

PYMATUNING LAKE AGREEMENT

Act of Jun. 5, 1937, P.L. 1664, No. 348

Cl. 71

AN ACT

To ratify and adopt a compact or agreement negotiated by commissioners designated by the Governor of the Commonwealth of Pennsylvania, and commissioners designated by the Governor of the State of Ohio, relative to the development, use, and control of the Pymatuning Lake and the State owned land surrounding said lake for fishing, hunting, recreational, and park purposes.

WHEREAS, Commissioners for the Commonwealth of Pennsylvania, and commissioners for the State of Ohio negotiated a compact or agreement relative to the development, use, and regulation of Pymatuning Lake and the State owned land surrounding said lake for fishing, hunting, recreational, and park purposes; and

WHEREAS, Such compact or agreement has been executed in duplicate, one for each State, on behalf of the Commonwealth of Pennsylvania, by and through the Water and Power Resources Board, and on behalf of the State of Ohio, by and through the Conservation Division, which compact or agreement is contained in the following words:

AGREEMENT BETWEEN THE COMMONWEALTH
OF PENNSYLVANIA AND THE STATE OF
OHIO RE PYMATUNING LAKE.

THIS AGREEMENT, Made and concluded between the Commonwealth of Pennsylvania acting by and through its lawfully authorized agency, namely, the Water and Power Resources Board as party of the first part and the State of Ohio acting by and through its lawfully authorized agency, namely, its Director of Conservation as party of the second part.

WITNESSETH:

WHEREAS, By act of Assembly of Pennsylvania, approved the second day of May, one thousand nine hundred and twenty-nine (Pamphlet Laws, one thousand five hundred three), as amended by the acts, approved the fifth day of May, one thousand nine hundred and thirty-one (Pamphlet Laws, eighty-four); the twenty-fourth day of April, one thousand nine hundred and thirty-three (Pamphlet Laws, sixty-seven); and the ninth day of July, one thousand nine hundred and thirty-five (Pamphlet Laws, six hundred nineteen), the Department of Forests and Waters of Pennsylvania acting through the Water and Power Resources Board was authorized, inter alia, to complete the work begun, and continued under an act, approved the twenty-fifth day of July, one thousand nine hundred and thirteen (Pamphlet Laws, one thousand two hundred seventy), entitled "An act providing for the erection of a dam at the outlet of Pymatuning Swamp, and the establishment of a reservoir to conserve the waters thereof; providing for the taking of land and materials necessary thereto; vesting certain powers and duties in the Water Supply Commission; and making an appropriation," and did duly complete said work whereby there was created a lake or reservoir, now known and hereinafter called Pymatuning Lake, extending in part across the boundary line between said States of Ohio and Pennsylvania into the State of Ohio; and

WHEREAS, The primary purposes of the project by which said lake was created was to conserve water draining said swamp all of which has its source in Pennsylvania as well as control floods and regulate the flow of water in the Shenango and Beaver Rivers, and secondary thereto, permit the water and the land

surrounding the same to be used for fishing, hunting, recreational, and park purposes, under such terms and conditions as the Water and Power Resources Board might determine, in such way or ways as, in the opinion of the said board, will not materially interfere with the primary purpose in said acts of Assembly and hereinbefore specifically referred to; and

WHEREAS, In view of the fact that a certain part of the lake extends into the State of Ohio whereby it is necessary and desirable that the use of the lake for the secondary purposes, namely--hunting, fishing, and recreational use be uniformly provided for as well as to guard against inconveniences and mischiefs which might hereafter arise from the uncertainty or jurisdiction within and on said lake to the end that the lake may be adequately policed and conflicts of jurisdiction for the arrest and punishment of offenders be avoided.

NOW THEN THEREFORE, In order that law and justice may in all cases be executed and take effect upon said lake from shore to shore in all parts and places thereof where the lake is a boundary between said states, the said parties hereto do agree for and in behalf of their respective states in the manner following:

1. General Use.

It is hereby agreed that the entire Pymatuning Lake or Reservoir subject to the primary use thereof by the Commonwealth of Pennsylvania for regulating the flow of the water in the Shenango and Beaver Rivers as in paragraph 9, hereinafter more specifically mentioned, shall be open for recreational use equally to the citizens of both contracting parties save as restricted as to hunting, fishing, and boating in this agreement set forth or hereafter mutually agreed upon by both parties, but no person shall be permitted to hunt or fish therein or thereon unless the lawful holder of a fishing or hunting license authorizing him or her so to do issued by the proper authorities of Pennsylvania or of Ohio.

2. Arrest and Prosecution of Offenders.

That each state shall enjoy and exercise a concurrent jurisdiction upon the water (but not upon the dry land) between the shores of said lake, including the islands therein, with respect to the arrest and prosecution of offenders, but in such sort that any boat or vessel fastened to or aground on the shore or either state shall be considered exclusively within the jurisdiction of said state, but that all capital and other offenses, trespasses or damages committed on or over said lake, the judicial investigation and determination thereof shall be exclusively vested in the state wherein the offender or person charged with such offense shall be first apprehended, arrested, prosecuted, or first brought to trial, it being the intent of this agreement that an offender may be pursued and arrested anywhere on or over said lake or shores thereof or islands therein, regardless of the boundary line, by any peace officers or persons of either state authorized to make arrests, whether the offenses be committed on or over any part of the lake, on the shores or islands therein, regardless of the state in which the place where the offense was committed lies.

3. Islands.

All islands within the lake shall be considered as part of the State of Pennsylvania.

4. Pollution of Water.

The lake shall forever be protected against pollution of its waters by industrial trade, waste, individual or municipal sewage from shore or boat and the discharge of any noxious or deleterious substance, liquid or solid, into the waters of the

lake which is or may become inimical or injurious to public health or to animal or aquatic life is hereby expressly forbidden.

No sewage may be discharged into the waters of the lake, except after complete treatment, and then only upon permit first approved by the health departments of both states.

5. Watercraft.--No person shall operate any watercraft propelled by a single motor, or any combination of motors, that produces a horsepower rating in excess of twenty horsepower on Pymatuning Lake, except police or administration watercraft, the number which shall be mutually agreed upon by the parties hereto. No person shall operate a watercraft without first obtaining a license from the respective state of which the owner is a resident under such regulations as each party to this agreement may now have or hereafter adopt: Provided, nevertheless, That the use of any type of watercraft equipped with a motor is expressly limited and restricted to that portion of the lake extending from the main dam near Jamestown northwardly to the causeway at or near Linesville. Watercraft equipped with a motor in excess of a twenty horsepower rating may be operated on said lake so long as such motor is not used.

No person shall ride or attempt to ride upon one or more water skis, surfboards, towed inflatable devices or similar devices or use or operate any watercraft to tow a person thereon.

Nothing contained in this subdivision shall be interpreted to effect a change in the level or flow of water as determined or fixed by the Department of Conservation and Natural Resources.

Any one who violates any of the provisions of this subdivision shall, upon conviction thereof, be sentenced in accordance with the applicable laws for the same or similar violations within the prosecuting jurisdiction, provided that the penalty for said violation shall not exceed a fine of five hundred dollars (\$500) or imprisonment for thirty days.

(5 amended Mar. 24, 2004, P.L.153, No.17)

Compiler's Note: Section 2 of Act 17 of 2004, which amended subdivision 5, provided that Act 17 shall be effective immediately upon its signing by the Governor and the passage by the State of Ohio of a substantially similar amendatory act ratifying the within change or alteration of the compact or agreement referred to in Act 17.

6. Fishing.

Any person possessing a duly issued fishing license by either state shall be permitted to fish anywhere on the entire lake (except such portion thereof as is closed to fishing by Paragraph 8 hereof, or such further portion as may hereafter by regulation be mutually agreed to by the parties hereto), but no fisherman shall be entitled to fish from the shores of the state of which he is a nonresident, unless he complies with the nonresident fishing license law of said state.

In order to permit the fish to fully propagate and develop, no part of the lake shall be open for fishing until the first day of July, one thousand nine hundred and thirty-seven, and thereafter shall be closed in each year between the tenth day of December and the thirtieth day of June.

Until otherwise mutually agreed to by both parties hereto, the creel size and season limits for the respective kinds of fish caught shall be such as may hereafter be agreed upon between the two states.

7. Reciprocal Hunting Rights.

Reciprocal hunting rights are hereby granted to the licensed hunters of each state on the water of that portion of the lake, both in Pennsylvania and Ohio over the area bounded on the south by an east and west line crossing the State boundary five-tenth of a mile north of Simons, Ohio, and on the north by a line drawn between the point at which the Padanaram Road crosses the State boundary and a point formerly known as the Polleck Bridge, but such reciprocal hunting rights hereby granted shall extend only to such wild migratory birds as are covered by the Federal Migratory Bird Treaty and Federal laws adopted thereunder.

Hunting in such portions of the lake as are not included in the area above described and designated, shall be and remain under the jurisdiction of the Commonwealth of Pennsylvania.

No permanent blinds shall be erected anywhere on the lake and shores thereof, but this provision shall not be interpreted as forbidding the use of a boat as a blind temporarily moored to or grounded on the shore of the lake or islands thereof.

8. Wild Game and Fish Sanctuaries.

A. The Game Commission of the State of Pennsylvania having established a wild migratory bird and game sanctuary or refuge in that part of the lake located southeast of the Pennsylvania railroad crossing, it is expressly agreed that nothing herein contained shall be interpreted as entitling the residents of either state, whether licensed to fish or hunt or otherwise to fish or hunt, trespass or enter upon said sanctuary for any purpose whatsoever. Anyone so doing shall become amenable to prosecution therefor under the Game Laws of the State of Pennsylvania applicable to game refuges.

B. The Conservation Division of the Department of Agriculture of the State of Ohio having established a fish sanctuary and game refuge in the following portion of the lake:
Being the southerly parts of Lots Numbers 79 and 80, Richmond Township, all of Lot Number 41 and all of Lot Number 42, except the westerly 1000 feet thereof, in Andover Township, Ashtabula County, Ohio.

Beginning at a point in the west line of Lot Number 79 that is 1523 feet south of the north line of Lot Number 79, also being the center line of Padanaram Road; thence southerly along the County Highway along the westerly side of Lot Number 79, 1869.5 feet to the north line of Andover Township; thence westerly along the northerly line of Andover Township, 939.7 feet to the northwest corner of Lot Number 41; thence southerly along the highway that marks the westerly line of Lot Number 42, 1000 feet to a point thence of Lot Number 42; thence easterly along the north line of Lot Number 42, 1000 feet to a point; thence in a southerly direction parallel to and 1000 feet easterly from the westerly line of Lot Number 42, 2734 feet more or less to the southerly line of Lot Number 42; thence easterly along the said southerly line of Lot Number 42, 5180.4 feet to the Ohio and Pennsylvania State line; thence northerly along the said Ohio and Pennsylvania State line 7297.6 feet more or less to a point that is 1523 feet southerly from the north line of Lot Number 80; thence in a westerly direction 1523 feet southerly from and parallel to the north lines of Lots Numbers 79 and 80, 5260 feet more or less to the place of beginning.

It is expressly agreed that nothing herein contained shall be interpreted as entitling the residents of either state whether licensed to fish or otherwise to fish or hunt, trespass or enter upon said sanctuary for any purpose whatsoever. Anyone

so doing shall become amenable to prosecution therefor under the laws of the State of Ohio applicable thereto.

9. Reservation of Pennsylvania's Right to the Body of the Water.

It is expressly agreed that nothing herein contained shall operate to deny, limit or restrict the right of the Water and Power Resources Board of Pennsylvania, or any authority established hereafter by said state, to exercise such power to at any time now or hereafter raise or draw off so much of the waters of the lake as in their sole judgment may be necessary to maintain or regulate the flow of the Shenango and Beaver Rivers in furtherance of the primary purpose for which said lake was established, and said Water and Power Resources Board shall without let or hindrance have the full right irrespective of other considerations to release so much of the water as they may deem proper to maintain the flow of the Shenango and Beaver Rivers, irrespective of its effect on the level of the lake or use thereof, for other purposes.

IN WITNESS WHEREOF, The parties hereto have hereunto set their respective hands and seals by, for and under the authority of their respective states this 28th day of October, 1936.

COMMONWEALTH OF PENNSYLVANIA
by and through
WATER AND POWER RESOURCES BOARD

Witness

By J. F. BOGARDUS
Chairman

CHAS. E. RYDER

STATE OF OHIO
by and through
CONSERVATION DIVISION

By L. WOODDELL
Commissioner

R. P. JOHNSTON

Approved as to form and manner of execution.

GROVER C. LADNER

GROVER C. LADNER
Deputy Attorney General
Commonwealth of Pennsylvania

Section 1. Be it enacted, &c.,

THAT THE AFORESAID, Compact or agreement and every article, matter, and thing therein is hereby ratified and approved and shall be and hereafter remain in force agreeably to the true tenor and intent thereof.

Section 2. This act shall become effective immediately upon its signing by the Governor, and the passage by the State of Ohio of a substantially similar act, ratifying the compact or agreement herein set forth and the passage of an act of Congress of the United States of America, consenting thereto.

APPENDIX

Supplementary Provisions of Amendatory Statutes

1993, DECEMBER 22, P.L.563, NO.82

Section 2. This act shall be effective immediately upon its signing by the Governor and the passage by the State of Ohio of a substantially similar amendatory act ratifying the within change or alteration of the compact or agreement herein referred to.

Compiler's Note: Act 82 amended Subdivision 5 of the compact.