



Adirondack Park Agency

LEILANI CRAFTS ULRICH
Chairwoman

TERRY MARTINO
Executive Director

Draft April Minutes
5/6/2015

Regulatory Programs Committee
April 17, 2015 Agency
Meeting: REW:mlr

Regulatory Programs Committee **April 17, 2015**

Committee Members present: Sherman Craig, Chair, Richard Booth, Designee Lynn Mahoney (Department of State), Art Lussi and Karen Feldman.

Other Agency Members and Designees present: Robert Stegemann (Department of Environmental Conservation), Bradley Austin, (NYS Department of Economic Development), and William Thomas, Lani Ulrich, Chairwoman

Agency Staff present: Terry Martino, Executive Director and James Townsend Counsel.

Local Government Review Board Representative: Fred Monroe, Executive Director

The Committee convened at 10:40 am.

1. Approval of February 2015 Draft Regulatory Programs Committee Minutes

Motion was made by Ms. Feldman and seconded by Ms. Mahoney to approve the February minutes with minor edits requested by Mr. Booth. The Committee vote was unanimous in favor of the motion.

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

Mr. Weber reviewed the monthly statistics of applications received and permits issued. He discussed projects from the High Profile Report and welcomed questions from the Board.

Mr. Weber discussed formatting issues with the high profile report to decrease listing duplicate projects and Mr. Booth recommended that any proposal that is a project and also a variance continue to be reported under project applications on the High Profile Report and Mr. Weber agreed. Mr. Booth also suggested that all variances that are not being brought to the Board be highlighted in the Deputy Director's monthly report.

Mr. Weber discussed the status of two project applications being reviewed by staff, P2014-53, LS Marina and P2014-108, Lake Flower Lodging, LLC. Mr. Weber explained that the Lake Flower Lodging, LLC project has received approval of a new Planned Unit Development District from the Village of Saranac Lake. In response to a question by Mr. Steggmann regarding the status of the FEMA determination, Mr. Weber said the decision is now final after the close of a required 90 day appeal period.

Mr. Weber also noted that staff received a request for a Declaratory Ruling from LS Marina LLC challenging the criteria staff used for determining a Value "1" wetland with this project. Mr. Weber briefly explained the criterion used to make the staff findings.

Several members expressed interest in visiting a few project sites that Mr. Weber mentioned in the Committee Report.

(3) <u>Project</u> : (A. Ziemann) P2015-28	Lyme Adirondack Timberlands I, LLC Town of Piercefield, St. Lawrence County Rural Use and Resource Management
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Mr. Ziemann presented a slide show describing the proposed project, Agency jurisdiction, the project site, silvicultural treatments, Agency review standards and public comment. He described the seven prescriptions, based upon stand conditions and desired outcomes for the 549-acre proposed timber harvest.

Mr. Ziemann showed color-coded topography maps and air photos of the proposed project site and stated the proposed timber harvest will only be briefly visible from one location on New York State Route 3.

Ms. Feldman asked Mr. Ziemann to explain "significant crown die-back." He stated it is a condition with greater than 50% crown die-back. The trees in this condition will not sustain themselves much longer and it is important to harvest them before the value of the timber degrades further.

The applicant is seeking this permit to increase its flexibility in its management options across the harvest area. Mr. Ziemann noted that much of this proposed project could be done non-jurisdictionally with minor revisions leaving 30 sq. ft. of basal area but this approach would involve leaving behind of undesirable stems counter to the intended prescription.

Mr. Ziemann was asked to explain the Harvest Prescription for Patch Clearcutting. He said this treatment is necessary to allow the applicants flexibility to create log landing space to operate.

Mr. Craig asked Mr. Ziemann if the applicants were not proposing the use of chemicals on the Beech stems for economical reasons? Mr. Ziemann replied that in part it may be an economic decision but that he also does not believe it is Lyme Timber's intent to clearcut 140 acres and rely on herbicide use. It was noted Lyme Timber has not used herbicides as part of their recent proposals reviewed by the Agency.

A brief discussion ensued regarding the GPS system that is used during the timber harvest. Mr. Ziemann stated that the project sponsors are continuously on the project site during harvesting to ensure the loggers understand harvest prescriptions.

Mr. Ziemann showed several photos from various locations of the proposed project site.

Mr. Ziemann listed the review standards required by Agency Regulations and stated that if this had been a non-jurisdictional project, the use of herbicides on a smaller area that contains no wetlands would be allowable without Agency review.

Mr. Ziemann discussed the comments received in the one letter received for the proposed project.

Mr. Ziemann stated the staff recommendation is to approve this project with conditions.

Ms. Feldman asked Mr. Ziemann to discuss the Finding added to the proposed permit regarding invasive species and Mr. Ziemann referred to Lyme Timber's Integrated Pest Management Plan and related Best Management Practices.

Mr. Craig asked for a motion to move the proposed project to full Agency for approval. Mr. Booth made the motion, seconded by Mr. Lussi.

Mr. Booth commented that this proposed project is an example of how the review process for timber management is working. Mr. Ziemann acknowledged that Lyme Timber has been an excellent applicant and works well with the Agency. He noted that the Agency is currently reviewing two other preapplications with other project sponsors.

Ms. Feldman asked how the work is monitored after the project has been authorized. Mr. Ziemann answered that staff is anticipating a spring follow-up visit on project sites where recent permits have been issued. He also stated that the results of harvest prescriptions may not be visible until a couple of years after the harvest.

Mr. Craig asked the Regulatory Programs Committee for a vote to move the proposed project to full Agency for approval. The Committee vote was unanimous in favor of the motion.

(4) Project (S. Parker)
2007-11R2

David Nenni
Town of Broadalbin, Fulton County
Moderate Intensity Use and Rural Use

Ms. Parker noted that this project is being brought to the Board for review as a second renewal.

She discussed the project description and Agency jurisdiction.

Ms. Parker presented a slide show and stated that the original professionally prepared site and wastewater system plans have been reviewed again by staff and confirmed that the plans are still acceptable.

Mr. Steggmann asked if all the surrounding homes are on individual septic systems and Ms. Parker answered yes.

Ms. Parker mentioned that staff made minor revisions to the original permit to be consistent with new permit language. She stated there were no changes to the previously approved plans.

Counsel Townsend said the first renewal was authorized by the Deputy Director in Regulatory Programs but by regulation a second renewal must be reviewed by the Board.

Mr. Craig asked for a motion to move the draft permit to Full Agency for its consideration. Mr. Booth made the motion, seconded by Mr. Lussi.

Chairwoman Ulrich asked Ms. Parker if the outdoor lighting condition is enforceable language and Ms. Parker answered yes.

The Committee vote was unanimous in favor of the motion.

(5) General Permit 2015G-1 Rapid Response Management or Containment of Aquatic Invasive Species Using Benthic Barriers and Hand Harvesting Techniques (L. Walrath)

Mr. Walrath reminded the Board of the presentation on aquatic invasive species he gave to the Agency in November 2014 and of staff's participation in the development of a regional rapid aquatic response or aquatic invasive species work plan with the Department of Environmental Conservation, the Adirondack Park Plant Invasive Program and the Lake Champlain Basin Program. He stated this proposed general permit compliments the ongoing work with the aquatic invasive species work plan.

Mr. Walrath explained the proposed general permit would authorize rapid response management of aquatic invasive species throughout the Adirondack Park by technically qualified persons and is limited to two management techniques: benthic barriers and hand-harvesting.

Mr. Walrath provided a slide show presentation describing the new general permit and the differences between the existing GP2008G-1B and the proposed amendment GP2015G-1.

Executive Director Martino commented that GP2008G-1B is the second amendment to GP2008G-1 which had been amended in 2012 to include Asian Clams and was developed to be more responsive after learning from the Asian Clam infestation in Lake George. Mr. Walrath explained staff has since realized that with the current requests and proposals, a new general permit is needed which will provide qualified persons a more rapid response to contain infestations.

Mr. Walrath explained that GP2015G-1 is designed to address two particular situations. He said two types of users are expected to use the proposed general permit. He said with the proposed general permit, the Deputy Director of Regulatory Programs will have the discretion to: (1) add more aquatic invasive-species to the eligibility list; (2) authorize additional qualified users of the general permit; and (3) allow more than .5 acres to be treated in one water body.

Mr. Walrath discussed the application requirements for Parts A & B, the process for the year-end reporting, SEQR review and next steps.

Mr. Craig asked for a motion to move to full Agency for consideration. Ms. Feldman made the motion and seconded by Mr. Booth to move to full Agency.

A discussion followed regarding how having one application/permit works for the two specific situations and the differences in review process. Mr. Booth asked if there are any doubts among staff for not insisting on having a lakewide survey for both situations. Mr. Walrath answered no because the applicant cannot treat more than one-half acre in the entire waterbody. The general permit would not apply if treatment was for a larger area, and hand-harvesting would only be allowed if any rare or endangered species were present.

Mr. Booth suggested the language "Terms and Conditions" also be added to the general permit as well as the application. Senior attorney Brewer agreed and will revise the general permit to include "Terms and Conditions."

Mr. Craig commented that the proposed general permit has appropriate control with added flexibility for management and containment of invasive species.

The Committee vote was unanimous in favor of the motion. The proposed draft general permit GP2015G-1 will move to full Agency for approval to seek public comment.

(6) General Permit 2014G-1A Management of Terrestrial Invasive Plant Species in or within 100 feet of Wetlands in the Adirondack Park. (M. Rooks and J. Hubbard)

Mr. Rooks stated staff is seeking a reissuance of this general permit. He noted this general permit is a very useful tool for staff and its applicants. It specifically authorizes eligible groups to control invasive species in wetlands or within 100 feet of wetlands.

Mr. Rooks described three species this general permit may target, described the general permit process and provided an example of a required annual report.

Ms. Hubbard explained the revisions to the draft general permit. She stated while the existing general permit is very successful, staff realize there are ways to improve the general permit to manage invasive species within the Park. Ms. Hubbard explained the substantive revision would allow the Deputy Director of Regulatory Programs in consultation with the RASS staff to approve additional users to undertake activities under this proposed general permit. She also noted other revisions consist of eliminating the three-year expiration date, the addition of procedures to use the general permit, and the use of a signed certification by the applicant acknowledging responsibility for complying with the permit conditions.

Mr. Booth asked staff to reconsider placing an expiration date on the proposed general permit. He said putting an expiration date on the general permit sends a message to the public. Ms. Feldman said the users of the general permit will send an annual report to the Agency. Executive Martino commented that staff believed the annual report would be the tool that holds applicants accountable.

Mr. Craig asked for a motion to move to full Agency for review. Mr. Booth made the motion and Ms. Feldman seconded the motion to move to full Agency for public comment.

Senior attorney Hubbard was asked to explain why this proposed general permit has a separate application and certification instead of one like the other proposed general permit. She stated the applicants apply to become eligible to use the General Permit and the certification acknowledges their responsibilities in using the Permit. Once the applicant is an authorized user they have authority to undertake any project in compliance with the General Permit.

(7) Review of Project 2014-215 and 2014-171 NYS Department of Transportation
(R. Weber)

Mr. Weber described two NYS Dept. of Transportation (DOT) projects: P2014-171, in the Village of Tupper Lake, Franklin County and P2014-215, in the Town of Keene, Essex County. Both projects were reviewed under Section 814 of the Act and approved by staff. He reviewed Agency jurisdiction and stated both projects included wetlands. He acknowledged Tom Saehrig, the Environmental Program Specialist 2 who reviewed the projects.

Mr. Weber described the project elements for the road reconstruction project in the Village of Tupper Lake.

Mr. Weber also described P2014-215, the Keene Seven Bridges Project. He discussed the project needs, objectives, the bridge locations and project elements.

He listed other agencies involved in the review process and stated how well the agencies worked together to move forward this important project.

Mr. Thomas asked if the seven bridges will be redone all at once or will the work be spaced out. Mr. Saehrig answered that the project will have a two-year schedule and DOT worked with the Town to minimize disruption of traffic. A number of bridges will be completed this year and the remainder will be completed next year.

(8) Old Business: None

(9) New Business: None

Adjournment: The Regulatory Committee meeting adjourned the first part of Committee meeting at 12:00 pm. The Committee reconvened at 2:00 pm for the consideration of P2014-215 and P2014-171 and adjourned at 2:45 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: