



Tri-Lakes Takes: Who owns the lake bottom and why it matters

(<https://www.northcountrypublicradio.org/news/story/384-lakes-takes-who-owns-the-lake-bottom-and-why-it-matters>)

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(<https://www.northcountrypublicradio.org/news/images/CrescentBay171110GH1.jpg>)

The Lower Saranac Marina is seen in November 2017 on Crescent Bay of Lower Saranac Lake. The owners plan to replace these three docks with longer, covered ones to increase the capacity from 70 boat slips to 175. Photo: Glynis Hart, Adirondack Daily Enterprise

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Apr 24, 2019 — Most people don't think much about the bottom of the lake or the river, but someone does, and not knowing who can have serious consequences. The Adirondack Daily Enterprise has reported on how that's affected some development projects in the Adirondack Park (<http://www.adirondackdailyenterprise.com/news/local-news/2019/04/both-sides-hold-firm-in-marina-dispute/>). Peter Crowley, managing editor of the newspaper, joins Martha Foley to talk about it.

Martha Foley: So this is a quirky one. How has lake bottom ownership held up a project? There's one notable at a marina long known as Duso's. It's on Lower Saranac Lake. It's had new owners for a few years now, so I guess they wanted to expand?

Peter: Right. When the new owners started planning the project in 2013, they thought that the lake bottom, under which they wanted to expand their docks, was owned partly by them and partly by the state Department of Environmental Conservation, which might allow docks over its land. So they opened for business and worked on getting state and local permits to expand the docks. But then they learned that a man named Donald Russell Moreau had once owned 11 acres of lake bottom that the state had thought it had owned. So then they had to ask, what happens to that? Did Mr. Moreau have any living descendants who inherited that submerged property?

Martha: So they looked, and did he?

Peter: He did. Mike Damp, the lead developer of this project, tracked down a descendant in Nevada named Dee Dee Moreau, who is, of all things, a real estate agent. Damp explained the situation to her. He later said that she was surprised - she hadn't known about this land or that she owned it. He showed her some maps and some old deeds and said he'd follow up.

Martha: But it didn't really work out for him, right?

Peter: No, it didn't. A few months later, she sold the land to kind of his worst enemy in a sense - a group of neighbors who opposed the size of the dock expansion. They said it will add too many boats on the lake. They had fought the project through the town planning board review and the state Adirondack Park Agency review. And now they had bought the land right out from under them (<http://www.adirondackdailyenterprise.com/news/local-news/2017/11/deed-throws-a-wrench-into-crescent-bay-plan/>).

Martha: So that, of course, will not be the end of this, because they are going to take this to court. They're claiming they actually do own the land through what's called "adverse possession." Tell us about that.

Peter: Adverse possession comes from English common law. It means that someone has taken ownership of somebody else's land by using and improving it over the course of many years, while the owner neglected it. It's kind of like squatters' rights. And in this case, the developers say that the prior marina owners, the Duso family, used that underwater land since 1924 and improved it with docks and boat mooring stations, while the Moreaus forget they even owned it. So therefore, the developers claim, the Dusos took adverse possession and passed it on to the marina's buyers. Now the question is whether a state judge is going to side with the marina outright or send the case to trial.

Martha: I just want you to mention the other thing in Saranac Lake that happened with the bottom of the lake.

Peter: A few years ago, the developers of a luxury hotel on Lake Flower needed a minimum of three acres to qualify for a certain kind of rezoning, but their main parcel was just a hair shy of that. And then, after a bit of wrangling they kind of remembered - oh, yeah, they owned part of the land under the lake, too, and that bumps it over the three-acre minimum - so, problem solved.

Martha: Not great acreage for parking though, you've got to admit.

Peter: Yeah, they'll have to work on that.

Martha: Well, this all this goes to show that if you do plan to build over the water, make sure you're super-clear about who owns the land underneath it.

Peter Crowley joins us every week to give his take on what's up in the Tri-Lakes area. He's managing editor of the Adirondack Daily Enterprise (<http://www.adirondackdailyenterprise.com/>), based in Saranac Lake.

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