



*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**

**JULY 14-15, 2011**

**THURSDAY, JULY 14, 2011**

**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  
Dierdre Scozzafava, Designee, NYS Department of State  
Terry Martino, Executive Director

**LOCAL GOVERNMENT REVIEW BOARD PRESENT**

Fred Monroe, Executive Director

**AGENCY STAFF PRESENT**

Richard Weber, Deputy Director, Regulatory Programs  
James Connolly, Deputy Director, Planning  
Daniel Spada, Supervisor, Natural Resource Analysis  
Holly Kneeshaw, Assistant Director, Regulatory Programs  
Keith McKeever, Public Information Director  
Virginia Yamrick, Environmental Program Specialist 1  
Sarah Reynolds, Senior Attorney  
Paul Van Cott, Associate Attorney  
Elaine Caldwell, Administrative Officer  
Kathleen Regan, Associate Natural Resources Planner  
Suzanne McSherry, Environmental Program Specialist 1  
Ron Tucker, Associate Project Analyst, Forest Resources  
Deborah Lester, Secretary to Executive Director

Chairman Stiles called the meeting to order at 9:02 a.m.

## 1. Announcements

The Agency joined together in a moment of silence in memory of former Agency Member Anne LaBastille who passed on recently. In remembering Dr. LaBastille, Chairman Stiles noted her service on the Agency board for 17 years, making her one of the longest serving members in the Agency's history. In addition to being a dedicated conservationist and member of the Agency board, Dr. LaBastille also authored books on the Adirondacks including fictional and non-fictional as well as scientific papers and newspaper articles.

Chairman Stiles also noted the absence of Agency Counsel John Banta, who became a proud grandparent for the first time on Wednesday. The Chairman noted Mr. Banta planned to attend the Friday meeting.

## 2. Public Comment

Salim "Sandy" Lewis of Essex, NY, addressed the Agency Board. After noting his objection to a 5-minute limit placed by the Chairman on public comment, Mr. Lewis commented on the recent case involving Lewis Family Farm v APA which was decided in favor of Lewis Family Farm. He praised the media coverage provided by the New York Times, Post Star, Valley News and Press Republican, and chastised the Agency for not reporting the facts regarding the case on the Agency's website. Mr. Lewis referred people to his own website for a full reporting on the case. He discussed the importance of farming in the Adirondacks. Mr. Lewis also noted the importance of the community-at-large respecting and supporting the Agency, as well as retention of young families in the Adirondack region.

Mike Vilegi of Black Brook concurred with much of Mr. Lewis's commentary. He spoke about the Adirondack people's right to life, liberty and pursuit of happiness, and criticized what he described as ideological nepotism at the Agency.

Carol LaGrasse of Property Rights Foundation of America, Inc. expressed her displeasure over Mr. Lewis's remarks being cut off after 5 minutes. She read aloud a letter by Philip Joseph printed in the Hamilton County News about abolishing the APA. She referred to staff's personal lack of empathy. She also recited the salaries of some of the employees at the Agency with incomes exceeding \$60,000, and suggested that Governor Cuomo had not cut enough of the Agency's budget.

Frank Casier of Saranac Lake recalled his troubles with the Agency which began in 1971. He referred to four successful housing projects that were non-jurisdictional under the Agency,

and three others which he said were destroyed by the Agency and DEC. He described the greatest problem with the Agency is the "taking" issue, which he believed is a violation of the State and Federal Constitutions. He then referred to a booklet and DVD detailing an interview he gave for a history project for the SUNY Archives, copy of which he presented to the Agency.

Audrey Casier of Saranac Lake compared the Agency's limitation of public comment today to the Agency's early years when her husband's written request to speak at a meeting was thrown on the floor by the Agency Chairman.

Chairman Stiles explained the rationale for the 5-minute limit on public comment, citing a pre-determined agenda that is time controlled and the fact that this is a public meeting and not a public hearing. The public comment portion of the meeting is intended to hear random comments from the public that are not specific to business/agenda issues currently before the Agency. While public comment is a small part of the Agency's business, nevertheless it is an important part of the process which is webcast live and archived for future reference.

Howard Aubin of the Town of Black Brook (Clinton County) commented on his experiences over the years with the various Agency boards and the recurring issue of affiliations with various environmental groups. He noted the same issue has existed at the staff level, which gives rise to a question of impartiality. He suggested the Agency develop oversight or guidance to address this issue and avoid potential litigation.

Robert Schulz, a resident of Fort Ann in Washington County, commented on the establishment of a new not-for-profit organization, "We the People of New York," which was approved by the NYS Department of State on June 15. The group is designed to be a constitutional lobby whose purpose will be to scrutinize government behavior at every level and to hold elected officials and appointed officials accountable to both state and federal constitutions and statutes. There are 17 states on their way to incorporating similar constitutional lobbies.

Mark Hodgson of Jay (Essex County) commented on enforcement cases and suggested the Agency consider the reason behind a complainant's reporting of a potential violation and how they might benefit from it.

Public comments are part of the Agency's web cast and may be viewed at [http://nysapa.granicus.com/ViewPublisher.php?view\\_id=2](http://nysapa.granicus.com/ViewPublisher.php?view_id=2).

### 3. Minutes

At Ms. Lowe's request, the draft "Member Comment" section was amended to include her comment regarding the recent historic rainfall and storm impacts.

Mr. Wray provided clarification to his "Member Comment" related to the post offices in Keene and Keene Valley.

On motion of Mr. Booth, seconded by Mr. Thomas, the Agency unanimously adopted the May 12, 2011 Agency Minutes, as amended.

### 4. Executive Director's Report

Ms. Martino took the opportunity to congratulate Mr. Banta and his family on the birth of his first grandchild. Also, she echoed Chairman Stiles' comments on the passing of Anne LaBastille and remembered Anne in the context of her writings as well as the legions of fans that followed her experiences and held her in high regard for all she offered in the Park and in Central America.

Ms. Martino then provided the following highlights and activity over the past two months:

- A retirement party was held for Rich Terry in June following thirty years with the Agency.
- Many events are scheduled throughout Park communities in June and July, including competitive athletic events, parades, the honoring of veterans, firemen and volunteers, and the opening of the new Arts Center in Old Forge.
- July 10 through July 16 is Adirondack Invasive Species Awareness Week. In highlighting the week, Hillary Smith of the Adirondack Park Invasive Plant Program (APIPP) notes, "Invading plants and animals are on the move, and each day brings with it opportunities for new invasions. Each day also brings with it opportunities to learn how to stop their spread." The week has enabled communities to highlight the threats of invasives with walks, paddling events, and workshops planned. More information about invasives can be found on the website [AdkInvasives.com](http://AdkInvasives.com).
- Thanks to the Watershed Institute and their employment of lake stewards, numbering thirty this summer, at locations throughout the Park. Lake stewards can be seen at various posts throughout the Park's waterways assisting with boat inspections and education. Kudos also to the Adirondack North Country

Association and its partners in coming up with an innovative tool for getting the message out about invasives, a pocket brochure.

- On the July meeting agenda, the Economic Affairs Committee will hear from two entrepreneurs, Tommy Thompson and Andrew Lewis, who are directly involved in invasive controls with their company Aquatic Invasive Management. Before their presentation, a speaker from the Small Business Program at Clarkson University, Marc Compeau, will provide an overview of small business activity and support services, particularly through Clarkson's new entrepreneurial center in Saranac Lake. Both presentations enable focus on the Agency's priority to present economic opportunities in the Adirondack Park.

- The Agency provided material that will be used in a guidebook for Governor Cuomo's planned Regional Economic Development Councils. This is an exciting time with the start of the Regional Councils and the important role they will play in economic development planning.

- Executive staff discussions with the Local Government Review Board continued on July 13 and focused on how economic impacts are assessed for a project, the use of the commercial general permit which was adopted in 2010, and the potential for other general permits.

- The Executive Director and Deputy Director of Regulatory Programs attended a June meeting with Mary Ivy, Region 1 DOT Director, Commissioner Anne McDonald and Federal Highway Administrator Victor Mendez, DOT and Vermont transportation staff for an overview and tour of the Champlain Bridge project. The tour included the construction site at Velez Marina for the bridge arch. The bridge is expected to open sometime this fall.

- Iowa Pacific Holdings, a Chicago-based company, will operate the Saratoga-North Creek train line with planned excursions from Saratoga Springs to North Creek. This is an amazing opportunity for travelers who can come from downstate on Amtrak, make the transfer, and be in North Creek in five hours. Coupled with the Gore Extension, this is good news for North Creek.

- The Agency provided a support letter to DOT for an application submitted by ANCA, Essex County and the Town of North Elba in their efforts to secure Scenic Byways funding for the Olympic Trail for the development of the Rails-with-Trails project planned to connect Lake Placid to Ray Brook. The funding will complement previous enhancement awards and enable

construction to proceed with the recreational trail that will be adjacent to the current rail service.

- Agency staff reviewed twelve DOT-ranked byway projects from around the state that DOT presented for FY 2011 Federal Highway Administration funding. \$45 million is available nationwide. Adirondack Park projects include Lakes to Locks Passage, the All America Road, and planning for other byways that traverse the Park including the Central Adirondack and Olympic byways.

- Kate Fish and Dave McCahill from ANCA will join the Agency on July 15 for a presentation on Bike the Byways. They will discuss the eleven byways that extend through the Park and how they are being marketed for bicycling. Their presentation is the first in the Public Awareness and Communications Committee and is an important step in educating the public about bicycling opportunities that assist with trip planning.

- The Common Ground Alliance will host the fifth annual forum in Long Lake on July 20. Of particular interest is that the recipients of the 2011 Local Government Day recognition, Dave Mason and Jim Hermann, will facilitate a discussion and scenario building on mapping the future of the Adirondack Park.

- In a follow-up to a previous staff presentation about how data is used to address planning, Steve Indrick of the USDA Natural Resources Conservation Service will discuss soil mapping data with the Agency at the July 15 Park Ecology Committee meeting.

- The Regulatory Programs Committee will hear NYS Geologist Dr. Andrew Kozlowski explain the unique geologic phenomena that have impacted 82 acres and a number of buildings in relation to the landslide in Keene Valley. Also, staff will provide an update of the Agency's response to flood and other damages requiring emergency measures to save property and address safety concerns. The Agency coordinates its response closely with DEC and DOT to ensure timely response.

Ms. Martino then referred to the Adirondack Club and Resort Project (2005-100, Preserve Associates, LLC). She noted the hearing concluded on June 24 and at this time the Agency awaits Judge O'Connell's finalization of the briefing schedule. This month's Regulatory Programs Committee agenda includes a discussion of the procedural steps and schedule for determination of the project. An internal executive team has been established which includes the Executive Director and Counsel, among others, whose members will be subject to the strict *ex parte* rules.

Mr. Booth inquired about a June 10<sup>th</sup> meeting with the Local Government Review Board and discussion of a guidance document.

Ms. Martino responded that it was part of ongoing discussions with the Review Board. She recalled the MOU between the Agency and Review Board addressing communications, which the Agency approved in March 2011, and noted that it was a product of those discussions. The penalty guidance referred to by Mr. Booth is also a part of those discussions.

Mr. Booth asked the current status.

Mr. Monroe reported that the civil penalty in Agency enforcement matters is an issue the Review Board has been concerned about for many years, and that they were satisfied with the progress with the guidance in terms of when civil penalties are applied.

Mr. Booth then referred to communications from staff regarding the Duane cell tower project and suggested a presentation to the Board, complete with photos.

Ms. Martino responded that it would also be reported on by Mr. Weber in Regulatory Programs.

## **5. Recusals**

Chairman Stiles noted Ms. Lowe's recusal regarding Project 2005-100 (Preserve Associates, LLC). He further noted the absence of Judy Drabicki, DEC's designee for the Adirondack Club and Resort (ACR) project.

Ms. Ulrich asked if there would be a DEC representative throughout the Agency's consideration of the ACR project, and the Chairman responded affirmatively.

## **6. Motion to Adjourn into Committees**

On motion of Mr. Wray, seconded by Mr. Booth, the Agency unanimously adjourned into committees at 10 a.m.

## **7. Executive Session**

The Agency reconvened briefly at 11:56 a.m., and on motion of Mr. Booth, seconded by Mr. Wray, voted unanimously to meet in executive session at 12:30 p.m. to discuss active litigation. Chairman Stiles later reported that the Board took no action while in executive session.

**FRIDAY, JULY 15, 2011**

**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  
 Dierdre Scozzafava, Designee, NYS Department of State  
 Terry Martino, Executive Director  
 John Banta, Counsel

**LOCAL GOVERNMENT REVIEW BOARD PRESENT**

Gerald Delaney, Chairman

**AGENCY STAFF PRESENT**

Richard Weber, Deputy Director, Regulatory Programs  
 James Connolly, Deputy Director, Planning  
 Keith McKeever, Public Information Director  
 Deborah Lester, Secretary to Executive Director

Chairman Stiles called the meeting to order at 11:10 a.m.

**8. Committee Reports**

a. Regulatory Programs Committee

(1) 2002-123R2, Ste. Claire and Audette

The matter involves a second permit renewal authorizing a two-lot subdivision into sites to construct two new single family dwellings with on-site water and wastewater, in an area classified Rural Use in the Town of Thurman, Warren County.

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

(2) General Permit 2011G-1, Subdivision Involving Wetlands

Mrs. Ulrich noted the extensive discussion by the Committee and reported that given the absence of a deadline clock and the need for further revision of the permit, final action was deferred to the August meeting agenda. A revised draft general permit will be included in the mailing for that meeting.

(3) Project 2005-100, Preserve Associates, LLC - Procedures and Schedule for Agency Determination

Mrs. Ulrich reported that the Committee unanimously recommended the proposed procedures and schedule for Agency approval, as follows:

*As agreed with the project sponsor pursuant to APA Act Section 809.6(b), the Agency will review and reach a final determination for Project 2005-100, Preserve Associates, LLC, at not more than three successive Agency meetings.*

*In recognition of the scale and complexity of the project record, the Regulatory Programs Committee returns its authority pursuant to NYCRR 572.12 to the full Agency Board for plenary deliberation on the record for Project 2005-100.*

She said that the full board would be deliberating throughout the process. Referring to the three-meeting schedule, she noted that the first meeting would be for informational purposes and take place after receipt of the record; the second meeting for questions, and the third meeting for decision. If the board felt it needed more time for deliberation, staff would then need to discuss alternative arrangements with the project sponsor. Mrs. Ulrich further noted that the process could start as early as October or November, 2011.

Mr. Banta recommended amending the first paragraph of the language to clarify that review and determination would occur at not more than three successive *monthly* Agency meetings.

Mrs. Ulrich so moved as amended, and Mr. Mezzano seconded the motion.

Ms. Scozzafava asked if deliberation would occur in public, and Mrs. Ulrich responded that all deliberations would occur in public during the regularly scheduled Agency meetings, with the possibility of the meeting beginning on a Wednesday depending on the extent of the agenda for that month's meeting.

Ms. Scozzafava asked if there would be any time constraints on the meeting reserved for questions and answers, and if it could conceivably proceed to the next meeting session.

Mrs. Ulrich responded that there would not be any such time constraints. She pointed out that the proposed schedule represents the ideal scenario with the presentation of all information in the first month; questions and answers from the board in the second month; and final deliberation and vote in the third month. She also noted the difficulty in predicting a timeframe this early in the process.

Ms. Scozzafava asked if there was an assumption that the board will have reviewed all of the information by the third meeting, and Mr. Banta replied in the affirmative.

Chairman Stiles added that it is anticipated that by the third meeting the board will be prepared to make a fully informed decision on the project.

Ms. Scozzafava then asked if the board would have all of the information in hand prior to the first meeting.

Mrs. Ulrich referred to the ongoing availability of audio and video recordings of each of the hearings on the Agency's website, as well as CD's of hearing transcripts which were provided earlier to the board members. She noted the value of viewing or listening to the webcast recordings prior to the board's receipt of the record.

Mr. Banta added that DVD's of the oral record (i.e. webcast) are available to board members on request.

Mrs. Ulrich advised that in addition to the webcast and DVD, printed material will also be provided to board members prior to the first meeting, and space will be reserved at the Agency for display of hearing exhibits for the board's review.

Counsel further advised that in addition to being on display at the Agency, the exhibits along with initial briefs and reply briefs will also be available in DVD format.

Mr. Thomas asked the latest the first meeting could take place, and Mr. Banta replied that the onset of the meetings will remain uncertain until such time as Judge O'Connell provides scheduling and directions. Chairman Stiles added that September Agency meeting would be the earliest possible date.

Mr. Wray expressed concern over the language in the first paragraph which states that the Agency will review and reach a final determination at not more than three successive Agency meetings. He inquired as to the consequences of the Agency not doing so.

Mr. Banta suggested deleting the word "final" from the proposed language. He noted the statutory clock provides up to 60 days for the Agency to reach a determination or else a permit is issued by default. In this particular case, he said, the 60-day clock has been extended with the agreement of the project sponsor to three successive meetings.

Mr. Wray then asked the consequence of a motion not garnering the six votes required to pass.

Chairman Stiles replied that it could result in a default permit being issued.

Counsel expressed confidence in the Agency being able to work through the record in the agreed-upon time period. He described three possible scenarios for the project: (1) refer back to hearing; (2) disapprove; or (3) approve with conditions. Also, he said the Agency could extend the time clock for good cause with the agreement of the project sponsor. The current agreement will expire on January 28, 2012, he noted.

Mr. Wray asked whether a motion to approve that fails to pass is the legal equivalent of project disapproval.

Counsel responded that disapproval requires a motion to disapprove followed by six affirmative votes. No action can take place without six votes in favor.

Mrs. Ulrich presumed that by November the board would have a better sense of direction and a clearer picture in terms of timetable.

Mr. Booth asked how the hearing transcripts would be distributed, and Counsel advised that they would be part of the DVD record provided to the board. Portions of the transcript and exhibits will be provided in printed form on request.

Counsel advised that the first meeting will feature a review of the record, including exhibits and information characterizing the project.

Mr. Valentino reiterated his previous request for a site visit, preferably closer to October.

Counsel responded that he would consult with the Judge and hearing staff counsel regarding a site visit for board members.

Mrs. Ulrich recalled a number of years ago at the beginning of the review process when the board members were provided opportunity to walk the project site.

Ms. Scozzafava asked for confirmation that board member questions would be formulated from listening to the hearing sessions, and that they would not receive the transcript in printed form unless requested.

Counsel confirmed Ms. Scozzafava's understanding of the process, noting the transcript and exhibits would be provided in DVD format.

Mr. Delaney referred to earlier dialogue between Mr. Wray and Counsel, and pointed out that six affirmative votes are required to approve the project.

Chairman Stiles concurred, noting that any action of the Board requires six affirmative votes on any project at any time.

Counsel added that in this case, only a failure to act will result in default approval.

Mrs. Ulrich referred to the motion on the floor, with the understanding that the 60-day clock has already been extended to three successive monthly Agency meetings. She recited the proposed motion to approve the proposed language, as amended to reflect Agency review and determination at not more than three successive *monthly* Agency meetings in the first paragraph.

Mr. Banta suggested deletion of the word "final" in response to Mr. Wray's concern.

Mr. Wray questioned the January 2012 expiration date for the agreement.

Counsel responded that the January 31, 2012 date is cited in the agreement between the Agency and the project sponsor and represents a sunset to the agreement.

Mrs. Ulrich explained the need for renegotiation if, for example, the judge's orders are delayed and the board does not receive the record until December. The process proposed for Agency approval does not state a beginning date, she noted.

Ms. Scozzafava asked if the reference to "meeting" implies the Agency's regularly scheduled meeting.

Counsel replied that it is in association to the Agency's regular monthly meeting, and could include the day before the regularly scheduled Agency meeting.

Chairman Stiles added that it would depend on how many days were needed to accomplish the Agency's work, and that the Agency meeting agenda could be constructed to give highest priority to the consideration of this project. Also, he said the agreement between the Agency and the project sponsor is reasonably flexible in the circumstances and protects the interests of both parties.

Mrs. Ulrich noted the project is the largest to come before the Agency, and the meeting schedule will be expanded as needed to accommodate appropriate consideration of the project by the Agency.

Mr. Booth suggested the Agency consider Saturdays when planning an expanded meeting schedule, and noted that Wednesday meetings are problematic for him.

Counsel advised that a full working day should be allocated to at least the first two working sessions in this process.

Chairman Stiles called the question. The motion by Mrs. Ulrich to approve the proposed language, as amended to reflect the following language:

*As agreed with the project sponsor pursuant to APA Act Section 809.6(b), the Agency will review and reach a **final** determination for Project 2005-100, Preserve Associates, LLC, at not more than three successive **monthly** Agency meetings.*

*In recognition of the scale and complexity of the project record, the Regulatory Programs Committee returns its authority pursuant to NYCRR 572.12 to the full Agency Board for plenary deliberation on the record for Project 2005-100.*

(4) Discussion of Highway Utility Projects

Mrs. Ulrich noted deferral of the utility discussion to a future meeting.

b. Economic Affairs Committee

Mr. Lussi reported on two presentations to the Committee. The first presentation was by Marc Compeau of Clarkson University's Small Business Program on entrepreneurship in the Park. The second presentation was by small business entrepreneurs Tommy Thomson and Andrew Lewis, Paul Smith's College graduates and co-founders of Aquatic Invasive Management, LLC based in Lake Placid.

c. Legal Affairs Committee

(1) Community Housing Bill

Mr. Wray reported that the Committee received an overview of the Community Housing Bill which recently passed both houses of the State Legislature.

(2) Blue Line Council, et al. v APA, et al.  
Clinton Co., et al. v APA, et al.

Counsel reported that the Agency prevailed in the Appellate Division court case involving Agency rules and regulations adopted in December 2008. The court ratified the validity of the December 2008 regulations on shoreline expansion and wetland subdivision and reinstated the definition of hunting and fishing cabin. The decision was very short and direct, and the Agency looks forward to continuing to work on implementation of those regulations. He noted there were two groups of plaintiffs, one representing municipalities and the other representing private groups and individuals.

d. State Land Committee

Mr. Booth noted presentations by DEC staff on the Independence River Wild Forest Unit Management Plan Amendment and by Agency staff on the revisions to the area descriptions in the State Land Master Plan. Both proposals will be released for public comment and return to the Agency at a later date for action.

e. Park Ecology Committee

Mrs. Ulrich noted a presentation by Steve Indrick of the USDA Natural Resources Conservation Service on the completion of soils mapping in the Park and its availability as an online resource.

f. Public Awareness and Communications Committee

Mr. Valentino reported that the Committee held its introductory meeting which served as an information forum on the Adirondack North Country Association's new website [www.BiketheByways.org](http://www.BiketheByways.org). ANCA Executive Director Kate Fish, assisted by intern David McCahill, described the new website which features premier road and mountain biking throughout the Adirondack North Country region.

9. Interim Reports

a. Administration Committee

Chairman Stiles referred to the proposed Agency meeting schedule for calendar year 2012 that was included in the monthly mailing materials.

Mr. Wray noted a personal scheduling conflict with the September meeting date.

On motion of Chairman Stiles, seconded by Mr. Valentino, the Agency unanimously adopted the following Agency meeting schedule for 2012:

January 19-20  
 February 16-17  
 March 15-16  
 April 19-20  
 May 17-18  
 June 14-15  
 July 12-13  
 August 16-17  
 September 13-14  
 October 11-12  
 November 15-16  
 December 13-14

10. Public Comment

Allison Buckley, Conservation Director for The Adirondack Council, called attention to the Council's recent production of a map of the new Bob Marshall Wild Lands Complex. The map highlights how economic development and environmental protection can work together through an integrated multi-use trail network. Distribution of the maps is focusing on the gateway communities and visitor centers throughout the Park. Ms. Buckley also referred to a growing trend of young people returning to the Park and the importance of healthy, balanced communities to sustain young families in the Park.

Public comments are part of the Agency's web cast and may be viewed at [http://nysapa.granicus.com/ViewPublisher.php?view\\_id=2](http://nysapa.granicus.com/ViewPublisher.php?view_id=2).

#### **11. Local Government Review Board Comment**

Local Government Review Board chairman Gerald Delaney commented on the topics of recreation and tourism, which have been a focus of recent presentations to the Agency. He stressed the importance of everyday jobs inside the Park and how they help to attract other investment. He pointed out that not all communities can rely on these uses and that it is equally important to consider others who live in and use the Park in different ways.

Mr. Delaney also questioned the name "Bob Marshall Wild Lands Complex," which he felt detracted from the identity of the areas that are proposed to be established as a great biking route.

#### **12. Member Comment**

Mr. Valentino called attention to the EPA's recent promulgation of a new transport rule for power plants. The rulemaking will affect mostly the older coal power plants and is intended to clean up the pollution that is transported into neighboring states, an initiative which he was dedicated to for much of his professional life. The new regulation requires reduction of sulfur dioxide emissions by 70% and nitric oxides by 50% from 2005 levels, leading to a reduction in acid rain and ozone. It is estimated that the reductions will prevent as many as 34,000 associated deaths within three years. The new rule will be a major benefit for the Adirondacks as well as the entire country.

Mr. Thomas commended the Small Business Program presentation, and said as a member of the North Creek Business Alliance he sees much need for successful hamlets. Mr. Thomas then noted that the inaugural run of the North Creek train has been delayed by a week and will take place on July 23. Finally, he noted that he and Brian Grisi plan to attend the Lake George Watershed Coalition meeting next week at the Bolton Town Hall.

Mr. Mezzano expressed his appreciation for Mr. Valentino's opening remarks at the first meeting of the Public Awareness and Communications Committee. He noted that the Economic Affairs Committee has in effect been serving as a conduit for public awareness through presentations from an economic perspective. He commended Committee Chair Lussi for helping to dispel the myth about not being able to do business, gain employment or earn a living in the Park. Mr. Mezzano said he viewed the Public Awareness and Communications Committee as a great

opportunity to augment work that has already been started in the Economic Affairs Committee. He said he was hopeful that the two committees working together would raise awareness about the Agency's work and the positive aspects of it. For example, he suggested compiling a list of things the Agency has done over the past five years in terms of streamlining and simplification to make this a more user-friendly agency. Mr. Mezzano said he looked forward to seeing the two committees working in tandem to arrive at the goal of better public awareness both on the economic and non-economic side.

Ms. Lowe applauded the young entrepreneurs and young professionals engaged in Adirondack issues, noting they provided inspiration to others.

Mr. Lussi thanked Mr. Mezzano for his comments and credited others for helping to arrange some of the presentations in the Economic Affairs Committee. He commended Mr. Valentino's invitation to other board members to bring their ideas and issues to the forefront, and he also acknowledged an earlier suggestion to engage more young entrepreneurs and professionals. Mr. Lussi then referred to the Rails with Trails funding for a recreational path to go alongside the rail track between Lake Placid and Saranac Lake. He noted that the grant is conditioned on a divider fence to be constructed between the rail/trail, and he questioned the practicality of that condition given the presence of trestles under which bodies of water are allowed to flow, creating the need to re-route the recreational path miles around the waterway. Mr. Lussi pointed out that other states have dismantled railroad track while retaining the right for future reconstruction. He suggested a recreational path without the rail between Lake Placid and Saranac Lake would add 6-8 weeks of extra riding for the snowmobiling community, and would also be a model for economic development and more green-friendly than the existing railroad.

Mrs. Ulrich, in follow up to Mr. Mezzano's comments regarding the Public Awareness and Communications Committee, referred to the collection of presentations available on the Agency website that could be better utilized by individuals and institutions such as libraries and small organizations, for example. She then referred to the public comment session on Thursday and commended the Chairman's handling of it. She also concurred with Mr. Valentino in terms of his frustration over the Agency's policy to not publicly respond to public comment. Mrs. Ulrich acknowledged one of those who commented remained throughout the day to hear a number of presentations. She also voiced her respect for the public servant whose work life is open to the scrutiny of the public. Finally, Mrs. Ulrich called attention

to the upcoming 5<sup>th</sup> Common Ground Forum scheduled for Wednesday, July 20<sup>th</sup> in Long Lake. The Forum has grown to 23 sponsors but has no budget, office or organizational structure other than people with good intentions. With local government officials and environmentalists working together, much has been accomplished but there is much left to do, she said.

Mr. Wray congratulated Mr. Banta on grandfatherhood, and commended Mr. Valentino's comments at the start of the inaugural meeting of the Public Awareness and Communications Committee.

Mr. Booth added his congratulations to Mr. Banta and his family. He then reiterated a request he made at a previous meeting for presentations on the outcome of past Agency-approved projects that were environmentally sensitive or that addressed potential problems. He suggested it would be an effective learning tool for the Agency. Referring to the map of the Bob Marshall Wild Lands complex, Mr. Booth opined that while a local name for the map would have been more useful, nevertheless he was impressed with the quality and the features of the map, particularly the highlighted communities. He expressed hope someday for a reprint of the Private Land Use and Development Map in a similar form where community names are displayed more visibly. Mr. Booth said he looked forward to the presentation on utility line infrastructure in the Park which should include discussion about not only what is not acceptable, but what are acceptable goals in terms of transmission lines along highways as well as some examples of successful utility projects in the Park. He referred to the map of existing major electric transmission lines in the Park that was included in the meeting materials, and noted it did not depict any major transmission line through Essex County, which suggested the map was incomplete.

Mr. Banta expressed his appreciation for everyone's good wishes on the birth of his first grandchild and grandson.

Ms. Martino expressed best wishes to Mr. Banta. She referred to a question posed to Marc Compeau of Clarkson University's Center for Entrepreneurship about his work in St. Lawrence County compared to his work with the Entrepreneurial Center in Saranac Lake, and Mr. Compeau's comments about his work with entrepreneurs in the Park and their enthusiasm and pride in collective spirit. Ms. Martino also commended the presentation on bicycling opportunities in the Adirondack North Country region which noted a connection to Kingdom Trails in Vermont in terms of the Adirondack Park's ability to be in a competitive marketplace.

Chairman Stiles thanked Mr. Valentino for his insightful comments in the launching of the Public Awareness and Communications Committee, and for laying down a challenge to the Agency in terms of how to look at things and project things forward. Referring to the past two meeting days and the public comment session on Thursday morning, the Chairman reflected on the role of the Agency. He noted the continuing disagreement over the existence of the Agency after forty years, some people having spent decades trying to change that statutory position, demonstrating a need for better communication as well as understanding about what the creation of the Adirondack Park was all about. The Chairman acknowledged that for some people the issues are very real and personal, and while their feelings should not be diminished, at the same time behavior such as that displayed on Thursday is becoming increasingly unacceptable as society moves forward into the century. He pointed out the issue is not only an Adirondack issue, but is also a societal issue with an obligation for society to find a way to change it rather than condemn or ignore it.

The Chairman then referred to a plaque that was returned to the Agency by Rick Hoffman, former Agency staff member and Department of State designee to the Agency board upon his retirement from the State. The Chairman said the plaque, which reads "Abolish the Adirondack Park Agency," hangs on his office wall as a reminder of what the real issues are in the Park. The past two days of meeting demonstrated much of what the Agency does: review of the largest project in the history of the Agency; simplified and expedited permitting; and litigation, which is generally unproductive but which in this case ended in a decision that added clarity to what was already there. The goal for the Agency is not to avoid litigation, but rather to get better at learning how to resolve issues, some of which stem from the old-fashioned belief that the Agency should not exist, which is a tragedy of the times.

Chairman Stiles thanked staff and the Board for their work. He then advised that after discussions with his family and then the Agency's Executive Director and Counsel, he notified the Governor in writing on Tuesday, July 12, that he would not stand for reappointment either as Chairman or as a commissioner of the Adirondack Park Agency. The Chairman made it clear that his decision was not about the day-to-day frustrations over issues in the Park, but rather about what he wants to do with the rest of his life. He acknowledged his tendency to get consumed and also to know when it is time to stop. He noted that he would also make the same announcement to Agency staff at a meeting that afternoon. He said it was important to him to make his announcement to the Agency and the staff in person, and not through the press or another source.

The Chairman reminded everyone of his admiration and respect for members of the staff and the Board. He expressed great faith and confidence in the Executive Director's judgment, decisions and ability to manage the Agency, and expressed the same about the Board and Counsel.

**13. Adjournment**

The Agency unanimously adjourned at 12:15 p.m.

CFS:dal

Attachment: Permit 2002-123R2

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Interim Chairman

**THIS PERMIT RENEWS PERMIT 2002-123R ISSUED JUNE 14, 2007**  
**THIS IS A TWO-SIDED DOCUMENT**

 <p>P.O. Box 99 • Ray Brook, New York 12977 • (518) 891-4050</p>	<p align="center"><b>APA Project Permit 2002-123R2</b></p>
<p>In the Matter of the Application of</p> <p><b>CAROL STE. CLAIRE, DANA STE. CLAIRE, MICHELLE AUDETTE, and GEORGE AUDETTE</b></p> <p>for a permit pursuant to §809 of the Adirondack Park Agency Act</p>	<p>Date Issued: July 20, 2011</p> <p>To the County Clerk: This permit must be recorded on or before <b>September 19, 2011</b> . Please index this permit in the grantor index under the following names:</p> <ol style="list-style-type: none"> <li><b>1. Carol Ste. Claire</b></li> <li><b>2. Dana Ste. Claire</b></li> <li><b>3. Michelle Audette</b></li> <li><b>4. George Audette</b></li> </ol>

**SUMMARY AND AUTHORIZATION**

Carol Ste. Claire, Dana Ste. Claire, Michelle Audette, and George Audette are granted a second renewed permit, on conditions, for a two-lot subdivision into sites and the construction of two single family dwellings in an area classified Rural Use by the Official Adirondack Park Land Use and Development Plan Map in the Town of Thurman, Warren County.

The project may not be continued until this renewed permit is recorded at the Warren County Clerk's Office. This permit shall expire unless so recorded on or before September 19, 2011 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 renewed permit is void if the project authorized herein is not in existence within four years from the date the permit is recorded. The Agency will consider the project authorized herein in existence upon installation of the foundations for either of the single family dwellings authorized herein.

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 a two-lot subdivision into sites involving wetlands, a Class A regional project requiring an Agency permit pursuant to §810(1)(d)(1)(b) of the Adirondack Park Agency Act, and a Class B regional project also requiring an Agency permit pursuant to §810(2)(c)(2)(b) of the Adirondack Park Agency Act.

#### **PROJECT SITE**

The project site is a vacant 62±-acre non-shoreline parcel of land located off Maxam Road in the Town of Thurman, Warren County, in an area classified Rural Use on the Adirondack Park Land Use and Development Plan Map. It is identified on Town of Thurman Tax Map Section 192, Block 1 as Parcel 13. The project site is described in a deed from Steven and Leslie Raabe to Carol Ste. Claire, Dana Ste. Claire, Michelle Audette, and George Audette dated May 13, 2005 which was recorded June 7, 2005 in the Warren County Clerk's Office in Liber 1450 of Deeds at Page 64.

#### **PROJECT DESCRIPTION AS PROPOSED**

The applicants propose a two-lot subdivision into sites for the prospective construction of two single-family dwellings with on-site water supply and on-site wastewater treatment systems. Also proposed is construction of an accessory structure (gazebo) in an upland area approximately 1350 feet west of the two proposed dwellings. The location of the proposed dwellings are shown on a site plan map entitled "Raabe P2003-123" prepared by Steven and Leslie Raabe, and was received by the Agency on July 10, 2002. A reduced-scale copy of the site plan is attached as a part of this permit.

The project as originally proposed and authorized has not been undertaken to date. The applicants are requesting that the Agency issue a second renewal of the 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 Permits 2002-123R and 2002-123 remain in full force and effect unless specifically amended herein.
2. The project shall be undertaken as described in the completed application, the Project Description 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.
3. This second renewed permit is 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 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 2002-123 issued July 16, 2003, Permit 2002-123R issued June 14, 2007, and Permit 2002-123R2 issued July 20, 2011, the terms and conditions of which are binding upon the heirs, successors and assigns of the grantors and all subsequent grantees."
4. 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.

**Projected Remaining Building Density**

5. Pursuant to Condition #5 in Agency Permit P78-98 and Condition #4 in Agency Permit P2003-27, after the construction of the two single family dwellings authorized herein, not more than two additional principal building(s) shall be allowed on Town of Thurman Tax Map Parcel 192-1-13. This restriction shall apply unless the overall intensity guidelines of the Adirondack Park Agency Act or

the Park Plan Map are amended or, pursuant to the adoption of an Agency-approved local land use program, refined so as to permit additional principal building(s). Due to the potential for site resource limitations, the Agency makes no assurances the maximum development mathematically allowed can be approved.

#### **Wetlands**

6. Beyond the construction of the two single family dwellings and gazebo 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, 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.
7. Any construction activities involving construction or installation of the gazebo in the northwest corner of the project site shall maintain a minimum 50-foot upland buffer beyond the limits of wetlands on the project site. In addition, no construction debris (sawdust, scrap lumber) shall be deposited in the wetland. Any wastes generated by construction of the gazebo involving the use of pressure treated lumber should be disposed of in accordance with New York State Department of Environmental Conservation solid waste disposal regulations.
8. Any change in the locations of the two dwellings authorized herein as depicted on the site plan map shall require prior Agency review and approval in the form of a new or amended permit, or a letter of permit compliance.
9. Any infrastructure improvements to the pre-existing woods road which bisects the project site within the limits of wetlands on the project site will require prior Agency review and approval in the form of a new or amended permit.

#### **Wastewater Treatment**

10. The two proposed on-site wastewater treatment systems shall be located and installed as shown on the project plans. Each on-site wastewater treatment system installed on the project site shall comply with New York State Department of Health's "Wastewater Treatment Standards for Individual

Household Systems" (10 NYCRR Appendix 75-A) and with Agency standards in 9 NYCRR Appendix Q-4. Additionally, no conventional on-site wastewater treatment system shall be installed on existing slopes in excess of 15%. No on-site wastewater treatment system shall be located within 100 feet of any water supplies, bodies of water, wetlands and permanent or intermittent streams. No change in the location of the systems authorized herein shall occur without prior Agency review and approval in the form of a new or amended permit, or a letter of permit compliance. The septic tanks shall be periodically pumped out by a New York State Department of Environmental Conservation permitted waste transporter.

#### **Visual/Open Space Protection**

11. Other than the vegetative clearing associated with the two single family dwellings and gazebo authorized herein, no vegetative cutting shall be permitted within the limits of the wetland, or within 50 feet of the wetland boundaries, or on slopes greater than 15 percent. 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.

#### **Legal Interests of Others**

12. This permit does not convey to the permittee any right to trespass upon the lands or interfere with the riparian rights of others in order to undertake the authorized project or subdivision, nor does it authorize the impairment of any easement, right, title or interest in real or personal property held or vested in any person.

#### **Agency Review of Future Subdivision and Development**

13. No further subdivision or land use and development shall occur on the property without first obtaining a jurisdictional determination and, if necessary, a permit from the Agency.

#### **FINDINGS OF FACT**

Findings of Fact 1 through 16 contained in Permit 2002-123R (issued on June 14, 2007 and recorded on July 31, 2007 in the Warren County Clerk's Office in Book 3337 of APA Permits at page 1) are included herein, and remain in effect unless specifically amended herein.

By letter dated June 17, 2011, Carol Ste. Claire requested a second renewal of Adirondack Park Agency Permit 2002-0123 which previously authorized a two-lot subdivision into sites and the construction of two single family dwellings.

### **Background/Prior History**

1. The subject property was part of a larger parcel as of the May 22, 1973 enactment date of the Adirondack Park Land use and Development Plan. Agency project files, involving the original larger parcel include: 76-382 (permit P76-385); 78-39 (permit P78-98 & 98A); P80-97; Agency Permit P2003-027; Agency Enforcement File E2002-242.
2. Pursuant to Agency Permit P2003-027, the applicants, Steven and Leslie Raabe transferred a principal building right to a nearby landowner on Town of Thurman Tax Map Parcel 193-1-5 whose property lacked the overall intensity guidelines for conversion of a barn structure into a second single family dwelling. In exchange for the transferred building right, the recipients (Richard and Demita Warner) of that principal building right (for Tax Map Parcel 193-1-5) will grant the applicants named herein a 30+ foot shoreline access easement over the westerly portion of the 226 feet of shoreline contained on the Richard and Demita Warner Lot.
3. Ownership of the project site has changed since issuance of Agency Permit 2002-123. The project site is now described in a deed from Steven and Leslie Raabe to Carol Ste. Claire, Dana Ste. Claire, Michelle Audette, and George Audette dated May 13, 2005 which was recorded June 7, 2005 in the Warren County Clerk's Office in Liber 1450 of Deeds at Page 64.
4. By letter dated May 29, 2007, a request was made to renew Adirondack Park Agency Permit 2002-123 authorizing a two-lot subdivision into sites and the construction of two single-family dwellings.

### **Existing Environmental Setting**

5. As depicted on the site plan map, wetlands are present on the project site and are located throughout the central portion of the property. These wetlands are associated with Garnet Lake, and are greater than 100 feet from the proposed dwellings and accessory structure (gazebo). The presence of wetlands is based upon actual field verification by Agency staff and the Official Warren County wetland maps. Within and adjacent to the wetlands on the

project site is a pre-existing woods road that bisects the project site and wetlands. Portions of that pre-existing woods road contain at-grade corduroy logs for wetland crossings to the southerly portion of the project site. This woods road is approximately 1800 feet long and also provides access to the adjoining State Lands.

6. Soils in the vicinity of the proposed on-site wastewater treatment system for Site A consist of medium sands with a depth to seasonal high groundwater at greater than 48 inches. Slopes in the vicinity of that proposed system are approximately 3 percent. Soils in the location of the proposed on-site wastewater treatment system for Site B consist of medium to coarse sands with small cobbles, with a depth to seasonal high groundwater at greater than 48 inches. Slopes in the vicinity of that proposed system range between 3 to 5 percent. No evidence of bedrock was encountered.

On Site A, the proposed driveway contains slopes that range between 12 and 14 percent for approximately 100 feet. The remainder of the proposed development area contains slopes that range from 5 to 8 percent. Slopes on the remainder of Site A vary, but are generally not greater than 10 percent.

On Site B, which encompasses the remainder of the project site, slopes vary widely. In the vicinity of the secondary access drive, slopes are greater than 20 percent for approximately 150 feet. In front of the proposed development area, slopes are greater than 15 percent.

Steeper slopes exist on other areas of the project site; however, those slopes are currently vegetated and stabilized.

The applicants have indicated that access to both dwellings will be along the proposed driveway on Site A.

7. Vegetation on the project site in the vicinity of the proposed development areas consists of a mix of coniferous and deciduous vegetation comprised of white birch, spruce, beech, poplar, maple, and white pine trees. This vegetation is mature forested vegetation with a second growth understory.
8. Overhead utilities are present along Maxam Road. Presently, this overhead line does not extend southerly to the project site and the proposed development areas.

9. The area surrounding the project site can be characterized as containing year-round and seasonal single family dwellings in a rural forested setting. Additionally, lands of the State of New York classified Wild Forest pursuant to the Adirondack Park Land Use and Development Plan Map surrounds the project site to the east, south, and west.

#### **Other Regulatory Permits and Approvals**

10. Pursuant to the Local Government Notice Form received with the application materials, the project as proposed does not require municipal approval.

#### **PROJECT IMPACTS**

##### **Wetlands**

11. Adverse impacts to wetlands will be avoided provided construction of the two proposed dwellings and on-site wastewater treatment systems authorized herein maintain a minimum 100-foot buffer from the wetlands in the northerly portion of the project site. Any change in the location of the proposed dwellings should require prior Agency review to ensure wetlands impacts are avoided.
12. Adverse impacts to wetlands will be avoided provided the gazebo is constructed a minimum of 50 feet beyond the limits of the wetlands on the project site, no construction debris (sawdust, scrap lumber) is deposited in the wetland and any wastes generated by construction of the gazebo involving the use of pressure treated lumber are disposed of in accordance with New York State Department of Environmental Conservation solid waste disposal regulations.
13. Wetlands shown on the site plan and described herein are intended to alert landowners and others wetlands are present on the project site. However, this may not identify all wetlands on or adjacent to the project site.
14. Adverse impacts to groundwater and wetlands will be avoided if the proposed on-site wastewater treatment systems are installed in the locations depicted on the site plan map to ensure the minimum 100-foot separation distances between the leaching portions of the proposed systems, and the existing wetlands.

**Open Space/Aesthetics**

15. Open space resources will be protected provided that the vegetative clearing is limited to that associated with the proposed development areas for the two single family dwellings and gazebo authorized herein. This will also maintain a vegetative buffer between the wetland and upland areas on the project site, and will avoid erosion and sedimentation on slopes greater than 15 percent.

**Historic Sites or Structures**

16. Since the project site is vacant and does not contain any structures or sites as shown on the New York State Archeological Sensitivity Map, 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 Part 426.2 for the purposes of implementing §14.09 of the New York State Historic Preservation Act of 1980.

**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. 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                           , 2011.

ADIRONDACK PARK AGENCY

BY: \_\_\_\_\_  
Richard E. Weber, III  
Deputy Director, Regulatory Programs

