

Draft not approved by Agency



Adirondack  
parkagency

Regulatory Programs Committee  
September 12, 2013 Agency  
Meeting; REW:mlr

**Regulatory Programs Committee  
September 12, 2013**

Committee Members present: Committee Chairperson, Sherman Craig, Member Richard Booth, Member Art Lussi and Member William Valentino. Other Members present: Agency Chairwoman, Leilani Crafts Ulrich, Members Daniel Wilt, Designee Dierdre Scozzafava (Department of State), Designee Robert Stegemann (Department of Environmental Conservation), Designee Bradley Austin, (NYS Department of Economic Development), and Members William Thomas and Karen Feldman. Agency Staff present: Executive Director: Terry Martino and Counsel Jim Townsend

Local Government Review Board Member Present: Mr. Fred Monroe

The Committee convened at 9:30am.

1. Approval of August Draft Regulatory Programs Committee Minutes

On motion of Mr. Booth and seconded by Mr. Valentino Agency unanimously adopted the Draft Regulatory Committee Minutes of the August 2013 Agency meeting.

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 in August.

Mr. Weber briefly discussed the various types of general permits issued during the month of September.

Mr. Weber discussed Project 2011-95, Daniel Arbour and Sunset Farms, LTD., which was mailed to the Board members on September 6, 2013. He noted that staffs' recommendation at the time of the mailing was to direct the project to public hearing. Subsequently, on Friday, September 6, 2013 the Project Sponsor filed an appeal with the Adirondack Park Agency ("Agency") from action taken by the Agency's Deputy Director, Regulatory Programs.

Agency Counsel stated this action is appealing the Deputy Director's August 9, 2013, Notice of Completion for Project 2011-95 that would have put the project on today's agenda. He also stated the appeal referred to a letter sent to the authorized representative on August 29, 2013. Agency Counsel stated that it is important to keep the distinction between the actions of the August 9 Completion Notice and the August 29 letter, which will be made very clear if the appeal progresses.

Mr. Weber stated that the Agency is required to act on the appeal within 90 days of receipt; during this time period the time clocks have been suspended for the issuance of a permit or the process to move to a public hearing. The appeal will be presented at a future Agency meeting and depending on the Board's decision, staff will either move forward with the issuance of permit or a recommendation for a public hearing.

Mr. Lussi asked for direction on how the Board's handles an appeal from an applicant. Counsel Townsend briefly discussed the process of the appeal for the Agency Board Members. A decision has to be made within 90 days of the receipt of the appeal. He noted the Board will decide whether the Deputy Director's Notice of Completion dated August 9, 2013 was warranted or if the Notice of Completion should be overturned. The Full Agency action, to either grant or deny the appeal will determine the next step for the project application.

Mr. Weber stated that under the Agency Regulations, staff is obligated to provide an opportunity for comments from those who have received the Notice of Completion through normal process. Mr. Weber also noted staff will be sending information to all adjoining landowners, town officials, concerned parties regarding the Notice of appeal filed in the matter of Agency Project 2011-95, Daniel Arbour.

Mr. Wilt asked if there were other steps after the Board makes a decision regarding the appeal? Agency Counsel noted the Board's decision could be challenged if any party chose to challenge an administrative decision.

A brief discussion followed regarding the appeal process and how it could affect the process for all projects reviewed by the Agency. The discussion addressed the possibility for any decision made by the Agency on any proposed project subject could be blocked by this type of appeal.

Agency Counsel stated an appeal can only come from the project sponsor or authorized representative.

2013-136 (L. Walrath)  
New York State Department of Environmental Conservation  
Town of Arietta, Hamilton County  
Sargent Ponds Wild Forest

Mr. Walrath introduced Mr. Bill Schock and Jonathon Fieroh from the New York State Department of Environmental Conservation (DEC). The project as proposed by the DEC is summarized as a whole lake reclamation using the piscicide Preenfish Toxicant (a toxicant containing 5% rotenone), for purposes of restoring a native brook trout population.

Mr. Walrath presented a slide show describing the proposed project site. He stated lake reclamation is the removal of undesired fish species from a body of water. This project involves the removal of largemouth bass from Lower Sargent Pond. The presence of the largemouth bass is believed to be the result of an unauthorized introduction in 2004. There are no historic records of the largemouth bass in Lower Sargent Pond. The lake will be stocked with brook trout in 2014.

He discussed Agency jurisdiction as a regulated activity requiring a wetlands permit pursuant to 9 NYCRR 578.2 and 578.3(n)(2)(i) and 578.8(i).

Mr. Walrath stated the brook trout is New York's official State fish. He noted it was once widespread throughout the state, brook trout were found in remote wilderness settings in the Adirondack and in small streams on Long Island. Over the years, many populations have been lost due to habitat destruction and introduction of competing fish species.

He showed color-coded slides of the Saranac Lake Wild Forest area comparing the historic areas (1800s) where brook trout were found with the present locations of brook trout.

Mr. Walrath stated brook trout are extremely vulnerable to the effects of predation and competition from other fishes, particularly in the first years of life. Survival of shore-spawned trout may be poor if protective cover for emerging fry is not available.

He showed a series of graphs depicting healthy population of brook trout in Lower Sargent Pond in 1992 and 1997, and the decrease of brook trout in 2012 resulting from no recruitments of new trout.

He discussed the active ingredient in Prenfish Toxicant (rotenone). He noted that rotenone is lost within five to six days when exposed to spring sunlight and within two to three days when exposed to summer sunlight. Rotenone breaks down to carbon dioxide and water.

Mr. Walrath discussed the scientific research and impacts regarding the use of rotenone as a toxicant. He discussed the historic use of rotenone in the Adirondacks.

He noted that the area surrounding Lower Sargent Pond has several warnings prohibiting the use of bait fish in this area.

Mr. Walrath noted there were no public comment letters received for this proposed project.

Mr. Schock noted that in the past this has been a very productive pond since its reclamation in 1971 until the bass were introduced.

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

2013-111 (T. Saehrig)  
Barber Homestead Park, LLC  
Town of Westport, Essex County  
Rural Use

Mr. Saehrig used a slide show presentation to describe the project site, and land use area.

He noted Agency jurisdiction consisting of a greater than 25% expansion of an Agency-approved RV campground subject to Condition 2 of previously approved permit 90-647 requiring Agency review of any new land use or development at the campground.

Mr. Saehrig stated the applicants propose to add 14 additional recreational vehicle (RV) sites at a previously-approved 40 site RV campground. He noted the campground is not visible from any point on Dudley Road.

Mr. Saehrig noted that project site has 800 feet of shoreline under the management of the Barber Homestead Trust, it is not part of the campground; however, campers are allowed to use Lake Champlain for recreational uses. The family has not removed any trees to improve the view of the lake from their home.

Mr. Saehrig discussed the campground policies and he noted that each camper is given a list of the policies to review. He also said to prevent importation of wood-borne invasive species, the campground rules and policies advises campers of the firewood regulations and local firewood is available at the campground.

Mr. Saehrig noted there were 21 comment letters. Eight letters with various concerns and thirteen letters supporting the project were received.

He said staff's recommendation is to approve the permit with conditions.

Mr. Saehrig apologized for not introducing Billie Marsh, Irwin and Joyce Barber, Peter Gibbs representing the applicants and Mike Hill from Miller Mannix representing the Dudley Road Association present at today's meeting.

Mr. Saehrig discussed the revisions made to the draft permit after mailing to the Board members for review.

A brief discussion on Condition 5 followed. Mr. Van Cott noted that Condition 5 was to avoid RVs or trailers to become a mobile home. Campsite rentals shall not be automatically renewed or in any way guaranteed from one campground season to the next.

Approximately 27 campers remain at the campsite year round. The RVs are not permanent structures and are readily movable.

Mr. Craig 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. Mr. Lussi seconded the motion.

Mr. Saehrig addressed all the concerns of the comment letters received at the Agency and he noted staff is comfortable and recommends approval of the project with conditions.

The Regulatory Programs Committee vote was unanimous in favor of the motion to move the proposed project to Full Agency for approval.

2000-156R3 (V. Yamrick)  
John and Linda Caufield  
Town of Webb, Herkimer County  
Resource Management

Ms. Yamrick presented a power point presentation depicting the project site and land use area.

She noted the project site is a 5.9 acre parcel of land located at the terminus of Pine Street, and contains 750 ft. of shoreline on the North Branch of the Moose River in the Town of Webb, Herkimer County. The project site is also within ¼ mile of the North Branch of the Moose River, a statutorily designated Recreational River area.

Ms. Yamrick explained that the applicants seeks approval for a temporary subdivision into sites for the construction of a one-story 20 ft. x 12 ft. guest cottage to be temporarily used as a single-family dwelling and a new two-story, 4 bedroom 66 ft. x 57 ft. single-family dwelling, both connected to municipal water supply and a shared on-site wastewater treatment system located greater than 100 ft. from the mean high water mark of the river. She stated the 20 ft. x 12 ft. dwelling will be converted into a guest cottage upon completion of the 66 ft. x 57 ft. single-family dwelling.

Ms. Yamrick showed slides of the project site from various locations.

Question was asked if the septic design needs to be reviewed based on the length of time this permit has been in existence. Ms. Yamrick replied that a condition in the proposed renewal requires staff review and approval of the wastewater treatment system prior to utilization.

She briefly described the wastewater treatment system as a conventional absorption trench system with a minimum of two vertical feet from seasonal high ground water and shall be installed on the project site in the location on the site plan referenced herein.

Mr. Lalonde explained suitable soils were found in 2000 for a wastewater treatment system with the setbacks remaining the same as in the original authorized permit.

Mr. Craig asked for a motion to move the renewal to Full Agency for approval. Mr. Booth made the motion and it was seconded by Mr. Lussi.

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

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Ms. Yamrick asked if the Committee was approving all of the edits as is in the draft renewal and Mr. Craig answered yes.

4. Old Business: No

5. New Business: No

**Adjournment:** The Regulatory Committee meeting adjourned at 11:25am.

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: