
By: **Delegate Edwards**

Introduced and read first time: January 19, 2004

Assigned to: Environmental Matters

Committee Report: Favorable

House action: Adopted

Read second time: February 10, 2004

CHAPTER 37

1 AN ACT concerning

2 **Natural Resources - Jennings Randolph Lake Project Compact - Criminal**
3 **Law Enforcement**

4 FOR the purpose of amending the Jennings Randolph Lake Project Compact by
5 authorizing the Maryland Department of Natural Resources and the West
6 Virginia Division of Natural Resources to enforce criminal laws and regulations
7 applicable to the Jennings Randolph Lake Project under certain circumstances;
8 making this Act subject to certain contingencies; and generally relating to the
9 Jennings Randolph Lake Project Compact.

10 BY repealing and reenacting, with amendments,
11 Article - Natural Resources
12 Section 8-4A-01
13 Annotated Code of Maryland
14 (2000 Replacement Volume and 2003 Supplement)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
16 MARYLAND, That the Laws of Maryland read as follows:

17 **Article - Natural Resources**

18 8-4A-01.

19 The Governor is hereby authorized and directed to execute a Compact on behalf
20 of the State of Maryland with the State of West Virginia, with participation through
21 concurrence by the United States Army Corps of Engineers legally joining in the form
22 substantially as follows:

1 Jennings Randolph Lake Project Compact

2 Preamble

3 WHEREAS, the signatory parties hereto desire to provide for joint natural
4 resource management and enforcement of [laws and regulations pertaining to]
5 natural resources, CRIMINAL, and boating LAWS AND REGULATIONS at the Jennings
6 Randolph Lake Project lying in Garrett County, Maryland and Mineral County, West
7 Virginia, for which they have a joint responsibility; and they declare as follows:

8 1. The Congress, under Public Law 87-874, authorized the development of
9 the Jennings Randolph Lake Project for the North Branch of the Potomac River
10 substantially in accordance with House Document Number 469, 87th Congress, 2nd
11 Session for flood control, water supply, water quality, and recreation; and

12 2. Section 4 of the Flood Control Act of 1944 (CH 665, 58 Stat. 534) provides
13 that the Chief of Engineers, under the supervision of the Secretary of War (now
14 Secretary of the Army), is authorized to construct, maintain and operate public park
15 and recreational facilities in reservoir areas under control of such Secretary for the
16 purpose of boating, swimming, bathing, fishing, and other recreational purposes, so
17 long as the same is not inconsistent with the laws for the protection of fish and
18 wildlife of the State(s) in which such area is situated; and

19 3. Pursuant to the authorities cited above, the U.S. Army Engineer District
20 (Baltimore), hereinafter "District", did construct and now maintains and operates the
21 Jennings Randolph Lake Project; and

22 4. The National Environmental Policy Act of 1969 (P.L. 91-190) encourages
23 productive and enjoyable harmony between man and his environment, promotes
24 efforts which will stimulate the health and welfare of man, and encourages
25 cooperation with State and local governments to achieve these ends; and

26 5. The Fish and Wildlife Coordination Act (16 U.S.C. 661-666c) provides for
27 the consideration and coordination with other features of water-resource
28 development programs through the effectual and harmonious planning, development,
29 maintenance, and coordination of wildlife conservation and rehabilitation; and

30 6. The District has Fisheries and Wildlife Plans as part of the District's
31 project Operational Plan Management; and

32 7. In the respective States, the Maryland Department of Natural Resources
33 (hereinafter referred to as Maryland DNR) and the West Virginia Division of Natural
34 Resources (hereinafter referred to as West Virginia DNR) are primarily responsible
35 for providing a system of control, propagation, management, protection, and
36 regulation of natural resources, CRIMINAL ACTIVITIES, and boating in Maryland and
37 West Virginia and the enforcement of laws and regulations pertaining to those
38 resources as provided in Annotated Code of Maryland Natural Resources Article and
39 West Virginia Chapter 20, respectively, and the successors thereof; and

1 8. The District, the Maryland DNR, and the West Virginia DNR are desirous
2 of conserving, perpetuating and improving fish and wildlife resources and
3 recreational benefits of the Jennings Randolph Lake Project; and

4 9. The District and the States of Maryland and West Virginia wish to
5 implement the aforesaid acts and responsibilities through this Compact and they
6 each recognize that consistent enforcement of the natural resources, CRIMINAL, and
7 boating laws and regulations can best be achieved by entering this Compact;

8 Now, therefore

9 The States of Maryland and West Virginia, with the concurrence of the United
10 States Department of the Army, Corps of Engineers, hereby solemnly covenant and
11 agree with each other, upon enactment of concurrent legislation by The Congress of
12 the United States and by the respective state legislatures, to the Jennings Randolph
13 Lake Project Compact, which consists of this preamble and the articles that follow:

14 Article I - Name, Findings, and Purpose

15 1.1 This compact shall be known and may be cited as the Jennings Randolph
16 Lake Project Compact.

17 1.2 The legislative bodies of the respective signatory parties, with the
18 concurrence of the U.S. Army Corps of Engineers, hereby find and declare:

19 1. The water resources and project lands of the Jennings Randolph
20 Lake Project are affected with local, state, regional, and national interest, and the
21 planning, conservation, utilization, protection and management of these resources,
22 under appropriate arrangements for inter-governmental cooperation, are public
23 purposes of the respective signatory parties.

24 2. The lands and waters of the Jennings Randolph Lake Project are
25 subject to the sovereign rights and responsibilities of the signatory parties, and it is
26 the purpose of this compact that, notwithstanding any boundary between Maryland
27 and West Virginia that preexisted the creation of Jennings Randolph Lake, the
28 parties will have and exercise concurrent jurisdiction over any lands and waters of
29 the Jennings Randolph Lake Project concerning natural resources, CRIMINAL, and
30 boating laws and regulations in the common interest of the people of the region.

31 Article II - District Responsibilities

32 The District, within the Jennings Randolph Lake Project,

33 2.1 Acknowledges that the Maryland DNR and West Virginia DNR have
34 authorities and responsibilities in the establishment, administration and
35 enforcement of the natural resources, CRIMINAL, and boating laws and regulations
36 applicable to this project, provided that the laws and regulations promulgated by the
37 States support and implement, where applicable, the intent of the Rules and
38 Regulations Governing Public Use of Water Resources Development Projects

1 administered by the Chief of Engineers in Title 36, Chapter III, Part 327, Code of
2 Federal Regulations,

3 2.2 Agrees to practice those forms of resource management as determined
4 jointly by the District, Maryland DNR and West Virginia DNR to be beneficial to
5 natural resources and which will enhance public recreational opportunities
6 compatible with other authorized purposes of the project,

7 2.3 Agrees to consult with the Maryland DNR and West Virginia DNR prior to
8 the issuance of any permits for activities or special events which would include, but
9 not necessarily be limited to: fishing tournaments, training exercises, regattas,
10 marine parades, placement of ski ramps, slalom water ski courses and the
11 establishment of private markers and/or lighting. All such permits issued by the
12 District will require the permittee to comply with all State laws and regulations,

13 2.4 Agrees to consult with the Maryland DNR and West Virginia DNR
14 regarding any recommendations for regulations affecting natural resources including,
15 but not limited to, hunting, trapping, fishing or boating at the Jennings Randolph
16 Lake Project which the District believes might be desirable for reasons of public
17 safety, administration, or public use and enjoyment,

18 2.5 Agrees to consult with the Maryland DNR and West Virginia DNR relative
19 to the marking of the lake with buoys, aids to navigation, regulatory markers and
20 establishing and posting of speed limits, no wake zones, restricted or other control
21 areas and to provide, install and maintain such buoys, aids to navigation and
22 regulatory markers as are necessary for the implementation of the District's
23 Operational Management Plan. All buoys, aids to navigation and regulatory markers
24 to be used shall be marked in conformance with the Uniform State Waterway
25 Marking System,

26 2.6 Agrees to allow hunting, trapping, boating and fishing by the public in
27 accordance with the laws and regulations relating to the Jennings Randolph Lake
28 Project,

29 2.7 Agrees to provide, install and maintain public ramps, parking areas,
30 courtesy docks, etc., as provided for by the approved Corps of Engineers Master Plan,
31 and

32 2.8 Agrees to notify the Maryland DNR and the West Virginia DNR of each
33 reservoir drawdown prior thereto excepting drawdown for the reestablishment of
34 normal lake levels following flood control operations and drawdown resulting from
35 routine water control management operations described in the reservoir regulation
36 manual including releases requested by water supply owners and normal water
37 quality releases. In case of emergency releases or emergency flow curtailments,
38 telephone or oral notification will be provided. The District reserves the right,
39 following issuance of the above notice, to make operational and other tests which may
40 be necessary to insure the safe and efficient operation of the dam, for inspection and
41 maintenance purposes, and for the gathering of water quality data both within the
42 impoundment and in the Potomac River downstream from the dam.

1 Article III - State Responsibilities

2 The State of Maryland and the State of West Virginia agree:

3 3.1 That each State will have and exercise concurrent jurisdiction with the
4 District and the other State for the purpose of enforcing the civil and criminal laws of
5 the respective States pertaining to natural resources and boating laws and
6 regulations, AND CRIMINAL ACTIVITIES over any lands and waters of the Jennings
7 Randolph Lake Project;

8 3.2 That existing natural resources, CRIMINAL, and boating laws and
9 regulations already in effect in each State shall remain in force on the Jennings
10 Randolph Lake Project until either State amends, modifies or rescinds its laws and
11 regulations;

12 3.3 That the Agreement for Fishing Privileges dated June 24, 1985 between
13 the State of Maryland and the State of West Virginia, as amended, remains in full
14 force and effect;

15 3.4 To enforce the natural resources, CRIMINAL, and boating laws and
16 regulations applicable to the Jennings Randolph Lake Project;

17 3.5 To supply the District with the name, address and telephone number of the
18 person(s) to be contacted when any drawdown except those resulting from normal
19 regulation procedures occurs;

20 3.6 To inform the Reservoir Manager of all emergencies or unusual activities
21 occurring on the Jennings Randolph Lake Project;

22 3.7 To provide training to District employees in order to familiarize them with
23 natural resources, CRIMINAL, and boating laws and regulations as they apply to the
24 Jennings Randolph Lake Project; and

25 3.8 To recognize that the District and other Federal Agencies have the right
26 and responsibility to enforce, within the boundaries of the Jennings Randolph Lake
27 Project, all applicable Federal laws, rules and regulations so as to provide the public
28 with safe and healthful recreational opportunities and to provide protection to all
29 federal property within the project.

30 Article IV - Mutual Cooperation

31 4.1 Pursuant to the aims and purposes of this Compact, the State of Maryland,
32 the State of West Virginia and the District mutually agree that representatives of
33 their natural resource management and enforcement agencies will cooperate to
34 further the purposes of this Compact. This cooperation includes, but is not limited to,
35 the following:

36 4.2 Meeting jointly at least once annually, and providing for other meetings as
37 deemed necessary for discussion of matters relating to the management of natural

1 resources and visitor use on lands and waters within the Jennings Randolph Lake
2 Project;

3 4.3 Evaluating natural resources and boating, to develop natural resource and
4 boating management plans and to initiate and carry out management programs;

5 4.4 Encouraging the dissemination of joint publications, press releases or
6 other public information and the interchange between parties of all pertinent agency
7 policies and objectives for the use and perpetuation of natural resources of Jennings
8 Randolph Lake Project; and

9 4.5 Entering into working arrangements as occasion demands for the use of
10 lands, waters, construction and use of buildings and other facilities at the project.

11 Article V - General Provisions

12 5.1 Each and every provision of this Compact is subject to the laws of the
13 States of Maryland and West Virginia and the laws of the United States, and the
14 delegated authority in each instance.

15 5.2 The enforcement and applicability of natural resources, CRIMINAL, and
16 boating laws and regulations referenced in this Compact shall be limited to the lands
17 and waters of the Jennings Randolph Lake Project, including but not limited to the
18 prevailing reciprocal fishing laws and regulations between the States of Maryland
19 and West Virginia.

20 5.3 Nothing in this Compact shall be construed as obligating any party hereto
21 to the expenditure of funds or the future payment of money in excess of
22 appropriations authorized by law.

23 5.4 The provisions of this Compact shall be severable, and if any phrase,
24 clause, sentence or provision of the Jennings Randolph Lake Project Compact is
25 declared to be unconstitutional or inapplicable to any signatory party or agency of any
26 party, the constitutionality and applicability of the Compact shall not be otherwise
27 affected as to any other provision, party, or agency. It is the legislative intent that the
28 provisions of this Compact be reasonably and liberally construed to effectuate the
29 stated purposes of the Compact.

30 5.5 No member of or delegate to Congress, or signatory shall be admitted to
31 any share or part of this Compact, or to any benefit that may arise therefrom; but this
32 provision shall not be construed to extend to this agreement if made with a
33 corporation for its general benefit.

34 5.6 When this Compact has been ratified by the legislature of each respective
35 State, when the Governor of West Virginia and the Governor of Maryland have
36 executed this Compact on behalf of their respective States and have caused a verified
37 copy thereof to be filed with the Secretary of State of each respective State, when the
38 Baltimore District Engineer of the U.S. Army Corps of Engineers has executed its
39 concurrence with this Compact, and when this Compact has been consented to by the

1 Congress of the United States, then this Compact shall become operative and
2 effective.

3 5.7 Either State may, by legislative act, after one year's written notice to the
4 other, withdraw from this Compact. The U.S. Army Corps of Engineers may withdraw
5 its concurrence with this Compact upon one year's written notice from the Baltimore
6 District Engineer to the Governor of each State.

7 5.8 This Compact may be amended from time to time.

8 Each proposed amendment shall be presented in resolution form to the
9 Governor of each State and the Baltimore District Engineer of the U.S. Army Corps of
10 Engineers. An amendment to this Compact shall become effective only after it has
11 been ratified by the legislatures of both signatory States and concurred in by the U.S.
12 Army Corps of Engineers, Baltimore District. Amendments shall become effective
13 thirty days after the date of the last concurrence or ratification.

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act may not take
15 effect until a similar Act is enacted by the State of West Virginia; that the State of
16 West Virginia is requested to concur in this Act of the General Assembly of Maryland
17 by the enactment of a similar Act; that the Department of Legislative Services shall
18 notify the appropriate officials of the State of West Virginia and the United States
19 Congress of the enactment of this Act; and that upon the concurrence in Congress, the
20 Governor of the State of Maryland shall issue a proclamation declaring this Act valid
21 and effective and shall forward a copy of the proclamation to the Director of the
22 Department of Legislative Services.

23 SECTION 3. AND BE IT FURTHER ENACTED, That, subject to Section 2 of
24 this Act, this Act shall take effect October 1, 2004.