



NOTE: The attachments referred to herein are on file at the Agency and are on the Agency's website. Copies are also available for inspection on request.

DRAFT AGENCY MINUTES

AUGUST 12-13, 2010

THURSDAY, AUGUST 12, 2010

AGENCY MEMBERS, DESIGNEES AND EXECUTIVE STAFF PRESENT

Curt Stiles, Chairman
Richard Booth, Member
Arthur Lussi, Member
Frank Mezzano, Member
William Thomas, Member
Leilani Ulrich, Member
F. William Valentino, Member
Cecil Wray, Member
James Fayle, Designee, NYS Department of Economic Development
Elizabeth Lowe, Designee, NYS Department of Environmental Conservation
Terry Martino, Executive Director
John Banta, Counsel

Note: Riele Morgiewicz, Designee, NYS Department of State, monitored the meeting from her office via live webcast.

LOCAL GOVERNMENT REVIEW BOARD PRESENT

Frederick Monroe, Executive Director

AGENCY STAFF PRESENT

Holly Kneeshaw, Assistant Director, Regulatory Programs
Keith McKeever, Public Information Director
Robert Kreider, Information Technology Specialist 2
Kathleen Regan, Associate Natural Resources Planner
Mary Reardon, Secretary 1
Paul Van Cott, Associate Attorney
Stephen Erman, Special Assistant for Economic Affairs
Rita Quinn, Environmental Program Specialist 2
Deborah Lester, Secretary to Executive Director

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Chairman Stiles called the meeting to order at 9:02 a.m. He noted this meeting marked the first anniversary of Executive Director Terry Martino joining the Agency. He noted the absence of Department of State Designee Morgiewicz, who would be monitoring Thursday's meetings from her office via live webcast and attending Friday's meeting in person.

Referring to the committee assignments for this month, the Chairman advised that he would chair the State Land Committee and Mr. Wray would chair the Legal Committee. He further noted that from this point forward, Mr. Valentino would sit on all three of the committees that were vacated by Mr. Townsend, which includes the Regulatory Programs, Legal and State Land Committees.

Chairman Stiles referred to the proposed 2011 meeting schedule provided in the mailing, which reflects an effort at consistency in terms of the time between meetings. He requested that any comments or concerns be made known to him prior to the September meeting, when he would propose the schedule for Agency adoption.

1. Public Comment

There was no public comment.

2. Minutes

On motion of Mr. Booth, seconded by Mr. Valentino, the Agency unanimously approved the July 8, 2010 Draft Agency Minutes.

3. Executive Director's Report

Mrs. Martino called attention to President Bush's recent visit to the Park, which included a bicycle tour on the former D&H line, which is now a rail-to-trail which goes through Onchiota to what is known as the Bloomingdale Bog. She referred to the website www.bikeadironacks.org which provides this type of trail information to the public.

She also noted that this meeting marks her one-year anniversary at the Agency. She recalled her first day at the Agency was a full day of meetings with staff, followed by the two-day August Agency meeting. She noted various milestones that have occurred since then, including a general permit for wind turbines, snowmobile guidance, hundreds of permits and settlement agreements, retirements, cell towers, waivers, boathouse regulations, Hurricane and Jay UMP's, Batchellerville and Lake

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Champlain bridges, a State land classification package, and transfer of the Newcomb VIC to SUNY-ESF, amongst others. She described her first year as a remarkable year of working with the Agency Board and staff, and with the public, as well as the engagement in the complex issues in the Adirondack Park.

She then reported the following activities during the past month:

- On June 28 the Agency received the application material from the Preserve Associates and their contractor, The LA Group, for the Adirondack Club and Resort Project in Tupper Lake. Agency hearing staff worked with the LA Group to ensure the package is assembled and ready for reproduction for other parties. Staff also worked with Administrative Law Judge (ALJ) Daniel O'Connell to ensure access to a complete application, including the prior submissions to the Agency. ALJ O'Connell wrote to the service list of potential parties on July 30 and provided a September 8 deadline for parties to the hearing to identify when they will be prepared to review the current application. The Judge communicated a process for parties to have access to the application materials at certain library locations and through electronic copies of the application record. All materials, including the prior application and Agency determinations, are also available to the public through an inquiry to the Agency. The complete electronic FOIL response is contained on a DVD provided by the Agency for a \$5 charge.
- Agency staff have completed preparation of the documents necessary to formally file the regulatory definitions of the terms "dock" and "boathouse" with the Secretary of State. The Agency approved these amended definitions at its May and June meetings. Staff anticipates formally filing the documents next week. The filings will also be posted to the Agency's website, and local officials will be informed of the details of the new definitions. The effective date for the new regulations will be September 21, 2010.
- The Agency has recently completed a series of public hearings to receive public input on the Proposed Alternatives to Amend the Adirondack Park State Land Master Plan Related to the St. Regis and Hurricane Fire Towers. Public comments are being accepted through August 25. Next week, public hearings will be held in Indian Lake, Inlet and Albany for the Proposed Series of Integrated State Land Actions in the Vicinity of the Moose River Plains. Public comment will be accepted through August 30.

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- Public comment is being accepted on the Telecommunication Co-location General Permit which would expedite review of certain types of telecommunications projects at sites where the Agency has previously issued telecommunications permits and where it has reviewed visual analyses prepared for the approved projects. The Agency is also accepting commentary on the commercial reuse general permit which would expedite the Agency review process for a project to change from a lawful use in an existing commercial, public/semi public, or industrial use building to a different use. August 28 is the deadline for comment on those general permits.
- On May 17, the Town of Lake Luzerne completed treatment of an 11-acre area with the herbicide Renovate, as authorized by the Agency in February 2010. Preliminary results and observations indicate that most of the Eurasian watermilfoil was eliminated from the treatment area and a diverse population of native vegetation is once again thriving. A comprehensive aquatic vegetation survey will be completed this September to evaluate the treatment and document any impacts to non-target plants both inside and outside the treatment area.
- The Chairman, Executive Director and Deputy Director of Planning Jim Connolly attended the Fourth Common Ground Alliance Forum in Long Lake on July 14. The grass-roots message is as important now as it was with the emergence of the Alliance and its first Blueprint in 2006 which was communicated to gubernatorial candidates. Four years later the Alliance sees a similar need regarding the need for communication about the important issues facing the Park that can be agreed upon. Certainly now there is consideration for how to prioritize and organize activities and actions related to the points presented in the Blueprint for the Blueline. The Agency looks forward to seeing the material that will be prepared for public distribution following the input at the session.
- Following a January 2010 Park Policy and Planning presentation by Rob Riley and Joe Short of the Northern Forest Center on the Sustainable Economy Initiative and the Northern Border Regional Commission, this past week the Agency received correspondence from Sandy Blitz, the federal co-chair of the Commission, who announced that a grant award process has been put in place to begin accepting applications for federal assistance. Approximately \$1.3 million in grant funding will be awarded by September 30, 2010. Funding targets include development of regional transportation, public and telecommunications infrastructure; job skill training,

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entrepreneurial and business development; health care and public service initiatives; resource conservation, tourism and recreational development; and development and promotion of alternative energy sources. Targeted New York counties include Franklin, Fulton, Herkimer, Lewis, Oneida, Oswego and St. Lawrence. In his correspondence, Mr. Blitz reported that each state will develop the process to be utilized "within their borders" to secure eligible applications that meet the criteria of the Commission to be competitive for funding. Mr. Blitz noted that the local development districts will provide technical assistance to prospective grantees. To learn more about the grant program and to receive technical assistance, interested parties should contact their Agency of Commerce, or Department of Economic Development, as well as their local development corporation.

- Regarding staff retirements, Steve Erman will be leaving the Agency during this month. While Mr. Erman was among the retirees scheduled to retire in the spring, fortunately for the Agency he chose to remain on staff throughout the summer. Mr. Erman will be greatly missed and leaves after providing an excellent public commentary to the media about his work and observations of the Agency's work in economic development. Mr. Erman's position will be posted, and the Agency will file the waiver request to ensure continued economic development services.
- The Agency has enjoyed exceptional intern involvement this summer with Eric Vandermass and Molly Hann, both of whom will be finishing their work with the Agency this week. Mr. Vandermass contributed greatly to the Regulatory Programs Division with more than 355 hours of assistance, and will be leaving the Agency to return to his Master's program at Cornell. While here, he worked on numerous projects, assisting with both permits and informational presentations. Ms. Hann has assisted the Legal Division by looking at enforcement cases where after-the-fact permits are required. She will be leaving the Agency to return to her second year at Vermont College of Law. The Agency wishes them both the best in their studies and thanks them for their contributions this summer.

4. Recusals

Mr. Booth noted his recusal with regard to the Camp Chingachgook project (2009-174) due to his long association with the camp. He noted that he is not on their board, nor does he have any financial interests in the project.

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5. Motion for Executive Session

On motion of Mr. Wray, seconded by Mr. Thomas, the Agency voted unanimously to convene in executive session to discuss litigation involving Matter of Spiegel.

The session convened at noon, and Chairman Stiles reported at the start of the Legal Affairs Committee meeting on Friday that no action was taken.

6. Motion to Adjourn into Committees

On motion of Mr. Wray, seconded by Mr. Fayle, the Agency unanimously adjourned into committees at 9:22 a.m.

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FRIDAY, AUGUST 13, 2010

AGENCY MEMBERS, DESIGNEES AND EXECUTIVE STAFF PRESENT

Curt Stiles, Chairman
Richard Booth, Member
Arthur Lussi, Member
Frank Mezzano, Member
William Thomas, Member
F. William Valentino, Member
Cecil Wray, Member
James Fayle, Designee, NYS Department of Economic Development
Elizabeth Lowe, Designee, NYS Department of Environmental
Conservation
Riele Morgiewicz, Designee, NYS Department of State
Terry Martino, Executive Director
John Banta, Counsel

LOCAL GOVERNMENT REVIEW BOARD PRESENT

Frederick Monroe, Executive Director

AGENCY STAFF PRESENT

Holly Kneeshaw, Assistant Director, Regulatory Programs
Keith McKeever, Public Information Director
Paul Van Cott, Associate Attorney
Stephen Erman, Special Assistant for Economic Affairs
Rita Quinn, Environmental Program Specialist 2
Elizabeth Phillips, Senior Attorney
Daniel Spada, Supervisor, Natural Resource Analysis
James Connolly, Deputy Director, Planning
Walt Linck, Associate Natural Resources Planner
Deborah Lester, Secretary to Executive Director

Chairman Stiles called the meeting to order at 10:04 a.m. He welcomed Town of Lake George Supervisor Frank McCoy, the featured speaker for the Community Spotlight segment of the meeting.

1. Community Spotlight: Town of Lake George, Warren County

Supervisor Frank McCoy presented an overview of the Town of Lake George. His presentation included comment by residents of the town and the challenges they face in their desire to build new homes, expand businesses and develop land which in some cases have been in their families for generations. He described the

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town's history going back to the late 1800's including the effect of the expansion of railroad service on the economy and later the construction of Interstate 87 in the 1960's.

He also reviewed town zoning, noting the entire village portion of the town is classified Hamlet with the remainder of the town ranging from RR1 to TC to LC50. Last year, 27 variances were issued and the Planning Board saw 37 site plan applications and three subdivisions.

Today, the town's main industry is tourism. Its population of 3,700 can grow to 50,000 in the summer. He stressed the importance of snowmobiling to winter tourism, and the need for more snowmobile trails to make Lake George a viable tourist destination in winter months.

Supervisor McCoy described the lake as the lifeblood of the town's economy. He reported that in June, the town enacted a local law banning the use of phosphorus fertilizers, which was a giant step in the preservation of water quality in the lake.

Supervisor McCoy then recited various comments which he had solicited from town residents. The most common theme was to trust the people who are elected in the towns and villages to protect the Adirondacks and the lakes.

In conclusion, he said that the one common theme was to give the towns and villages more autonomy over their domain as they have a better feel for the unique circumstances of their own region. Also, he urged the Agency to consider satellite offices throughout the Park to give access to the residents and to foster better relations with the communities in the Park. In terms of future plans for the town, he noted that he would be seeking to expand the Hamlet area.

The Supervisor and the Board discussed multi-agency involvement and the individual roles of the Lake George Park Commission, local government and the Agency. In the context of a project on Lake George that is currently under review by the Agency, the Board noted the importance of feedback from the local government involved as well as the Park Commission in the Agency's decision making process. It was also noted that a letter or resolution from a town or county government carries great weight in the Agency's decision making process.

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Chairman Stiles referred to the challenges in the existing regulatory structure with respect to towns with Agency-approved local land use programs, the Lake George Park Commission and the Agency, and the tendency for agencies to limit their guidance to their respective statute.

Mr. Banta referred to the coordination between the Agency and the Lake George Park Commission in the recently approved boathouse regulation; specifically, the creation of a specific cross-reference to the Commission's dimensional standards which will govern for Lake George, thus simplifying the relationship for landowners who also have to go to the Corps of Engineers. Mr. Banta also referred to an earlier example of multi-agency coordination involving the Agency, Lake George basin towns, the Park Commission and DEC with regard to storm water regulations.

The importance of Agency outreach to local governments was also discussed. The Board and Supervisor McCoy agreed that Agency dialogue and interaction with local government and the public is important in helping to address misinformation. The Supervisor noted the Town's good working relationship with the Park Commission given its location in Lake George, and its infrequent contact with the Agency. He also noted the difficulties faced by the town in attracting industry, especially given its close proximity to Queensbury which is outside the Park and therefore faces less regulatory hurdles.

Chairman Stiles referred to his own outreach efforts in his meetings with Town Supervisors. He offered to meet with Supervisor McCoy, the town board and the individuals who provided comments to the Supervisor some time after Labor Day.

Supervisor McCoy accepted the Chairman's offer.

Also noted was the Chairman's attendance at the monthly Local Government Review Board meetings which are often held near the Lake George area and are another resource for Agency interaction with local government.

In response to a question about plans for Gaslight Village, Supervisor McCoy reported on the status of the former tourist attraction. He noted that the Town's proposal to keep one of the buildings for use as a trade show/convention/community center and the village's opposition to the proposal. The county has not yet taken a position. He also noted plans for a catch basin at the end of Westbrook Road which will improve the water quality in that area of Lake George.

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Mr. Lussi inquired as to whether the town and village had considered the issue of consolidation. Supervisor McCoy responded that a study had been conducted and the village board had announced a referendum on the issue to dissolve was scheduled for March 2011. He added that during his campaign for Supervisor, he estimated the support for dissolution at about 50/50.

Mr. Mezzano pointed out that in many cases the village is not dissolved, usually because the study suggests no savings would be realized and the fear of loss of autonomy. He agreed that it was good for local government to go through the process and allow the people to decide.

Ms. Morgiewicz noted that the study was partially funded through the Department of State's Shared Services Program. Of five villages that voted, four decided to dissolve and one decided not to dissolve. She agreed the study was important in terms of determining the difference in savings.

Referring to the ban on phosphorus, Chairman Stiles asked Supervisor McCoy to comment on the plan for shoreline protection.

Supervisor McCoy confirmed that the town has instituted a shoreline buffer plan and the planning board is applying it on a case-by-case basis given the unique shoreline lots on Lake George. He said, "three feet is good, six feet is better," and that "something is better than nothing." The plan will be reviewed in a year or two. He also referred to a presentation on the water quality of Lake George by Emily DeBolt of the Lake George Association, which he recommended to his town board shortly after his taking office. Ms. DeBolt's presentation inspired an interest to help among those who attended. When asked the most effective thing they could do, Ms. DeBolt recommended a ban on the use of phosphorus and phosphorus fertilizer from the watershed around Lake George. The Fund for Lake George was also helpful in this regard, he said.

Chairman Stiles inquired as to the status of the Lake George Park Commission's proposed stream regulations.

Supervisor McCoy responded that there was tremendous opposition to the proposal, with most people feeling that the proposed 100-foot setback was unreasonable compared with the phosphorus ban, which was more acceptable with 30 or 35-foot setbacks. He added

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that a number of communities have already implemented a phosphorus ban, and Bolton and Hague are also considering doing so.

Chairman Stiles thanked Supervisor McCoy for his presentation and said he looked forward to meeting with him in Lake George. He also presented the Supervisor with an APA lapel pin.

The Agency temporarily adjourned at 10:40 a.m. for a meeting of the State Land Committee, and then reconvened at 11:15 a.m. to receive and act on the Committee's recommendations.

2. Committee Reports

a. Regulatory Programs Committee

Chairman Stiles noted that Mr. Booth would report on behalf of the Regulatory Programs Committee and for Mrs. Ulrich, who left unexpectedly due to a family emergency.

(1) 98-27R3, Westport Development Park, Inc.

The matter involves the third renewal of an Agency permit authorizing commercial and industrial uses as well as a 5-lot subdivision involving wetlands. The project site is classified Low Intensity Use and is located in the Town of Westport, Essex County.

On motion of Mr. Booth, seconded by Mr. Wray, the Agency unanimously approved the renewal request. A copy of the permit as approved by the Agency is attached to the official minutes.

(2) 2009-301, Benson Mines, Inc.

The project involves the temporary installation of a 10-inch diameter 164-foot tall guyed mast to support weather monitoring instruments, in an area classified Industrial Use in the Town of Clifton, St. Lawrence County.

Chairman Stiles referred to a revised draft permit distributed earlier which reflected the addition of a reference to future development on the project site and established a timeframe for the duration of the project.

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On motion of Mr. Booth, seconded by Mr. Wray, the Agency unanimously approved the project in accordance with the revised draft permit. A copy of the permit as approved by the Agency is attached to the official minutes.

(3) 2007-26, T. Kyle and DeAnn M. Walter

The project involves the construction of a 3 ft. wide by 215 ft. long boardwalk and 8 ft. by 8 ft. dock involving wetlands and shoreline structure setback variance, in an area classified Moderate Intensity Use in the Town of Greig, Lewis County.

Mr. Booth referred to a revised draft permit and order granting the variance

On motion of Mr. Booth, seconded by Mr. Fayle, the Agency unanimously granted the variance request. A copy of the order as approved by the Agency is attached to the official minutes.

(4) 2009-174, YMCA (Camp Chingachgook)

The matter involves a request for a shoreline variance to replace a pre-existing one-story structure with a two-story dock/deck/operations management structure, in an area classified Moderate Intensity Use in the Town of Fort Ann, Washington County. Dredging and wetlands are involved.

Counsel noted the project sponsor's request that the matter be tabled until the September Agency meeting. He recommended the Agency refer the matter back to the Committee for further consideration in September.

Mr. Wray so moved and Mr. Mezzano seconded the motion, which passed unanimously. Mr. Booth abstained from voting due to his earlier recusal with respect to this matter.

b. State Land Committee

(1) Jessup River Wild Forest Unit Management Plan Amendment

Chairman Stiles referred to a revised draft resolution proposed for Agency adoption. He requested an amendment to the fifth WHEREAS clause on page 2 to correctly identify the type of trails that will be classified by the Proposed Final Amendment to the Plan.

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He then moved adoption of the resolution as amended, finding the Jessup River Wild Forest Unit Management Plan in compliance with the guidelines and criteria of the Adirondack Park State Land Master Plan. Ms. Lowe seconded the motion.

Prior to voting, Mr. Mezzano suggested more input be sought from DEC ground staff familiar with the area, especially since this is the first plan to integrate the DEC/APA snowmobile trail guidance and will serve as a model for others.

Chairman Stiles pointed out that sometimes a component of a plan is capable of further study, corroboration or reasonable change without causing delay in the overall implementation of the plan, such as the case here. He acknowledged Mr. Mezzano's point about this being the first plan to implement the DEC/APA snowmobile trail guidance, and said the Agency would learn from this process.

Mr. Wray asked what was contemplated to happen as a result of the study referred to in the resolution.

Chairman Stiles said the study involves the ongoing tracking of actual traffic volume and understanding which trails are being closed. He suggested refining the language in the resolution to better reflect the purpose of the study.

Counsel noted that the presentation to the Committee noted a commitment to present the results of the study, which could be noted in the resolution.

Mr. Mezzano referred to the maps on display before the Committee and certain areas about which the presenter was unsure. Mr. Mezzano suggested the experience and familiarity of ECO's and Forest Rangers on the ground could be helpful in finalizing the plan.

Chairman Stiles noted that the various differences in opinion suggested the study was a reasonable approach.

Counsel referred to Mr. Wray's question regarding the study, and suggested referencing the commitment to report the results of the study to the Agency in the resolution. He also noted a typo in the third WHEREAS clause on page 2, in which "May 2006" should be stricken.

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Chairman Stiles called the question as amended, which passed by a 9 to 1 vote (Chairman Stiles, Ms. Lowe, Messrs. Fayle [DED], Lussi, Mezzano, Morgiewicz [DOS], Thomas, Valentino and Wray voting in favor, and Mr. Booth voting against). A copy of the resolution as approved by the Agency is attached to the official minutes.

c. Park Policy and Planning Committee

(1) Map Amendment 2010-01, Raquette River Boat Club, LLC

Mr. Booth moved Agency adoption of the draft order approving Alternative D and reclassification of approximately 3.7 acres from Resource Management to Hamlet. Mr. Mezzano seconded the motion.

Prior to voting, Mr. Lussi questioned the intent of the applicant in seeking this amendment, as well as the practicality of the procedure itself.

Discussion ensued as to the voting requirement for approval and other options in the event of denial, such as reconsideration. Counsel provided advice as to the number of votes required for approval and the Agency's practice of treating reconsideration of map amendments in the same manner as reconsideration of projects.

Chairman Stiles called the question, which passed by an 8 to 2 vote (Ms. Lowe, Messrs. Booth, Fayle (DED), Lussi, Mezzano, Morgiewicz (DOS), Thomas and Valentino voting in favor; Chairman Stiles and Mr. Wray voting against). A copy of the order as approved by the Agency is attached to the official minutes.

(2) DEC/APA Draft MOU Concerning State-owned Conservation Easements on Private Lands within the Adirondack Park

Mr. Booth moved and Ms. Lowe seconded Agency adoption of the draft MOU between DEC and the Agency concerning State-owned conservation easements on private lands in the Park.

Prior to voting, Mr. Booth referred to public comment which inquired as to the reason why a public hearing would not be held regarding the proposed MOU, and which suggested it was inappropriate for the Agency to act because the Department has not issued a regulation under Article 49 of the Environmental Conservation Law dealing with conservation easements.

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Counsel responded that the Agency does not hold public hearings on policy deliberation. Instead, the mechanism for public comment on policy issues is through extended presence on the Agency agenda, public notice through press releases and distribution of information to constituencies such as the Local Government Review Board. In response to the second part of Mr. Booth's question, Counsel advised that there is specific authorization for the Agency to enter into an MOU with the Department with procedures like this. This was first contemplated in 1998 and the reference to the Article 49 process is in no way an obstacle to the Agency's determination.

Mr. Monroe referred to the inclusion of the opening of lakes or ponds to public use of motorboats and floatplanes as among the activities that would require Agency notice and review, and expressed concern over the possibility of applying that to all lakes or ponds regardless of whether they were formerly opened or closed to floatplane or motorboat use. He suggested amending the language to more accurately describe the activity as "the opening of formerly closed lakes or ponds...."

Counsel expressed his willingness to work with the Department to clarify the language along the lines suggested by Mr. Monroe. He also stated there was no intent to impose an after-the-fact permit type 814 review for lakes or ponds that are already open to motorized uses.

Chairman Stiles called the question, as amended, which passed unanimously. A copy of the MOU, as approved by the Agency and further clarified as described herein, is attached to the official minutes.

c. Legal Affairs Committee

Mr. Wray reported that the Committee discussed a staff memorandum which reviewed procedures and criteria for handling variance applications. No action was taken by the Committee, he said.

3. Interim Reports

The Park Ecology, Local Government, Economic, Enforcement, Interpretive and Administration Committees did not meet this month. In addition to the monthly program reports which were included in the Agency meeting mailing, the committees reported as follows:

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a. Park Ecology Committee

On motion of Mr. Lussi, seconded by Ms. Lowe, the Committee unanimously approved the Draft Committee Minutes of July 8, 2010.

Mrs. Martino reported that RASS staff is in the process of scheduling a field visit with Sean Ross of Lyme Timber in follow up to his presentation to the Agency in July.

b. Local Government Services Committee

Mr. Thomas reported that during the month the Town of Horicon was notified of the Agency's approval of the Town's proposed amendment to Appendix E of its Zoning and Project Review Local Law. The amendment adds the "Horicon Birches" subdivision to the list of pre-existing subdivisions contained in Appendix E.

Counsel advised that the amendment was non-discretionary and as such it was approved by correspondence with the concurrence of Agency Chairman Stiles and Committee Chairman Thomas.

c. Interpretive Programs Committee

Ms. Lowe referred to the monthly activity report enclosed in the mailing. She also noted that the Newcomb VIC had been officially transferred to SUNY College of Environmental Science and Forestry and would continue to operate with existing staff through the end of the year.

Mrs. Martino noted the official transfer was effective on July 1.

Mr. Wray inquired as to the future of the Interpretive Programs Committee.

Chairman Stiles responded that that question should be discussed by the Agency.

4. New Business

Chairman Stiles referred to the proposed 2011 Agency meeting schedule and noted his attempt to be more consistent in terms of time between meetings. He requested any issues or concerns be brought to his attention, as the schedule will be presented for Agency approval at the September meeting.

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5. Local Government Review Board Comment

Local Government Review Board Executive Director Fred Monroe commented on Agency efforts to streamline procedures for shoreline variances for preexisting residences. He supported the concept and encouraged the Agency to look further at a process whereby application is made directly to the Board, with questions and answers, followed by decision. He described the adjudicatory hearing process as unsatisfactory and inefficient in many cases, especially during these times of economic uncertainty and fiscal crisis.

6. Member Comment

Ms. Lowe referred to the approval of the Jessup River UMP with the snowmobile trail provision as a great milestone for the Department and the Agency, as well as the MOU on conservation easements. Referring to the Community Spotlight presentation, she suggested web casting an Agency meeting from Lake George. She also expressed her hope that local governments throughout the Park would take notice of the Walter variance in addressing issues such as boardwalk crowding.

Mr. Lussi stated that as a former applicant for a number of Agency permits, he agreed with Mr. Monroe as to the need to create both dialogue and ability for commissioners to interact with applicants, as it would help people understand the Agency's position and vice versa. He applauded Mr. Booth's overture and foresight in recommending it.

Mr. Booth referred to his recent trip to China and made the following observations relevant to the Agency's discussions. He remarked on the constantly high level of visitation at the Stone Forest National Park, a famous park which is not a forest but rather stones formed from geologic decay over a long period of time. Among the highlights was a commercial tour down the Yangtze River through Three Gorges Dam. Being in a country with a 6,000 year old history, one realizes it is a different discussion, with their stumbling on things with immense antiquity fairly regularly. He compared the ships in Lake Champlain which are a few hundred years old to China's lost archeological resources that are 6,000 years old. Finally, having spent some time at the Great Wall, he noted the extraordinarily steep terrain and mountain ridges on which it was constructed 2,000 years ago by hand.

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Ms. Morgiewicz called attention to training to be provided by Department of State in Wilmington on waterfront development and site plan review. Agency staff are invited to attend. She also referred to her ability to monitor Thursday's portion of the meeting via web cast, and highly recommended it to those who could not attend.

Mr. Valentino said he was looking forward to a trip to San Francisco for the birth of his first grandchild, who was six days overdue.

Mrs. Martino referred to Mr. Booth's comments regarding his visit to China, and recalled the visit by the Chinese delegation in May, marking the third time they have visited the Park. She noted that Mr. Booth's remarks regarding the crowded national park reminded her of Thomas Friedman's book "Hot, Flat and Crowded." Mrs. Martino also thanked Environmental Program Specialist Leigh Walrath for his role in arranging for Champlain Hudson Power Express President and CEO Donald Jessome's presentation. She commended the videos and the state-of-the-art technology in helping the Board and other observers to better understand the project's impact and what it will do both in terms of providing energy services and the type of market opportunities that will be involved. Agency staff will be participating in a conference call next week and will be working to compile a letter providing input, recognizing the Agency has no regulatory role in the project.

Chairman Stiles commended the staff and the Board for their contributions and debate throughout the meeting, and for the broad range of issues that were covered, several of them potentially controversial or divisive. He also complimented both Agency and DEC staff in the development of the Jessup River UMP, noting the challenge now is in the implementation and the accountability of staff at the Agency and DEC. He then referred to the State agencies on the Board and described them as diverse agencies representing the State resources and point of view, who are much appreciated and who are an important part of the Agency's process. Noting the upcoming public hearings on a number of matters before the Agency, he encouraged attendance by Board members, particularly those living within the Park.

Counsel advised that the hearings provide Board members with an opportunity to observe in person what is going on without participating or advocating.

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7. Adjournment

The Agency unanimously adjourned at 12:05 p.m.

CFS:dal

Attachments: Permit 98-27R3 - Westport Development Park, Inc.
Permit 2009-301 - Benson Mines, Inc.
Permit & Order 2007-26 - T. Kyle and DeAnn M.
Walter
Resolution - Jessup River Wild Forest UMP Amendment
Order - MA2010-1, Raquette River Boat Club, LLC
DEC/APA MOU Concerning State-owned Conservation
Easements on Private Lands within the Adirondack
Park

Curtis F. Stiles, Chairman



P.O. Box 99 • Ray Brook, New York 12977 • (518) 891-4050

**APA Project Permit
98-27R3**

Date Issued: August 13, 2010

In the Matter of the Application of

WESTPORT DEVELOPMENT PARK, INC.

for a permit pursuant to §809 of the Adirondack Park Act
and 9 NYCRR Part 578

To the County Clerk: This permit
must be recorded on or before
October 12, 2010. Please index
this permit in the grantor index
under the following names:

**1. Westport Development Park,
Inc.**

SUMMARY AND AUTHORIZATION

Westport Development Park, Inc. is granted a renewed permit, on conditions, for a commercial/industrial uses involving 10,000 or more square feet and subdivision involving wetlands in an area classified Low Intensity Use by the Official Adirondack Park Land Use and Development Plan Map in the Town of Westport, Essex County.

This project may not be undertaken, and no transfer deed shall be recorded, until this renewed permit is recorded in the Essex County Clerk's Office. This renewed permit shall expire unless so recorded on or before October 12, 2010 in the names of all persons listed on the first page hereof and in the names of all owners of record of any portion of the project site on the recordation date.

This project shall not be undertaken or continued unless the project authorized herein is in existence within four years from the date the permit is recorded. This renewed permit is void if the project authorized herein is not in existence within four years from the date the permit is recorded. For purposes of determining if this project is in existence, the Agency will consider, among other factors occurring within the period, the location and number of lots sold relative to the total number of lots in the subdivision and the nature, extent and cost of structures and improvements completed or commenced and necessary to support the commercial/industrial uses authorized.

Nothing contained in this permit shall be construed to satisfy any legal obligations of the applicant to obtain any governmental approval or permit from any entity other than the Agency, whether federal, State, regional or local.

AGENCY JURISDICTION

The project is a Class A regional project consisting of the subdivision of lands involving wetlands, commercial uses involving 5,000 or more square feet of floor space and industrial uses pursuant to §810(1)(c)(1)(b), (4) and (18) of the Adirondack Park Agency Act (Act), respectively. The subdivision project is also a wetland project and regulated activity requiring a wetland permit pursuant to Freshwater Wetlands Act and 9 NYCRR 578.3(n)(3)(i).

PROJECT SITE AND PROJECT DESCRIPTION

The project site consists of approximately 40 acres located to the east of NY Route 22. The project is the creation of five lots ranging from 4.5 to 8.9 acres in size to be conveyed for future commercial and industrial development purposes as described in the Park covenants, including but not limited to buildings and accessory structures used for light manufacturing and assembly, storage and shipping of parts and completed products. Offices, research, and other operations normally associated with such manufacturing or assembly activities will be permitted. Subsequent Agency review in the form of permit amendments will be made for approval of site specific commercial and industrial uses on each lot.

The project as originally proposed and authorized has not been undertaken to date. The applicant has requested that the Agency issue a renewed permit to allow the project to be undertaken and completed as originally proposed and authorized. No changes to the project are proposed.

CONDITIONS

BASED UPON THE FINDINGS BELOW AND INFORMATION CONTAINED IN THE PROJECT FILE, THE RENEWED PROJECT IS APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

1. All conditions in Permit 98-27RA2 remain in full force and effect.
2. This renewed permit is binding on the applicant(s), all present and future owners of the project site and all contractors undertaking all or a portion of the project. Copies of this permit and the site plan map(s) referred to herein shall be

furnished by the applicant to all subsequent owners or lessees of the project site prior to sale or lease, and by the applicant and/or any subsequent owner or lessee to all contractor(s) undertaking any construction activities pursuant to the permitted project. All deeds conveying all or a portion of the lands subject to this permit shall contain references to this permit as follows: "The lands conveyed are subject to Adirondack Park Agency Permit 98-27 issued August 17, 1998, Permit 98-27R issued May 21, 2002, Permit 98-27RA issued June 3, 2005, Permit 98-27RA2 issued May 12, 2006, and Permit 98-27R3 issued August 13, 2010, the terms and conditions of which are binding upon the heirs, successors and assigns of the grantors and all subsequent grantees." All deeds shall also include reference to the Declaration of Covenants.

FINDINGS OF FACT

1. Findings of Fact 1 through 11 which are contained in Permit 98-27RA2 which was issued on May 12, 2006 and recorded on May 15, 2006 in the Essex County Clerk's Office in Book 68 of APA Permits at page 163 are incorporated herein by reference and remain in effect.

CONCLUSIONS OF LAW

The Agency has considered all statutory and regulatory criteria for project approval as set forth in §809(10) of the Adirondack Park Agency Act (Executive Law, Article 27) and 9 NYCRR Part 574; and §24-0801(2) of the NYS Freshwater Wetlands Act (ECL, Article 24, Title 8) and 9 NYCRR Section 578.10. The Agency hereby finds that the project is approvable and complies with the above criteria, provided it is undertaken in compliance with the conditions herein.

PERMIT issued this day
of , 2010.

ADIRONDACK PARK AGENCY

BY: _____
Holly E. Kneeshaw, Acting Deputy Director
(Regulatory Programs)

STATE OF NEW YORK)
) ss.:
COUNTY OF ESSEX)

On the day of in the year 2010, before me, the undersigned, a Notary Public in and for said State, personally appeared Holly E. Kneeshaw, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

HEK:mlr



P.O. Box 99 • Ray Brook, New York 12977 • (518) 891-4050

**APA Project Permit
2009-301**

Date Issued: August 17, 2010

In the Matter of the Application of

BENSON MINES, INC.

for a permit pursuant to §809 of the
Adirondack Park Agency Act.

To the County Clerk: This permit
must be recorded on or before
October 15, 2010. Please index
this permit in the grantor index
under the following names:

1. Benson Mines, Inc.

SUMMARY AND AUTHORIZATION

Benson Mines Inc. is granted a permit, on conditions, authorizing a meteorological monitoring mast in an area classified Industrial Use by the Official Adirondack Park Land Use and Development Plan Map in the Town of Clifton, St. Lawrence County.

This project may not be undertaken, and no transfer deed shall be recorded, until this permit is recorded in the St. Lawrence County Clerk's Office. This permit shall expire unless so recorded on or before October 15, 2010 in the names of all persons listed on the first page hereof and in the names of all owners of record of any portion of the project site on the recordation date.

This project shall not be undertaken or continued beyond December 31, 2012. The Agency will consider the project in existence when the monitoring mast approved herein has been installed.

Nothing contained in this permit shall be construed to satisfy any legal obligations of the applicant to obtain any governmental approval or permit from any entity other than the Agency, whether federal, State, regional or local.

AGENCY JURISDICTION

The project consists of the installation of a meteorological monitoring mast in an Industrial Use land use area, a Class B regional project requiring an Agency permit pursuant to §810(2)(e)(7) of the Adirondack Park Agency Act.

PROJECT SITE

The project site is a 580±-acre parcel of land classified Industrial Use on the Adirondack Park Land Use and Development Plan Map. It is located on New York State Route 3 in the Town of Clifton, St. Lawrence County. The site is that portion of Tax Map Section 214, Block 4, Parcel 21.1 located in the Industrial Use land use area (the remaining lands also identified as tax parcel 21.1 are located in Rural Use and Resource Management land use areas). The project site is described in a deed from George C. Seward and Louis Smadbeck as Trustees of Benson Iron Ore Trust to Benson Mines, Inc. dated July 9, 1980 which was recorded July 24, 1980 in the St. Lawrence County Clerk's Office in Liber 951 of Deeds at Page 1086.

PROJECT DESCRIPTION AS PROPOSED

The project as proposed is summarized as the temporary installation of a 164 foot (50 meter) tall guyed monopole and weather monitoring equipment. The monopole has a diameter of 10 inches at the base and tapers to a diameter of 8 inches. Anemometers will be installed at elevations of 98 feet, 131 feet and 164 feet above ground level while wind direction vanes will be installed at 131 feet and 164 feet above ground level. The galvanized metal mast will be held in place by twenty four 3/8 inch diameter cables which will be anchored into exposed bedrock. The mast will be installed by gin pole and access to the monitoring site will utilize an existing road. The mast will be installed in an already cleared area with no additional clearing proposed. The monitoring data will be collected for up to 24 months and the data collected will accurately assess wind resources within a radius of 5 miles and up to 500 feet above existing grade.

The mast is shown on a drawing entitled "Figure 3, Scaled Elevation Drawing - Model 50 Meter HD Symponie" drawn by EDR, and dated June, 2010 while the mast location is shown on a drawing entitled "Project Site Plan" drawn by EDR, and dated February, 2010. Both plans are stamped "Final Plans, Adirondack Park Agency, P2009-301, Date: 8/6/10". A reduced scale copy of the site plan and a full scale copy of the mast elevation are attached as a part of this permit for easy reference. The original, full-scale map and plan referenced in this permit are the official plans for the project.

CONDITIONS

BASED UPON THE FINDINGS BELOW, THE PROJECT IS APPROVED WITH THE FOLLOWING CONDITIONS:

1. The project shall be undertaken as described in the completed application, the Project Description as Proposed and Conditions herein. In the case of conflict, the Conditions control. Failure to comply with the permit is a violation and may subject the applicant, successors and assigns to civil penalties and other legal proceedings, including modification, suspension or revocation of the permit.
2. This permit is binding on the applicant, all present and future owners of the project site and all contractors undertaking all or a portion of the project. Copies of this permit and the site plan maps referred to herein shall be furnished by the applicant to all subsequent owners or lessees of the project site prior to sale or lease, and by the applicant or any subsequent owner or lessee undertaking construction to any contractors undertaking any portion of this project. All deeds conveying all or a portion of the lands subject to this permit shall contain references to this permit as follows: "The lands conveyed are subject to Adirondack Park Agency Permit 2009-301 issued August 17, 2010, the terms and conditions of which are binding upon the heirs, successors and assigns of the grantors and all subsequent grantees."
3. The Agency may conduct such on-site investigations, examinations, tests and evaluations as it deems necessary to ensure compliance with the terms and conditions hereof. Such activities shall take place at reasonable times and upon advance notice where possible.

Authorized Development

4. The proposed project shall be undertaken as shown on the project plans. The mast and all attached components shall not exceed 170 feet in height (including lightning rod) as measured from existing ground level and the authorized wind direction vanes and anemometers shall be located on the mast as shown on the plans referenced herein. Any change in the mast or associated infrastructure, design model, location, height, or configuration shall require prior Agency review and approval in the form of a new or amended permit.

Wetlands

5. No "regulated activity" as defined in the Agency's Freshwater Wetland Regulations (9 NYCRR Part 578) shall occur on the project site without prior Agency approval. Such activities include, but are not limited to, new land use or development in, subdivision of, clearcutting more than three acres within, or dredging or filling of a wetland, or any other activity, whether or not occurring within the wetland, which pollutes it or substantially impairs its functions, benefits or values.

Visual/Open Space Protection

6. The mast, guy wires, anchors and all associated equipment shall be dismantled and removed from the project site by no later than December 31, 2012 unless an amended Agency permit to allow it to remain longer is issued by that date based upon a clear and convincing demonstration that continued temporary monitoring is necessary.
7. No trees may be cut, culled, trimmed, pruned or otherwise removed or disturbed within 200 feet of the mast authorized herein without prior Agency review and approval.

Discontinuance of Use

8. The discontinuance of the use of the monitoring mast authorized herein for more than 6 months shall require removal of the mast and all associated infrastructure. However, the Agency may authorize a limited extension of this period, by letter of permit compliance, upon written request from the Project Sponsor explaining the circumstances of why the mast and monitoring equipment should be allowed to remain in place.

Review of Future Development

9. The installation of any other temporary or permanent meteorological monitoring masts on the project site shall require prior Agency review and approval in the form of a new permit.
10. No further new land use and development shall occur on project site without first obtaining a jurisdictional determination and, if necessary, a permit from the Agency.

FINDINGS OF FACT

Background/Prior History

1. The property and surrounding lands were used as an industrial use, as part of the former J&L Steel operation, attributing to the vast acreage of mine tailings, for probably 50 years. The Benson Mines, Inc. landholdings have been the subject of prior Agency involvement. Permit 84-208 authorized a project to landspread papermill sludge to be incorporated into the upper 8"-12" of the Chaumont Tailings.

Agency Permit 90-138 authorized Frank W. Whitcomb Construction to extract about 200,000 tons of waste rock for the production of bituminous concrete and aggregate from the same tailings stockpile that is the subject of this new permit. The former mine plan included an asphalt batch plant used with the rehabilitation of a NYS Route 3 road project.

Agency Permits 95-4 and 95-4A authorized a waste disposal area as part of a three year beneficial use research project to determine if entrenched papermill wastewater treatment solids (sludge) can enhance revegetation of iron mine tailings on tax parcels 214-7-1 and 214-4-24.

Agency Project 2010-73 seeks Agency approval for a mineral extraction by Langevin Excavation, Inc. involving the removal of mine tailings remaining from the former J&L Steel mine operation on tax parcel 214-4-24.

Existing Environmental Setting

2. Land uses in the vicinity of the project site consist of mine tailing stockpiles, impoundments, an abandoned industrial mining operation, and forest land. The nearest residence is more than one mile from the development authorized herein.
3. The area immediately surrounding the monitoring mast authorized herein is forested with a mixture of native deciduous and coniferous trees having an overall tree canopy height of 40 to 50 feet.
4. The proposed mast and associated guy cables will be situated directly on bedrock outcroppings. Slopes on the project site vary greatly and exceed 25 percent range in some locations; the mast is located on nearly level ground.

5. Based on interpretation of wetland maps available to the Agency there are wetlands subject to Agency jurisdiction located on other portions of the project site and located on surrounding lands under the ownership of Benson Mines, Inc. There are no wetlands located within 200 feet of the proposed mast.

PROJECT IMPACTS

Wetlands and Water Resources

6. The project will utilize existing roads and will not result in the removal of vegetation. Furthermore, there will not be any grading or excavation associated with the development approved herein. As such the project will not have an impact on wetland or water resources.

Public Notice and Comment

7. The Agency notified all adjoining landowners and those parties as statutorily required by §809 of the Adirondack Park Agency Act and published a Notice of Complete Permit Application in the Environmental Notice Bulletin. No comments have been received.

Other Regulatory Permits and Approvals

8. The Agency was notified in a completed Local Government Notice Form that no approval is required for the project from the Town of Clifton.
9. By letter dated July 24, 2009 the New York State Army National Guard advised that towers at the project site which are under 250 feet in height will not cause a significant negative impact on military training airspace. This letter further states that masts having heights of 500 feet or more would likely be highly contested.

Visual Analysis

10. A visual analysis of the proposed mast was prepared by the applicant. It included computerized mapping showing areas of potential visibility based on topography and vegetation, a balloon test to identify the mast location, height and actual areas of visibility and a photographic simulation of the mast as viewed from the intersection of New York State Route 3 and County Route 60. Agency staff was present during the balloon test. Based upon these analyses, it was determined that travelers heading west along New York State Route 3 will see a skylit mast for a total travel distance of approximately 1 mile. However,

the narrow diameter mast (10 inches at the base and 8 inches at the top) will not be readily discernible until directly in front of the project site and within the Industrial Use land use area. From this viewpoint the skylit mast is approximately 1 mile distant and only viewed within the context of an abandoned industrial complex. Furthermore, from this viewpoint the mast will be approximately 90 degrees to the direction of travel. Other areas of visibility include a small stretch of New York State Route 3 (from the project site to the Hamlet of Star Lake), the hamlet of Star Lake, and the hamlet of Newton Falls. For these locations the mast is visible but at or below the average tree canopy height and at distances of greater than 1 mile. The closest public viewpoint (0.5± miles distant) is from County Route 60, a road which bisects Benson Mines, Inc.'s Industrial Use landholdings. Views of the mast from this road are limited to filtered views through a strip of deciduous trees. Remnants of the historic intensive mining operation are evident along much of County Route 60.

11. As a result of Agency review of the project based upon the pertinent development considerations set forth in §805(4) of the Adirondack Park Agency Act and applicable regulations, it has been determined that the project will not result in any undue adverse impacts on the Park's visual and open space resources because the proposed mast and monitoring equipment will be substantially invisible as viewed from off site locations. The proposed mast reasonably complies with the Agency's "Policy on Agency Review of Proposals for New Telecommunications Towers and Other Tall Structures in the Adirondack Park" in that it will not be "readily apparent as to size, composition, or color" and can only be viewed from very limited areas.

Future Development

12. Nothing in this project permit authorizes, endorses, or encourages the construction of Wind Towers on the project site. Any future application for wind devices will require a new Agency permit meeting the standard of Section 809(9) or (10) such as plan compatibility and "no undue adverse impact."

Historic Preservation

13. The NYS Office of Parks, Recreation and Historic Preservation issued a "No Impact" determination for the project by letter dated November 9, 2009. Therefore, the project will not cause any change in the quality of "registered," "eligible," or "inventoried" property as those terms are defined in 9 NYCRR Section 426.2 for the purposes of implementing §14.09 of the New York State Historic Preservation Act of 1980.



P.O. Box 99 • Ray Brook, New York 12977 • (518) 891-4050

**APA Project Permit
and Order Granting
Variance
2007-26**

Date Issued: August 16, 2010

In the Matter of the Application of

T. KYLE AND DEANN WALTER

for a permit and variance pursuant to §§809 and 806 of the Adirondack Park Agency Act (“APA Act”) and 9 NYCRR Part 578

To the County Clerk: This permit and order must be recorded on or before October 15, 2010. Please index this permit and order in the grantor index under the following names:

1. **T. Kyle Walter**
2. **DeAnn Walter**

SUMMARY AND AUTHORIZATION

T. Kyle and Deann Walter are granted (i) a permit, on conditions, authorizing the construction of a boardwalk and dock in wetlands pursuant to 9 NYCRR Part 578; and (ii) a variance, on conditions, from the applicable 50-foot shoreline structure setback restriction pursuant to Sections 806(1)(a)(2) and 806(3) of the APA Act, authorizing placement of a boardwalk greater than 100 square feet in size over dense wetland vegetation with a value class 2 within Lily Pond between the shoreline and open water. The property owned by the Walters is located in an area classified Moderate Intensity Use by the Official Adirondack Park Land Use and Development Plan Map in the Town of Greig, Lewis County.

This project may not be undertaken until this permit and order is recorded in the Lewis County Clerk's Office. This permit and order shall expire unless so recorded on or before October 15, 2010 in the names of all persons listed on the first page hereof and in the names of all owners of record of any portion of the project site on the recordation date.

This project shall not be undertaken or continued unless it is in existence within four years from the date the permit and order is recorded. The Agency will consider the project in existence when construction of the boardwalk is completed.

Nothing contained in this permit and order shall be construed to satisfy any legal obligations of the applicants to obtain any governmental approval or permit from any entity other than the Agency, whether federal, State, regional or local.

PROJECT AND VARIANCE DESCRIPTION AS PROPOSED

The project site is a 0.58+-acre parcel of land with approximately 65 feet of frontage on the shoreline of Lily Pond in the Town of Greig, Lewis County, in an area classified Moderate Intensity Use by the Adirondack Park Land Use and Development Plan Map. It is identified on Town of Greig Tax Map Section 277.15, Block 2 as Parcel 14. The project site is described in a deed from Gerald M. and Lena L. Yancey to Kyle and DeAnn Walter dated April 4, 2005 which was recorded April 5, 2005 in the Lewis County Clerk's Office as Document 2005-01070.

The project site also includes an area of Lily Pond directly adjacent to the Walter's parcel and extending approximately 223 feet into the pond. Lily Pond is described as Tax designation 277.15-2-34 and the bed in this vicinity is owned by the Town of Greig as described in a deed from the County Treasurer dated April 29, 1983 which was recorded on September 3, 1985 in the Lewis County Clerk's Office in Liber 459 at Page 342. By a letter dated April 11, 2007, the Town of Greig Supervisor provided to the Agency "Consent by Landowner for Project Application to Proceed".

The project and variance as proposed is summarized as follows: The construction of a 3 foot wide by 215 foot long boardwalk, extending into Lily Pond and elevated 2 feet above the surface level of the water. An 8 by 8 foot dock will be built at the end of the boardwalk.

The proposed boardwalk and dock are shown on a map entitled, "Map Showing Premises Situated In The Town of Greig, Lewis County, NY, Owned By Kyle and DeAnn Walter," prepared by Richard Bartholomew, LLS and dated December 6, 2006 (Hereinafter "Site Plan") and on four (4) sheets of drawings submitted to the Agency on May 14, 2007, entitled "T. Kyle & DeAnn Walter A2006-179, Attachment E Per 4/4/07 Checklist" (hereinafter "Project Plans"). A reduced-scale copy of the site plan and project plans are attached as a part of this permit and order for easy reference. The original, full-scale maps and plans referenced in this permit and order are the official plans for the project.

As shown on the site plan and project plans, the boardwalk will begin at the edge of the shoreline, and extend 215 feet into Lily Pond, spanning extensive, dense wetland vegetation which exists from the edge of the shoreline out into the pond approximately 200 feet. At the end of the boardwalk an 8 X 8 foot dock is proposed in open water. The boardwalk will be elevated approximately 2 feet above the surface level of the water. No railings, steps, or other attachments are proposed on the boardwalk or dock. As detailed on the project plans, the boardwalk, dock and support posts and stringers are proposed to be constructed with pressure treated lumber and galvanized hardware. No stain or paint is proposed; the materials will be left to weather naturally.

As shown on the project plans, the 3-foot wide boardwalk will be supported by 3.5 inch pressure treated posts, ranging in height from 5 feet 6 inches to 6 feet. Two support posts will be installed every 8 feet, the entire length of the boardwalk, resulting in 68, 3.5 inch posts installed in the wetlands. Additionally, fourteen, 2 x 6 inch stringers, 16 feet in length will be used to support the posts and boardwalk decking. The boardwalk and dock decking are proposed to consist of 6-inch wide pressure treated lumber.

AGENCY JURISDICTION

The proposed boardwalk and dock project constitutes a Class A regional project involving wetlands, requiring an Agency permit pursuant to §§810(1)(b)(1)(b) and 809(2)(a) of the APA Act and a regulated activity requiring a wetlands permit pursuant to 9 NYCRR §§578.2 and 578.3(n)(1)(iv). The proposed boardwalk requires a variance from the shoreline setback restrictions of §806 of the APA Act.

CONDITIONS

BASED UPON THE FINDINGS BELOW AND INFORMATION CONTAINED IN THE VARIANCE/PROJECT ADJUDICATORY RECORD, THE VARIANCE IS GRANTED AND THE PROJECT IS APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

1. The project shall be undertaken as described in the completed application, the Project and Variance Description as Proposed and Conditions herein. In the case of conflict, the Conditions control. Failure to comply with the permit and order is a violation and may subject the applicants, successors and assigns to civil penalties and other legal proceedings, including modification, suspension or revocation of the permit and order.

2. This permit and order are binding on the applicants, all present and future owners of the project site and all contractors undertaking all or a portion of the project. Copies of this permit and order and all the approved maps and plans referred to herein shall be furnished by the applicants to all contractors prior to undertaking the project, and to all subsequent owners or lessees of the project site prior to sale or lease. All deeds conveying all or a portion of the lands subject to this permit and order shall contain references as follows: "The lands conveyed are subject to Adirondack Park Agency Permit and Order 2007-26 issued August 16, 2010, the terms and conditions of which are binding upon the heirs, successors and assigns of the grantors and all subsequent grantees."
3. The Agency may conduct such on-site investigations, examinations, tests and evaluations as it deems necessary to ensure compliance with the terms and conditions hereof. Such activities shall take place at reasonable times and upon advance notice where possible.

Boardwalk and Dock Location and Size

4. This permit and order authorizes the construction of a boardwalk and dock in the location shown on the site plan and project plans. The boardwalk shall not exceed 3 feet in width or 215 feet in length and it shall be elevated a minimum of 18 inches and not more than 24 inches above the surface of the water, based on the top elevation of the Lily Pond/Brantingham Lake dam.
5. The one dock, to be located and constructed as shown on the project plans, shall not exceed eight feet in width or length. The dock shall only be used for the purposes of securing and loading or unloading watercraft and for swimming, fishing or water recreation.

Outdoor Lighting

6. There shall be no lights on the dock or boardwalk without an amended permit and/or order. Any new outdoor lights on the shoreline shall employ full cut-off fixtures; that is, they shall be fully shielded to direct light downward and not into the sky. The fixtures shall be oriented so as to not cast light toward Lily Pond or adjoining property. The intent is to reduce nighttime light pollution (glare, light trespass and sky glow).

Wetlands

7. Beyond that authorized herein, no "regulated activity" as defined in the Agency's Freshwater Wetland Regulations (9 NYCRR Part 578) shall occur on the project site without prior Agency approval. Such activities include, but are not limited to, dredging or filling of a wetland, new land use or development in, subdivision of, or any other activity, whether or not occurring within the wetland, which pollutes it or substantially impairs its functions, benefits or values.
8. The boardwalk shall be constructed after the pond has been lowered in October and when the ground is frozen so as to minimize disturbance.
9. No construction materials shall be cut, sanded or otherwise prepared or processed within 50 feet of the shoreline and wetlands. All pressure treated sawdust shall be collected and disposed of at an approved landfill. No preservatives, stains or paints shall be applied to the boardwalk or dock once they are installed in Lily Pond.

Shoreline Cutting

10. Within 35 feet of the mean high water mark of Lily Pond, no vegetation including bushes and trees shall be cut, culled, trimmed or pruned without prior Agency review and approval. This condition shall not be deemed to prevent the removal of dead or diseased vegetation or of rotten or damaged trees or of other vegetation that presents a safety or health hazard.

FINDINGS OF FACT

Background/Prior History

1. The subject property was not part of a larger parcel in 1973 and the landowner at that time did not own any adjoining property as of the May 22, 1973 enactment date of the Adirondack Park Land Use and Development Plan. Prior to purchasing the property, the applicants obtained a nonjurisdictional letter (J2004-701) from the Agency dated September 22, 2004, for their proposed single family dwelling. That letter identified the jurisdictional wetlands on and adjacent to the project site and included "Restrictions" and a wetlands flyer identifying the type of activities which would require a wetlands permit.

2. On December 6, 2004, the applicants submitted an application to the Agency (Project 2004-288) requesting approval to dredge the shoreline area in front of the project site "to allow for recreational access to Lily Pond". On December 17, 2004 the Agency issued a Notice of Incomplete Permit Application (NIPA) for project 2004-288. The applicants contacted the Agency by telephone to discuss the NIPA and schedule a site visit; however no correspondence or additional application materials were submitted in response to the NIPA.
3. On July 15, 2005, Agency enforcement staff investigated a report of a potential violation (E2005-157) involving wetland activities on the project site. The enforcement investigation determined that the applicants, "...excavated, deposited fill in, and otherwise impacted approximately 4700 square feet of wetlands on the subject property without first obtaining a permit from the Agency..." On July 3, 2006, Agency enforcement staff conducted a site inspection and confirmed compliance with the Settlement Agreement resolving the alleged violation.
4. On January 31, 2007, variance/project application P2007-26 was submitted to the Agency, requesting approval for the proposed boardwalk and dock.
5. In July, 2007, the Agency considered the Walters' variance request and ordered that an adjudicatory hearing be held to develop a record on the requested variance. That hearing was held on August 21, 2007.
6. In October, 2007, the Agency considered the record of the adjudicatory hearing and, on October 22, 2007, issued an order denying the requested variance.
7. On or about December 11, 2007, the Walters made a motion to the Agency for reconsideration of their requested variance. On February 8, 2008, the Agency granted the Walters' request for reconsideration and directed that an adjudicatory hearing be held to supplement the record. That hearing was held on June 3, 2008.
8. The Walters initiated a court proceeding related to the Agency hearing, resulting in a December 17, 2008 decision by Supreme Court, Lewis County.

9. In 2009, the Walters installed floating structures in the wetland on their property, precipitating an Agency enforcement action resolved in 2010 with the Walters' removal of the structures from the wetland.
10. On June 3, 2010, final briefs were submitted by the parties and the hearing record was closed.

Existing Environmental Setting

11. The project site is located in a Moderate Intensity Use area on the Adirondack Park Land Use and Development Plan Map. A single family dwelling was constructed on the project site in 2005 as allowed by jurisdictional determination J2004-701. The applicants' lot is a shoreline lot and the mean high water is wholly or partially on the applicant's lot. Existing vegetation within 50 feet of the mean high water mark of Lily Pond partially screens the dwelling from the shoreline.
12. The wetlands on the project site are part of a two acre emergent marsh, shrub swamp complex with a value rating of "2", dominated by cattail, sedges and sweet gale. The water conditions vary seasonally, but the area where the new boardwalk is proposed is very densely vegetated during the growing season and not navigable by canoe.
13. Lily Pond is approximately 17.20± acres in size. It is connected to and accessible from Brantingham Lake by a channel at the northwest end of the Lily Pond. There is no public boat launch for Brantingham Lake or Lily Pond. A dam constructed in the early 1900's at the outlet on the southern end of Lily Pond regulates the water levels of Brantingham Lake and Lily Pond. The mean high water mark elevation of Lily Pond is 1,234 feet above sea level. Since the early 1900's, the dam has been released each year, between October and May, "to help reduce shoreline erosion and ice damage to docks" which results in Lily Pond being dry from October to May. The Town of Greig purchased the dam in 1972 and to date owns and maintains the dam.
14. A subdivision Map filed June 5, 1919, proposed a forty-five lot subdivision along the south and east shoreline of Lily Pond. Most of the 45 lots were sold prior to 1973 and preexisting camps were built on many of the lots prior to 1950's. Much of the shoreline of Lily Pond is improved by docks, boathouses and other shoreline development.

15. The shoreline directly to the north of the project site is improved by a 125± foot long boardwalk with an attached 315 square foot deck, and the shoreline to the south is improved by boathouse and a swim dock with direct access to open water.

Public Notice

16. On May 29, 2007, the Agency notified all landowners within 500 feet of the project site and the shoreline lot owners within the bay where the project site is located; as well as those parties statutorily required by §809 of the APA Act and published a Notice of Complete Permit Application in the Environmental Notice Bulletin. Subsequent proceedings were conducted pursuant to the procedural requirements of 9 NYCRR Part 580 and as set forth in the record for this matter.

The Adjudicatory Record

17. The adjudicatory record consists of exhibits (including the complete application) presented at public hearing, the transcripts of the first hearing convened on August 21, 2007, the transcript of the hearing reconvened for reconsideration on June 3, 2008 and briefs submitted June 3, 2010 on behalf of applicants, staff and an adjoining landowner, Michael Farrell. The record was transmitted to Agency members and designees on July 30, 2010 in preparation for deliberation at the August 12-13 meeting of the Agency board.

Other Regulatory Permits and Approvals

18. On February 22, 2006 the Army Corps of Engineers issued a letter stating they have no jurisdiction over the proposed boardwalk/dock project since "the proposed work will not involve a discharge of dredged or fill material into the 'Waters of the United States'."

On November 21, 2006, the New York State Department of Environmental Conservation issued a nonjurisdictional letter for the proposed boardwalk/dock project.

On September 29, 2006, the Town of Greig issued a local zoning permit (No. 49-06) for the proposed boardwalk/dock, conditional upon it being, "Not less than 10' from property lines and Not greater than 8' wide"

Historic Sites or Structures

19. The project site does not include any structures which are more than 50 years old or any areas identified on the New York State Archeological Sensitivity Map. Thus the project as proposed and authorized herein will not cause any change in the quality of "registered," "eligible," or "inventoried" property as those terms are defined in 9 NYCRR Section 426.2 for the purposes of implementing §14.09 of the New York State Historic Preservation Act of 1980.

Variance Factors

The following findings of fact evaluate the proposed project against the variance factors set forth in 9 NYCRR §576.1.

Whether there are practical difficulties in carrying out the strict letter of the provisions of the shoreline restrictions?

20. The applicants have demonstrated that there are unique difficulties present on the site consisting of protected wetland area intervening between mean high water on their property and the open water of Lily Pond, which prevent littoral access for this shoreline lot.

Whether adverse consequences from denial outweigh the public purpose of statutory shoreline restriction?

21. Effective protection of wetland area with a value class of 2 while allowing the exercise of littoral rights demonstrates that the benefit to the applicants is greater than the benefit to the public by strict adherence to the setback requirement.

Whether the application requests the minimum relief necessary?

22. The boardwalk authorized herein is the smallest structure that achieves both littoral access to open water and effective protection of the wetland area.

Whether granting the variance will create a substantial detriment to adjoining or nearby landowners?

23. The adjudicatory record includes information regarding actual and potential impacts to neighbors and the neighborhood. Based upon the record as amplified in the supplemental hearing, on balance, the Agency finds that the proposed boardwalk structure and modest dock, as conditioned herein, will not create a substantial detriment to adjoining or nearby landowners.

Whether the difficulty can be obviated by a feasible method other than a variance?

24. The supplemental record includes a review of existing alternatives to the applicants' access to Lily Pond using the proposed boardwalk structure. The Agency finds on these facts and circumstances that there is no feasible alternative available to the applicants that provides shoreline access and wetland protection.

The manner in which the difficulty arose?

25. The difficulty arises from legal rights associated with a shoreline lot and the protection of wetlands within the Adirondack Park under the APA Act and the NYS Freshwater Wetlands Act. On the record as supplemented, the Agency finds that the difficulty is associated with the legal and physical characteristics of the residential lot owned by applicants.

Whether granting the variance will adversely affect existing resources?

26. The requested variance will minimize and avoid environmental impacts to existing resources.

Whether the imposition of conditions upon the granting of the variance will ameliorate the adverse effects noted above?

27. The size and design conditions imposed by this order and permit will minimize and avoid impacts which might result from the approved variance.

Wetland Standards

The following findings of fact evaluate the proposed project against the findings for issuance of a wetlands permit set forth in 9 NYCRR §578.10(a)(2):

Whether the proposed activity will result in minimal degradation or destruction of the wetland or its associated values, and is the only alternative which reasonably can accomplish the applicant's objectives?

28. The applicants' proposed elevated boardwalk is the only alternative which reasonably can accomplish the applicants' objectives with minimal degradation or destruction of the wetland. Any dredging or fill within the wetland would result in material degradation and destruction of a wetland with a value class of "2" contrary to law and regulation.

29. Pursuant to §809(10)(e) of the APA Act and ECL 24-0801, the Agency has determined that the project as proposed and conditioned herein would not have an undue adverse impact upon the natural scenic, aesthetic, ecological, wildlife, historic recreational or open space resources of the park. As would most new development, the new boardwalk and dock will have some impact upon the aesthetics, ecological, wildlife, recreational and open space resources of Lily Pond; however, given the extensive existing shoreline development on the pond, the impacts will be minimal provided the project is undertaken in compliance with conditions herein.

CONCLUSIONS OF LAW

1. There are practical difficulties in the way of carrying out the strict letter of the shoreline setback restriction set forth in §806 of the APA Act (9 NYCRR § 576.1[a])
2. Granting the variance pursuant to §806 of the APA Act and 9 NYCRR Part 576 observes the spirit of the Act, secures public safety and welfare, and does substantial justice.
3. The adverse consequences to the applicants resulting from denial are greater than the public purpose sought to be served by the restrictions (9 NYCRR § 576.1[b]).
4. The factors set forth in 9 NYCRR §576.1 (c) through §576.4 have been addressed:
 - a. the application requests the minimum relief necessary;
 - b. there will be no substantial detriment to adjacent or nearby landowners;
 - c. the difficulty cannot be obviated by a feasible method other than the variance;
 - d. the difficulty arose due to the proximity of the preexisting structure and waterfront uses to the mean high water mark;
 - e. the granting of the variance will not unduly adversely affect the natural and scenic resources of the shoreline and adjoining waterbody given the existing structure and uses; and
 - f. the imposition of appropriate conditions will ameliorate any adverse effects.

5. The variance, pursuant to §806 of the APA Act, 9 NYCRR Part 576, observes the spirit of the Act, secures public safety and welfare, and does substantial justice.

If undertaken in compliance with the conditions herein:

1. The project would not have an undue adverse impact upon the natural, scenic, aesthetic, ecological, wildlife, historic, recreational or open space resources of the Park or upon the ability of the public to provide supporting facilities and services made necessary by the project, taking into account the economic and social benefits that might be derived there from.
2. The Agency has considered the public policy of the state set forth in ECL § 24-0103, the statement of legislative findings set forth in ECL § 24-0105, and the effect of the project upon the public health and welfare, fishing, flood, hurricane and storm dangers, and the protection and enhancement of the several wetland functions and benefits. The applicable findings of 9 NYCRR Part 578.10 can be made.
3. The project would result in minimal degradation or destruction of the wetland with a value rating of 2 or its associated values, and is the only alternative which reasonably can accomplish the applicant's objectives.



In the Matter of the Application of

Raquette River Boat Club, LLC.

for an Amendment to the Official
Adirondack Park Land Use and
Development Plan Map

SEQR FINDINGS
STATEMENT AND ORDER

MA 2010-01

SUMMARY

On January 14, 2010, the Adirondack Park Agency received an application for an amendment to the Official Adirondack Park Land Use and Development Plan Map to reclassify approximately 1.7 acres of land in the Town of Tupper Lake, Franklin County, from Resource Management to Hamlet.

To satisfy regional boundary criteria, Agency staff selected boundaries to include lands of similar character within regional boundaries as required by Section 805 (2)(c)(5) of the Adirondack Park Agency Act and described in the Agency's Final Generic Environmental Impact Statement (FGEIS) "The Process of Amending the Adirondack Park Private Land Use and Development Plan Map," (August 1, 1979). The proposed map amendment is approximately 2.5 acres in size and is hereinafter referred to as the Proposed Map Amendment Area. The Agency considered four additional alternative geographic areas and preferred the 3.7 acre Alternative D, which includes all of the Proposed Map Amendment Area and 1.2 acres of land to the east of the Proposed Map Amendment Area.

Pursuant to the Final Generic Environmental Impact Statement, a Draft Supplemental Environmental Impact Statement was filed on April 16, 2010. A public hearing was held on May 27, 2010, at the Tupper Lake Town Hall. On June 30, 2010 the Agency filed a Final Supplemental Environmental Impact Statement.

After review of the FGEIS, based upon the facts and conclusions in the Draft and Final SEIS, as set forth following, and based upon the criteria set forth in Section 805 of the Adirondack Park Agency Act, the Agency approves this map amendment request.

At its regular monthly meeting in Ray Brook, New York on August 13, 2010, the Adirondack Park Agency adopted the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Alternative D is generally describe as follows:

Beginning at a point at the southernmost intersection of the centerlines of NYS Route 30 and Raquette River Drive; thence in a southerly direction along the centerline of NYS Route 30 for a distance of one-tenth mile; thence in an easterly direction at a perpendicular direction to the centerline of NYS Route 30 to a point on the shore of the Raquette River; thence in a northerly and easterly direction along the shore of said river to a point on a line that runs in a perpendicular direction from NYS Route 30, originating at a point where the centerlines of NYS Route 30 and Raquette River Drive meet, thence in an easterly direction along said perpendicular line to a point on the shore of the river; then in a northeasterly direction along the river shoreline to a point one-quarter mile from the centerline of NYS Route 30, measured along the centerline of Raquette River Drive as it winds and turns; thence in a northerly direction at a perpendicular direction to the centerline of Raquette River Drive to a point on the centerline of Raquette River Drive; thence in a westerly direction along the centerline of Raquette River Drive to the point of beginning.

2. Alternative D is now serviced by public sewer and public water.

The area was not serviced by sewer when the land was originally classified as Resource Management.

3. The Natural Resources Conservation Service provided a draft soil survey map for this area which identified two soil types in the area of Alternative D: Monadnock fine sandy loam and Burnt Vly - Humaquepts - Pleasant Lake complex.

Monadnock soils consist of very deep, well drained soils that formed in a loamy mantle overlying sandy till on upland hills, plains, and mountain sideslopes. Burnt Vly - Humaquepts - Pleasant Lake complex area deep organic wetlands soils.

4. The topography of Alternative D is generally flat and most of the areas appear to be fill that was placed in the area in the construction of the NYS Route 30 causeway and Raquette River Drive. There are steep (greater than 25% slopes) areas along the edge of the fill area when the terrain slopes into the water. These steep areas comprise a small portion of the area.

5. Alternative D sits at approximately 1,560 feet in elevation with little change in elevation throughout the area.

6. The primary hydrologic feature near Proposed Map Amendment Area is the Raquette River, which flows adjacent to this area, forming an oxbow near this area. This portion of the Raquette River is classified as a Recreational River pursuant to the Wild, Scenic and Recreational River Act. NYS Department of Environmental Conservation has classified the Raquette River as Class C water body. The best uses of a Class C waters is fishing.

7. Alternative D is visible from NYS Route 30. NYS Route 30, also known as the "Adirondack Trail", is a designated Scenic Byway pursuant to the New York State Scenic Byway Program, and a designated Travel Corridor pursuant the Adirondack State Land Master Plan. Alternative D is also visible from the Raquette River, a designated Recreational River pursuant to the Wild, Scenic and Recreational Rivers Act, and from Simon Pond. The Raquette River and Simon Pond are both popular recreation water bodies. Alternative D is also visible from the Big Tupper ski area.

8. Alternative D is serviced by NYS Route 30, a hard-surfaced State maintained road which forms the western boundary of the Alternative D connecting Long Lake, and other destinations to the south, with Tupper Lake, and destinations to the north. Raquette River Drive, a hard-surfaced town maintained road,

forms the northern boundary of the Alternative D. Raquette River Drive intersects with NYS Route 30 at Alternative D, and then runs east and north through a residential area before intersecting again with NYS Route 30, approximately one mile north of the Alternative D.

9. The Hamlet of Tupper Lake, the nearest center for goods and services, lies immediately north of and contiguous to Alternative D.

10. According to data obtained from Franklin County Office of Real Property Tax Service and the NYS Office of Real Property Services, Alternative D contains one entire parcel classified by ORPS as a Commercial - Camps Cottages and Bungalows, a portion of a parcel classified as Seasonal Residential, a parcel classified as Residential - Mobile Home, a portion of another Residential - Mobile Home parcel and a portion of a Single Family Year-Round Dwelling parcel.

ENVIRONMENTAL EFFECTS

Significant impacts may result from changes in the amount of allowable new development in the area. They are described as to each area in the Draft and Final Supplemental Environmental Impact Statements published for this action, and detailed in the maps therein, showing the locations of sensitive resources, and summarized as follows:

1. Developed Area Storm Water Runoff: Development at intensities permitted by Hamlet could increase runoff, and associated non-point source pollution of streams and wetlands. Such problems arise when precipitation runoff drains from the land into surface waters and wetlands. The volume of runoff from an area is determined by the amount of precipitation, the filtration characteristics related to soil type, vegetative cover, surface retention and impervious surfaces. An increase in development of the area would lead to an increase in surface runoff to the landscape and nearby wetlands, due to the elimination of vegetative cover and the placement of man-made impervious surfaces.

2. Effects on Water Resources: The water resources of Raquette River could be impacted by activities which tend to disturb and remove stabilizing vegetation and result in increased runoff, soil erosion, and stream sedimentation.

Erosion and sedimentation may destroy aquatic life, ruin spawning areas and increase flooding potential. Storm water discharge (urban runoff) may introduce substances into waters resulting in increased nutrient levels and contamination of these waters. Excessive nutrients cause physical and biological change in waters which affect aquatic life.

3. Effects on Wildlife: Development can impact wildlife in many ways. Development can increase ecosystem fragmentation, degrade wildlife habitats and disrupt wildlife movement patterns. Specific population levels of wildlife for the area are unknown. In general, wildlife species typical of Adirondack wetlands may be found wetland area in the subject area. According to the NYS Natural Heritage Program database the common loon (*Gavia immer*), a species of concern, is found on Simon Pond. Environmental impacts to water resources may adversely affect this species.

4. Effect of Visual Resources: The proposed map amendment may lead to adverse impacts on the visual quality of the area. The area is visible from NYS Route 30 (a designated Scenic Byway), the Raquette River, Simon Pond and Big Tupper Ski area. The subject area is located within a statutory Critical Environmental Area (CEA) pursuant the Adirondack Park Agency Act because it is located within 300 feet of a State highway right-of-way and classified as Resource Management. The subject area is also located within a designated Recreational River Area pursuant to the Wild, Scenic and Recreational Rivers Act.

CONCLUSIONS OF LAW

HAVING DULY CONSIDERED the above Findings of Fact and the facts and conclusions from the FSEIS set forth in the above discussion of Environmental Effects, the Agency makes the following Conclusions of Law:

1. The Agency has given consideration to the Final Generic Environmental Impact Statement, "The Process of Amending the Adirondack Park Private Land Use and Development Plan Map," August 1, 1979 and the Draft and Final Supplemental Environmental Impact Statements, and all requirements of 6 NYCRR Part 617 have been met.
2. Reclassification of the Alternative D from Resource Management to Hamlet would be consistent with the findings and purposes of Section 801 of the Adirondack Park Agency Act, the Adirondack Park Land Use and Development Plan, and the character descriptions and purposes, policies and objectives of Hamlet areas set forth in Section 805(3)(c) of the Adirondack Park Agency Act, and with the regional scale and approach used in the preparation of the Plan Map.
3. Consistent with the social, economic and other essential considerations, from among the reasonable alternatives, the action approved is one which minimizes or avoids adverse environmental effects to the maximum extent practicable, including the effects disclosed in the environmental impact statement.

THE REQUEST having regularly come for consideration and due deliberation having been had, and the Agency having voted to approve the proposed Map Amendment;

NOW, THEREFORE, based upon the request, the above Findings of Fact and Conclusions of Law, and the vote duly taken, it is

ORDERED that the above-described request for amendment of the Official Adirondack Park Land Use and Development Plan Map for the above-described area, in the Tupper Lake, Franklin County, be approved:

MA 2010-01: Resource Management to Hamlet; 3.7± acres

ENTER

ADIRONDACK PARK AGENCY

By _____
James E. Connolly
Deputy Director for Planning

ORDER issued this 26th

Day of AUGUST, 2010

at Ray Brook, NY

MEMORANDUM OF UNDERSTANDING

BETWEEN THE

ADIRONDACK PARK AGENCY

AND THE

DEPARTMENT OF ENVIRONMENTAL CONSERVATION

CONCERNING STATE-OWNED CONSERVATION EASEMENTS

ON PRIVATE LANDS WITHIN

THE ADIRONDACK PARK

August 13, 2010

Commissioner
New York State Department of
Environmental Conservation

Chairman
New York State Adirondack
Park Agency

WHEREAS, the Legislature of the State of New York in 1885 established the Adirondack Forest Preserve ("Forest Preserve"), and in 1892 created the Adirondack Park ("Park") to consist of both Forest Preserve and private lands within the Park's boundary, and in 1895, the People of the State of New York, through constitutional amendment, further protected the Forest Preserve as lands to remain "Forever Wild"¹; and

WHEREAS, the New York State Department of Environmental Conservation ("Department" or "DEC") has the statutory responsibility under the Environmental Conservation Law ("ECL"), to provide for the care, custody, and control of the State-owned Forest Preserve lands, and for the protection of other natural resources of the State; and

WHEREAS, the Department has the authority under the ECL to enter into conservation easements on private lands which are neither Forest Preserve land subject to Article XIV, nor State land, but rather an interest in privately held land²; and

WHEREAS, a conservation easement is a legally binding document which limits or restricts development, management or use of such private property for the purpose of preserving or maintaining the scenic, open, historic, archaeological, architectural, or natural condition, character, significance or amenities of the real property in a manner consistent with the public policy set forth in ECL § 49-0301 and the terms of the conservation easement; and

WHEREAS, the State has acquired over the years a variety of conservation easements on private lands in the Park (referred to hereafter as "conservation easements") that serve important public purposes; and

WHEREAS, the New York State Adirondack Park Agency ("Agency" or "APA") has the statutory responsibility under the Adirondack Park Agency Act ("Act")³ for the long-range planning for the Park, including the preparation, continual revision and evaluation, administration and interpretation of the Adirondack Park Private Land Use and Development Plan and Map ("Plan")⁴ and the interpretation, preparation and periodic revision of the Adirondack Park State Land Master Plan ("SLMP")⁵, and for the administration within the Park of the Wild, Scenic and Recreational Rivers System Act on private lands and the Freshwater Wetlands Act on private and State lands; and

WHEREAS, the SLMP specifically recognizes the importance of conservation easements and the public purposes which they serve, but does not establish guidelines for such conservation easements, and the guidelines and criteria for the land use categories of the SLMP, including those related to snowmobile and other motorized uses which govern Forest Preserve lands, do not apply to State-owned conservation easements; and

WHEREAS, Section 814 of the Act requires any State agency which intends to undertake any new land use and development in the Park, other than land use or development by the Department pursuant to the SLMP, to give due regard to the provisions of the Plan and the shoreline restrictions and shall file a notice of such intent thereof with the Agency; and

¹ New York State Constitution Article XIV

² ECL Article 49, Title 3

³ Executive Law Article 27

⁴ Sec. 805 of the Act

⁵ Sec. 816 of the Act

WHEREAS, Executive Order No. 150: (a) recognizes that the Act only provides for Agency advisory review of new land use and development by State agencies on private land in the Park; (b) requires such new land use or development to undergo the same level of Agency review as is demanded of private developers, but in accordance with the procedures provided by Section 814 of the Act; and (c) provides that if the Agency determines that such new land use or development should not go forward, the State agency, e.g. the Department, may notify the Governor, within 30 days of such determination, of any compelling State purpose requiring that the project be undertaken; and

WHEREAS, the Department and the Agency each recognize that as units of the same New York State Executive Department it is imperative that the specific authorities and program responsibilities of each are administered as cooperative elements of a coordinated State government program for the Park; and

WHEREAS, the Department and the Agency each agree that their specific program responsibilities and activities are enhanced by the involvement and participation of the other, including coordinated policy development and implementation, as well as sharing of relevant general and technical information and other resources; and

WHEREAS, the Department and the Agency agree that it is in the interest of the State of New York to fully coordinate and integrate their respective program responsibilities as they pertain to conservation easements for the good of the People of the State, State government, the Adirondack local governments, residents of the Park and Park visitors; and

WHEREAS, the Department and the Agency agree that this Memorandum of Understanding ("Memorandum") is not intended to diminish any authority or responsibility of either the Department or the Agency nor transfer to the other any authority or responsibility to act on matters with which it is charged; and

WHEREAS, the Department and the Agency agree that this Memorandum does not pertain to any rights or responsibilities retained by private landowners pursuant to any such conservation easements;

NOW, THEREFORE, the Department and the Agency do hereby agree to exercise their respective authority and responsibility through the cooperative arrangements created by this Memorandum with regard to new land use or development by the Department on conservation easements.

I. GENERAL COORDINATION AND COMMUNICATION

- (a) The Department and the Agency will each conduct their various program responsibilities with respect to conservation easements so as to promote the recognition, support and acceptance by the general public of the laws, rules, regulations, administrative policies and procedures of the other.
- (b) The Department and the Agency will communicate and coordinate as follows:
 - (1) The agencies agree that with respect to conservation easements, any policy or guidance developed by the Department which impacts the Agency and any policy or guidance developed by the Agency which impacts the Department shall be effective only if developed cooperatively and agreed to by both agencies. Conforming amendments will be made to this Memorandum if required by such new policy or guidance.
 - (2) Except with respect to the specific procedures set forth in paragraph V, Procedures for Agency Review, all actions requiring formal, written interagency consultation pursuant to subparagraph I(b)(4) shall be coordinated through the primary contact persons designated in subparagraph I(b)(3). The Department and the Agency shall maintain and share current organization charts depicting their respective subdivisions of program responsibilities.
 - (3) The Department and the Agency will each appoint a primary contact person for implementation of this Memorandum. Unless otherwise provided in writing by the appropriate executive, the primary contact person for the Department shall be the Director, Division of Lands & Forests and the primary contact person for the Agency shall be the Deputy Director, Regulatory Programs, Adirondack Park Agency.
 - (4) Where there has been interagency consultation at the Regional and Central Office Department and Agency staff level, and staff disagree, the matter shall be brought to the attention of the primary contacts to try and reach resolution. If resolution is not achieved, the matter shall be formally referred in writing for resolution as follows:
 - (i) A written request shall be transmitted by the primary contact person for the Department to the Assistant Commissioner for Natural Resources of the Department.
 - (ii) A written request shall be transmitted by the primary contact person for the Agency to the Executive Director of the Agency.
 - (iii) Issues which cannot be resolved by the Assistant Commissioner and such Executive Director will be referred by them for final resolution to the Chairman of the Agency and the Commissioner of Environmental Conservation according to the applicable regulations and procedures of each.

- (c) The Department and Agency agree to share, to the fullest extent possible, all information and data pertaining to the natural, physical, social, and economic resources of the Park collected by each.
- (d) The Department will make available to the Agency copies of all recorded conservation easements.
- (e) The Department and the Agency will provide to each other, in a timely manner, a description of any proposed action or policy determination regarding conservation easements that may affect relevant program responsibilities of the other.
- (f) The Department and the Agency each will not represent any technical or legal positions on behalf of the other except by express mutual agreement.
- (g) In recognition of the respective roles and program responsibilities of the Department and the Agency, the Department shall not be required to provide any information pertaining to specific acquisitions of conservation easements by the Department before such conservation easements are acquired and recorded, other than information that may be relevant to the issuance of a subdivision permit by the Agency.

II. NEW LAND USE AND DEVELOPMENT

- (a) Recreation Management Plans. The Department and the Agency agree that the Department has the authority and responsibility to develop and implement recreation management plans ("RMP") for the public on lands subject to conservation easements consistent with the terms and provisions of the conservation easement, and, where applicable, the Department will be responsible for involving the public in that process and completing any State Environmental Quality Review Act ("SEQRA") requirements. The Department and the Agency agree that development of a RMP does not in itself constitute new land use or development. Instead, implementation of a RMP by the Department on conservation easements may constitute new land use and development depending upon the type, degree, and intensity of the recreation use. The Agency and Department, through this Memorandum, have considered the significance of many Department-proposed recreation use and development activities for conservation easements in general, and have determined that many types of recreation use do not warrant Agency review under Section 814 of the Act. Further, the Department and the Agency have determined which types of proposed recreation use and development activities are likely to be subject to Agency review, and the procedures of this Memorandum are intended to identify those projects and activities.
- (b) Minor Activities – No Agency Consultation or Review. The Department and the Agency agree that the following activities, when undertaken by the Department, do not rise to the level of new land use or development⁶ on lands subject to conservation easements and are not subject to review by the Agency under Section 814 of the Act or any other provision of the Act, except, and to the extent, that Agency review is required under the Freshwater Wetlands Act, as discussed in paragraph III below, or

⁶ Sec. 802.28 of the Act

the Wild, Scenic and Recreational Rivers System Act, as discussed in paragraph IV below:

- (1) Any project or action which is immediately necessary for the protection of life or property due to a sudden, actual and ongoing emergency.
- (2) Minor landscaping, including minor filling and grading.
- (3) Removal of blow down, grubbing and planting native vegetation.
- (4) Cutting of live trees, removal of dead trees and brush, pruning of live trees and shrubs, road and trail brushing.
- (5) Designation of non-groomed snowmobile trails for use on the property for trapping, hunting, ice fishing or other winter means of recreation when authorized in a RMP.
- (6) Placement or construction of new kiosks, signs, trail registration structures and markers on any existing or new road, trails, parking area, boat launch, property boundaries, structures and trailheads.
- (7) Public recreation use, including, but not limited to, hiking, biking, cross-country skiing, snowshoeing, horseback riding, hunting, fishing, trapping, swimming, rock climbing, wildlife viewing, nature study, camping and boating.
- (8) A change from private recreation use to public recreation use, including the use of existing structures and facilities, provided that such change does not significantly alter the type, degree and intensity of use.
- (9) The maintenance, rehabilitation, replacement, and minor relocation, improvement, repair, alteration, or removal of existing structures, buildings, roads, bridges, parking areas, recreational vehicle camping sites, trails, trailheads, lean-tos, campsites, picnic tables, fire rings, pit privies, trail signs or markers, kiosks, trail registration structures, drainage facilities (e.g. culverts, ditches), water control structures, retaining walls or other structures intended to be used for public recreation use or to provide access for public recreational use.

"Maintenance, rehabilitation, replacement and minor relocation, improvement, repair, alteration" is defined as those activities that do not materially change the use or appearance of the working forest landscape or unduly alter or impact the natural resources of the property so that the resulting action would be inconsistent with the purposes of the conservation easement. These activities are to be carried out by the Department in a manner that is consistent with the management and use of working forest property, and New York State Best Management Practices ("NYSBMP") for Water Quality is required to be followed for all projects.

- (c) Minor Activities Requiring Inter-agency Consultation Only. The Department and the Agency agree that, although the following types of recreation activity or development may be new to the property, these types of recreation activity and development will not be reviewed by the Agency under Section 814 of the Act, or any other provision of the Act, because the new development and/or the type of new recreation use is limited in scope and intensity and not expected to be significant when implemented on the protected property at the degree and levels of recreational use described below, or is otherwise described in a RMP that has undergone SEQRA review with a negative declaration issued by the Department and is unregulated on private land in the Park.

The following activities are presumed not to have an undue adverse impact upon the resources of the Park, provided the activities are within the thresholds described below and/or conform to a Department-approved RMP. Inter-agency consultation will ensure identification of potential Agency jurisdiction under the Freshwater Wetlands Act, as discussed in paragraph III below, or the Wild, Scenic and Recreational Rivers System Act, as discussed in paragraph IV below.

The Department will advise and consult with the Agency if projects will be undertaken pursuant to this subparagraph during the facility planning and development process when increases in public recreational uses are expected to occur:

- (1) New structures and facilities, including placement or construction of new lean-tos, campsites, picnic tables, fire rings, and pit privies, to enhance and improve opportunities for public recreation use,
- (2) New public use of cars and trucks, snowmobiles, aircraft and motor boats provided such use does not meet or exceed the threshold set forth in subparagraph (d) below.
- (3) Limited public use of ATVs on existing roads and trails for the purpose of access to recreation programs, including but not limited to hunting, fishing, trapping, swimming, rock climbing, wildlife viewing, nature study and camping.
- (4) Placement or construction of new parking areas, vehicle camping sites and trailhead sites on existing or future log landings, gravel pits, or elsewhere on the property provided the new non-log landing or non-gravel pit site is no larger than one (1) acre and limited to 25 vehicles or fewer.
- (5) Placement of docks or floats not exceeding eight (8) feet in width.
- (6) Construction of new hiking trails, mountain biking trails, horse trails, canoe portages, shallow-water hand-carry canoe and small-trailer boat launches (for boats 16 feet or less and motors 20 hp or less), that are in conformance with Department guidelines and NYSBMP.

- (7) Construction of any new roads or trails not exceeding one (1) mile in length that connect two (2) existing roads or trails and are intended for public motorized use including cars, trucks, ATVs and/or snowmobiles, or provide public access to the property.
 - (8) Construction of new motor vehicle bridges not exceeding 30 feet in length that are not replacement bridges for existing structures.
 - (9) Construction of any new recreational buildings or structures not exceeding 500 square feet in footprint and not exceeding 40 feet in height.
 - (10) Construction of new fishing access platforms not exceeding 300 square feet in area.
- (d) Activities Which Require Agency Notice and Review. Unless otherwise excluded by subparagraphs II(b) or II(c), or otherwise addressed in accordance with the provisions of subparagraph II(e) below, the Department and the Agency agree that the following types of recreation or development projects, whether or not contained in a completed RMP, constitutes new land use or development and may be reviewed by the Agency under Section 814 of the Act as determined by the Deputy Director, Regulatory Programs after appropriate notice to the Agency:

Undertaking activities or constructing the following facilities by the Department:

- (1) New buildings or structures over 500 square feet in footprint or over 40 feet in height;
- (2) New parking lots over one (1) acre and 25 cars in size and not on existing log landings or gravel pits;
- (3) Any new roads or trails, other than those included in subparagraph II(c)(7), that are intended for public motorized use including cars, trucks, ATVs and snowmobiles;
- (4) New motor vehicle bridges over 30 feet in length that are not replacement bridges for existing structures;
- (5) New shoreline access facilities greater than 300 square feet in area;
- (6) New docks greater than eight (8) feet in width or containing roofs or canoe or small boat launches greater than one (1) acre in area including associated parking;
- (7) Replacement of dams unless pursuant to engineering plans certified compliant with Department dam safety guidelines;
- (8) New large trailer motorboat launches with vehicle parking and deep water access, not included in subparagraph II(c)(6);

- (9) New campgrounds, day-use picnic areas and playgrounds, and day-use swimming beaches with associated structures and amenities;
 - (10) The opening of existing interconnecting forest roads or loop trails for public ATV riding or when making connections to ATV trails off the property, excluding the limited public use of ATVs on existing roads and trails for the purpose of access to hunting, fishing, trapping, swimming, rock climbing, wildlife viewing, nature study and camping and other program opportunities;
 - (11) The opening of existing forest roads or trails to snowmobile riding when the terminus of the forest road or trail goes to the Forest Preserve boundary for the purpose of providing public access to the Forest Preserve. This does not apply to non-groomed snowmobile trail use on the property for trapping, hunting, ice fishing or other winter means of recreation when authorized in a RMP;
 - (12) The opening of lakes or ponds formerly closed to public use of motorboats and pontoon aircraft when any of the shoreline of such lake or pond is within the Forest Preserve;
 - (13) When the number of designated camp sites will exceed more than five (5) sites within a group camping area of less than two (2) acres;
 - (14) When the estimated intensity of the proposed new recreational use and development for a conservation easement will exceed:
 - (a) ten (10) persons per camp site;
 - (b) 25 vehicles (with trailers) parking lot; or
 - (15) When a proposed recreation use and development activity creates opportunities for public access to adjacent Forest Preserve that is inconsistent with the approved Unit Management Plan ("UMP"); or
 - (16) When a proposed recreation use and development activity creates public access opportunities on an adjacent Forest Preserve property that does not have an approved UMP, not including small detached parcels of Forest Preserve that are in-holdings within conservation easement properties.
- (e) Other Projects Subject to Agency Review. At the time of RMP review by the Agency and approval by the Department, the Department and the Agency may mutually agree that any type, degree or intensity of a proposed public recreation land use or development, regardless of the above sections, because of an unusual or unique aspect or situation, has a reasonable potential to materially change the working forest appearance of the land, or to unduly impact natural resources on the land, or to unduly increase the intensity of recreation use of land inconsistent with the purposes of the conservation easement, or to have an undue adverse impact to adjacent Forest Preserve lands. The proposed new use and development may then be reviewed by the Agency pursuant to the provisions and procedures of Section 814 of the Act to

determine whether the intended use gives due regard to the provisions of the Plan⁷, the shoreline restrictions⁸, if applicable, or may have an undue adverse impact upon the resources of the Park⁹.

- (f) Conservation Easement Monitoring – Department Review. It is the responsibility of the Department to review public recreation on conservation easements, regardless of whether the use was existing or new, to determine if the public recreation use and development is having an adverse negative impact upon natural resources that would be inconsistent with a working forest landscape and the conservation easement. The Department will evaluate the influence public recreation use and development on the conservation easement are having on use of the Forest Preserve and, if it is resulting in inappropriate or non-conforming use, corrective actions will be taken. The Department will periodically review public recreation activities for conservation easements and adjust, modify, or prohibit any public recreation use of the conservation easement that is found to have an unacceptable adverse negative impact on natural resources of the conservation easement property or to adjacent Forest Preserve land. If unacceptable adverse impacts to natural resources caused by public recreation are found on the conservation easement property, the Department will inform the Agency of its findings and the planned corrective action as a matter of information exchange.

III. FRESHWATER WETLANDS ACT

To the extent any Department proposed project on a conservation easement, including those new or replacement projects listed under paragraph II above, will occur within or may potentially impact freshwater wetlands¹⁰, the Department agrees that the Agency is authorized, pursuant to ECL Article 24 Title 8, to review the regulated activities of the proposed project with regard to such potential impact. The provisions of Agency general permits related to jurisdictional freshwater wetlands on private lands shall be applicable to any Department proposed new land use or development on a conservation easement occurring within or potentially impacting freshwater wetlands.

IV. WILD, SCENIC AND RECREATIONAL RIVERS SYSTEM ACT

The Department administers the Wild, Scenic and Recreational Rivers System Act¹¹ ("Rivers Act") for State lands and the Agency administers it for private lands within the Park¹². The Department and the Agency agree that the Agency will administer the Rivers Act as applicable to potential impacts from Department proposed new land use or development projects on lands subject to conservation easements according to the procedures set forth in the Rivers Act and 9 NYCRR Part 577.

⁷ Sec. 805 of the Act

⁸ Sec. 806 of the Act

⁹ Sec. 805.4 of the Act

¹⁰ Sec. 802.68 of the Act

¹¹ ECL Article 15, Title 27

¹² ECL § 15-2705

V. PROCEDURES FOR AGENCY REVIEW

- (a) Recreation Management Plans. The Department and Agency agree that the development of RMPs for easement lands is an issue of mutual concern and integral to public use and enjoyment of the Park's natural resources. Although the Department and the Agency agree that the Department has the sole authority and responsibility to develop RMPs for conservation easements, and development of such RMPs are not subject to Agency review under Section 814 of the Act or any other provision of the Act, the Department and the Agency agree that Agency review and comment at an early stage will provide for a more efficient and effective process for the later review of any applicable new land use or development that may be subject to Agency review under Section 814 of the Act or other provisions of the Act. Therefore, the Department and the Agency agree to the following procedure for Agency involvement in the development of an RMP. Commitments prior to closing on a conservation easement to provide initial public access to the property or required for landowner sign-off, referred to as an "Interim Recreation Management Plan" in the conservation easement, are not a "Recreation Management Plan" covered by this process.
- (1) The Department will begin the process of developing a RMP, conduct a public scoping session, prepare a SEQRA assessment and draft the RMP in consultation with the property owner, in accordance with Department procedures.
 - (2) The Department will provide the Agency with the draft RMP and request comments. Agency review of the draft RMP shall be limited to determining consistency with the provisions of the Plan, the shoreline restrictions, if applicable, the Freshwater Wetlands Act, if applicable, the Wild, Scenic and Recreational Rivers System Act, if applicable, and whether it, or any portion thereof, may have an undue adverse impact upon the resources of the Park. However, such review shall not be for the purpose of determining consistency with the SLMP which is not applicable to conservation easements.
 - (3) The draft RMP will be reviewed by the Agency Environmental Program Specialist ("EPS") assigned to the project. The Agency will provide comments to the Department within 30 days of receipt of the draft RMP, unless an extension is requested and mutually agreed upon.
 - (4) The Department will give due consideration to the Agency's comments and either modify the draft RMP accordingly or seek interagency consultation in accordance with the provisions of subparagraph I(b) above.
 - (5) The Department will make appropriate revisions to the draft RMP, provide notice in the Environmental Notice Bulletin ("ENB") for public comment and review, and schedule a public meeting, if appropriate.

- (6) The Department will review the public comments, complete the responsiveness document and final SEQRA assessment and RMP, and submit to the landowner for review and approval, if required by the terms of the conservation easement.
 - (7) The Department will provide ENB notice of the final RMP.
- (b) New Land Use and Development. Except as otherwise indicated above, the Department and the Agency agree that any new land use or development described in subparagraph II(d) or II(e) above and not specifically excluded by subparagraphs II(b) or II(c) above, will be subject to the following procedures pursuant to Section 814 of the Act and Executive Order 150:
- (1) At the earliest time practicable in the planning of a project on lands subject to a conservation easement, the Department will submit to the Agency a completed "Application for State Agency Projects – General Information Request" ("GIR"). The GIR will serve as the required notice to undertake new land use and development in the Park under Section 814.1 of the Act. The information to be provided in the GIR will include a detailed description of the proposed project and such information as is necessary to assure consistency with:
 - (i) the provisions of the Plan;
 - (ii) the shoreline restrictions, if applicable;
 - (iii) the Freshwater Wetlands Act, if applicable;
 - (iv) the Wild, Scenic and Recreational Rivers System Act, if applicable; and
 - (v) whether the proposed project may have an undue adverse impact upon the resources of the Park.
 - (2) The GIR will identify the primary contact at DEC for the proposed activity, and upon receipt the Agency will notify that contact of the Agency EPS review officer. All communication regarding the proposed activity will take place between the DEC contact and the APA review officer and their agreement regarding information or actions necessary to a determination will be considered final by both agencies. In the event of disagreement regarding necessary information or actions, the matter will be promptly brought to the attention of the responsible individuals identified in subparagraph I(b)(3) for resolution according to the procedures set out herein.
 - (3) The Department will not undertake the proposed project for a period of 30 days, or such other period as mutually agreed upon pursuant to subparagraph V(a)(3) above. During such period, the Agency may review the proposed project to determine its consistency with the provisions and restrictions referred to in subparagraph V(b)(1).

- (4) If, at the conclusion of such 30-day period, or such other period as mutually agreed upon pursuant to subparagraph V(a)(3), the Agency makes no determination regarding the proposed project, the Department may undertake the proposed project.
- (5) If, on or before the conclusion of such 30-day period, or such other period as mutually agreed upon pursuant to subparagraph V(a)(3), the Agency determines the project will not be inconsistent with the provisions and restrictions referred to in such subparagraph V(b)(1) and will not have an undue adverse impact upon such resources, it shall report its findings to the Department, and the Department may undertake the project.
- (6) If, on or before the conclusion of such 30-day period, or such other period as mutually agreed upon pursuant to subparagraph V(a)(3) above, the Agency determines the project may be inconsistent with such regulations and Agency authority referred to in subparagraph V(b)(1), or may have an undue adverse impact upon such resources, it will so inform the Department and provide the Department with an opportunity to consider modifying the proposed project consistent with Agency recommendations.
- (7) Within 30 days after receipt of the Agency's recommendations, the Department will advise the Agency whether it will modify the proposed project consistent with Agency recommendations, or seek interagency consultation in accordance with the provisions of subparagraph I(b) above.
- (8) If, subsequent to such interagency consultation, the Agency does not agree that the proposed project will be consistent with the provisions and restrictions referred to in subparagraph V(b)(1) and will have an undue adverse impact upon such resources, the Department may notify the Governor of any compelling State purpose requiring that the proposed project be undertaken.

VI. AMENDMENTS AND APPENDICES

- (a) It may be necessary from time to time to review this Memorandum with regard to its effectiveness and to consider amendments and/or appendices hereto. It shall be the responsibility of the respective staff members previously named to bring recommendations for amendments and/or appendices to the Department and the Agency upon a consensus of such staff members that such action is appropriate. Any agreed-upon amendments or appendices shall become part of this Memorandum upon approval of the Department and the Agency.
- (b) This Memorandum will be revised as necessary after amendments to relevant statutes or regulations, or when other legal requirements take effect, and may only be altered or terminated by mutual agreement upon 60 days written notice by either the Department or the Agency to the other.

VII. TERM

The term of this Memorandum shall be ten (10) years, provided that at the end of five (5) years the Department and Agency shall undertake a comprehensive review of its terms.

VIII. EFFECTIVE DATE

This Memorandum shall be in full force and effect upon its execution by both the Commissioner of Environmental Conservation and the Chairman of the Adirondack Park Agency.

COMMISSIONER
New York State Department of
Environmental Conservation

DATE

CHAIRMAN
New York State
Adirondack Park Agency

DATE