



Regulatory Programs Committee  
December 13, 2012  
Agency Meeting  
REW:mlr

**Regulatory Programs Committee  
December 13, 2012**

**AGENCY MEMBERS, DESIGNEES AND EXECUTIVE STAFF PRESENT**

Leilani Crafts Ulrich, Chairwoman  
Richard Booth, Member  
Sherman Craig, Member  
Arthur Lussi, Member  
Frank Mezzano, Member  
William Thomas, Member  
William Valentino, Member  
Dierdre Scozzafava, Designee, NYS Department of State  
Designee Patrick Hooker, NYS Department of Economic Development  
Robert Stegemann, Designee, NYS Department of Environmental  
Conservation  
Terry Martino, Executive Director  
Acting Counsel Sarah Reynolds  
Fred Monroe, Local Government Review Board

Cecil Wray, Member was not present at the Agency meeting

The Committee convened at 9:10 am.

1. Approval of November Draft Regulatory Programs Committee Minutes

On motion of Mr. Lussi seconded by Mr. Valentino the Agency unanimously adopted the Draft Agency Minutes of the November 2012 Agency meeting.

2. Deputy Director (Regulatory Programs) Report (R. Weber)

Mr. Weber reviewed the status report for Regulatory Programs and discussed P2012-128, Essex County public safety communications system being presented for review and action at the Agency meeting. He stated it was agreed at the onset that the review of this proposal would occur as a pre-application file, received January 10, 2010.

The approach compressed the time between the eventual submission of the full application to a determination of completion. The application was received July 26, 2012 and the project was completed October 29, 2012.

Mr. Weber discussed the APA Project Order and Findings document along with the 14 individual permits and 814 Orders for each of the individual sites of the system.

He noted this approach allows for flexibility in the future for potential amendments to an individual site without having to address changes to the Project Order and Findings document unless a proposed modification to the system is considered a material change.

Mr. Weber discussed the applicant's request that certain critical infrastructure information be kept confidential. In response to the applicant's request, he noted staff will not be reviewing as part of the public presentation portions of the project that contain confidential infrastructure information.

Mr. Weber congratulated the applicant, Leigh Walrath, Beth Phillips of Agency staff for their attention to the details related to this complex project.

3. 2012-128 (L. Walrath)  
Essex County, NYS Police and NYSEG  
Essex/Warren/Washington: Multiple Towns  
Hamlet/Resource Management/Industrial Use/ Wild Forest

Mr. Walrath introduced Mr. Donald Jaquish, Director of the Essex County Emergency Services and mentioned that Mr. Chuck White, New York State Police, may also be attending the meeting. He also mentioned that Ms. Jacqueline Phillips Murray, the authorized representative is enroute to the Agency meeting.

Mr. Walrath presented a power point overview of the proposed project, project site and location.

He discussed Agency jurisdiction in 12 towns and at 14 sites as well as the two non-jurisdictional sites.

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Mr. Walrath discussed the three components of the proposed Essex County Emergency Communications system and as an example he discussed the activity at one site (Mount Pisgah).

He showed slides of two proposed new tower sites: Belfry Mountain, Town of Moriah, to install a new tower with public and private telecommunications infrastructure and removing existing tower; and Saddle Hill, Town of Lewis, proposal to install a new 8 by 10 ft. reflector panel on a new tower (39 feet) and improve an existing woods road for site access.

Mr. Walrath's presentation also included photos of two tower replacement sites: Wells Hill, Town of Lewis and Mount Morris, Town of Tupper Lake.

He discussed the private land sites where infrastructure is co-located on an existing tower or buildings: Blue Mountain, Mount Defiance, Terry Mountain, Ainger Hill, Lewis Public Safety Building, and Mount Pisgah.

Mr. Walrath showed slides and discussed the state land sites and their jurisdiction under the State Land Master Plan. He stated individual Orders require the NYSP to provide a full accounting of the telecommunications infrastructure in amendments of respective UMPs: Gore Mountain Ski Center (Intensive Use), Whiteface Mountain Ski Center (Intensive Use) and Black Mountain (Lake George Wild Forest). He stated there is no UMP for the Ray Brook Office complex in the area classified as State Administration. He stated that the NYSP, as SEQRA lead agency, prepared an Environmental Assessment and issued a Negative Declaration on October 26, 2012.

Mr. Walrath stated the proposed activities on Whiteface Mountain Summit and Blue Mountain were determined to be nonjurisdictional (not requiring an 814 review). He continued to discuss and show slides of the remaining proposed project sites: Little Whiteface, Town of Wilmington, a replacement of a ski patrol building with a new building which includes antenna infrastructure; Ray Brook, State Office complex, Town of North Elba, a replacement of an existing microwave dish; Gore Mountain, Ski Center Town of Johnsbury, a proposal to install infrastructure on an existing fire tower, install new equipment shelter, and remove unnecessary infrastructure; and, Black Mountain, Town of Dresden, proposal to install a new microwave dish and the removal of dish.

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Mr. Walrath briefly discussed the characteristics of the Bicknell Thrush and the effects if any that this project would have on the bird. He stated the breeding and nesting habitat for the Bicknell Thrush is generally at 3,500 feet or above. He noted New York State listed the bird as a species of special concern and in 2012 the USFWS began an extensive review for the songbird to determine if adding it to the federal list of threatened and endangered wildlife is warranted.

The project involves no tree clearing and no loss of habitat at Gore, Little Whiteface, Blue Mountain or Mt. Morris. He noted the potential construction impacts are mitigated by a permit condition which limits the construction activities during the breeding and nesting season. The permit condition provides flexibility by allowing site specific assessment to be reviewed by Agency staff in consultation with NYSDEC.

Mr. Walrath stated staff notified all adjoining landowners and those parties as statutorily required by Section 809 of the Adirondack Park Agency Act and published a Notice of Complete Permit Application in the Environmental Bulletin and staff received no public comments.

Mr. Mezzano asked for a motion by the Regulatory Committee to move the proposed project to Full Agency with a recommendation for approval with the knowledge that it includes the 14 separate permits one for each location. Mr. Booth made the motion and Mr. Lussi seconded the motion. The Regulatory Committee vote was unanimous in favor of the motion.

4. Prospectus for a Wetland Mitigation Banking Agreement: (D. Spada)

Mr. Spada noted this is the second step for the review of the Wetland Mitigation Banking Agreement.

He presented a power point presentation describing the purpose of the proposed "agreement" and explained in detail how the "agreement" would facilitate wetland compensatory mitigation, enhance viability of wetland compensation\and compensate for wetland loss in a proactive manner.

Mr. Spada discussed the content of the proposed "agreement" and described how it will provide the criteria and mechanism for development of a mitigation bank instrument. He stated the "agreement" will also establish an inter-agency commitment with the involved agencies.

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Mr. Spada described the three step process Agency staff is using to develop the proposed "agreement." He noted the first step involved the presentation to the Agency on May 2012 by the NYS Department of Transportation. The second step involves the presentation provided today. Staff will review any comments received from the Board or the public prior to bringing the proposed "agreement" back to the Agency in 2013 for Agency action.

Question was asked if the Board will have any review of projects once this "agreement" is implemented and answer was given that the Agency would be notified of any major wetland mitigation project being reviewed.

Robert Stegemann, Designee, NYS Department of Environmental Conservation stated that Forest Preserve lands are not included in the proposed "agreement."

Executive Director, Terry Martino stated that since the inception of this proposal in May 2011 it has emerged in terms of a larger state-wide interest that resonated through the Economic Development Councils and it is the Agency's understanding that it will be presented as a recommendation for the Governor to consider both in terms of wetland mitigation in the Adirondack Park and elsewhere in the State.

Chairwoman Ulrich asked if there was any reference in the proposed "agreement" excluding Forest Preserve Lands as Designee Stegemann stated and commented that she would like that fact to be referenced in the document. Mr. Weber stated this proposed "agreement" does not specifically intend to use Forest Preserve Lands either for mitigation or credits.

A brief discussion regarding page 4-2.0 of the proposed "agreement" ensued and it was noted that it would be edited correctly.

Chairman Ulrich congratulated Mr. Spada on his retirement and future success.

5. Old Business: NO

6. New Business: NO

**Adjournment:** The Regulatory Committee meeting adjourned at 12:00 am.

Note: The power point presentations referred to herein are on file at the Agency. Copies are also available for inspection on request and can be viewed at [http://nysapa.granicus.com/ViewPublisher.php?view\\_id=2](http://nysapa.granicus.com/ViewPublisher.php?view_id=2) of this meeting: