


**THIS PERMIT AND ORDER AMENDS AND SUPERCEDES PERMIT AND ORDER  
2017-0216 ISSUED JANUARY 12, 2018. THIS IS A TWO-SIDED DOCUMENT.**

 <p><b>Adirondack Park Agency</b></p> <p>P.O. Box 99, 1133 NYS Route 86 Ray Brook, New York 12977 Tel: (518) 891-4050 Fax: (518) 891-3938 www.apa.ny.gov</p>	<p>APA Project Permit and Order <b>2017-0216A and 2018-0218</b></p>
<p>In the Matter of the Application of</p> <p><b>NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, TOWN OF NORTH HUDSON, ESSEX COUNTY Permittee</b></p> <p>for a permit and order pursuant to § 814 of the Adirondack Park Agency Act and 9 NYCRR Part 577</p>	<p>Date Issued: <b>February 15, 2019</b></p>
	<p>To the County Clerk: This permit and order must be recorded on or before April 16, 2019. Please index this permit and order in the grantor index under the following names:</p> <ol style="list-style-type: none"><li><b>1. Town of North Hudson</b></li><li><b>2. Essex County</b></li></ol>

**SUMMARY AND AUTHORIZATION**

This Permit and Order authorizes the Frontier Town Campground, Equestrian and Day Use Area project, as amended, in an area classified Rural Use on the Adirondack Park Land Use and Development Plan Map in the Town of North Hudson, Essex County. This Permit and Order determines that the campground, in areas classified as Hamlet, Moderate Intensity Use, and Rural Use, as conditioned, will be consistent with the provisions of the Adirondack Park Land Use and Development Plan and the Agency's shoreline restrictions, and will not have an undue adverse impact upon the resources of the Adirondack Park.

The permittee is also granted a variance, as conditioned herein, from the applicable 150-foot shoreline structure setback required by 577.6(b)(3) of Agency regulations ("9 NYCRR") implementing Article 15, Title 27 of the Environmental Conservation Law ("New York State Wild, Scenic and Recreational Rivers System Act" or "Rivers Act"), to allow for the construction of a stone stairway approximately 47 feet from the mean high water mark of the Schroon River, in an area classified Rural Use by the Official Adirondack Park Land Use and Development Plan Map in the Town of North Hudson, Essex County.

This Permit and Order shall expire unless recorded in the Essex County Clerk's Office on or before April 16, 2019, in the names of the owners of record of the project site on the recordation date.

The project shall not be undertaken or continued unless the project authorized herein is in existence within four years from the date the permit and order is recorded. The Agency will consider the project in existence when the campground is first opened to the public. The variance granted herein, however, runs with the land and will not expire.

The project shall be undertaken in compliance with all conditions stated herein. Failure to comply with this Permit and Order is a violation and may subject the permittee, successors, and assigns to civil penalties and other legal proceedings.

This Permit and Order does not convey any right to trespass upon the lands or interfere with the riparian rights of others in order to undertake the authorized project, nor does it authorize the impairment of any easement, right, title, or interest in real or personal property. Nothing contained in this Permit and Order shall be construed to satisfy any legal obligations of the permittee to comply with all applicable laws and regulations or to obtain any governmental approval or permit from any entity other than the Agency, whether federal, State, regional, or local.

### **APPLICABLE LAWS and AGENCY JURISDICTION**

Establishment of the Frontier Town Campground, Equestrian and Day Use Area by the New York State Department of Environmental Conservation (NYSDEC) requires review by the Adirondack Park Agency pursuant to § 814 of the Adirondack Park Agency Act [Executive Law, Article 27]. The portion of the project on Rural Use lands is also a rivers project requiring an Agency permit pursuant to § 577.4(a) and § 577.5(c)(1) of Agency regulations implementing the Wild, Scenic and Recreational Rivers System Act [Article 15, Title 27 of the Environmental Conservation Law], because it involves the establishment of a campground within the Schroon River Recreational River area.

Condition 6 of Agency Permit and Order 2017-0216 requires a new or amended permit for “the undertaking of any new land use or development not authorized [by Permit and Order 2017-0216] on the Rural Use portion of the project site and within the Schroon River Recreational River Area.”

Condition 7 of Agency Permit and Order 2017-0216 states: “prior to any grading, clearing, cutting, or other earth disturbance associated with trail construction, written authorization shall be obtained from the Agency for final trail locations and designs.”

Condition 9 of Agency Permit and Order 2017-0216 requires prior written Agency authorization for vegetative clearing related to trail construction.

Section 577.6(b)(3) of Agency regulations implementing the Rivers Act establishes a minimum shoreline setback of 150 feet from the mean high water mark of the Schroon River for all structures other than fences, poles, signs of less than 2 square feet in area, lean-tos, docks, boathouses, bridges, and stream improvement structures for fishery management purposes. The applicants requested a variance from this structure setback requirement pursuant to 9 NYCRR §577.10.

Condition 15 of Agency Permit and Order 2017-0216 requires prior written Agency authorization for bridges within 150 feet of the mean high water mark of the Schroon River.

### **PROJECT SITE**

The project site is located on Frontier Town Road on the west side of NYS Route 9 in the Town of North Hudson, Essex County, on lands classified Rural Use, Moderate Intensity Use, and Hamlet on the Adirondack Park Land Use and Development Plan Map. The project site contains 3,900± feet of shoreline on the Schroon River and is located almost entirely within the designated Schroon River Recreational River area.

The project site contains 91.1±-acres and is a portion of the lands described in an Access Agreement between the NYSDEC, Essex County, and the Town of North Hudson, filed as Essex County Contract No. MISC-17-0063. The project site is bounded by the “project limit line” on the Project Plans described below. The site is comprised of all of Town of North Hudson Tax Map parcel 125.1-1-19, and portions of Tax Map parcels 125.1-1-21 and 39.2. Parcel 19 is separated from the rest of the project site by a linear parcel currently owned by National Grid.

Parcels 19 and 21 are described in a deed from Michael G. Diskin to Essex County, dated November 18, 2013 and recorded the same day in the Essex County Clerk's Office under Instrument Number 2013-5366 in Book 1751 at Page 49. Parcel 39.2 is described in a deed from NL Industries, Inc. to the Town of North Hudson, dated February 28, 1992, and recorded March 13, 1992 in the Essex County Clerk's Office in Book 1010 at Page 260.

### **AMENDED PROJECT AND VARIANCE PROPOSAL**

The project as previously authorized by Agency Permit and Order 2017-0216 involves a new universally designed accessible campground known as the Frontier Town Campground, Equestrian and Day Use Area. The development includes approximately 12,300 linear feet of roadway, 91 camping sites (13 RV, 33 equestrian, and 45 tent), on-site water supply, on-site wastewater treatment, and stormwater facilities. All electric power distribution is underground. As proposed, the operating season for the Frontier Town Campground, Equestrian and Day Use Area is from mid-May through mid-October, with the Trailhead Parking Lot open year-round.

The majority of the campground structures are located on Rural Use lands, including a ticket booth, three pavilions, seven horse tie stalls and a stud stall, a recycling building, a caretaker's cabin, a maintenance garage, and three bath/shower buildings. A staff cabin, firewood storage building, water treatment and storage building, and bath/shower building are on Moderate Intensity Use lands. The Hamlet lands include the summer Day Use Area, with an associated pavilion and bathroom building.

The requested amendment is for Phase 3 trail enhancements at the Frontier Town Campground, Equestrian and Day Use Area. Specifically, construction of a stone stairway (also requiring a variance), a timber foot bridge, additional accessible and non-accessible trails, and four viewpoints.

The timber foot bridge is located 20 feet from the mean high water mark of the Schroon River and crosses an intermittent stream. The foot bridge measures 4 feet 10 inches wide, with 5-foot-wide steps on either side, by 30.3 feet long including the steps (147.5 square feet in area).

The four viewpoints are low stone walls/curbs that define the end of a trail spur. Two overlook the Schroon River in the Hamlet land use area and two overlook the oxbow wetland in the Rural Use land use area. The area of the face view for the stone wall/curb as seen from the Schroon River will be less than 100 square feet at each of the two viewing locations.

The variance as conditionally approved herein involves construction of a stone stairway with 23 steps located 47 feet from the mean high water mark of the Schroon River. The stone stairway measures 4 feet wide by 32 feet long (128 square feet in area) and will connect the Tent Camping Area to a natural landing area adjacent to the Schroon River and, from there, a path to the summer Day Use Area. No handrail is proposed or authorized. The stone stairway will improve an existing nearby trail. The existing unimproved trail traverses the steep (58%), sandy slope and – at the bottom of the slope – is located 17 feet from the mean high water mark of the Schroon River.

### **PLANS AND REPORTS**

The project is shown on 158 sheets of plans titled “Provide Camping and Equestrian Center, Frontier Town Road, Town of North Hudson, Essex County, NY, O.G.S. Project No. 45630-C,” prepared by C.T. Male Associates Engineering, Surveying, Architecture & Landscape Architecture, D.P.C., and last dated January 2, 2018 unless otherwise noted below (Project Plans). The following revised plan sheets supersede and replace those Project Plans last dated January 2, 2018:

- C-131 last revised 2/22/18
- C-141 last revised 1/22/18
- C-142 last revised 1/22/18
- C-143 last revised 1/22/18
- C-144 last revised 2/22/18
- C-145 last revised 1/22/18
- C-146 last revised 2/22/18
- C-147 last revised 2/22/18
- C-148 last revised 1/22/18
- C-149 last revised 1/22/18
- C-150 last revised 2/22/18
- C-151 last revised 1/22/18
- C-152 last revised 1/22/18
- C-153 last revised 1/22/18
- C-161 last revised 3/12/18
- C-162 last revised 3/12/18
- C-163 last revised 3/12/18
- C-164 last revised 3/12/18
- C-165 last revised 2/22/18
- C-166 last revised 3/12/18
- C-167 last revised 3/12/18
- C-168 last revised 3/12/18
- C-169 last revised 3/12/18
- C-170 last revised 3/12/18
- C-171 last revised 3/12/18
- C-172 last revised 2/22/18
- C-173 last revised 2/22/18
- C-181 last revised 2/22/18
- C-182 last revised 2/22/18
- C-183 last revised 2/22/18
- C-184 last revised 2/22/18
- C-185 last revised 2/22/18
- C-186 last revised 1/22/18
- C-215 last revised 1/22/18
- C-216 last revised 1/22/18
- L-111 last revised 3/12/18
- C-501 last revised 1/22/18
- C-502 last revised 1/22/18
- C-505 last revised 2/22/18
- C-506 last revised 1/22/18
- C-507 last revised 1/22/18
- C-510 last revised 3/12/18
- C-520 last revised 12/19/18
- C-521 last revised 1/15/19
- S-570 last revised 1/15/19
- S-571 last revised 1/15/19

The following 6 revised plan sheets (Trail Plans) are in addition to those 150 last dated January 2, 2018, since they provide different project details than the January 2, 2018 plan sheets with the same numbers:

- G-001 last revised 12/19/18
- C-101 last revised 1/15/19
- C-102 last revised 1/15/19
- C-103 last revised 12/19/18
- C-104 last revised 1/15/19
- C-105 last revised 12/19/18

The project is also detailed in the following reports:

- A six page report with five appendices titled “Basis of Design Report – On-Site Wastewater Treatment and Disposal System, Provide Camping and Equestrian Center, Frontier Town Campground, Frontier Town Road, North Hudson, NY 12855, Project No. 45630 prepared for Department of Environmental Conservation,” sealed by Charles R. Kortz, P.E. for C.T. Male Associates Engineering, Surveying, Architecture & Landscape Architecture, D.P.C., and dated March 9, 2018 (Wastewater Basis of Design Report); and
- A 25-page report with two figures and nine appendices titled “Stormwater Pollution Prevention Plan (SWPPP), Provide Camping and Equestrian Center – Frontier Town,” prepared by C.T. Male Associates Engineering, Surveying, Architecture & Landscape Architecture, D.P.C., and dated January 24, 2018 (Stormwater Pollution Prevention Plan).

A reduced-scale copy of the Overall Site Plan (Sheet G-003 of the Project Plans), the Overall Trail Plan (G-001 of the Trail Plans), and General Site Details (Sheet C-521 of the Project Plans showing the Non-Accessible Trail Stone Stairway) are attached as part of this permit and order for easy reference. The original, full-scale maps and plans described in this paragraph are the official plans for the project, with copies available upon request from Adirondack Park Agency headquarters in Ray Brook, New York.

### **CONDITIONS**

#### **THE PROJECT IS APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:**

1. The project shall not be undertaken until this Permit and Order has been recorded in the Essex County Clerk's Office.
2. This Permit and Order is binding on the permittee, all present and future owners or lessees of the Rural Use portion of the project site, and all entities and contractors undertaking all or a portion of the project, for as long as the campground remains on the site. Copies of this Permit and Order and the Project Plans, Trail Plans, Wastewater Basis of Design Report, and Stormwater Pollution Prevention Plan shall be furnished by the permittee to all persons undertaking any development activities authorized herein.
3. In addition to complying with all terms and conditions of this Permit and Order, all future activities on the project site shall be undertaken in compliance with the requirements of New York State's Adirondack Park Agency Act, Freshwater

Wetlands Act, Wild, Scenic and Recreational Rivers System Act, and the Adirondack Park Agency's implementing regulations [9 NYCRR §§ 570-588].

4. All deeds conveying all or a portion of the Rural Use lands subject to this Permit and Order shall contain references to this document as follows: "The lands conveyed are subject to Adirondack Park Agency Permit and Order 2017-0216A and 2018-0218, issued February 15, 2019, the conditions of which are binding upon the heirs, successors and assigns of the grantors and all subsequent grantees."

### **Development**

#### **Construction Location and Size**

5. This Permit and Order authorizes the construction of the Frontier Town Campground, Equestrian and Day Use Area in the location shown and as depicted on the Project Plans and Trail Plans. Any change to the location or dimensions of the campsites, structures, or roads shall require prior written Agency authorization.
6. The undertaking of any new land use or development not authorized herein on the Rural Use portion of the project site and within the Schroon River Recreational River Area shall require a new or amended permit.

#### **Trails**

7. Phase 1, Phase 2, and Phase 3 trails are authorized for construction in the location shown and as depicted on the Project Plans and Trail Plans. Prior to any grading, clearing, cutting, or other earth disturbance associated with any additional trails not shown on the Project Plans or Trail Plans, or improvement of the "existing trails to remain unimproved" (including unimproved river access), written authorization shall be obtained from the Agency for final trail locations and designs.

#### **Outdoor Lighting**

8. Any new free-standing or building-mounted outdoor lights shall employ full cut-off fixtures that are fully shielded to direct light downward and not into the sky or toward the Schroon River or adjoining roads or property. Exterior lighting shall be limited to the buildings and pavilions shown on the Project Plans.

#### **Vegetation**

9. Outside of the proposed edge of clearing shown on the Project Plans and Trail Plans, no trees, shrubs, or other woody stemmed vegetation may be cut, culled, trimmed, pruned or otherwise removed or disturbed on the project site without prior written Agency authorization, except to allow for the removal of dead or diseased vegetation, rotten or damaged trees, or any other vegetation that presents a safety or health hazard. As described above, written authorization shall be obtained prior to any clearing related to trail construction or improvement beyond that authorized herein.

10. Trees, shrubs, and vegetation shall be planted and maintained as described and detailed on the Project Plans.
11. Prior to grading, clearing, cutting, and construction activities on the project site, a buffer area from all locations of Northern Running-pine shall be established as recommended and described in the report titled "Ecological Assessment, Upper Hudson River Recreation Hub State Campground and Equestrian Center at Frontier Town, Town of North Hudson, Essex County, New York," prepared by Environmental Design & Research, Landscape Architecture, Engineering & Environmental Services, D.P.C., and dated October 2017 (Ecological Assessment) and as shown on the Project Plans.

Prior to operation of the campground, a permanent fence shall be installed as recommended and described in the Ecological Assessment and as shown on the Project Plans.

#### **Wetlands**

12. The undertaking of any activity involving wetlands on the project site shall require a new or amended permit.

#### **Stream Relocation**

13. The intermittent stream south of the Equestrian Camping Area shall be relocated as depicted and detailed on the Project Plans.

#### **Shoreline Structure Setbacks**

14. Construction of any dock, boathouse, or shoreline access structure shall require prior written Agency authorization.
15. On the Rural Use portion of the project site, new structures are prohibited within 150 feet, measured horizontally, of the mean high water mark of the Schroon River, except for the stone stairway shown on the Project Plans and Trail Plans and authorized by Condition 16. Docks, boathouses, fences, poles, lean-tos, and bridges are excepted from this requirement, but shall require prior written Agency authorization (see Condition 17).
16. This Permit and Order authorizes the construction of the 128-square-foot stone stairway in the location shown and as depicted on the Project Plans and Trail Plans. Any change to the location, dimensions, or materials of the stone stairway shall require prior written Agency authorization.
17. This Permit and Order authorizes the construction of the 150-square-foot timber foot bridge in the location shown and as depicted on the Project Plans and Trail Plans. Any change to the location, dimensions, or materials of the foot bridge shall require prior written Agency authorization.

18. The tent platforms shown on Sheet C-517 of the Project Plans are prohibited on Rural Use lands within 150 feet of the mean high water mark of the River. The picnic tables and fireplaces depicted on Sheet C-516 of the Project Plans may be located within 150 feet of the mean high water mark.
19. All signs, including wayfinding signs, must be less than 2 square feet in area when located within 150 feet of the mean high water mark of the Schroon River and in the Rural Use land use area.

### **Project Operations**

#### **Period of Operation**

20. Operation of the Frontier Town Campground, Equestrian and Day Use Area between November 1 and April 30 shall require prior written Agency authorization. No additional authorization is required for year-round operation of the Trailhead Parking Lot.

#### **Invasive Species Control/Sanitizing Equipment**

21. When brought from off-site, all equipment, including but not limited to trucks, excavators, tractors, etc., and hand excavation tools such as shovels, rakes, and picks, to be used on the project site shall be clean and free of soil, mud, or other similar material. If washed on the project site, equipment shall be washed in one location to prevent the distribution of propagules among different wash sites. All construction equipment and vehicles operating in areas that may contain existing invasive species shall be thoroughly cleaned prior to moving to other areas.
22. The control of existing invasive species on the project site shall follow the most recent version of "Inter-Agency Guidelines for Implementing Best Management Practices to Control Terrestrial and Aquatic Invasive Species on NYSDEC Administered Lands of the Adirondack Park," prepared by the NYSDEC, Adirondack Park Agency, and the Adirondack Park Invasive Plant Program (last updated June 2015). Best management practices for control of any invasive species that are not discussed in the Inter-Agency Guidelines shall be implemented as determined through consultation between the NYSDEC and the Agency.

### **Infrastructure**

#### **Wastewater**

23. If installed within five years of the date of issuance of this permit, the on-site wastewater treatment systems shall be constructed in conformance with the location and design shown on the Project Plans and detailed in the Wastewater Basis of Design Report. Any change in the location or design shown on the Project Plans shall require prior written Agency authorization. Construction of the systems shall be supervised by a New York State licensed Professional Engineer. Within 30 days of complete systems installation and prior to their utilization, the design professional shall provide written certification to the Agency that the systems were built in compliance with the approved plans.



No on-site wastewater treatment system(s) shall be installed on the project site more than five years after the date of issuance of this permit and order except pursuant to written authorization from the Agency.

### **Stormwater Management/Erosion and Sediment Control/Grading**

24. The project shall be undertaken in compliance with the Project Plans and the Stormwater Pollution Prevention Plan. Any modifications from these plans shall require prior written Agency authorization.
25. Silt fence and/or compost filter socks shall be placed between Phase 3 trail construction and any water body or wetland as depicted on the Project Plans and Trail Plans.

## **FINDINGS OF FACT**

### **Background/Property History**

1. The project site is a portion of lands described in an access agreement between the NYSDEC, Essex County, and Town of North Hudson. The NYSDEC and landowners have indicated that the 91.1±-acre project site will be encumbered by a future conservation easement.
2. The Hamlet portion of the project site is currently owned by Essex County, and as of 2017 contained two dilapidated barns (labeled as "Barn 1" and "Barn 2" on the Project Plans). These two barns were removed in 2018.
3. The Moderate Intensity Use and Rural Use portions of the project site are owned by the Town of North Hudson, and – until 2018 – were developed with a trail network known as the Town of North Hudson Multiple Use Trail System and used by the public for hiking, biking, horse riding, and snowmobiling.
4. In 2018, partial construction of the Frontier Town Campground, Equestrian, and Day Use Area occurred on the project site pursuant to Permit and Order 2017-0216.

### **Nearby Land Uses**

5. Between 1952 and 1999, the former Frontier Town Theme Park operated on the lands immediately to the north of the project site. Pursuant to an existing Master Plan for the Upper Hudson Recreation Hub, commercial and other facilities may be established on these former Theme Park lands to complement the Frontier Town Campground, Equestrian and Day Use Area. Rehabilitation, if viable, of some existing Frontier Town Village structures and installation of interpretive features is anticipated.
6. There are several existing commercial businesses north of the project site in the vicinity of the NYS Route 9/Blue Ridge Road intersection, including a gas station, private campground, and retail store.

7. Frontier Town Road, NYS Route 9, and a 10-acre residential property form the eastern boundary of the project site. A sand and gravel extraction, owned by the Town of North Hudson, and the Schroon River Cemetery are located immediately across Route 9 to the east, with the Hammond Pond Wild Forest located further to the east and south.
8. The Schroon River forms the western boundary of the project site. The Adirondack Northway (I-87), the Hoffman Notch Wilderness, and a small portion of the Hammond Pond Wild Forest are located to the west of the Schroon River.
9. In the location of the stone stairway requiring a variance, both sides of the Schroon River are owned by the Town of North Hudson. The east side of the river contains the Frontier Town Campground, Equestrian, and Day Use Area and is where the stone stairway is proposed. The west side of the river is vacant and forested. The stone stairway is over 800 feet from the property boundary to the north (with Essex County and also part of the campground) and over 1,800 feet from the property boundary to the south (State-owned Wild Forest).

#### **Access/Traffic**

10. Existing access to the project site is from NYS Route 9 and Frontier Town Road. The campground entrance road and a separate entrance to the year-round Trailhead Parking Lot are located off Frontier Town Road. The maintenance road entrance is from NYS Route 9.
11. The application included a report titled "Frontier Town Upper Hudson Recreation Hub Traffic Impact Analysis," prepared by BFJ Planning, and dated October 26, 2017 (Traffic Report). As described in this report and confirmed by Agency review, the anticipated traffic volumes for the project, as well as potential private commercial development to the north, can be accommodated without any significant impacts. All affected intersections are projected to operate at levels of service that are substantially below operational thresholds.

#### **Project Site**

##### **Water Resources/Floodplain**

12. The Schroon River is a NYSDEC Class C(T) Stream, with the "C" designation indicating a best usage for fishing and water quality suitable for primary and secondary contact recreation, and the "(T)" designation indicating that the water may support a trout population. Water courses, including the river and intermittent streams on the site, are depicted on the Project Plans.
13. The timber foot bridge authorized herein crosses an intermittent stream that connects the Schroon River to a value "2" wetland in the location of an old river oxbow.

14. The Schroon River and its associated floodplain are located along the western boundary of the project site. The application for Permit and Order 2017-0216 included a report titled "Floodplain Analysis/BFE Determination Report, Provide Camping & Equestrian Center – Frontier Town," prepared by C.T. Male Associates, and dated October 25, 2017. The report establishes Base Flood Elevations on the project site corresponding to the 100-year floodplain boundary; this floodplain boundary is depicted on the Project Plans.
15. All buildings, roadways, parking areas, camping areas, and stormwater infiltration basins will be located higher than or above the 100-year floodplain or base flood elevation, necessitating fill placement within the 100-year floodplain. A total volume of fill impact of approximately 8,810 cubic yards within the 100-year floodplain is estimated as part of the project.
16. Most of the project site is mapped as a principal aquifer.
17. Horse manure will be temporarily stored on site in two concrete holding structures within the Equestrian Camping Area.

#### **Wetlands**

18. All wetlands on the project site were field delineated, mapped, and described in a report titled "Wetland Delineation Report, Upper Hudson Recreation Hub, Town of North Hudson, Essex County, New York," prepared by The Chazen Companies and dated "DRAFT August 2, 2017", with "Table 4 – Final Jurisdictional Determination Table" revised and submitted on October 12, 2017, and the "Final Delineation Maps" revised and submitted on November 2, 2017 (collectively, Wetland Report). The Agency has reviewed and confirmed the accuracy of the Wetland Report.
19. According to the Wetland Report and based on Agency staff site visits, there are 8.5± acres of wetlands and wet areas on the project site. These include deciduous swamp, coniferous swamp, shrub swamp, and emergent marsh covertypes with values of "2," "3" and "4." These resources are shown on the Project Plans.
20. New wastewater treatment systems established as part of the project will be located more than 100 feet from wetlands. All campsites, structures, roads and trails are located outside of wetlands.
21. The Project Plans, Trail Plans, and the Stormwater Pollution Prevention Plan have been designed to prevent direct and indirect impacts to wetlands from the project. All Phase 1, Phase 2, and Phase 3 trails are located outside of wetlands.
22. A Value "2" wetland exists in the location of an old river oxbow. Two viewpoints (part of Phase 3 trail improvements) will stop at the edge of the wetland and will not cross it. Crossing the wetland with a boardwalk or other structure could result in adverse impacts due to wetland loss beneath the structure, stormwater runoff, and pollution from horse waste.

### **Vegetation**

23. Pursuant to a letter dated June 12, 2017, from the New York State Natural Heritage Program (NHP), the Northern Running-pine (*Diphasiastrum complanatum*), a NYS-endangered plant, has been documented on and in the vicinity of the project site. The Project Plans were modified to avoid disturbances to this species during construction and operation of the campground.
24. The Ecological Assessment submitted as part of the application included a biological field survey that confirmed occurrences of the Northern Running-pine, surveyed and mapped ecological communities, and documented invasive terrestrial plant species.
25. The following ecological communities exist within the project site: Pine-Northern Hardwood Forest, Successional Old Field, Sedge Meadow, Shrub Swamp, Northern White Cedar Swamp, Hemlock-Northern Hardwood Forest, Floodplain Forest, Disturbed/Developed. These ecological communities are also found on adjacent parcels and are known to be secure in NYS.
26. Five species of invasive plants have been identified on the project site: spotted knapweed, cypress spurge, purple loosestrife, common buckthorn, and black locust.
27. After consultation with the Adirondack Park Agency and the Adirondack Park Invasive Plant Program (APIPP) in 2018, the permittee disposed of spotted knapweed located in the summer Day Use Area by burying it at least 3 feet below the ground surface. The approach is described in an Agency letter of permit compliance from the Adirondack Park Agency dated June 7, 2018. The area of spotted knapweed and the area of disposal are both shown on Drawing EX-1 titled "Invasive Species Disposal Exhibit," prepared by CT Male Associates and received electronically on June 4, 2018.

### **Wildlife**

28. No threatened or endangered wildlife species have been identified on the project site by the NHP.
29. No bat species have been identified on the project site by the NHP, and the site is outside the 5-mile buffer from known bat hibernacula. As an additional measure of protection, NYSDEC plans to cut potential roost habitat trees before March 31, 2019, to avoid any potential impact to Northern long-eared bats.

### **Soils**

30. Dominant soils on the project site are loamy sand and sandy loam well-drained soils. A majority of the project site is mapped by the Natural Resources Conservation Service for Essex County as Adams series soils derived from glacial sand deposits with slopes generally ranging from 3 to 25%. Other soil types present on the project site include Fluvaquents-Udifluvents complex, which is nearly level, frequently flooded fine to very fine sandy loam soils along the boundary of the Schroon River and in the lower elevation oxbows, and Ondawa sandy loam, a sandy loam to fine sandy loam with 0 to 3 percent slopes in floodplain areas.

31. Deep-hole test pits, infiltration tests, and percolation tests were performed and evaluated in the locations of all wastewater treatment system absorption beds and stormwater infiltration areas. These soil data are part of the Wastewater Basis of Design Report and Stormwater Pollution Prevention Plan.
32. Existing soils in the location of the stone stairway are sandy and eroding from use as part of the Town of North Hudson Multiple Use Trail System.

### **Slopes**

33. The project site generally slopes westward, towards the Schroon River. Portions of the project site near Frontier Town Road and NYS Route 9 are relatively flat. Other portions of the project site have moderate to steep slopes, mostly less than 15 percent with a few steeper areas in the 25 percent range.
34. The Project Plans include grading plans and road profiles that show that development has been sited to avoid steep slopes. Where steep slopes are unavoidable, appropriate grading and associated erosion control and stormwater measures will be implemented.
35. The existing slope in the location of the stone stairway is 58% (or 1:1.7). The elevation of the Tent Camping Area at the top of the slope is 864± feet above mean sea level (AMSL). The elevation of a natural landing area adjacent to the Schroon River at the bottom of the slope is 847± feet AMSL. Traversing this steep, sandy slope without any improvements can result in erosion or sedimentation of the wetland, intermittent stream, and/or river at the bottom of the slope.

### **Historic Sites or Structures**

36. On June 22, 2017, the New York State Office of Parks, Recreation and Historic Properties (OPRHP) completed a Resource Evaluation that determined that the former Frontier Town theme park meets State and National Register eligibility Criteria A and C. A Phase 1A Literature Search and Sensitivity Assessment & Preliminary Stratigraphic Assessment of the Upper Hudson Recreation Hub was subsequently performed for 198 acres of County and Town owned lands, including the 91.1±-acre project site. In addition, Phase IB testing was performed for the project site, along with building inventories for Barn 1 and Barn 2, and a geomorphic study in an area of mapped fluvial soils. No artifacts of any important significance were identified, and further investigation was not recommended by the project archeologist.
37. By letter dated December 8, 2017 (17PR08317), OPRHP determined that the project authorized by Permit and Order 2017-0216 will have no adverse impact upon historic or archeological resources.

### **Aesthetic Resources**

38. A Visual Analysis Report was submitted as part of the application for Project 2017-0216. The Visual Report examined 15 off-site vantage points within a 5-mile radius of the project, assessed the visual impacts from the users of the Schroon River using two cross-sectional line-of-sight profiles, and reviewed the potential views from nearby public corridors along NYS Route 9 and Frontier Town Road.
39. The top of bank along the Schroon River is 15 feet above the river in the tent camping area. All tent sites will be set back at least 30 feet from top of bank along the Schroon River, to reduce visibility from the River.
40. Some Phase 3 trail improvements are in close proximity to the Schroon River.
  - a. The stone stairway, in the Rural Use land use area, is located 47 feet from the mean high water mark of the river at its closest point and oriented roughly parallel to the river. The view from the river is, therefore, of the side of the stairway and, having no raised elements, will be obscured by retained vegetation on either side of the stairway.
  - b. The timber foot bridge, in the Rural Use land use area, is located 20 feet from the mean high water mark of the river and oriented roughly parallel to the river. The bridge will be visible from the river, including a 3.5-foot-high handrail, because there is no intervening vegetation. It will be constructed of natural materials.
  - c. The two viewpoints offering views of the river, in the Hamlet land use area, are located 5 feet from the mean high water mark of the river at their closest point and will be visible from the river. They will look like a natural laid stone wall/curb with a face view area of less than 100 square feet.
  - d. The Phase 3 trails are located 10 to 80+ feet from the river. They will meander around existing trees where possible, be constructed with an 8-foot-wide trail surface, and maintained within a 12-foot-wide clearing. Eight trees in excess of 6 inches in diameter at breast height will be removed from the Hamlet land use area as part of Phase 3 trail improvements along the river in that area.
41. Exterior signage for the campground will be consistent with the Adirondack style, brown and yellow signs that NYSDEC uses at State campgrounds throughout the Adirondack Park and New York State.

### **Infrastructure**

#### **Wastewater**

42. The project includes five separate on-site wastewater treatment systems. All absorption fields will be located more than 100 feet away from streams and wetlands and more than 200 feet from the on-site well supplies. Total wastewater flows for the project are estimated to be a maximum of approximately 7,215 gallons per day.

43. The on-site wastewater treatment systems constructed as located and depicted on the Project Plans and in the Wastewater Basis of Design Report will comply with all applicable Agency, NYSDEC, and New York State Department of Health (NYSDOH) standards.

### **Stormwater Management**

44. Clearing, grading, and new impervious areas can result in erosion and sedimentation and increased stormwater runoff. The impacts associated with un-treated stormwater runoff and erosion and sedimentation include declining water quality, diminished groundwater recharge and quality, stream channel and wetland impacts, increased flooding, floodplain expansion, and impacts to aquatic organisms.
45. The campground will result in a total of 28.22 acres of ground disturbance. The campground will result in 11.2 acres of new impervious surfaces, including the roofs of buildings and paved areas.
46. The NYSDEC will own and maintain the permanent stormwater management practices.
47. The existing Stormwater Pollution Prevention Plan (SWPPP) will be updated to address the Phase 3 trail improvements in accordance with the applicable requirements of the State Pollution Discharge Elimination System (SPDES) General Permit for Stormwater Discharges from Construction Activity. The SWPPP update will be done prior to initiating construction, following receipt of required permits, and will be maintained on site during construction.

### **Local Employment**

48. Upon opening of the campground, the NYSDEC expects to employ two full-time employees year-round, four additional full-time employees for 40 weeks each year, and seven part-time employees for 30 weeks each year.

### **Public Notice, Comment, and Hearing**

49. The NYSDEC held two informational meetings about the Frontier Town Campground, Equestrian, and Day Use Area on December 11, 2017, in the Town of North Hudson.
50. One comment was received during review of Permit and Order 2017-0216. The letter offered conceptual support for the project provided it avoids negative on and off-site impacts.
51. Following receipt of the variance and permit applications for this Permit and Order, the Agency notified all parties as required by Agency regulations, published a Notice of Complete Permit Application in the Environmental Notice Bulletin, and published a Notice of Hearing in the Glens Falls Post Star, a newspaper of general circulation in the area.

52. On January 23, 2019, the Agency held a public hearing on the variance request in the Town of North Hudson. The public hearing was attended by Agency staff, the applicant and its consultant, and 5 members of the public. Two individuals provided comment in support of the project during the hearing. No comment letters were received.

### **Other Approvals**

53. The project requires a Wastewater State Pollution Discharge Elimination System (SPDES) permit from the NYSDEC, because the wastewater includes sub-surface discharge in excess of 1,000 gallons per day. The NYSDEC issued a Wastewater SPDES permit on April 4, 2018.
54. The project requires a Stormwater SPDES permit from the NYSDEC because it includes more than one acre of land disturbance.
55. The project requires a Part 5 Public Water Supply Permit from the NYSDOH.
56. The application states that excess material not required for the site or desired by the Town of North Hudson will be disposed of at local permitted solid waste management facilities. If any excess materials will be disposed of at a non-permitted site, additional Agency permitting may be required. A permit will be required for the disposal of any materials involving wetlands.
57. The maintenance road entrance to the project site from NYS Route 9 will require a NYSDOT Highway Work Permit for a new curb cut.

## **PROJECT IMPACTS**

### **Visual**

58. Retention of trees, shrubs, and woody-stemmed vegetation outside the proposed edge of clearing shown on the Project Plans and Trail Plans, construction of structures and trails in the locations and dimensions shown on the Project Plans and Trail Plans, and prior Agency review of any additional trails will visually screen development as seen from off-site locations, including the Schroon River and nearby roadways.
59. Requiring new outdoor lights to employ full cut-off fixtures and limiting exterior lighting to the buildings and pavilions identified on the Project Plans will reduce nighttime light pollution (glare, light trespass and sky glow) and minimize the light cast toward the Schroon River and adjoining roads and properties.

### **Wetlands**

60. Provided the development authorized herein is undertaken in the location depicted on the Project Plans and Trail Plans and in accordance with the conditions of the permit, the entirety of the wetlands on the project site will be preserved, without any loss of values.



61. Requiring written authorization prior to any change in the authorized location of development on the project site will allow the Agency to ensure that the location and manner of construction will not adversely impact wetlands. A new or amended permit will be required for any future activity that involves wetlands pursuant to 9 NYCRR § 578.

### **Vegetation**

62. Because the ecological communities identified on the project site are also found on adjacent parcels and are known to be secure in NYS, the removal of vegetation as authorized will cause limited impacts to these communities.
63. Impacts to the Northern Running-pine will be prevented by the placement of barriers during construction and operation of the campground to establish and maintain an appropriate buffer, and by avoiding drawing attention to its presence.
64. Requiring inspection and cleaning of construction vehicles and tools prior to use on the project site or after use in an area with invasive plant species will reduce the likelihood of spreading invasive plants to and/or within the project site and adjoining properties.
65. Using best management practices to remove invasive plant species from the project site will help to prevent additional spread.

### **Soils/Surface Waters/Groundwater**

66. The layout of the campground and associated infrastructure addressed floodplain issues and minimized the amount of fill that will be placed in or near the 100-year floodplain to a small percentage of the overall volume of available floodplain storage capacity. No significant change or expansion of the floodplain is anticipated as a result of the project.
67. Construction and operation of the wastewater disposal and treatment systems as shown on the Project Plans and as detailed in the Wastewater Basis of Design Report will prevent water quality degradation of groundwater, surface water, and wetlands. Soil amendments used in the design and construction of all wastewater treatment systems will prevent adverse impacts to the underlying principal aquifer.
68. Adherence to the Project Plans, Trail Plans, and the Stormwater Pollution Prevention Plan, retention of trees, shrubs, and woody-stemmed vegetation outside the limits of clearing, and planting and maintaining trees, shrubs, and vegetation as shown on the Project Plans, will protect against erosion, sedimentation, water quality degradation, and other adverse impacts during project construction and operation.

69. Requiring prior written authorization for any additional trails will allow the Agency to ensure that the trail construction will not result in adverse impacts to water resources or visual resources and will ensure compliance with the shoreline setback restrictions.
70. Requiring the stream relocation to be constructed in accordance with the Project Plans will ensure surface water, wetland, habitat and aesthetic resources are adequately protected.

### **Historic Sites or Structures**

71. The project will not cause any change in the quality of "registered," "eligible," or "inventoried" property as those terms are defined in 9 NYCRR § 426.2 for the purposes of implementing § 14.09 of the New York State Historic Preservation Act of 1980.

### **Nearby Land Uses**

72. Requiring written authorization prior to operation of the campground between November 1 and April 30 will allow the Agency to ensure that no undue adverse impacts will occur from winter operation of the campground.

## **VARIANCE IMPACTS AND CRITERIA**

### **DISCUSSION**

The Agency may grant a variance where there are practical difficulties in carrying out the restrictions set forth in Section 577.6 of the Agency's regulations. The Agency has considered the standards and factors set forth in 9 NYCRR §576.1(b)-(c).

#### **§ 576.1(b): Whether the adverse consequences to the applicant resulting from denial are greater than the public purpose sought to be served by the restriction.**

Denial of the variance for the stone stairway would leave the users of the Tent Camping Area without a direct trail connection to the Schroon River and summer Day Use Area. Under this scenario, it is likely that some users of the Tent Camping Area would create ad hoc "short cuts" of their own, resulting in erosion of the steep, sandy slope and potential sedimentation of the nearby river, intermittent stream, and/or wetland.

The public purposes served by the Agency's structure setback requirements include protection of the water quality and aesthetics of the Schroon River.

#### **§ 576.1(c)(1): Whether the application requests the minimum relief necessary.**

The stone stairway contains 23 steps and is designed to have the minimum width and length possible, with a width of 4 feet, a length of 32 feet, and an area (in plan view) of 128 square feet. No vertical element, such as a handrail, is proposed. Additional reductions in the width or length are not practical because 4 feet of width is necessary to allow trail users to safely pass in opposing directions and the 32 feet of length is necessary to safely travel down (and up) the steep slope.

The stone stairway will be located 47 feet from the mean high water mark of the Schroon River in order to connect and improve existing trails. A stone stairway constructed in the exact location of the existing trail would be only 17 feet from the river.

**§ 576.1(c)(2): Whether granting the variance will create a substantial detriment to adjoining or nearby landowners.**

There are no anticipated impacts to adjoining or nearby landowners. Both sides of the Schroon River in this location are owned by the Town of North Hudson. The east side of the river is where the campground now exists and the stone stairway is proposed. The west side of the river is vacant and forested. The stone stairway is over 800 feet from the property boundary to the north (with Essex County and also part of the campground) and over 1,800 feet from the property boundary to the south (State-owned Wild Forest).

**§ 576.1(c)(3): Whether the difficulty can be obviated by a feasible method other than a variance.**

Locating the stone stairway outside the 150-foot structure setback would result in the need to cross Value "2" wetlands. The proposed location avoids wetlands.

A trail at grade, without steps, is not feasible due to existing steep slopes (58%, 1:1.7 slope) across sandy soils. Walking up and down the steep slope is not safe and results in erosion and sedimentation.

The applicant considered using logs or timbers instead of stone for the stairway. Due to the steep slope, interconnected side logs would be required for each step, resulting in a significant amount of soil disturbance. Using wooden steps would also require extending the length of the steps in order to create a soil tread area, which then would further increase the area of disturbance. In addition, wooden steps would require regular maintenance and replacement after a number of years of use (e.g., 5 to 10 years), whereas stone steps properly constructed and maintained could last for a much longer period of time (e.g., more than 25 to 30 years). Frequent maintenance and replacement would result in greater disturbance to the steep, sandy soils.

**§ 576.1(c)(4): The manner in which the difficulty arose.**

Prior to construction of the Frontier Town Campground, Equestrian, and Day Use Area, the Town of North Hudson Multiple Use Trail System existed on the project site and traverses the steep slope where the stone stairway is proposed, connecting trails from the plateau above the river at 864± feet AMSL (now the Tent Camping Area) down to an existing trail alongside the river at 847± feet AMSL. Where it traverses the steep slope, the existing trail is eroding and unsafe. To improve the existing trail in the same or a nearby location requires providing safe pedestrian access up and down the existing 58 percent slope.

**§ 576.1(c)(5): Whether granting the variance will adversely affect the natural, scenic, and open space resources of the Park and any adjoining water body due to erosion, surface runoff, subsurface sewage effluent, change in aesthetic character, or any other impacts which would not otherwise occur.**

Construction of the stone stairway and associated erosion controls will improve the existing trail that traverses the steep, eroding slope and prevent further erosion and sedimentation of the Schroon River, the intermittent stream or wetland. There are no anticipated impacts to water quality, including stormwater runoff, erosion, and sedimentation.

The stone stairway will be constructed at grade down an existing, steep slope and surrounded by natural vegetation. The stone stairway will not face the Schroon River directly, and therefore will not be readily apparent from the Schroon River. Changes to the variance site over time could alter the potential for adverse effects from the stone stairway. In addition, advances in technology could further mitigate impacts associated with the authorized stone stairway.

**§ 576.1(c)(6): Whether the imposition of conditions upon the granting of the variance will ameliorate the adverse effects noted above.**

The conditions included in this Permit and Order will ameliorate any potential adverse effects from the variance elements. In particular, the conditions regarding adherence to the approved plans, erosion control, and limits of clearing will prevent adverse effects from the granting of the variance.

**CONCLUSIONS OF LAW**

**Rivers Project and 814 Project**

The Agency has considered all statutory and regulatory criteria for project approval set forth in the, the Wild, Scenic and Recreational Rivers System Act, and 9 NYCRR Part 577. The Agency hereby finds that the project authorized as conditioned herein:

- a. will be consistent with the land use and development plan;
- b. will comply with the shoreline restrictions of § 806 of the Adirondack Park Agency Act;
- c. will not have an undue adverse impact upon the natural, scenic, aesthetic, ecological, wildlife, historic, recreational or open space resources of the Park or upon the ability of the public to provide supporting facilities and services made necessary by the project;
- d. will be consistent with the purposes and policies of the Wild, Scenic and Recreational Rivers System Act;
- e. will comply with the restrictions and standards of 9 NYCRR § 577.6; and
- f. will not cause an undue adverse impact upon the natural, scenic, aesthetic, ecological, botanical, fish and wildlife, historic, cultural, archeological, scientific, recreational or open space resources of the river area, taking into account the commercial, industrial, residential, recreational or other benefits that might be derived therefrom.

