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Chairwoman

TERRY MARTINO
Executive Director

Draft November 2, 2015

September Agency Meeting
Regulatory Programs Committee
REW:mlr

**MINUTES OF THE REGULATORY PROGRAMS COMMITTEE MEETING
October 8, 2015**

The Committee meeting convened at approximately 9:30 am.

Regulatory Programs Committee Members Present

Sherman Craig, Chair, Richard Booth, Dierdre Scozzafava, Art Lussi and Karen Feldman.

Other Members and Designees Present

Robert Stegemann, Bradley Austin, William Thomas

Local Government Review Board

Fred Monroe

Agency Staff Present

Terry Martino, James Townsend, Richard Weber, Aaron Ziemann, Steven Brewer

1. **Approval of September 2015 Draft Regulatory Programs Committee Minutes**

Motion was made by Mr. Booth and seconded by Ms. Scozzafava to approve the August minutes. 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 reported staff received project application P2015-159 for a proposed 43-lot subdivision in the Village of Lake Placid, Town of North Elba, Essex County in Moderate and Rural Use land use areas. Mr. Weber stated due to the size and complexity of the proposal, the applicant has agreed to suspend the initial 15 day time clock until after staff has been able to complete the site visits this fall.

Mr. Weber reported that a non-jurisdictional letter was sent to LS Marina, LLC., P2014-53, regarding the applicant's request to remove structures at the Annex and Main Marina sites and to rebuild-in-kind buildings at the Main Marina site which are currently being used. The project involves the rehabilitation and reconfiguration of the preexisting "Crescent Bay Marina" and will require a variance. To date there has been no response from the applicant to a Notice of Incomplete Application sent to the applicant on May 2 or a supplemental request for additional information sent on July 30, 2015 following a wetland site visit.

Mr. Weber provided a brief update on variances listed on the High Profile Report and summarized the number and type of variance reviewed by the Agency over the past 5 years.

Mr. Weber commended the Village and Town of Tupper Lake and the New York State Department of Transportation for their success in opening up a new 3 mile multi-purpose recreational trail connecting the train station with the Wild Center. The Agency issued a wetlands permit for this project earlier this year.

Mr. Weber stated Aaron Ziemann will be presenting a general overview on the procedures and materials used by staff to review jurisdictional silvicultural proposals. Mr. Weber stated Mr. Ziemann's presentation will illustrate the level of detail and rigor staff applies to review timber harvest proposals. Mr. Weber suggested that this might again be a time for the Board to consider the Deputy Director of Regulatory Programs existing delegating authority to issue certain more straightforward timber harvest permits.

3. Agency review of Timber Harvest Proposals (A. Ziemann)

Mr. Ziemann provided a presentation describing the Agency's process and level of detail applied by staff when reviewing timber harvest projects. Mr. Ziemann commented that the Agency's recent review of ten timber harvesting projects (including 3 projects being presented today) should in no way be understood as a net increase in timber harvesting occurring with the Adirondack Park.

Mr. Ziemann stated that in almost every review, the applicant has indicated to staff that the proposed harvests could be undertaken without an Agency permit with minor modifications to the harvest plan in order to avoid Agency jurisdiction. He said instead some large tract forest managers are now coming forward with proposals for jurisdictional timber harvests, with the intention of conducting silvicultural treatments designed to increase the future value of their timberlands, while creating a mosaic comprised of different ages of forest stands and a variety of habitat types.

Mr. Ziemann said the preapplication meeting creates the opportunity for staff and the applicant to discuss the review process without the pressure of time clocks. The applicant typically provides basic location information before the meeting so staff can become familiar with the project site and evaluate in-house mapped resources on the Agency's geographic information system (GIS). The preapplication meeting familiarizes the Project Sponsor with the information requirements for the review process and as a result they are much better prepared for the eventual submission of the application.

Mr. Booth asked Mr. Ziemann if Agency staff have ever requested the applicant to enlarge the project site where the timber harvest is proposed. Mr. Ziemann answered yes and gave examples where staff may have suggested the increase to accommodate a new access road or to include a larger area surrounding wetlands.

Ms. Feldman asked Mr. Ziemann to explain why the applicants are bringing their projects to the Agency to review if with only a few modifications the project would be deemed nonjurisdictional. Mr. Ziemann replied that the applicants must keep 30 sq. ft. of residual basal area to avoid Agency jurisdiction which does not represent a large amount of timber but ends up leaving low quality timber standing that does not have substantial financial value. Mr. Ziemann explained the applicants would prefer to harvest the low quality timber to better enable regeneration and creating the better conditions for the future forest.

Mr. Stegemann asked if Agency staff plans on following up on the silvicultural practices authorized in the permits to ensure that the goal of the Agency is being achieved by creating a quality forest in the future. Mr. Ziemann replied yes that is his plan and that one of the projects being presented today will review past cuts that occurred in 2009.

4. Project: (Aaron Ziemann) MWF Adirondacks
P2015-124 Town of Colton, St. Lawrence County
Resource Management

Mr. Ziemann welcomed Mr. Jeff Denkenberger the managing forester for MWF Woodlands, LLC and The Molpus Woodlands Group, LLC. Mr. Ziemann described the project site, the proposal and Agency jurisdiction. He explained the proposal is for a shelterwood overstory removal and refreshed the Board on the silvicultural purpose of a shelterwood harvest. He stated a shelterwood establishment cut was undertaken about 15 years ago on this project site. Mr. Ziemann explained that the retained overstory was successful in providing shelter for a now thriving understory. He said the applicant proposes to harvest the overstory now before further decline reduces the value of the trees.

Mr. Ziemann explained that The Molpus Group owns 273,000 acres of forestlands in the Adirondacks and is the largest private landowner in the park. (Lyme is second with 240,000 acres). He said that these forests are certified to the Sustainable Forestry Initiative management standards and are subject to the conditions of a New York State Sustainable Forestry Conservation Easement.

Mr. Ziemann showed slides of the proposed project site. He noted the project site borders state land to the south and the site is accessed via a private road from NYS Route 3. Mr. Ziemann noted the Working Forest conservation easement allows for recreational use by the general public, but area closures will be in place during the harvest with alternative routes available for snowmobile access during the harvest.

Mr. Ziemann also explained the applicant's proposal for riparian management buffers to streams and wetlands according to the New York State Best Management Practices for Water Quality. He stated there are several intermittent streams, which will be crossed using temporary bridging and noted no operations will occur in wetlands.

Mr. Ziemann showed slides explaining the shelterwood overstory removal, current stand condition (understory), and the harvest prescription (removal and retention).

Mr. Ziemann reviewed Agency review standards. He stated one comment letter was received from Mr. Bauer for Protect the Adirondacks which noted their concern that there is insufficient silvicultural basis for the approval of the proposed harvests. Mr. Ziemann stated staff are very comfortable that all the concerns raised in Mr. Bauer's letter have been completely addressed.

Mr. Craig stated that Mr. Bauer referred to specific items not seen or available in the physical file that he reviewed at the Agency. Mr. Craig asked Mr. Ziemann if Mr. Bauer would have been able to review the items he referred to if he had asked. Agency Counsel stated access to records which is used by anyone who requests to review an existing project receives the existing file that can be identified. Agency Counsel noted that Mr. Ziemann presented and discussed items in his first presentation such as electronic databases, which are not part of the hard file reviewed by Mr. Bauer, and therefore not part of the record included in the FOIL request. Agency Counsel explained that many of the GIS data layers provided in the presentation are available on the Agency's website.

Mr. Steggmann added that some of the concerns in the letter are addressed in the certification program standards.

Mr. Ziemann was asked to explain the concerns raised in the letter regarding the project site being located adjacent to Forest Preserve lands which are listed on the National Register of Historic Places. Mr. Ziemann stated that staff did submit the project to the Agency's Historic Preservation Officer who determined the proposal is not within an identified area or have an impact on archeologically-sensitive resources. In addition, the project will not affect any eligible or listed historic resources on either the national or state register of historic places

Agency Counsel stated that the differences of review between unit management planning on state lands and the review of activities on private lands with conservation easements has been a long-standing issue of Mr. Bauer's. Mr. Bauer has asserted there should be a greater interest in forestry activities because the conservation easement was purchased with public funds.

Mr. Booth commented it would be an educational tool for staff to respond to the comment letter by replying to each of the concerns listed. Mr. Lussi seconded Mr. Booth's request for staff to respond to the concerns in the comment letter. Mr. Steggmann stated the majority of concerns have been addressed in the earlier presentation.

Mr. Craig asked for a motion to move the permit to full Agency for approval. Mr. Booth made the motion, seconded by Ms. Feldman.

The Committee vote was unanimous in favor of the motion.

5. Project: (Aaron Ziemann) Lyme Adirondack Timberlands, II, LLC
P2015-130 Town of Lake Luzerne, Warren County
Rural Use

Mr. Ziemann presented a project site overview, jurisdiction and a description of the proposed silvicultural treatments and staff recommendation to approve with conditions.

Mr. Ziemann explained the proposal is for timber harvesting on a 121±-acre portion of a 3,360 acre tract which includes 5 different treatment areas. Mr. Ziemann stated the proposed harvest area is 121 acres, but the actual jurisdictional project site is approximately 200 acres, because it includes smaller patch cuts that were undertaken within the last 10 years, in 2008.

Mr. Ziemann said all of these forests are certified to the Forest Stewardship Counsel and Sustainable Forestry Initiative forest management standards, and are subject to the conditions of a New York State Sustainable Forestry Conservation Easement. He also noted that Prentiss and Carlisle Forest Resource Management and Timberland Services manage these Adirondack forestlands.

Mr. Ziemann showed several slides depicting the topography of the project site. He noted the current proposal is a continuation of Lyme's efforts to increase age and species diversity across their managed lands. The harvest is designed to remove unacceptable growing stock and create the conditions for healthy, vigorously growing stands.

Mr. Ziemann explained the silvicultural treatments for each portion of the 121±-acre parcel and detailed the seed tree system which was established during the 2008 patchcuts. He said it is similar to the shelterwood method but seed trees have a lower density of retained trees, kept primarily as a seed source to start the new stand, and not for protection of developing regeneration. In this proposal, Lyme would like to remove the seed trees to capture their value. Mr. Ziemann explained the shelterwood establishment is designed to open up the stand to help get regeneration started.

Mr. Ziemann discussed Agency review standards and mentioned that one comment letter was received. He stated the letter cited concerns with the quality of the Agency's review of this project and that staff completed the project without the required materials. Mr. Ziemann said Agency staff are satisfied with the review of the project, based on review of submitted materials and field visits. He said staff recommends approving the project with conditions.

Mr. Steggmann commented on a paragraph in the comment letter that suggested short-term management does not build the economic value nor enhance the ecological integrity of the forest. Mr. Steggman said looking at the harvest from 2008 shows the opposite, a poor value stand is being replaced with a high value stand that will maintain the economic viability of this forest into the future. He said this is a long-term strategy not a short-term strategy of investing in the future of the forests.

Mr. Monroe asked Mr. Ziemann if this project would have been non-jurisdictional if the clearcuts had not occurred. Mr. Ziemann answered yes. All of these proposed treatments would not have been jurisdictional if there had not been patch clearcuts in the last 10 years.

Mr. Ziemann added Agency review of these timber projects has been an educational process for the applicants and Agency staff.

Mr. Craig asked for a motion to move the permit to full Agency for approval. Mr. Lussi made the motion, seconded by Ms. Feldman.

The Committee vote was unanimous in favor of the motion.

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| 6. | <u>Project:</u> (Aaron Ziemann)
P2015-146 | Lyme Adirondack Timberlands, II, LLC
Town of Lake Pleasant, Hamilton County
Resource Management |
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Mr. Ziemann provided a project overview, a description of Agency jurisdiction and proposed silvicultural treatments.

Mr. Ziemann stated this project is a proposal for an even-aged management on 43 acres of a 14,379 acre tract. Mr. Ziemann said the 42-acre harvest area includes additional areas that were harvested in 2009 therefore involving a total acreage for the project site of approximately 95 acres. Mr. Ziemann reiterated that all of these forests are certified to the Forest Stewardship Counsel and Sustainable Forestry Initiative forest management standards, and are subject to the conditions of a New York State Sustainable Forestry Conservation Easement.

Mr. Ziemann said the access is by a private road off of the Jessup River Road (a public road) which is off of NYS Route 30.

He stated the harvest will not have any impact on snowmobile use. He said the project will be undertaken in the spring or fall to encourage turning up the soil for the spreading of Yellow Birch.

Mr. Ziemann noted the topography on the project site can be described as flat and there are existing skid trails established during previous harvests that will be reopened and reused, using Best Management Practices for Water Quality. There are no wetlands or waterbodies within the harvest boundary.

The proposed harvest area was last cut in 1999 by the previous owner. Mr. Ziemann stated the overall goals of the harvest are to create conditions suited for desirable regeneration, to capture declining value, and to provide early successional habitat. He noted Lyme Timber is partnering with the Wildlife Management Institute, a conservation group headquartered in Washington, DC. This location has been identified as an ideal place to create a mixture of early successional habitats.

Mr. Ziemann described the harvest prescription (uniform clearcut) and Agency review standards. Mr. Ziemann said there were no comment letters received. He said staff recommends approving the permit with conditions.

Mr. Craig asked for a motion to move the permit to full Agency for approval. Mr. Lussi made the motion, seconded by Ms. Feldman.

The Committee vote was unanimous in favor of the motion.

Mr. Craig suggested the discussion regarding the Deputy Director's review and authorization of certain timber harvest projects without Board review be postponed due to the lack of remaining time in the Committee meeting. Mr. Craig said he is very comfortable and confident with the Agency staff review of silvicultural projects. He suggested the DDRP be allowed to decide when a timber harvest project should be brought to the Board for review.

6. Old Business: None

7. New Business: None

Adjournment: The Regulatory Committee meeting adjourned at 12:00 pm.

Note: The PowerPoint 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