

Ian and Kathleen Stewart  
532 Lake Street  
Saranac Lake, NY 12983  
19 Year Homeowner  
Full-time Resident

June 5, 2023

Mr. John Burth  
Environmental Program Specialist  
Via E-Mail at [RPcomments@apa.ny.gov](mailto:RPcomments@apa.ny.gov)

Response to Notice of Public Hearing on Requested Variance  
From APA Act Shoreline Restrictions  
Project Number P2016-0029A

Dear Mr. Burth:

Please find below some questions that should be considered and/or answered in the new permitting procedure:

- 1) If the Application states the number of boats that were historically based in the Annex, what time period or year is being referenced? Are there photographs that allow for a boat counting; are there slip-rental receipts or other documents to validate historical boat numbers? If the historical number being quoted was not recent, is there any legal statute or precedent that would say that the boat facility had lost its preexisting nonconforming status relative to the higher boat number due to the passage of time since being at that higher level? On two separate point-in-time counts in August 2020, there were  $\pm$  48 boats at the Annex.
- 2) Boats have increased in size and motor power over the years. Pontoon boats are probably the most popular motorized watercraft on the lake. Moreover, Pontoon boats generally can carry more passengers. When undertaking, we hope, the Court advocated capacity study, will this probable increase in passengers per boat be evaluated? As a follow-on, do more boats with more people per boat mean more traffic on the accessing residential road (an intangible that I believe the Agency can and should discuss)? What research has been done as to the associated safety, erosion and environmental impact (including noise and light) associated with the boat increase and the boat size increase on Lower Saranac Lake and all the waters connected to Lower Saranac Lake?
- 3) As the number of boats on the Lake increases, has there been a corresponding increase in the boating rules enforcement capabilities? For example, has any Authority observed

how many boats fail to use running lights when required? Or, has any Authority observed the boat speeds within 100 feet of the shoreline? Is it logical that an approved boat increase should be contingent upon greater rules enforcement?

- 4) The Annex has installed “No Wake or Speed Restriction Buoys” near its docks, therefore, protecting its slips/boats from excessive wave buffering and providing an additional level of safety to people and boats in the Annex facility. Do the homeowners on the shoreline get the same considerations and protections? Should the entirety of Ampersand Bay have a reduced speed limit?
- 5) Dock coverings, which are not in keeping with the historical appearance and sight-lines are being proposed for many of the slips – providing protection for those boats and the owner’s investments in those boats. Again, are the homeowners the beneficiaries of such protective reasoning relative to waterfront erosion and the effects of wake-jostling on boats, boathouses and docks? Also, are slip coverings a must have or a nice to have?
- 6) Has the APA conducted its own Annex wetlands study? If so, what was the result? If the study determined the area to be a 1 or 2 classification, what are the prescribed limitations by rule? In looking at possible alternatives to the proposed project, do the rules contain a “reasonableness” standard or language? If not, does that open further the scope of possible alternatives?
- 7) There is a recently expanded state boat launch connected to Lower Saranac Lake. Doesn’t this provide free alternative access to the Lake for the local population and others? As an aside, isn’t the state boat launch located in a non-residential and non-resort area of the lake?
- 8) How does the docking structure affect a neighbor’s/lake homeowner’s/lake user’s littoral rights relative to the footprint of the historical structures?
- 9) Does approving the Permit create future concerns relative to an Adverse Protection claim on the State Lands below the docks? If so, how is this risk mitigated?
- 10) If approved, will there be provisions or stipulations that will allow for the future revisiting of the decision/permit? Would not such a requirement protect against unforeseen or adverse impacts resulting from permit approval?
- 11) The Adirondack Daily Enterprise on 6/9/23 reported that the Applicant’s attorney has said that “they are not asking for a wetlands permit at the Annex site anymore since with the new designs it is not needed.” If accurately reported, has this determination already been made by the APA? Has the Board of the APA agreed to the determination? What is the standard for replacing/rebuilding a pre-existing non-conforming structure? Does it have to be like-kind in size, shape, dimensions (height, width, length and depth), location, distances extending from the shoreline, etc? If so, does the proposed meet that requirement?

Following the recent Appeals Court decision, we ask that a complete, diligent, transparent and rules based process be undertaken.

Respectfully submitted:

Ian and Kathleen Stewart

Comments to APA Board by Tom Jorling:

It is only after much thought and consideration and in the interest of assisting in making the APA a highly respected and credible regulatory Agency that I make the following comments.

The comments are informed by a career in environmental protection, ten years of which were spent as the responsible decision making official in State and Federal Government Agencies.

My overriding interest over this career most of it in public service has been by example and advocacy to work diligently to ensure that regulatory Agencies perform at the highest ethical and professional standards of conduct and thereby gain the trust and respect that enables durable progress.

Sadly my experience with the APA both in the Administrative and judicial processes in this case have revealed to me the Agency staff has fallen far short of these standards, especially in conducting fair, unbiased and transparent Administrative processes.

Specifically, the staff has conducted themselves in a manner that has revealed bias and favoritism that is inappropriate and unlawful. A strong charge. Permit me to list several factors on which I base this charge.

- I. In response to a FOIL request made by my attorney, she received an exchange of documents between the staff and the applicant the purpose of which was to “discuss a path forward” following the unanimous decision of a five judge appellate court holding the permit issued by the APA to build and operate a marina on Lower Saranac Lake was annulled. Blacks Law Dictionary defines annulled as “to reduce to nothing; annihilate; obliterate, to make void or of no effect; to nullify; to abolish; to do away with.’ To annul a judgement or judicial proceeding is to deprive it of all force and operation.” Yet in response to my request to receive any documents resulting from closed door meetings with the applicant on a “path forward” the Agency denied my request. If discussions on a path forward is not in the public

interest then nothing is. I have filed an Article 78 challenging this denial. The Board as the responsible decision maker should not tolerate this denial and reverse the staff rather than transfer to the public the burden of seeking relief through another court proceeding. The Board should have an interest in transparency if it is to recover any trust and respect in its decisions. Holding information of discussions of a “path forward” from the public is the essence of bias and favoritism. The fact that the Agency has completely isolated me, the successful litigant in challenging the Agency, from any discussion of a “path forward” represents a total disregard by the Agency of professionalism and underscores the bias inherent in the staff’s conduct. When the staff becomes indistinguishable from the applicant the Agency is no longer a serious and professional steward of the public trust; in this case a steward of the Constitutionally protected Adirondack Park. The Board should be ashamed.

II. The Agency has in the past required violators of regulatory limitations to remove the offending structure. In this case the Agency has seemingly overlooked the Court’s annulment of a permit and allowed the applicant to operate the marina offering new boat slips to paying customers. There is no authority absent a permit for such activity. Yet in another example of the product of closed door meetings with the applicant such operations have been allowed to go forward without any permit.

Another gross example of bias and favoritism the Board should not tolerate.

III. Since the annex site proposes new structures directly in the wetlands, the Agency previously required the applicant to obtain a wetlands permit. After the court annulled the wetlands permit due to the agency’s incorrect valuation of the wetlands at the annex site, rather than applying the correct value 1 wetlands criteria to the project, the staff have taken the new position that no wetlands permit review needs to be undertaken at all. This position is baffling and smacks of bias and illegality.

IV. If the Agency staff had any intellectual integrity and in the absence of any regulatory standards governing marinas, it would have explained why this marina—the largest in the

Park—could be approved when there are strict requirements on the 28,000 acre Lake George that limit marinas to approximately 1/3 the size the Staff recommend on Lower Saranac Lake, which is only 2300 acres in size. The reason is obvious. The Lake George limits were produced in a rule making process, with full public participation, rather than through closed door meetings with the applicant where the staff favoritism and bias was hidden from view.

In summary.

I take no satisfaction in raising issues of improper governmental performance. I honor public service and it saddens me to see such a lack of respect and professionalism by the staff of APA. It does explain why so many have had to rely on the Courts for fair and competent administration of the law.

I ask the Board to take control and lead the staff to the highest standard of conduct in administrative and regulatory processes and thereby regain the trust and respect that its decisions require if the legacy of the Adirondack Park (and the giants who produced that legacy) is to be continued into the future.

**From:** [Colleen Farmer](#)  
**To:** [Burth, John M \(APA\)](#)  
**Subject:** Fwd: Judges Ruling  
**Date:** Sunday, June 11, 2023 11:18:46 PM

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Hi John, Again another submission re the Saranac Lake Marina. Thank you,  
Colleen Farmer

Judges ruling on March 22, 2023 In the Matter of Thomas Jorling v. Adirondack Park Agency et al.,(See page 6, 1st paragraph)

<https://www.protectadks.org/wp-content/uploads/2023/03/Jorling-v-APA-Decision.533913.ThirdDept.pdf>

1. Thomas Jorling "takes issue with the state respondents' failure to conduct a carrying capacity study, as directed by the Adirondack Park State Land Master Plan (Adirondack Park Agency, Adirondack Park State Land Master Plan [Aug. 2019], available at [https://apa.ny.gov/Documents/Laws\\_Regs/APSLMP.pdf](https://apa.ny.gov/Documents/Laws_Regs/APSLMP.pdf) [last accessed Feb. 20, 2023] [hereinafter SLMP]), prior to approving the project. As petitioner asserts, the SLMP clearly directs that "[a] comprehensive study of Adirondack lakes and ponds should be conducted . . . to determine each water body's capacity to withstand various uses, particularly motorized uses" (SLMP at 4)."

Mr. Jorling has misinterpreted or misrepresented the SLMP. Mr. Jorling claims page 4 of the SLMP as being "clearly directive" of a waterbody study being required. The quote from (SLMP at 4) is NOT a "directive" but it is a comment from the introduction as to how the UMP could be used.

The SLMP itself states, "Section I introduces the area, provides a general description with information on the size and location of the unit, access, and a brief chronology of the history of the general area."<sup>(SLWF UMP PageVI)</sup>

The SLMP on page 4 did not make any directives that a waterbody study was to be done.

The Judges statement continues quoting and citing Mr. Jorling,

"Further, APA itself has acknowledged the importance of such an assessment,<sup>5</sup> including in the Saranac Lakes Wild Forest Unit Management Plan (Department of Environmental Conservation, Saranac Lakes Wild Forest Unit Management Plan [Apr. 2017], available

at [https://www.dec.ny.gov/docs/lands\\_forests\\_pdf/saranaclakesump.pdf](https://www.dec.ny.gov/docs/lands_forests_pdf/saranaclakesump.pdf) [last accessed Feb. 20, 2023] [hereinafter SLWF UMP]), which governs the Saranac Lakes Wild Forest planning area, of which Lower Saranac Lake is a part. In keeping with the principles stated in that document – i.e., that the Saranac Lakes Wild Forest "cannot withstand ever-increasing and unlimited visitor use without suffering the eventual loss of its essential natural and wild character" (SLWF UMP at 67)" –

SLWF UMP Page 67 falls under section II Inventory, Use, Capacity to Withstand Use. The SLWF states the following under Organization of the Plan, "Section II provides **an inventory** of the natural, scenic, cultural, fish and wildlife, and associated resources along with an analysis **of the area's ecosystems**. Existing facilities for both public and administrative use are identified, along with **an assessment of public use and carrying capacity**. Adjacent land uses, access, and impacts are also discussed."(SLWF UMP Page VI)

This again is not a "directive" of the SLWF UMP' It is the beginning of a plan that is additionally explained on this same page. The SLWF UMP page 67 states,

"The schedule of implementation **at the end** of this UMP was developed in order to further illustrate the succession of the **phased approach**. **Once constructed....**From there, the **data collected** on these individual facilities **will be looked at on a larger scale....**"

The next statement written by Mr. Jorling and considered by the judge is,

"the SLWF UMP sets forth an objective of conducting a comprehensive study of lakes and ponds to determine their carrying capacity (*see* SLWF UMP at 112- 113).

SLWF UMP pages 112-113 fall under "Proposed Management Actions." The SLWF UMP states, "Section IV will identify specific management proposals as they relate to natural resources, uses, or facilities. **These proposed actions** will be consistent with the management guidelines and principles and will be based on information gathered during the inventory process, through public input and in consultation with the planning team. This section also identifies management philosophies for the protection of the area." (SLWF UMP pages VI,VII)

As the SLWF UMP stated, it "sets forth an objective." An objective correctly would be "a thing aimed at or sought, a goal" An objective or set goal under the proposed management action section makes sense, but to turn the words around and claim "the SLMP clearly directs a comprehensive study..." this interpretation of an objective appears to be wrong, incorrect and potentially deceitful by Mr. Jorling.

The following things stated in the SLWF UMP need to be kept in mind.

"This UMP is intended to be a working document, used by both State personnel and



the public."(SLWF UMP, Page VI)

"The APSLMP recommends that a **comprehensive study of Adirondack lakes and ponds should be conducted by the Department** to determine each waterbody's capacity to withstand various uses. **The Department and APA** are working together **to develop a guidance framework** for monitoring wildlands in the Adirondack Park...(SLWF UMP page 111)

"**Completion of the various management actions** within this UMP **will be dependent upon adequate manpower and funding**. Where possible, the **DEC** will work with volunteer groups, local communities, town and county governments, and others to accomplish some of the proposed projects or maintenance." (SLWF UMP, Page VI)

It is not until you get to Section V that you see "a schedule for implementation" that "identifies the budget needed to carry out the work described in the UMP."(SLWF UMP pageVII)

This is an enormous undertaking and it is just not feasible for all water bodies under the UMP to have this completed. It also appears this is a joint effort with the DEC and the APA. Lots of my tax payer money to accomplish these studies. There is already billions and billions of dollars in grant money being given to these non profits who also assist in these lawsuits. The continuous lawsuits by Mr. Jorling and non profits that are trying to stop any forward progress for those of us who live and work here in the Adirondacks is simply wrong. The people who live here need to survive, make a living and also deserve to enjoy the beauty around us. The marina has been in operation for 99 years and keeping the Saranac Lake Marina accessible is a vital part of keeping our town alive!

**From:** [Colleen Farmer](#)  
**To:** [Burth, John M \(APA\)](#)  
**Subject:** Fwd: Response to Jorling APA submission  
**Date:** Sunday, June 11, 2023 11:17:24 PM

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Hi John,

Additional things I am submitting for comment re the Saranac Lake Marina.  
Colleen Farmer

Response to Mr. Jorling APA submission,

1. Mr. Jorling states the court "found that the failure to use the required carrying capacity analysis was "unexplained and inexplicable."

It seems important to enter the judge's full statement in light of Mr. Jorling's potentially misleading comment above.

<https://www.protectadks.org/wp-content/uploads/2023/03/Jorling-v-APA-Decision.533913.ThirdDept.pdf>

The judge's statement was as follows,

"The state respondents' failure to comply with these principles, and specifically with the stated objective contained in the SLWF UMP, is wholly unexplained and, indeed, inexplicable. At the same time, we are mindful that the SLMP and the SLWF UMP govern state lands, while the marina is proposed to be built on privately-owned shoreline and lakebed. Although it is true that "[t]he Adirondack Park is unique in its intricate mixture of public and private lands" (Adirondack Park Agency, More About the Adirondack Park . . ., available at [https://apa.ny.gov/about\\_park/more\\_park.html](https://apa.ny.gov/about_park/more_park.html) [last accessed Feb. 22, 2023]), and that many decisions regarding private land use are appropriately informed by impacts on public lands, when it comes particularly to lakes and ponds within the Adirondack Park, it has long been recognized that there is a "legislative need[ ] to more accurately define authority over these waters" (SLMP, at 4).

"Nonetheless, we need not rule upon petitioner's collateral attack on the state respondents' implementation of the SLMP within the context of this proceeding. In analyzing this project, APA was required to consider, among other factors, "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" (9 NYCRR 576.1 [c] [5]) and determine that "[t]he project would 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, taking into account the commercial, industrial, residential, recreational or other benefits that might be derived from the project" (Executive Law § 809 [10] [e])."

## **We find that APA abided by these statutory and regulatory requirements.**

Notably, APA made its determination in consideration of the alternative, in which LS Marina or a future owner would be entitled to rebuild the preexisting nonconforming marina – rather than engaging in the proposed redevelopment – without APA review. APA determined that, in the event that the variance was denied, LS Marina would have been permitted to reconstruct preexisting nonconforming structures, with more harmful wetlands impacts, and construct more than the 73 additional boat slips proposed in its application. In addition, LS Marina made changes to its original plans at APA's request, prior to permit approval, in order to make the project more environmentally friendly, including adding skylights to the dock structures to benefit underwater species, shortening the structures so they would not be visible from nearby state forest land and incorporating an invasive species control plan and a boat wash station. Further, APA's issuance of the permit was conditioned upon LS Marina taking numerous steps, such as installing wastewater treatment systems and stormwater runoff controls, painting the dock structures green and brown to blend with the surroundings and installing downward-facing lighting so as not to cause light pollution. Accordingly, under these circumstances, **APA's determination was not rendered arbitrary and capricious by the absence of the carrying capacity study directed by the SLMP.**

2. Mr. Jorling states, "The carrying capacity analysis, required by the State Land Master plan and in the Saranac Lakes Wild Forest Unit Management Plan..."

It is not required, it is an active goal that is being worked on and towards with direction from these UMP's. This is an enormous undertaking and it simply does not seem financially feasible for all water bodies under the UMP to have these water body studies completed. It would be a huge

financial burden on the state and the people of NY. Please see additional reasons why this is not a clear directive, order, law or requirement as Mr. Jorling often repeats in my analysis of the judge's ruling on March 22, 2023 In the Matter of Thomas Jorling v. Adirondack Park Agency et al.,

3. Mr. Jorling states "The Board must take the recent report from the DEC that there have been harmful algal blooms (HAB) in Lower Saranac Lake **as a screeching alarm bell on the condition of the Lake.**

[https://www.pressrepublican.com/news/adirondack-harmful-algal-bloom-reports-rise/article\\_b0751910-6c87-11ed-aea1-0f91f8e432ad.html](https://www.pressrepublican.com/news/adirondack-harmful-algal-bloom-reports-rise/article_b0751910-6c87-11ed-aea1-0f91f8e432ad.html)

Brendan Wiltse, the senior research scientist with the Adirondack Watershed Institute, said there are multiple potential reasons for the rise in HAB reports.

1. "the state has been getting better at educating people about HABs and encouraging people to use its reporting system."
2. "The AWI has also been testing more often for HABs. Some of these water bodies may have had HABs before but they've never been reported."
3. "Blooms forming later in the year, as they have this season, are tied to lakes mixing or turning over."
4. "Changing climate is altering the weather patterns at this time of year, and warming fall seasons create conditions more favorable to cyanobacteria blooms."
5. Algal blooms flourish in calm waters with lots of nutrients, especially in warm temperatures. When the lakes turn over in the fall, nutrient-rich waters at the bottom move to surface. Mixed with calm winds, sunny skies and warm weather, the cyanobacteria can bloom big."

6. “We’ll often see them happen in more than one water body at the same time, or nearly the same time. **Which suggests that it’s a regional factor like climate or weather that’s driving the blooms rather than a specific source of pollution to an individual water body.**”

Corrina Parnapy, [author of the book “Algal Connections”](#) and a biologist at the water quality consulting firm Avacal Biological states, “Without the algae, you’re going to have a messed up ecosystem, but **when algae gets too much food, nutrients, they can bloom and cause nuisance conditions,**” That’s what’s increasingly common in Adirondack lakes, **due to a combination of factors. When excess fertilizer or unfiltered stormwater runoff ends up in lakes, it supplies algae with that extra boost of nutrients and leads to the harmful “blooms.”** <https://www.adirondackexplorer.org/stories/understanding-algal-blooms>

Saranac Lake has only had one algal bloom. Why is Mr Jorling sounding the alarm bell? It seems like he is implying this could be related to boat traffic or the marina? This statement seem misleading. When did Mr. Jorling become an expert on algal blooms? What does he know about algal blooms that Brendan Wiltse or Corrina Parnapy do not know?

4. Mr. Jorling makes an attempt to compare us to the Lake George Park Commission. The Commission is an independent NYS agency. "Commission is primarily funded through ‘user fees’ for boat and dock registrations on Lake George, which comprises more than 90% of the agency’s annual budget. It is not comparable to Saranac Lake Marina." <https://lgpc.ny.gov/about>

5. Mr. Jorling whines on and on about the carrying capacity study stating, "without a carrying capacity analysis the Board cannot make a reasoned decision consistent with its obligation to protect the resources and character of the Adirondack Park."

Again the last judge who ruled on Mr. Jorling's complaint about the need for

a carrying capacity study already said, "We find that APA abided by these statutory and regulatory requirements." and "APA's determination was not rendered arbitrary and capricious by the absence of the carrying capacity study directed by the SLMP." What does Mr. Jorling do with the judges ruling, he turns it around, rewords it, it what appears to be a misrepresentation of what was actually stated. I am tired of Mr. Jorling wasting my tax payer money, dragging this lawsuit on now for years! I think it is insulting for Mr. Jorling to tell the members of the board to "Do your job." It is very clear many factors were taken into consideration by the APA and by Saranac Lake Marina!



# ADIRONDACK COUNCIL

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AIR AND WILDLANDS

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## Acting Executive Director

Raul J. Aguirre



June 12, 2023

John Burth  
Adirondack Park Agency  
P.O. Box 99  
Ray Brook, NY 12977  
**(Via Electronic Submission)**

## RE: Improvements Made but Concerns Persist for LS Marina, LLC P2016-0029A

Dear Environmental Program Specialist John Burth,

The Adirondack Council thanks the Agency for the opportunity to comment on LS Marina, LLC project #2016-0029A regarding a shoreline variance request for installation of new structures greater than 100 square feet in size within the shoreline setback area as part of the rehabilitation of a pre-existing marina in Crescent Bay on Lower Saranac Lake. Our comments are as follows, many of are concerns still to be addressed.

- Improved Design:** The new proposal requests a variance for 35,899 square feet of roofing to cover existing slips at the main dock. At the annex site, 14,550 square feet of dock will cover submerged aquatic vegetation (SAV), however with the removal of existing boathouses, there is a net increase of 321 square feet, providing additional habitat for SAV and avoiding the need for a variance. Furthermore, the applicant has added skylights to the roofs where SAV are covered by docks and the docks will be open-sided, allowing for increased light.
- Comment Process:** While the Agency has improved their public comment policy, the Agency did not provide a deadline available on their website for this shoreline variance request. Staff verbally noted at the hearing on Monday, June 5 that written comments would be accepted until June 12. The post for the hearing was removed on the website on June 5, creating confusion and an unnecessary additional barrier to providing written comment. We request that staff extend the comment period deadline by at least 15 days to address this concern.
- Constitutional Protections:** The New York State Constitution explicitly calls for the protection of wetlands and shorelines in Article 14, Section 4: "The legislature, in implementing this policy, shall include adequate provision for the abatement of air and water pollution and of excessive and unnecessary noise, the protection of agricultural lands, wetlands and shorelines, and the development and regulation of water resources." The Saranac Lakes system links across some of the most prized wildlands in NY State and is at the

*The mission of the Adirondack Council is to ensure the ecological integrity and wild character of the Adirondack Park for current and future generations.*

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heart of the Adirondack boating and paddling experience. Protection of these resources is paramount and speaks specifically to the constitutional protections that the Agency is mandated to preserve. The Council acknowledges and fundamentally agrees that smart development and wise recreational use is critical to the overall health and economic well-being of our communities. These principles are not mutually exclusive. Rather they underscore the value and need for the kind of data and information that will allow for the building of these types of developments at a scale that is economically feasible for the developer while protecting the natural resources and wild character that boaters and paddlers come to this region to enjoy.

4. Variance Request: There are procedural issues at hand, including the Applicant's failure to meet the APA Act's standards for review for granting a variance. According to 9 NYCRR 576.1 (General Rules), the Agency may grant a shoreline variance "when the adverse consequences to the applicant resulting from denial are greater than the public purpose sought to be served by the restriction." The Applicant has not met this standard. The shoreline variance request outlines the need to prove an undue hardship, and the burden of proof continues to be exceedingly low, relying on verbal and written comments of applicants and/or the applicant's clients rather than hard evidence of hardships (e.g., costs) associated without a variance.
5. Impacts to Wetlands: The decrease in impacts to wetlands is commendable. There is a need, however, to ensure that the silt fence and turbidity curtains are properly installed and removed once construction is complete or when the shoreline is stabilized. The Agency must enforce this and ensure compliance.
6. Carrying Capacity: The carrying capacity recommendation within the Saranac Lakes Wild Forest Unit Management Plan is not a requirement, it is a call for the APA and DEC to recognize the interplay between public and private waters on Lower Saranac Lake as the State Land Masterplan (SLMP) has done. Furthermore, carrying capacity as it relates to the interface of public and private ownership is directly addressed in the SLMP stating that "[a] genuine need exists to insure [sic] that the scale and intensity of water-oriented uses are consistent with uses of adjoining state and private lands and the general character of the Park, particularly so far as the type, speed and number of boats are concerned." While no metrics or timeframes for a carrying capacity study are outlined in a legal manner, the safeguarding of the ecological health of natural resources is not only the jurisdiction of the APA, but it is the responsibility of the APA on private lands.
7. Adjudicatory Hearing: This particular variance request merits an adjudicatory hearing. It meets all of the eight APA criteria in the following manner:
  - a. *Size and complexity of the project*; the project is being conducted at two sites with high levels of waterbody use spanning public and private lands in the Saranac Lakes complex. This would also be the largest marina expansion project in the Adirondack Park, warranting a closer look through an adjudicatory hearing.
  - b. *Degree of public interest in the project*; the public is extremely invested in this case, as demonstrated by the record.
  - c. *Presence of significant issues relating to the criteria for approval of the project*; significant issues such as impacts to a value 1 rating wetland, shoreline development as it relates to Article 14, and the carrying capacity of Lower and Middle Saranac Lakes.
  - d. *Possibility that the project can only be approved if major modifications are made or substantial conditions imposed*; substantial conditions imposed to ensure undue adverse conditions to value 1 rating wetlands are anticipated.



- e. *Possibility that information presented at the adjudicatory hearing would be of assistance to the agency in its review;* information could and should be presented by third party experts such as engineers, wetland scientists, aquatic biologists, etc.
- f. *Extent of public involvement achieved by other means;* there are currently no other means to involve the public as the hearing has passed and public comment was incorrectly noticed.
- g. *Whether an environmental impact statement will be prepared pursuant to the State Environmental Quality Review Act;* during the initial proposal, had the Town of Harrietstown considered impacts to wetlands and SAV, a positive declaration may have been issued and triggered an EIS. Both the APA and the DEC declared this enough to render the application incomplete. While the design has improved, some impacts to the rating 1 wetlands and SAV remain.
- h. *Statutory finding required by section 814(2) of the APA Act in the case of State agency projects.* The Agency must not only determine if this project will have an undue adverse impact on the natural resources of Lower Saranac Lake but also its adjacent lands and waters, public and private.

In summary, the Council is pleased to see the improvements in the design of the project with a reduced impact to wetlands and SAV than previously proposed. However, the Council retains several concerns regarding process, carrying capacity and wetlands. As such, the Council believes that an adjudicatory is the appropriate next step in this project given the public interest and value 1 wetlands.

Sincerely,

A handwritten signature in blue ink that reads "Raul J. Aguirre". The signature is written in a cursive style with a long horizontal stroke extending to the right.

Raul J. Aguirre  
Acting Executive Director

To: Adirondack Park Agency

From: Tom Jorling

Re: LS Marina LLC (APA Project # 2016-0029A)

Date: June 12, 2023

## **1. Wetlands Impacts at Both Sites Require Wetlands Permit Review**

It is undisputed that there are wetlands at both of the proposed marina's operating locations. The Main Marina site has "scattered areas of deepwater marsh wetlands", and has structures and supporting posts in the wetlands and a boat launch near the wetlands. Draft APA Order 2016-0029A ("Draft") pp. 2, 12. The Annex "site contains extensive deepwater marsh, shrub swamp, and emergent marsh wetlands", and has structures and supporting posts in the wetlands and a boat launch near the wetlands. Draft pp. 3, 12. Parts of the piers with boat slips at the Main Marina (Sheet C40 dated May 2, 2023), plus nearly all of the proposed project elements at the Annex site, including most of the piers with boat slips and the entirety of the shoreline boat slips are located directly in the wetlands (Sheet C41 dated March 30, 2023).

The Agency is mandated to "preserve, protect and conserve freshwater wetlands and the benefits derived therefrom" as one of its highest priorities. ECL § 24-0103; see Jones v. Adirondack Park Agency, 270 A.D.2d 577, 577 (3d Dept. 2000). "Freshwater wetlands conservation is a matter of state concern" and, as particularly relevant here, "freshwater wetlands are an integral part of the unique . . . resources of the Adirondack park" that must be protected by the Agency according to the APA Act. ECL § 24-0105(4),(6).

The Agency "shall review" projects involving "freshwater wetlands located within the boundaries of the Adirondack park" pursuant to regulations promulgated by the Agency. ECL § 24-0801(1); see ECL § 24-0701 (regulating structures within wetlands and "one hundred feet from the boundary of such wetland", plus greater than 100 feet if "necessary to protect and preserve the wetland"). The Agency regulations for wetlands are set forth in 9 NYCRR Part 578. Those regulations state that a wetlands permit is required for any "land use and development", including "dredging" and erecting "structures" and "driving pilings" "within the boundaries of a freshwater wetland". 9 NYCRR 578.3(n).

The Agency's staff have claimed on behalf of the applicant that the proposal has "minimized the potential for impacts to water quality and wetlands". Draft p. 6. However, nothing in the wetlands regulations exempts a project from requiring a wetlands permit because the project application purports to minimize wetlands impacts, or because the application includes a purported gain of wetlands area. The impacts to wetlands, the minimization of impacts, and the potential creation of new wetlands, are considerations that must be taken into account by the Agency as it conducts a review of whether or not to grant a wetlands permit.

In the Agency's April 14, 2014 Supplemental Request for Additional Information to the applicant, Richard Weber, Deputy Director, Regulatory Programs, "confirmed that the proposal

Josh Clague, the Adirondack Park Coordinator who's responsible for promoting sustainable use planning and implementation (a challenging task) kicked off the event, while Susan Hayman and Abbie Larkin of the Otak Consultancy explained the purpose of the meeting and facilitated the discussion. I was especially pleased to see Josh and Abbie, whom I met while working on the Adirondack Hamlets to Huts project. Josh was working on Complex Planning, looking at not just one Wilderness area but large areas and how they interact with each other. I'm excited that Otak was smart enough to hire Abbie to be their local point person, since she did her PhD work in the Park and has a wealth of land management knowledge. It bodes well for the project.

The meeting reminded me how long we've been discussing the High Peaks Wilderness. The 1977 High Peaks Advisory Report addressed visitor issues and cited an increased use of 700% in the previous 25 years. The first High Peaks Wilderness Unit Management Plan was completed in early 1999 and updated in 2018. The issues in all these documents, including the work done in the most recent report, that of the 2021 High Peaks Advisory Group, are largely the same. They call for more funding, better data collection, improved trails, unified education, and some form of visitor capacity determination.

The DEC's biggest challenge is finding a way to meet the legislative/regulatory demands of what wilderness must be, and still meet as many of the users' desires as possible. What do I mean by that? Users may want more parking lots, or no regulation at all. Heck, they may want keg parties on the mountain's summits. The land manager's job isn't to meet the users' desires, but to allow as much human use as possible while maintaining a Wilderness environment.

Some people at the meeting pointed out that most visitors are happy with their High Peaks experience. I agree, but that's not the point. I love watching high school football, but I don't confuse it with the National Football League. Similarly, I love motorboating on Lower Saranac Lake, but I don't confuse Lower Saranac with a Wilderness area. Many High Peaks visitors are confusing the High Peaks with a suburban park experience, but they shouldn't, any more than someone should confuse high school football with the NFL. This isn't my opinion, it's what the legal definition requires.

An Adirondack Wilderness experience should be special. It shouldn't be like a walk in a suburban/urban park. It should provide a sense of remoteness and there should be opportunities for solitude. Large rock-concert like crowds of people should not be found on the summits. These are qualities that make a Wilderness a Wilderness....

....Also, we need to understand the concept of "Carrying Capacity," more commonly called "Visitor Capacity." The concept, dating back to the 1930s, is how many people can visit a Wilderness Area at the same time before it no longer seems like a Wilderness. For some activities, the concept of carrying capacity is simple. For example, how many people can get on a tennis court before it's no longer the game as we know it? The answer is simple. For Wilderness it's more complex.

Not only do you have the question of how many people are too many before the trails get damaged, the water polluted, etc. (the physical carrying capacity). You also have the question of how many people can visit before, psychologically, it just doesn't seem like Wilderness anymore (the social carrying capacity). It sounds subjective, and it is. But so is your doctor's diagnosis of your symptoms. That's why we go to doctors, for their professional opinion. That's why we need

does involve wetlands and an Agency [wetlands] permit is required, in addition to the shoreline setback variance”. A copy is enclosed for your reference. Incredibly, despite years of prior review pursuant to wetlands jurisdiction, Agency staff now claim that the applicant’s wetlands “minimization efforts eliminated the need for any Agency permit for activities involving wetlands” (Draft p. 6) and that “[n]o wetlands permit is required for this proposal” (Draft p. 8). The Agency staff have concluded summarily and illegally that a wetlands permit is not required, when in fact, a wetlands permit review is statutorily mandated because the project involves impacts to wetlands.

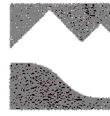
In addition, at the Annex site, the Appellate Division in Jorling v. Adirondack Park Agency, found that the wetlands have a value rating of one. None of the project elements should be permitted at Annex site due to the value one wetlands being impacted by the marina’s piers, supporting posts, boat slips, boat launch, and the boat traffic going directly through these important wetlands because the proposal cannot meet the standards for issuance of a permit for such a project located in the highest value wetlands.

## **2. Constructing New Structures Requires an APA Permit, Shoreline Variance, and Wetlands Permit**

The APA Act provides authority for the Agency to review new projects on private lands within Hamlet areas involving wetlands impacts. See APA Act § 809(2); APA Act § 810(a)(1). Therefore, as with the prior Agency approval that was annulled, this project requires review for the issuance of an APA permit for the construction of the new structures involving wetlands. While no “agency permit is required for the rebuilding or replacement of any existing land use or development, including structures in existence August 1, 1973 being rebuilt or replaced on the same foundation or in the same location”, the proposed new structures are not a replacement of the now-demolished boathouses along the shoreline. 9 NYCRR § 573.6(a). Therefore, there is no exemption from the requirement to obtain a permit from the Agency.

Additionally, the Agency’s shoreline regulations state that an “existing structure lawfully in nonconformance with the building setback restrictions which was existing on August 1, 1973 and was thereafter removed or destroyed may be replaced in kind on the same foundation or location or in the same immediate vicinity, provided the previously existing setback nonconformance is not increased”. 9 NYCRR § 575.5(a). The new structures at the Main Marina and at the Annex site are not a replacement “in kind” of the previously demolished shoreline boathouses. Moreover, the new structures are not “on the same foundation” or “in the same immediate vicinity” as the previously demolished shoreline boathouses. Unlike the demolished boat houses along the shoreline, the proposal consists of an entirely new set of structures that are piers jutting hundreds of feet out into the water from the shoreline. Therefore, the project is not exempt from the shoreline regulations.

Finally, the Agency’s wetlands regulations do “not apply to the replacement in kind” of structures “lawfully existing in wetlands on May 1, 1983”. 9 NYCRR § 578.1. The new structures at the Main Marina and at the Annex are not a “replacement in kind” of lawfully existing structures. Therefore, the new structures are not exempt from the wetlands regulations.



NEW YORK STATE  
Adirondack  
parkagency

Via Certified Mail

**SUPPLEMENTAL REQUEST FOR ADDITIONAL INFORMATION**

**APA Project No. 2014-53**

**Tracking No. 7013 1090 0000 0316 3644**

<p><b>Applicant:</b> L.S. Marina, LLC C/O Mike Damp 2210 Saranac Ave. Lake Placid, NY 12946</p>	<p><b>Authorized Representative:</b> Thomas Ulasewicz, Esq. Fitzgerald, Morris, Baker, Firth. PC 16 Pearl St. Glens Falls, NY 12801</p>
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**Date Variance Application Received:** April 15, 2014

**Type of Variance:** Covered shoreline structures requiring a variance to the structure setback requirements

**Location of Variance:**

Franklin County: Town of Harrietstown

Land Use Area: Hamlet

Tax Map No.: Section: 457 Block: 3 Parcel: 10

and Section: 457 Block: 2 Parcel: 33.1

Dear Messrs. Damp and Ulasewicz:

On July 10, 2014 Agency staff visited the Crescent Bay Main Marina and the Annex with the applicant and the applicant's consultant for the purposes of determining the character and extent of the wetlands on the project sites. Agency staff confirmed that the proposal does involve wetlands and an Agency permit is required, in addition to the shoreline setback variance.

Based upon the July 10<sup>th</sup> field visit, and a prior field visit by the Agency and NYSDEC staff on July 8, 2014, it has been determined that the project at Crescent Bay will involve a deep water marsh which has a preliminary value rating of "3", while the project at the Annex will involve an emergent and deep water marsh which has a preliminary value rating of "2". As currently proposed, it appears the project will result in significant impacts to or loss of a minimum of 25,000 square feet of wetlands at the Annex site.

With respect to the shoreline setback variance, pursuant to the Agency's May 2, 2014 Request for Additional Information Item #10, staff has the following questions based upon the July 10, 2014 site visit. Two additional questions and an amendment to

Thomas Ulasewicz, Esq.  
July 30, 2014  
Page 2 of 6

Item #9 from the May 2, 2014 Request are also included below, based on observations during the site visit. Once we have received all of the information requested herein and in the May 2, 2014 request, a public hearing on your variance application will be scheduled pursuant to 9 NYCRR § 576.5. A public hearing is required by Section 806 of the Adirondack Park Agency Act before the Agency can render a decision on your variance application. The Agency's decision will be based on the record of the hearing, including the information submitted in response to this request.

If you have any questions regarding this Supplemental Request For Additional Information or the variance review process, please contact APA Environmental Program Specialist 2 (EPS) Suzanne McSherry who is assigned to review your project.

\*This Notice is issued pursuant to Sections 806(3) of the Adirondack Park Agency Act and Sections 576.5 and 572.7 of the Adirondack Park Agency Rules and Regulations.

\_\_\_\_\_  
Date



Richard E. Weber, III  
Deputy Director, Regulatory Programs

CC: Kevin Franke, The LA Group  
Edwin Randig, CEO, Town of Harrietstown  
John M. Sweeney, Manager, Village Saranac Lake  
Erin Burns, NYS DEC  
Kris Alberga, NYS DEC  
John Connell, US ACOE  
NYS Office of General Services

**Supplemental Additional Information**  
**APA Project No. 2014-53**

**Additional Questions Identified During the July 10, 2014 Survey:**

1. Agency staff observed rock/cobbles at the surface along the easterly end of the Crescent Bay site and there is exposed bedrock located on the point along the westerly side of this site. Please confirm that there is sufficient depth to bedrock to drive piles and describe how you propose to drive piles into the rocky substrate located at the easterly end of the site. In addition, please provide details of any proposed alternative installation methods

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Thomas Ulasewicz, Esq.  
July 30, 2014  
Page 3 of 6

2. Based upon the initial review it appears that little to no additional wetland vegetation will be impacted at the Crescent Bay site. However, it appears that there will be extensive impacts to wetlands at the Annex site. Please provide details regarding any steps that will be taken to avoid and minimize wetland impacts. Also, please include any proposed plans for wetland compensatory mitigation. These plans, if proposed, should follow the Agency's June, 1995 Compensatory Wetland Mitigation Guidelines.

**Item 9 of the Agency's May 2, 2014 Request for Additional Information**

Item 9 of the Agency's May 2, 2014 Request for Additional Information stated:

- Revise sheets prepared by the LA Group and entitled "L-1.A" and "L-5.A" and sheets prepared by Floating Docks Mfg. Co. and entitled "Crescent Bay Overall Layout Sheet 1-A" and "Annex Parcel Overall Layout, Sheet 1-A" to include the limits of aquatic vegetation (as determined by mid-summer growth), sediment type (i.e. area of sand, silt, etc.), and lake bathymetry (0.5 meter intervals as measured from the mean high water mark).*
3. The request in Item #9 is amended in that sediment classification at the Crescent Bay site need only be identified at the location of the sample point. A map showing limits of each sediment type is not necessary. The same will be sufficient for the Annex site provided that there is no variation in sediment type at this site. If sediment types vary at the Annex site the limits of each sediment type should be shown on a resource map.

**Item 10 of the Agency's May 2, 2014 Request for Additional Information**

Item 10 of the Agency's May 2, 2014 Request for Additional Information stated:

*A site specific water resource impact review will be required to identify potential impacts to the aquatic ecosystem from the proposed covered shoreline structures. The specifics of this review will need to be determined by the Agency's Freshwater Analyst upon completion of a site inspection. The site visit should be scheduled shortly after the start of the aquatic vegetative growing season (mid-May to early June).*

Thomas Ulasewicz, Esq.  
July 30, 2014  
Page 4 of 6

4. Based upon the results of the July 10, 2014 survey, a bathymetric map for the Crescent Bay site is necessary. The map should include contours in increments of 0.5 meter intervals to a depth of 3 meters, after which 1 meter increments should be identified. At the Annex site, 0.5 meter increments are necessary for the entire project site. The bathymetry survey should include those areas within all existing marina structures. The survey should occur in mid-to late summer, and at least three days after little or no rain within the watershed. In addition, the survey should include a narrative which provides the date of survey, recent (i.e. prior 5 days) rainfall, and an overview of current lake level in relation to mid-summer low water levels.
5. **Aquatic Plant Survey** - An aquatic plant survey should be completed for each site. The study must be prepared by an aquatic biologist, certified lake manager, or environmental consulting firm with experience conducting such studies. The survey and report should include the following elements:
  - a. A survey of macrophyte species composition for the entire littoral zone at each project site. The survey should occur between mid-summer and September 15 and should use either the Point Intercept Rake Toss Method (Relative Abundance Method) or Transect survey Method (Line Intercept Method), with the following as guidance:
    - 1) *Crescent Bay Marina Rake Toss Method-*
      - i. There should be no fewer than 8 sample sites at the site. The rake tosses must occur over the entire vegetative area and provide an adequate representation of varying depth or sediment types;
    - 2) *Annex Site Rake Toss Method-*
      - i. There should be no fewer than 12 sample sites within the open water area of the Annex site, no fewer than 12 sample sites in the back channel area of the Annex site, and no fewer than 3 sites in the deep water marsh and emergent wetland area located behind the Ampersand Bay Resort boathouse/condominium structure and northerly of the

R00243



Thomas Ulasewicz, Esq.  
July 30, 2014  
Page 5 of 6

Annex parcel. At all locations the rake tosses must occur over the entire vegetative area and provide an adequate representation of varying depth or sediment types;

3) *Crescent Bay Marina Transect Method-*

- i. Establish permanent transects which are representative of the plant communities, and include at least one transect which parallels the shoreline at the Crescent Bay site;

4) *Annex Site Transect Method-*

- i. Establish permanent transects which are representative of the plant communities. Include at least four transects which are perpendicular to the shoreline at the open water area of the Annex site, at least two transects which run the length of the back channel area of the Annex site, and at least one transect which surveys the deep water marsh and emergent wetland area located behind the Ampersand Bay Resort boathouse/condominium structure and northerly of the Annex parcel.
- b. For each site or transect indicate the abundance of each species according to the Cornell/US Army Corps Abundance Scale;
- c. Please provide an overview map showing all sample locations at each site. This map should include a line which identifies the limits of all vegetation where overall plant density is equal to or greater than Trace on the Cornell/US Army Corps Abundance Scale. In addition, please label each wetland by size (area in sq.ft.);
- d. Identify all plants by species and provide a separate distribution map for each species. The report should also include high quality photographs of each species;
- e. Indicate all invasive species as well as NYS protected species in the report. Should any NYS protected plants be identified, additional distribution and abundance information may be necessary.

Thomas Ulasewicz, Esq.

July 30, 2014

Page 6 of 6

6. Based upon the Agency staff site inspection of the Annex's dead end channel and an ongoing review of published literature regarding water quality impacts associated with increased turbidity and total suspended solids, please be aware that staff is concerned that the expansion within the dead end channel will increase the amount of bottom sediment which will be re-suspended during operation. This re-suspension has the potential to negatively impact water quality and aquatic vegetation/primary productivity, in addition to fish and wildlife. Please describe how you propose to mitigate these impacts. This should include a discussion of:
- a. existing and proposed bathymetry;
  - b. impacts associated with the easterly expansion of the facility;
  - c. boat traffic (historic maximum use, present use which takes into consideration the structurally unsound slips, and proposed maximum development); and
  - d. relocation of the primary navigation channel to the north to account for northerly expansion of the marina structures and modern boats which are larger and wider than those used when the facility was originally constructed.

REW:SBM:LRW:WMM:JLM:SHR:mlr

R00245



Tracking No. 7014 0510 0000 8300 7532

December 22, 2014

Mr. Thomas Ulasewicz  
Fitzgerald, Morris, Baker, Firth, P.C.  
16 Pearl Street, PO Box 2017  
Glens Falls, NY 12801

Mr. Michael Damp, LS Marina  
2210 Saranac Ave.  
Lake Placid, NY 12946

**RE: APA Project 2014-53; LS Marina LLC, Town of Harrietstown,  
Franklin County**

Dear Messrs. Ulasewicz and Damp:

Agency staff have determined the wetlands in the vicinity of the Annex proposal have an overall value rating of "1" pursuant to 9 NYCRR §§578.5 and 578.6 of Agency regulations. This determination updates the preliminary value rating in the Agency's July 30, 2014 Supplemental Request for Additional Information.

This determination is based on an analysis of information obtained from our office review including relevant maps and aerial photography and a series of field visits on July 8, 2014, July 10, 2014 and September 8, 2014. The public record for the Town of Harrietstown Planning Board review also contained materials from your consultants and the public that have contributed to this determination. Specifically, these documents included surveys performed by NYSDEC Fisheries staff and the aquatic plant survey, bathymetry and mapping of wetlands prepared by the LA Group, PC and submitted to the Town for their review.

Staff assessment indicates the wetland complex downstream and southwest of Edgewood Road is 16.4 acres in size, with 10.4 acres within the mean high water of Lower Saranac Lake. It consists of a complex of deep water marsh, emergent marsh, shrub swamp and coniferous forested swamp. The attached map prepared

Ulasewicz and Damp  
December 22, 2014  
Page 2 of 3

by Agency staff delineates the wetlands in the Annex area and is based on aerial photo interpretation and field verification.

According to 9 NYCRR §578.6, if a condition exists where three or more value "2" characteristics are determined to exist in a wetland complex, the value rating of the wetland will become value "1". In this case the three characteristics that contribute to our value "1" rating of the wetland complex are:

- a) Emergent marsh coverytype (§578.5(c)) of between 0.4 and 1.4 acres. Agency staff did not distinguish between floating leaved and emergent vegetation in all cases. 0.4 acres of emergent vegetation was observed in the field. Additional emergent vegetation is located within the 1 acre area identified on the map as Floating/Emergent;
- b) Wetlands composed of two or more structural groups (§578.5(g)). This wetland complex has two of the structural groups mentioned in this section: shrubs and trees (10.7 acres) and flat or water (at least 4.4 acres); and
- c) Wetlands with unusual species abundance or diversity (§578.5(m)). Staff have determined the Annex wetland complex is used by a large number of fish based on the assessment of the fish survey conducted by the New York State Department of Environmental Conservation in 2005. In addition, the data indicates that a large number and wide range of fish species are found to be present at the Annex.

Staff estimates the current proposal could result in the loss or degradation of the wetland complex having a value rating of "1". The Agency's July 30, 2014 Supplemental Request for Additional Information determined that your proposal does involve wetlands and an Agency permit is required. To date, no permit application has been submitted.<sup>1</sup> In preparing this application, we urge you to consider alternative proposals which would avoid wetland loss and degradation at the Annex site.

---

<sup>1</sup> As you are aware, once a project application has been submitted the relevant review standards will be applied. Pursuant to 9 NYCRR § 578.10(a)(1) for activities involving Value "1" wetlands, the proposed activity must be found to be compatible with the preservation of the entire wetland and, not result in degradation or loss of any part of the wetland or its associated values unless the economic, social and other benefits derived from the activity compel a departure from these guidelines.

Ulasewicz and Damp  
December 22, 2014  
Page 3 of 3

I wanted to inform you of the change from the preliminary rating of "2" to the final rating of "1" as soon as possible so that you had an opportunity to evaluate the potential impact of this determination on the project design in the area of the Annex. Please note that this is a determination of variance jurisdiction. Should you choose to, 9 NYCRR § 588.2 sets forth the process for challenging this determination.

If you have any questions or wish to discuss this determination, please do not hesitate to contact me.

Sincerely,

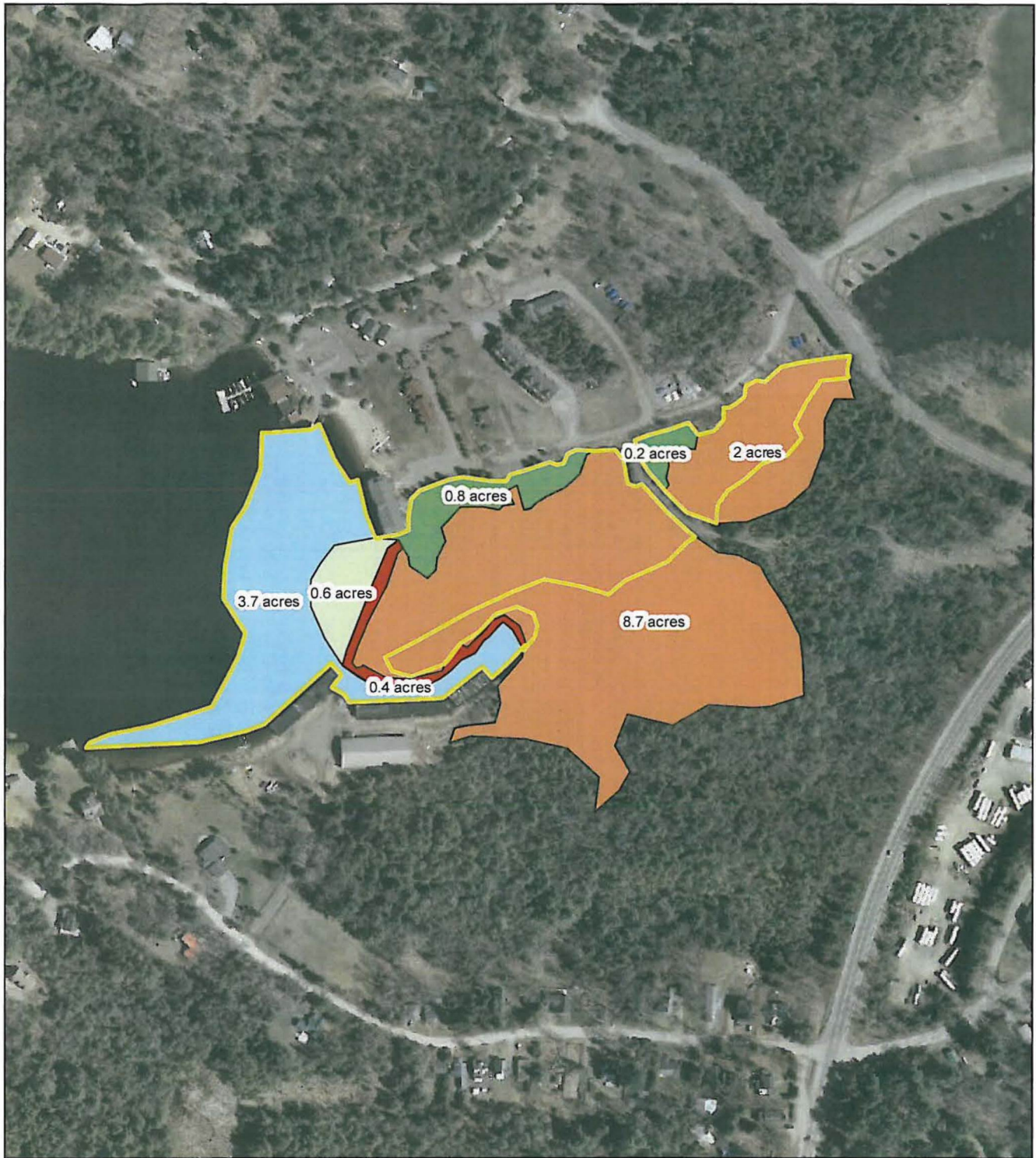


Richard E. Weber III  
Deputy Director, Regulatory Programs  
Project Administrator


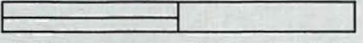
REW:SBM:slp

cc: Mark Taber, The LA Group  
Kevin Franke, The LA Group  
Edwin Randig, CEO, Town of Harrietstown  
Terry Martino, APA  
Suzanne McSherry, APA  
Michael Hill, Town Counsel

Enc: Wetland map



**P2014-0053 Annex Wetlands**

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	Emergent*		Shrubs/Trees**											
	Floating-leaved/Emergent**		Submerged aquatic*											
	Floating-leaved*		Within mean high water**											

Prepared by M. Roofs 12/4/14.

Accordingly, as discussed above, the Agency must conduct a wetlands permit review of the proposed project.

### **3. Full Administrative Record Must be Included**

I trust that since the applicant and the Agency are incorporating all prior documents by reference that the Agency will also incorporate by reference all prior documents submitted by me and other members of the public, and that the record in this matter will contain all of the documents that were part of the Agency's review of project file # 2016-0029, including the Jurisdictional Determination dated September 10, 2013, the Declaratory Ruling dated October 4, 2013, and the full subsequent administrative record.

### **4. Adjudicatory Hearing Must be Held**

An adjudicatory hearing is necessary to evaluate the project, and especially to deny a wetlands permit for the elements of the proposed project that are located at the Annex site.

After reading the many letters about the Saranac Lake marina, I decided to try to do a comparison of other lakes within the park. This is not a scientific study by any means and probably not completely accurate, but it can give a ball park figure of what's out there. The numbers come from going to websites of some of the marinas and using google satellite photos for others. ( you can zoom in close enough to get a pretty good count). I picked out lakes that I could get acreage data on that are the same or larger than the Lower Lake.

Here's what I came up with;

LAKE	ACREAGE	NUMBER OF BOAT SLIPS AT THE LARGEST MARINA
Lake Placid	2173	90
Tupper Lake	6227	36
Indian Lake	4365	45
Long Lake	4077	65
Piseco Lake	2842	0
Raquette Lake	5263	105
Schroon Lake	4003	60
Sacandaga Res.	26,860	144

According to a news article the Lower Lake (2266 ac) has 150 existing slips. Saranac Lake Marina developers say they need to increase to 285 slips to be profitable. I think very profitable. I wonder how all these other marinas are surviving. It seems like these owners are in it to make boatloads of money at the expense of a predominately publicly owned lake.

I think that all you folks that are pushing to give it to them might want to think again about it. You add a hundred more boats to a lake this size and all those quiet bays , islands, and rock outcrops that you like to go to won't so quiet any more. This would be a huge impact on this lake.

What happens if the new owners of Ampersand bay want to add another 100 slips or so to their marina? Will the town be able to allow one to do it but not the other?

This would set a precedent that would effect all the other lakes in the Adirondacks. Seems like a bad idea to me.

Bob Marrone  
Vermontville



**From:** [Sully & Bell](#)  
**To:** [APA Regulatory Programs Comments](#)  
**Subject:** Marina project  
**Date:** Saturday, June 10, 2023 10:29:03 AM

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To whom it may concern:

Is still have railtrail ptsd,

But seriously the people at both marinas have been nothing but an asset to their communities. If I had my way you'd pay all their lawyer bills.

As usual the APA is in one way or another delaying frustrating and doing everything in their power to do the bidding of the people that appointed them and they're donors.

I have been in this area since nineteen sixty two.

Fisk Cric

June 2, 2023

Att:

John Burth

Environmental program Specialist 3

NYS Adirondack Park Agency

Po Box 99

1133 NYS Route 86

Ray Brook, N.Y. 12977

RECEIVED  
ADIRONDACK PARK AGENCY

JUN 07 2023

Dear Sir,

I am writing with concerns about the continuation for the life and joy brought to our family over these many years. We have spent the past forty four years enjoying boating, camping, fishing, swimming, etc. at Saranac Lake with family and friends.

The life we have spent at Saranac Lake had a profound affect on our family and their future. Our three daughters have led a life of service in the United States Coast Guard. The three young women have collectively served 68 years as officers in the Coast Guard. This dedication and leadership was inspired by learning and time spent on the waters of Saranac Lake.

We are proud to see the improvements made at the marina. The old dirty and falling down boat houses are gone. Everything is safer and cleaner.

We want this life style to ~~continue~~ continue for our grandchildren and other families.

Thank you for the hard work and improvements

by Mike Damp and the other workers.

Sincerely,

Connie Monison

Po Box 102

Ray, NY 12941

**From:** [Susan Hahn](#)  
**To:** [APA Regulatory Programs Comments](#)  
**Subject:** Saranac Lake Marina -- Comment in support of the Marina expansion  
**Date:** Friday, June 9, 2023 1:26:52 PM

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ATTENTION: This email came from an external source. Do not open attachments or click on links from unknown senders or unexpected emails.

To: APA Environmental Program Specialist John Burth

Dear Mr. Burth,

I am writing to express my support for the Saranac Lake Marina expansion. My husband and I have a boat docked at the Marina so we aren't disinterested parties, but we are close observers of the Marina and the Lake. The Marina is an excellent caretaker of the Lake. They have removed truckloads of invasive Eurasian milfoil. They assist boaters who are in trouble. I witnessed a time when the Marina employees rescued a family in an overturned canoe, helped them retrieve their belongings and then took them to the public launch where their car was parked.

I also think that the arguments advanced by the person or persons who oppose the Marina are dishonest and self-serving. One argument is that increasing the number of slips on the Lake will tax the Lake's carrying capacity. My husband and I went out in our boat on Memorial Day weekend in the late afternoon until the early evening. We saw no more than 6-10 other boats the whole time that we were out. Last summer, we went out frequently and we never (not once) felt that the Lake was "overcrowded".

I have also read comments that increasing the number of boats on the Lake will lead to more noise and more pollution from careless users. I have swum around every island on Lower Saranac. I wear goggles when I swim and I've looked for evidence of garbage. I was impressed by how little garbage there is. I feel that by and large, those of us who use the Lake are very careful to protect the environment. The Lake homeowners who are protesting the Marina expansion aren't the only ones who care about the Lake.

In summary, I think the Marina is a valuable public asset. It's an asset to our community, one that benefits many people, not just the few who are fortunate enough to own property on the Lake. The Marina deserves a fair chance to thrive. Allowing them to provide covered slips will increase the likelihood that their business will succeed and it will also be a benefit to those of us who rent slips on the Lake.

Sincerely,  
Susan Hahn  
PO Box 153  
Ray Brook NY 12977

**From:** [greg healey](mailto:greg.healey@apa.ny.gov)  
**To:** [APA Regulatory Programs Comments](#)  
**Subject:** Saranac Lake Marina boat slip coverings  
**Date:** Monday, June 12, 2023 10:45:02 PM

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[rpcomments@apa.ny.gov](mailto:rpcomments@apa.ny.gov)

To whom this may concern,

As the adjacent property owner to the marina property in Crescent Bay, I am writing to request the application for Saranac Lake Marina's proposed covering of the boat slips in Crescent Bay only be allowed on a limited scale.

As we have stated publically before, our family, the owners of 9 trillium Way, support a revitalized marina on Lower Saranac, so that everyone can have access to the lake and public waterways. However, the marina should only be allowed to erect covered boat slips close to shore, similar to what was there before when the property was owned by the Duso family and called Crescent Bay Marina. They should only we allowed to erect covered slips equal to what existed before, and for both safety reasons and aesthetic reasons, they should not be allowed to erect covered boat slips that lie outside of the line between the 2 adjacent properties. Draw a line between the intersection of the marina property and state land on the west side of their property and the intersection of their property and our property on the east side, and no covered slips should be allowed outside of this line. Covered slips outside of this property line will create a navigational hazard for motorized and human powered water craft, in addition to blocking the view of anyone on state land looking east or on adjacent private land looking west.

Thank you for your time,  
Greg Healey  
9 Trillium Way  
Saranac Lake NY 12983

**From:** [Efb414](#)  
**To:** [APA Regulatory Programs Comments](#)  
**Subject:** Saranac Lake Marina  
**Date:** Friday, June 9, 2023 11:07:01 AM

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Attention EP Specialist John Burth

Dear Mr. Burth,

I am writing to you regarding the Saranac Lake Marina. I am aware that there has been a good deal of litigation regarding this marina. My wife and I retired to the Adirondacks five years ago after selling our home on Long Island. We enjoy the mountains and the lakes that the Adirondack Park has to offer. On occasion we rented boats from the Marina and were impressed with the management and staff.

Two years ago we decided to rent dock space and spend more time on the water continue to be impressed with the Marina and its staff. They run and maintain a very quiet, neat, clean, friendly and efficient operation. When you look at how the marina locations have evolved you can't help but to be impressed.

From what I have read the litigation surrounding the marina is based on one man's opinion about capacity and usage. My wife and I use the lake at different times of the day and different days of the week and we have not seen any excessive boating traffic. There are 45 campsites on Lower Saranac Lake which are generally booked in the summer and again we have yet to see any excessive activity. From what I have read this litigation seems to have more to do with process and procedure than being about lake usage.

I'm hoping that you can appreciate that this marina is an asset to the lake and the community and does not add any burdens to the area. Saranac Lake Marina cleaned up and rescued a problem and should be commended for it. Thank you for your attention in this matter.

Sincerely,

Edward and Linda Byrnes

**Comments on Project 2016-0029A; LS Marina LLC**  
**Submitted by Jack Drury**  
**6/10/2023**

**Class I Wetlands**

Where is the review and evaluation by an outside independent wetlands specialist to determine the exact extent of the wetlands at the Annex site and evaluate the impacts of the project?

Where is the review and evaluation by an outside expert to measure the impacts on this class I wetland by multiple motorized boats?

How can you provide a permit without these studies?

**Carrying Capacity**

As Tom Jorling stated, “It is truly inexplicable that the Board of the APA approved a permit to build the largest marina in the Adirondack Park without the required carrying capacity analysis. (As a point of reference the Lake George Park Commission has adopted a regulation governing marinas on a Lake more than ten times the size of Lower Saranac Lake that places limits on the size of marinas to roughly one third the size of the marina that would have been built under the now annulled permit)”

How can you issue a permit without conducting an independent analysis of the lake’s carrying capacity? The state is finally looking at the carrying capacity issue for the High Peaks Wilderness Complex and it should be done on the Saranac Lakes/Oseetah/Lake Flower Chain, BEFORE a permit is issued.

I include excerpts from my recent column from the Adirondack Daily Enterprise described by one reviewer as, “...demystifying visitor use management methods.” You can substitute Wild Forest for Wilderness and Saranac Lake Wild Forest for High Peaks Wilderness Complex and the issues are the same.

Adirondack Daily Enterprise  
May 23, 2023  
**wilderness? Or...Wilderness?**

A couple of weeks ago there was a meeting in the Harrietstown Hall. Its purpose was to solicit public input on issues regarding the High Peaks Wilderness Complex, the Adirondack Park’s most popular Wilderness.

It focused on the Department of Environmental Conservation’s efforts to implement a Visitor Use Management strategy. Never mind that the DEC was supposed to come up with such a strategy over fifty years ago, kudos to the state for finally tackling this challenging and controversial issue.

Wilderness managers – to establish the criteria, collect the data, and make the decisions on whether or not we've exceeded the land's ability to provide a quality outdoor experience.

Many of the questions, and much of the discussion last week, were about whether there would be more restrictions to accessing the High Peaks. By the end of the night, it was apparent that many people favored convenience over wildness. Which is ironic because wilderness travel is inherently inconvenient. It's a strenuous activity, frequently with heavy packs, living in uncomfortable settings. Convenience, like comfort, is a relative term.

Here are some of the convenience-based questions.

"If I get off early from work, will I be able to take a quick hike up Algonquin mountain or will there be restrictions?" Maybe, but perhaps it's smarter to hike one of the hundreds of other mountains that *don't* have regulations, and only hike Algonquin when you have time to plan ahead. (By the way, "Plan Ahead & Prepare" is the number one *Leave No Trace* principle).

"Will they enlarge parking lots, so it is easier to find a parking place?" It depends. Parking lots need to reflect the visitor capacity. If the visitor capacity is already being exceeded, then you can't enlarge the parking lot.

"Will I still have to get up at 4:00 AM to find a parking place?" Not if you're willing to have permitting regulations that would guarantee you a parking spot. (Like you currently have at the Adirondack Mountain Reserve.)

One area of unanimity was the need for trails to be sustainably rehabilitated. In this case, we know what needs to be done, we just need the political will and funding to do it.

The most surprising remark was "Don't try to fix what ain't broke." Every report and plan since 1977 talks about overcrowding, determining carrying capacities, the need for better trails, the need for more education, and the need to explore permit systems.

In other words, maybe things are working, but they're not working as well as they should. The challenges haven't changed. And if nothing's done, things are only going to get worse.

So – in this case at least, if things ain't broke they sure as hell need a major overhaul.

The 1977 and 2021 High Peaks Reports and management plans can be found at: <http://www.backcountryclassroom.net/resources.html>

**From:** [LW Amell](#)  
**To:** [APA Regulatory Programs Comments](#)  
**Subject:** SL Marina  
**Date:** Sunday, June 11, 2023 10:12:22 PM

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It is so much more important that Lower Saranac Lake be kept as pristine as possible for my grandchildren and yours. The depreciation of boats unprotected by a roof is meaningless in comparison. Thank you, LW Amell  
Sent from my iPhone



**From:** [LW Amell](#)  
**To:** [Burth, John M \(APA\)](#)  
**Subject:** SL Marina  
**Date:** Sunday, June 11, 2023 10:16:29 PM

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The depreciation of an individual's boat from being unprotected by a roof is absolutely meaningless compared to keeping Lower Saranac Lake as pristine as possible for my grandchildren and yours. Stop the marina from turning LSL into Lake George to turn a profit for a very few people. Thank you, LW Amell  
Sent from my iPhone