

Second, in my view a private landowner is not exploiting the public resource (water) running through his property any more than someone who uses the air (another "public" resource that flows over all private property) to allow plants in his garden to breathe or rain to nourish them.

But, isn't it true that some water bodies are owned by the Commonwealth and open for public use?

Some rivers in Pennsylvania are considered navigable in fact thus owned by the Commonwealth. In those cases the public has more rights than on non-navigable rivers, lakes and streams.

Do you operate on any rivers or streams that have been recognized by the courts of Pennsylvania as navigable?

No.

Some people say that the Pennsylvania Legislature declared the Little Juniata navigable in the 1790s.

The General Assembly did pass a series of "public highway declarations" on over 350 creeks and streams in the late 1700s through the mid 1800s, including various sections of the Little J. However, Pennsylvania courts have consistently ruled that these acts don't divest riparian owners property right.

On March 27, 2002 you received a letter concerning your operation in the Camp Little J property in Spruce Creek from the DEP Deputy Secretary Christine Martin declaring unequivocally the "the Commonwealth OWNS the Little Juniata River and the associated submerged land" and that the public has the right to use it. And then they threatened to take appropriate legal action against you if you interfered with the public's rights. Did this come as a surprise?

You bet it did. We had done extensive research into the land grants and titles, historical uses and hydrology of the Little Juniata and had come to the conclusion that the Little J was not owned by the Commonwealth.

We were shocked not only by Martin's action but also on how the Commonwealth proceeded.

What do you mean?

Well, we live in a state and nation where citizens are assured by the Constitution and Bill of Rights that a heavy-handed government cannot simply come in and take away private property or it's beneficial uses from its owner without "due process of law" and ultimately securing "just compensation" to the owner before the property is seized.

What impact did this have on your business?

First, uninvited persons flocked to our property on the Little J, some triumphantly waving DEP's letter disturbing our guests and disrupting our business and fishery management practices.

Second, the March 27 DEP letter was widely distributed throughout fly shops and over the internet with additional commentary that categorically declared that the Little J ownership question was decided and that the Commonwealth had won and we had lost.

It really hurt our business. Revenues plummeted by over 35% in the weeks following the letter (at the beginning of trout season when we would normally see a positive surge in business.) Prospective fishing club members cancelled their commitments to purchase memberships, resulting on an immediate direct economic loss in excess of \$150,000, which was a crushing blow.

To add insult to injury, *Pennsylvania Trout* and other fly fishing publications as well as local and regional fly shops and guides continue to publish inaccurate stories which are being presented as "gospel" to many of our current and prospective customers. In short, we suffered tremendous damage.

Obviously this has cost you dearly on many fronts. What are you going to do?

It's not surprising one of the world's most oppressive governments understood the fundamental link between property rights and freedom. In the *Communist Manifesto* Karl Marx boldly proclaimed "You reproach us for planning to do away with your property. Precisely, that is what we propose ... The theory of the Communists may be summed up in a single sentence: Abolition of private property."

Private property rights are one of the bedrock principles of a truly free people. If we allow the government to take that away, I'm afraid we are sliding down a very slippery slope away from freedom. We are going to take a stand and fight in court if we have to.

Are you a member of PLA

You bet I am. I like what it stands for.

How can PLA help?

By focusing attention on the critical importance of private property rights to our basic freedoms and the threats to ordinary citizens posed by government efforts to restrict the use of and enjoyment of property. I like the PLA Posting Program. It forces people to think about this fundamental issue. Remember, with one swipe of her pen, Deputy Secretary Martin clouded the titles of hundreds of landowners along the Little Juniata. What gives an unelected, largely unaccountable bureaucracy the right to make a choice between the rights of one group of citizens (riparian landowners) over another group of citizens who for whatever reason think they have the right to fish wherever and however they want? PLA stands up for property rights. On issues like this, Benjamin Franklin had it right: **"We must all hang together or assuredly we will all hang seperately."**

Show Your Commitment to Preserve Property Rights!

The membership categories below were initiated with the presumption that those owning higher acreage were, in all probability, relying more on their land as a source of livelihood and therefore, had a much higher stake in the property rights debate. Since PLA relies solely on individual membership dues and contributions to meet its financial needs, we hope you will join under the appropriate category. If however, finances preclude you from meeting the suggested guidelines, your education on private property rights issues is more important than the amount of your membership, therefore, you may enroll in a more affordable classification.

PLA Membership Categories

Please Indicate: New Member Renewal

- Individual I** \$25.00
Any individual supportive of private property rights.
(owning 0 to 15 acres)
- Individual II** \$35.00
(owning 16 to 100 acres)
- Individual III** \$50.00
(owning 101 to 250 acres)
- Individual IV** \$100.00
(owning 251 to 500 acres)
- Individual V** \$200.00
(owning over 500 acres)
- Associate I** \$100.00
Any business entity supporting the free enterprise system
and the principle of private property ownership.
(local businesses in communities.)
- Associate II** \$250.00
Trade Associations
(Organizations supportive of private property rights.)
- Associate III** \$300.00
Major suppliers to land use entities.
(resource development, construction, agriculture.)
- Affiliate** \$50.00
Local or regional grassroots, non-profit organizations.
- Business I** \$750.00
Corporations or entities whose activities involve ownership,
use and/or development of acreage in excess of 100 acres,
but less than 500 acres.
- Business II** \$1,250.00
Same as Business I, but in excess of 500 acres.

Any land owning member (excluding Individual I) purchasing PLA signs and participating in the "Posting for Support" program is entitled to a 50% reduction in membership fees for the current membership year.

Membership dues and contributions may be deductible as a "Business" expense. Please consult your tax advisor regarding your particular situation.

Enclose form with check or money order payable to:

Pennsylvania Landowners' Association
P.O. Box 391
Waterford, PA 16441

Please allow 2 to 4 weeks for your membership card.

PLA Educational Materials

PLA's "Posting for Support" Program

Yes, I wish to become a participant in this program. Please send me _____ signs. I have enclosed 60¢ for each sign ordered.

- I am a current participant in the "Posting for Support" program.
- I am a new participant in the "Posting for Support" program.

*** NEW! RECENTLY UPDATED! ***

USA v. Brace & Brace Farms Videotape (VHS)

"One farmer's 15 year battle with federal wetlands provisions."

A must see for all land owners and resource providers!
\$15.00 donation.

Wetlands Videotape (VHS) Part I Part II

"Our Environment, Whose Property?"
\$15.00 donation for each part.

Name: _____

Address: _____

County: _____

Acreage Owned: _____

Phone Number: (____) _____

Fax Number: (____) _____

Acres of land posted: _____ acres

Membership Amount: + \$ _____

Less 50% fee reduction if "Posting for Support" - \$ _____

Amount of signs purchased + \$ _____

Additional Contribution + \$ _____

Total remittance enclosed = \$ _____

PRST STD
U.S. Postage
PAID
McKenzie, TN
Permit No. 19

Pennsylvania Landowners' Association, Inc.

P.O. Box 391 • Waterford, PA 16441

Return Service Requested

"Nor shall private property be taken for public use without just compensation."

Fifth Amendment, U.S. Constitution