



Regulatory Programs Committee
March 14, 2013 Agency
Meeting; REW:mlr

DRAFT

**Regulatory Programs Committee
March 14, 2013**

Committee Members present: Committee Chairperson, Frank Mezzano, Member Richard Booth, Member Art Lussi, Designee Dede Scozzafava (Department of State). Other Members present: Agency Chairwoman, Leilani Crafts Ulrich, Member Cecil Wray, Designee Patrick Hooker (Department of Economic Development) Designee Robert Stegemann (Department of Environmental Conservation), Members William Thomas and Sherman Craig. Agency Staff present: Executive Director: Terry Martino and Counsel Jim Townsend

Mr. Valentino was not present at Agency March meeting. Chairwoman Lani Ulrich will be voting in the Regulatory Committee meeting in Mr. Valentino's absence.

Local Government Review Board Member Present: Mr. Fred Monroe

The Committee convened at 2:10 pm.

1. Approval of February Draft Regulatory Programs Committee Minutes

On motion of Mr. Lussi, seconded by Chairwoman Ulrich; Agency unanimously adopted the Draft Regulatory Committee Minutes of the February 2013 Agency meeting with an edit to Mr. Booth's comments.

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

Mr. Weber reviewed the status and high profile reports for Regulatory Programs. He briefly discussed applications received and permits issued. Mr. Weber highlighted new preapplications received by the Agency in February 2013.

Mr. Mezzano stated that Mr. Monroe, Supervisor of the Town of Chesterfield, was not participating in the discussion of the proposed project and would not be seated at the table during the staff presentation and Board's deliberation.

3. 2012-219 (L. Walrath, E. Snizek)
Town of Chester, Warren County
Not Classified. Lands under water owned by New York State

Mr. Walrath introduced members of the Loon Lake Association present at the Agency meeting.

Mr. Walrath presented a slide show depicting the proposed project site location. Mr. Walrath described the New York State definition of Invasive Species and he stated that Eurasian Watermilfoil (EWM) is the most invasive submergent aquatic plant in New York State, and is basically impossible to truly eradicate once established in lakes.

Mr. Walrath described the history and the impacts of EWM in Loon Lake, and he stated the objective of the herbicide (triclopyr) treatment is to manage an area with moderate to dense beds of EWM growth in order to improve the ecological, recreational, and aesthetic values of Loon Lake.

He described how the Renovate® OTF (On Target Flakes) is applied and discussed the manipulation of lake levels as part of the treatment strategy. He described how the installation of "stop logs" at the outlet dam will add lake storage capacity during the treatment. Mr. Walrath explained how the custom made 630± foot sequestering curtain will be placed across the lake to maintain the desired herbicide concentration, increase the efficacy of the treatment, reduce the potential for herbicide drift, and reduce impacts to non-target aquatic plants. The application of the herbicide is expected to be completed in one day.

Mr. Walrath noted that the lake will be monitored for triclopyr concentrations at six distinct sample locations, and he discussed various times the samples will be collected. He stated a copy of the herbicide residue sample results shall be reported to the Agency when received by the applicant and authorized representative.

Mr. Walrath stated a detailed post-treatment aquatic plant survey by a qualified consultant will be completed by September 2013.

He stated the Agency notified all adjoining property landowners and published a Notice of Complete Permit Application in the Environmental Notice Bulletin. Mr. Walrath stated the Agency received 44 comment letters, forty-one in support, one comment letter expressed conditional support, and one requested an adjudicatory hearing, and one provided neither support or opposition to the proposed project.

Mr. Walrath briefly discussed the cost of the herbicide treatment to the Town of Chester. He noted this investment will be added to the benthic barrier and hand harvesting program and thus funding for these control activities will not be reduced during 2013. With a successful treatment, the Town hopes to reduce overall management expenses to \$30,000 per year as opposed to \$55,000 in 2012.

A discussion ensued regarding herbicide treatments previously used in the Adirondack Park and in other areas outside of the Park.

Mr. Lussi asked that the sample results be shared with the Board when received at the Agency.

Mr. Mezzano commented that the treatment area is within and adjacent to a variety of land uses including the public boat launch; he noted if the proposed project is approved the proposed treatment would minimize the spreading of EWM from boats entering the boat launch, and Mr. Walrath agreed.

Mr. Snizek discussed the previously approved project P2009-256 herbicide treatment in Lake Luzerne. He showed color coded survey slides comparing EWM in 2009 (pretreatment) of the southeastern cove of Lake Luzerne with the 2010 (post-treatment) survey of all of Lake Luzerne. He noted that in 2011 six bags of EWM were harvested and in 2012 thirty-five bags were harvested after treatment in South Cove. He stated EWM never goes away it will always be an issue and hand harvesting will need to be done on an annual basis to maintain a level that is manageable.

Question was asked if applicants were satisfied with the outcome of P2009-256, Lake Luzerne and Mr. Snizek answered yes.

Counsel Townsend noted the revision to the third Conclusion of Law since the draft permit was distributed in the monthly mailing. He explained that this condition will be the standard conclusion of law for all wetland permits pertaining to the control of aquatic invasive.

Mr. Mezzano asked for motion to move the project to Full Agency for approval. Mr. Lussi made a motion to move the project to Full Agency for approval. The motion was seconded by Chairwoman Ulrich. The Committee vote was unanimous in favor of the motion.

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Mr. Booth commented that this project should move forward but referred to the letter received at the Agency from the Adirondack Council recommending an adjudicatory hearing. He suggested the Agency consider a public hearing in the future to discuss this issue in a detailed manner.

Mr. Booth also stated that any revisions to the draft permit as a result from the second letter received from the Adirondack Council be designated to the Executive Director to complete with Counsel's approval.

Counsel Townsend stated staff's presentation addressed most of the 10 concerns stated in the referenced letter..

The Regulatory Committee vote was unanimous in favor of the motion.

2013-11 (L. Walrath)

The Arts Guild of Old Forge, Inc.

Herkimer County, Town of Webb

Hamlet

Chairwoman Ulrich stated for full disclosure that she lives in the Town of Webb but has had no conversations regarding this proposed project nor has any management position involvement with the project.

Mr. Walrath presented a slide show and discussed the proposed project location.

He described the proposed project as the construction of a boardwalk involving wetlands. He noted the proposed boardwalk will include interpretive signage designed to highlight different wetland features.

Mr. Walrath explained the installation of the boardwalk will use helical coil support posts installed using the proprietary hydraulic machine described as a R2D Hydraulic Techno Post Installation Machine. He showed several slides depicting how the support posts will be installed. He stated to the greatest extent practicable, the R2D machine will only traverse the wetland within the footprint of the boardwalk if approved.

He discussed the background and prior history of the proposed project site.

Mr. Walrath stated the proposed project would 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 and provide an essential public benefit. The boardwalk will not impede the natural flow of water through the wetland nor will it affect the overall function or value of the wetland.

He noted the boardwalk will, in part, serve as a connection between exhibits which are housed within the Eco Gallery and the natural environment.

Mr. Walrath noted that no comments have been received regarding the proposed project.

Board expressed interest in the boardwalk meeting the Americans with Disabilities Act (ADA) requirements.

Mr. Mezzano asked for a motion to move the proposed project to Full Agency for approval. Mr. Booth made the motion to move the proposed project to Full Agency for approval and Mr. Lussi seconded the motion. The Regulatory Committee vote was unanimous in favor of the motion.

4. Old Business: NO

5. New Business: NO

Adjournment: The Regulatory Committee meeting adjourned at 3:50 pm.

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 of this meeting: