

**From:** [Kevin Moody](#)  
**To:** [Burth, John M \(APA\)](#)  
**Subject:** SL Marina Support  
**Date:** Friday, June 2, 2023 4:01:34 PM

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Mr. Burth,

This email is a follow up to a link from Mike Damp I received and completed supporting the SL Marina roofing implementation and the other positive effects the marina has instituted over the past few years. After completing the link and submitting it I received a page titled "403 Forbidden." I was unsure if the link - (Public Input Details) was received by the proper recipient. I telephoned your office and was advised to show my support for the marina and roofing project by email.

My wife and I are very grateful for all the upgrades that the SL Marina has made, from the teardown of the old unsafe boathouses at the Ampersand Annex to the installation of the new dock system.

For those who have said the docks would disrupt the fish patterns in the area I have seen individuals fishing off the docks with success.

Having boated in Lower Saranac Lake for over 21 years we have never experienced a "crowded" day of boating - this includes weekdays, weekends and holidays. Plus has anyone factored in the number of boats that have been launched into the lake at the state launch on Rt. 3? Finally on this topic with the number of boat rentals that the marina possesses and rents wouldn't this be a potential tourist attraction and have a positive "spill-over" effect to neighboring businesses?

The installation of a roofing system over a portion of the docks would provide a more uniform and clean "look." It would most likely add a layer of protection to elements too.

In closing,

My wife and I would like to thank those at SL Marina and everyone else involved for their efforts in making our boating experiences more pleasurable these past few years. Please continue to put up the good fight.

*Kevin and Donna Moody*

Kevin Moody  
18 Snowberry Lane  
Lake Placid, NY 12946  
518-524-3485  
[kevinmoody56@gmail.com](mailto:kevinmoody56@gmail.com)

**From:** [noreply-pc@apa.ny.gov](mailto:noreply-pc@apa.ny.gov)  
**To:** [APA Regulatory Programs Comments](#)  
**Cc:** [salamynicholas@gmail.com](mailto:salamynicholas@gmail.com)  
**Subject:** APA Project 2016-0029A Public Comments  
**Date:** Monday, June 5, 2023 1:04:35 PM

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Please copy "2016-0029A, Nicholas Salamy, [salamynicholas@gmail.com](mailto:salamynicholas@gmail.com)" into your message for our reference.

\*\*\*\*\*

Attn: John M. Burth  
Comments from: Nicholas Salamy  
Email from: [salamynicholas@gmail.com](mailto:salamynicholas@gmail.com)  
Address: Saranac Lake New York 12983  
Re: Agency Project 2016-0029A, LS Marina LLC

My Comments:

I am in support of Saranac Lake Marina's covered slips. The marina has been a blessing to the local community for almost one hundred years. The addition of the new slips is already such an improvement over what was once there. Adding the coverings over the slips will provide more ease of use for those who are physically not able to cover and uncover their boats. All while protecting our investments as boat owners.  
For the nine years I have worked for Mike Damp at Saranac Lake Marina I have witnessed and been a part of the improvements that have been made to provide us locals with the best possible access/experience to Lower Saranac Lake.  
As a younger member of the community, I am in full support of the covered dock slips.

**From:** [APA Regulatory Programs Comments](#)  
**To:** [Petith, Stephanie L \(APA\)](#); [Stankus, Elizabeth \(APA\)](#); [Burth, John M \(APA\)](#); [Plante, David \(APA\)](#)  
**Subject:** FW: APA Project 2016-0029A Public Comments  
**Date:** Wednesday, May 31, 2023 1:53:23 PM

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From: noreply-pc@apa.ny.gov <noreply-pc@apa.ny.gov>  
Sent: Wednesday, May 31, 2023 1:53:17 PM (UTC-05:00) Eastern Time (US & Canada)  
To: APA Regulatory Programs Comments  
Cc: aemtrm919@aol.com  
Subject: APA Project 2016-0029A Public Comments

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Please copy "2016-0029A, Thomas Moskalyk, aemtrm919@aol.com" into your message for our reference.

\*\*\*\*\*

Attn: John M. Burth  
Comments from: Thomas Moskalyk  
Email from: aemtrm919@aol.com  
Address:  
Re: Agency Project 2016-0029A, LS Marina LLC

My Comments:

I have been storing my boat at the Saranac Lake Marina for more than 15 years and have witnessed the upgrade of this marina by the new local owners from an old decrepit run down marina to a clean well run modern marina with new docks. This is a testament to the pride and good business sense of the new owners who invested significant time and financial resources. The old marina covered docks had wood roofs that were literally falling down. The marina staff are very environmentally conscious by keeping their facility very clean at all times. This is the only marina to serve Lower and Middle Saranac lakes ( and somewhat the other lakes below the lower lock. Even on the busiest days of summer there is insignificant boat traffic as my family and friends will safely water ski these lakes. This marina business provides local jobs to an area that is starving for jobs and opens up a base for recreational activities for many locals and tourists. They serve the many campsites on both of the lakes. In closing, there is significant benefit to many people of NY with a 'road block' by one obsessed individual. Please let the owner proceed with his well laid out plan.

**From:** [Colleen Farmer](#)  
**To:** [Burth, John M \(APA\)](#)  
**Subject:** Please add to Saranac Lake Marina Comments for Colleen Farmer  
**Date:** Monday, June 5, 2023 10:56:13 AM

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Dear John,

Please add these to my previously submitted remarks. Thank You, Colleen Farmer

Addendum to Colleen Farmer remarks RE Saranac Lake Marina,

Protectadks.org or Protect the Adirondacks!

Back on July 9, 2018 Protect the Adirondacks had previously made remarks/comments on the supposed, "required" carrying capacity study asking for the public to comment on the new Saranac Lake Wild Forest Unit Management Plan. (SLWF UMP) At this time again the need for a "carrying capacity study" was referenced under **"proposed management actions."** Protect the Adirondacks also noted the following of the proposed SLWF UMP;

**"Proposed carrying capacity analysis framework is incomplete. The proposed carrying capacity analysis is skeletal and does not provide enough detailed information or an adequate schedule for implementation." "...we have little confidence that the skeletal framework proposed in the Saranac Lake Wild Forest will be successful."**<sup>1</sup>

Protect the Adirondacks group has written an Amicus brief to support Thomas Jorling's lawsuit making the following statement;

"Even though the Unit Management Plan for the SLWF **requires** DEC to complete a carrying capacity study of Lower Saranac Lake **and identifies the lake as being particularly at risk from overuse**, the APA issued a permit for the Project in the absence of a completed DEC study."<sup>2,3</sup>

Protect the Adirondacks has made statements knowing they are factually inaccurate or false! In their own words they were fully aware that the " carrying capacity analysis framework is incomplete... and does not provide enough detailed information or have an adequate schedule for implementation..." In other words, they knew a carrying capacity was not a "requirement." It is only a "proposed" work plan as stated on the SLWF UMP. Lower Saranac Lake was also not identified as one of the several "waterbodies within the unit that are of concern. This is clearly written on page 111 of the SLWF UMP. <sup>4</sup>

1. <https://www.protectadks.org/public-comments-needed-for-new-saranac-lake-wild-forest-area-unit-management-plan-by-july-13th/#>

2. <https://www.protectadks.org/protect-files-an-amicus-brief-in-jorling-v-adirondack-park-agency-over-expansion-of-commercial-marina-on-lower-saranac-lake/#>

3. <https://www.protectadks.org/wp-content/uploads/2022/11/Brief-of-Amicus-Curiae-Protect-the-Adirondacks-Inc.-nb.pdf>
4. [https://www.dec.ny.gov/docs/lands\\_forests\\_pdf/saranaclakesump.pdf](https://www.dec.ny.gov/docs/lands_forests_pdf/saranaclakesump.pdf)

**From:** [noreply-pc@apa.ny.gov](mailto:noreply-pc@apa.ny.gov)  
**To:** [APA Regulatory Programs Comments](#)  
**Cc:** [hannahbro72@gmail.com](mailto:hannahbro72@gmail.com)  
**Subject:** APA Project 2016-0029A Public Comments  
**Date:** Sunday, June 4, 2023 11:12:28 PM

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Please copy "2016-0029A, Hannah Brogan , [hannahbro72@gmail.com](mailto:hannahbro72@gmail.com) " into your message for our reference.

\*\*\*\*\*

Attn: John M. Burth  
Comments from: Hannah Brogan  
Email from: [hannahbro72@gmail.com](mailto:hannahbro72@gmail.com)  
Address:  
Re: Agency Project 2016-0029A, LS Marina LLC

My Comments:

Dear APA,  
I fully support the future plans of Saranac Lake Marina to install covered dock slips and keep the marina in full operation. My family and I have been loyal customers of the marina for 23 seasons. I grew up in Saranac Lake and a lot of my childhood was spent on Lower Saranac Lake; thankfully I am still able to enjoy the lake with leisure because of Saranac Lake Marina. As a pontoon boat owner, covered dock slips would be a great asset because they would protect the boats from sun and rain exposure all summer, which damages the seats and canopies. Also, Saranac Lake Marina is the only full service marina on Lower Saranac Lake, which makes it convenient for those who don't want to trailer their boat everytime they want to go on the lake.  
I would also like to add that the marina provides employment for many locals, including me. I started working at the marina during college and this job helped me pay for my tuition and rent.  
I am extremely excited to be a part of and experience this new addition to the marina.  
I encourage the APA to approve the Saranac Lake Marina project.

**From:** [noreply-pc@apa.ny.gov](mailto:noreply-pc@apa.ny.gov)  
**To:** [APA Regulatory Programs Comments](#)  
**Cc:** [tmpratigan@gmail.com](mailto:tmpratigan@gmail.com)  
**Subject:** APA Project 2016-0029A Public Comments  
**Date:** Monday, June 5, 2023 11:13:46 AM

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Please copy "2016-0029A, Thomas Ratigan, [tmpratigan@gmail.com](mailto:tmpratigan@gmail.com)" into your message for our reference.

\*\*\*\*\*

Attn: John M. Burth  
Comments from: Thomas Ratigan  
Email from: [tmpratigan@gmail.com](mailto:tmpratigan@gmail.com)  
Address: 43 Fairview Ave. Saranac Lake NY 12983  
Re: Agency Project 2016-0029A, LS Marina LLC

My Comments:

I would like to express my support for the completion of the Saranac Lake Marina. I was born in Lake Placid and raised in Saranac Lake. I recall with fondness the times spent at our platform camp on Lower Saranac Lake. The local economy was flushing. Even with the many platform camps on the lake, it was never overcrowded. On a busy holiday weekend when the weather is Adirondack perfect, the lake is less busy now than it was then. When possible, I spend as much time on the lake as I can. The marina, and its vital role to the community is a sorely needed boost to the area. Here is a group of investors willing to spend millions of their own dollars, with no government grants or PILOT requests, to greatly improve this long-standing fixture in Saranac Lake. Lower Saranac Lake has long been our region's greatest asset. It's a lake for all people. Please, approve this application. I, and most people in the area, will be grateful for generations to come. Thank you, very much.

**From:** [noreply-pc@apa.ny.gov](mailto:noreply-pc@apa.ny.gov)  
**To:** [APA Regulatory Programs Comments](#)  
**Cc:** [djrsafety@gmail.com](mailto:djrsafety@gmail.com)  
**Subject:** APA Project 2016-0029A Public Comments  
**Date:** Tuesday, June 6, 2023 9:04:30 AM

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Please copy "2016-0029A, Daryl Roberts, [djrsafety@gmail.com](mailto:djrsafety@gmail.com)" into your message for our reference.

\*\*\*\*\*

Attn: John M. Burth  
Comments from: Daryl Roberts  
Email from: [djrsafety@gmail.com](mailto:djrsafety@gmail.com)  
Address:  
Re: Agency Project 2016-0029A, LS Marina LLC

My Comments:

I am fully in support of the Saranac Lake Marina. This marina is the only fully operational marina in the area. The marina provides a safe and secure area for customers to dock their boats. The marina also employs many employees which includes students which allows them the opportunity to pay for college expenses. Due to the marina, boat traffic has not increased on the lake. In closing the Saranac Lake Marina has been an awesome addition to the lake for residents and tourists of the north country.



**From:** [noreply-pc@apa.ny.gov](mailto:noreply-pc@apa.ny.gov)  
**To:** [APA Regulatory Programs Comments](#)  
**Cc:** [gcmcg@roadrunner.com](mailto:gcmcg@roadrunner.com)  
**Subject:** APA Project 2016-0029A Public Comments  
**Date:** Sunday, June 4, 2023 10:23:45 AM

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Please copy "2016-0029A, Mary Gregory , [gcmcg@roadrunner.com](mailto:gcmcg@roadrunner.com)" into your message for our reference.

\*\*\*\*\*

Attn: John M. Burth  
Comments from: Mary Gregory  
Email from: [gcmcg@roadrunner.com](mailto:gcmcg@roadrunner.com)  
Address:  
Re: Agency Project 2016-0029A, LS Marina LLC

My Comments:

Saranac Lake Marina has done a wonderful job taking care of the environment around them. I don't understand this fight against them, seems like the APA is trying to kill another business in the Adirondacks, the Marina has been on this lake I believe since the 1930's. Ever since a retired Commissioner moved here there's been problems, if he doesn't like Marina's he shouldn't have bought a place near one. I have been a patron of this Marina 1983. And I hope many more years.

**From:** [noreply-pc@apa.ny.gov](mailto:noreply-pc@apa.ny.gov)  
**To:** [APA Regulatory Programs Comments](#)  
**Cc:** [chapes@roadrunner.com](mailto:chapes@roadrunner.com)  
**Subject:** APA Project 2016-0029A Public Comments  
**Date:** Sunday, June 4, 2023 4:58:14 PM

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Please copy "2016-0029A, William Chapin, [chapes@roadrunner.com](mailto:chapes@roadrunner.com)" into your message for our reference.

\*\*\*\*\*

Attn: John M. Burth  
Comments from: William Chapin  
Email from: [chapes@roadrunner.com](mailto:chapes@roadrunner.com)  
Address: 6 Juniper Circle Saranac Lake New York 12983  
Re: Agency Project 2016-0029A, LS Marina LLC

My Comments:

Dear John M. Burth,

I support the continued improvement of the Saranac Lake Marina and ask the APA and any other required agency look favorably upon this project/investment. (I understand there is a small group/single complaint that has been filed.) Allow me to offer specific reasons for my support.

First, the improvements are required to ensure the health and safety of the boaters and outdoor enthusiasts. Both local population and visitors must be assured that there is a viable, reliable marina to enable recreation. Initial renovations have improved safety but there is more to do. (It's a safety thing.)

Second, access to the lake. With limited land available, the state of New York has done the right thing by allowing access to public camp sites and day sites for all. It's not right that a landowner who has the financial means tries to limit access to the lake for those that don't have the financial means. (It's just not right because someone is richer than someone else.)

Third, my understanding is, Saranac Lake Marina is funding this development. Why discourage investment and commerce?

Fourth, Saranac Lake Marina created a well thought out plan with revisions to adhere to guidelines and requirements and was approved. So I am not sure why or how new buoys are now remarking the channel that was approved?

I respectfully request that you approve the continued improvements of the Saranac Lake Marina.

Thank you for your consideration.

**From:** [noreply-pc@apa.ny.gov](mailto:noreply-pc@apa.ny.gov)  
**To:** [APA Regulatory Programs Comments](#)  
**Cc:** [jdcogar@roadrunner.com](mailto:jdcogar@roadrunner.com)  
**Subject:** APA Project 2016-0029A Public Comments  
**Date:** Monday, June 5, 2023 2:28:40 PM

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Please copy "2016-0029A, john d cogar, [jdcogar@roadrunner.com](mailto:jdcogar@roadrunner.com)" into your message for our reference.

\*\*\*\*\*

Attn: John M. Burth  
Comments from: john d cogar  
Email from: [jdcogar@roadrunner.com](mailto:jdcogar@roadrunner.com)  
Address: 4 WELLSPRINGS RD SARANAC LAKE NY 12983-5649  
Re: Agency Project 2016-0029A, LS Marina LLC

My Comments:

I am 100% in favor of the SL Marina. I find it entirely ludicrous that a few self serving homeowners on the lake are holding this project up. Their frivolous "legal arguments" are nothing but obfuscation. They knew when they purchased their property that this lake had a 100 year history of boats and marinas. Now they want this lake to be their own private playground. There is TOO much of this in the world today where the privileged few are trying to exclude the rest of the populace from enjoying natural resources. A glaring example of this is in the Finger Lakes Region where I have seen millionaires buy up 5-6 summer cottages to replace them with mansions. The middle class is being totally replaced by the wealthy on these lakes. The same type of thing is being attempted here. Environmental concerns is just a smokescreen that is nothing more than a cowardly attempt to keep the regular citizens of the Tri-Lakes region from enjoying THEIR lake.

**From:** [noreply-pc@apa.ny.gov](mailto:noreply-pc@apa.ny.gov)  
**To:** [APA Regulatory Programs Comments](#)  
**Cc:** [ethanecret@aol.com](mailto:ethanecret@aol.com)  
**Subject:** APA Project 2016-0029A Public Comments  
**Date:** Monday, June 5, 2023 3:53:17 PM

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Please copy "2016-0029A, Ethan Ecret, [ethanecret@aol.com](mailto:ethanecret@aol.com)" into your message for our reference.

\*\*\*\*\*

Attn: John M. Burth  
Comments from: Ethan Ecret  
Email from: [ethanecret@aol.com](mailto:ethanecret@aol.com)  
Address:  
Re: Agency Project 2016-0029A, LS Marina LLC

My Comments:

I support the proposed project of Saranac Lake Marina to add covered dock slips to the pre-existing new floating dock system. Even though I do not own a boat myself, I have several friends who dock their boats at Saranac Lake Marina. This marina has made it possible for my friends and I to enjoy Lower and Middle Saranac Lake for many years now. I spend a lot of time on Lower Saranac Lake with my boat owner friends during the summer and I can confirm that the boat traffic from the marina has not overly increased over the years. Even on sunny weekends in July and August, it still does not feel as though the lake is overcrowded.  
Please approve the project for Saranac Lake Marina.

**From:** [noreply-pc@apa.ny.gov](mailto:noreply-pc@apa.ny.gov)  
**To:** [APA Regulatory Programs Comments](#)  
**Cc:** [dakota.sport1@gmail.com](mailto:dakota.sport1@gmail.com)  
**Subject:** APA Project 2016-0029A Public Comments  
**Date:** Monday, June 5, 2023 1:56:23 PM

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Please copy "2016-0029A, Julie Dickerson, [dakota.sport1@gmail.com](mailto:dakota.sport1@gmail.com)" into your message for our reference.

\*\*\*\*\*

Attn: John M. Burth  
Comments from: Julie Dickerson  
Email from: [dakota.sport1@gmail.com](mailto:dakota.sport1@gmail.com)  
Address:  
Re: Agency Project 2016-0029A, LS Marina LLC

My Comments:

I am in support of Saranac Lake Marina.

**From:** [Christopher Amato](#)  
**To:** [APA Regulatory Programs Comments](#)  
**Cc:** [Executivedirector@protectadks.org](mailto:Executivedirector@protectadks.org)  
**Subject:** Protect the Adirondacks Comments on LS Marina LLC Variance Application  
**Date:** Tuesday, June 6, 2023 1:09:03 PM  
**Attachments:** [PROTECT Comments on LS Marina Variance 06.02.2023.pdf](#)

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Please see the attached.

Thank you for your attention to this matter.

Christopher Amato  
Conservation Director and Counsel  
Protect the Adirondacks! Inc.  
P.O. Box 48  
North Creek, NY 12853  
Office: (518) 251-2700  
Cell: (518) 860-3696



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Christopher Amato, Esq.  
**Conservation Director  
and Counsel**

June 6, 2023

John M. Burth  
Adirondack Park Agency  
PO Box 99  
Ray Brook, NY 12977

**RE: Comments on Application for Variance by  
LS Marina LLC  
Project 2016-0029A: Town of Harrietstown, Franklin County**

Dear Mr. Burth:

Protect the Adirondacks (“PROTECT”) submits these comments concerning the application by LS Marina LLC (“Applicant”) for a variance from the shoreline restrictions set forth in section 806 of the Adirondack Park Agency Act (“APA Act”), Executive Law § 806, in connection with its proposed expansion of an existing commercial marina on Lower Saranac Lake. The variance application should be denied because (as discussed below) the Applicant has failed to (i) state the basis or purported need for the requested variance; (ii) identify for which part or parts of the shoreline restrictions a variance is sought; and (iii) meet its statutory and regulatory burden of demonstrating practical difficulties in complying with the shoreline restrictions. In addition, the Applicant has submitted contradictory statements regarding the number of boat slips currently existing at the two project locations and has failed to demonstrate that the existing boat slips are lawfully in existence. Lastly, the Agency cannot rationally approve any expansion of the existing marina in the absence of the carrying capacity study of Lower Saranac Lake mandated by the Unit Management Plan for the Saranac Lake Wild Forest (“SLWF UMP”).

Apart from the fatal deficiencies in the Applicant’s variance application, PROTECT objects to the Agency’s significant—and unexplained—changes to longstanding jurisdictional determinations concerning the permitting and variance requirements for the proposed project and the Agency’s apparent intention to rush forward with a final decision within weeks. Specifically, the Agency has apparently reversed, without any public notice or opportunity for comment, its previous determinations that the proposed project requires a wetland permit and a variance for the new structures proposed for Ampersand Bay. These jurisdictional determinations were initially made more than a decade ago and have been

**Protect the Adirondacks**

PO Box 48, North Creek, NY 12853 518.251.2700

[www.protectadks.org](http://www.protectadks.org) [info@protectadks.org](mailto:info@protectadks.org)

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## Marina Vital to Saranac Lake Livelihood

To Whom It May Concern,

June 1, 2023

I/We am writing this letter in strong support of Saranac Lake Marina moving forward and completing the final stage of the floating dock system by adding roofs over a portion of the docks in Ampersand Bay and at the main marina in Crescent Bay. The marina has gone above and beyond over the last 10 years cleaning up and working hard to improve and update the old broken down boathouses we used for many years. My husband and his family grew up using the marina and enjoying the lakes. Our children also have grown up swimming on the Lower Saranac Lake, fishing with their grandparents, boating through the channel and spending whole days on Lower Saranac Lake, Middle Saranac Lake and Lake Flower with family and friends.

Ten years ago when the Saranac Lake Marina first started the process of renewing the marina it seemed neighbors were on board for this change as the boathouses were referred to as unsafe and an eyesore. They were dilapidated and literally falling down into the water. The marina sought and has made significant and extensive improvements that were badly needed while balancing environmental preservation. In fact the marina has jumped through hoops going through the town, APA and DEC processes making many compromises and taking into consideration wetlands analysis, fish studies, visual impact, drainage, shading, dark sky compliant lighting, solar power, architectural design, color of support posts. They had also reduced the number of slips, removed covered roofs off portions of the proposed expansion, added a hip roof design, and added skylights on portions of the covered docks to protect the submerged aquatic vegetation (largely milfoil beds) in Ampersand Bay.

Keeping the lake accessible is a vital part of doing something to keep our town alive! It is one of the main reasons many of us choose to live here. Yet it seems environmental nonprofits, a few retired state officials, and Thomas Jorling, with his deep pockets and the tactic of just keep swinging until they go away or go bankrupt is driving this fight against the marina and ALL of us, locals who grew up in this area and everyone else who has moved here to enjoy the beauty of the park. The park was established in 1892 for **“the free use of all the people for their health and pleasure.”**<sup>7</sup>

Mr. Jorling you have shown your true colors and the bottom line seems to be you want to limit the use of the lake for your own personal benefit. A few quotes from the lawsuits/appeals over the years shows your selfishness. “the project will greatly impact the use and enjoyment of the petitioner’s property.”<sup>4</sup> Mr. Jorling “would be adversely impacted “due to the increased noise, increased



light, increased activity...”<sup>9</sup> and yet Mr. Jorling has been unable to provide evidence of this. The Adirondack Almanack filed corrections on the Saranac Lake Marina Commentary back on Wednesday August 26, 2020 stating they “removed commentary by Tom Jorling “Weighing in on Saranac Lake Marina plans because it contained inaccuracies...” It seems you are willing to say or do anything to shut down the marina.<sup>5</sup>

Mr. Jorling in his appeal brief argues “that the DEC and the APA are **mandated** to study the carrying capacity of lake in the Adirondack Park...” “failure to conduct or obtain the carrying capacity study required by the SLMP, and by the SLWF UMP, is prima facie evidence that NYSDEC and APA have failed in their duties to protect the Adirondack Park...” and “**The approval of the Project should be vacated...**”<sup>10</sup> Mr. Jorling wants the marina shut down.

Did state agencies “evade the mandate” of the State SLWF UMP without a carrying capacity study? No! Mr. Jorling has misinterpreted SLWF UMP.

**1. There is No Mandate for a water body carrying capacity study to be completed in any time period. Page 111 of the UMP lists the carrying capacity study as a “proposed management action”.**

On pages 191-197 the UMP has a list of “phases for implementation” along with a yearly “schedule of implementation”. We are now just starting year two of the UMP **and It does not list the carrying capacity study in any of the phases for implementation and it is NOT on the schedule of implementation for any of the years listed.**

It also important to note the UMP implementation is “dependent upon adequate manpower and funding.” (Pg IV UMP) So there is no specific time requirement.

Mr Jorling’s appeal brief referred to pages 10-12 in the UMP and this section stated purpose was to “provide a comprehensive inventory of natural resources, existing facilities and uses, while identifying the special values that justify the protection of this area...” Many other referenced pages include 111-112, 177-185, which all fall under the title “**Proposed** Management Actions.” Not mandated, not required.

“A UMP serves as a mechanism for the Department to **study and identify...**”and ”it serves as **an administrative vehicle** for the identification and removal of nonconforming structures as required by the APSLMP. (pg.VIII UMP)

**Therefore State respondents are NOT “required by law to conduct a carrying capacity study”** as per Mr. Jorling point 1 in his appeal brief.<sup>10</sup>

**2. Lower Saranac Lake is not identified as being included in this UMP.** On Page 111 the UMP states, “This UMP included the following boat launches: Lake Placid, Lake Flower, Upper Saranac Lake, and the Raquette River (known as the Crusher). Additional boat launches in the SKWF planning area include Second Pond, Rollings And, and Fish Creek Ponds. There are 14 water or fishing access sites for hand launching of boats.”

3. Mr. Jorling also states in his appeal brief it “is necessary to assess the Project’s actual impacts-especially-overuse on Lower Saranac Lake.” This is Mr. Jorling’s speculative opinion and is not provable. According to the UMP page 111 Lower Saranac Lake is not listed or identified as one of the several “waterbodies within the unit that are of concern.”

4. The UMP does state, and lists Lower Saranac Lake with concern to “recreation experience impact” due to “crowding and conflict impacting one's experience on a waterbody.” Mr. Jorling has previously made reference to this. However Mr. Jorling and the lawsuit seemed to have left out the rest of the UMP statement on this. It states the crowding and conflict are caused by “density of tent sites and ease of access.” So if Mr. Jorling was so concerned about “carrying capacity” Why did he not go after the state in 2018 when the state expanded the Second Pond boat launch? Second Pond now appears to have room for 100 boats-most all of which, presumably would be out on the lake versus a marina where people use their boats occasionally or when on vacation. He should have brought his concerns when Lake Flower was making improvements that would potentially attract more boaters. Both Second Pond and Lake Flower are named as being followed specifically in and by this UMP.

5. While protecting the park is important, it should always be balanced with the true and initial meaning and establishment of the park for **“the free use of all the people for their health and pleasure.”**

In my view Mr. Jorling and his attorney should be sued for apparent lies they have told and the apparent misrepresentation of information to the courts in regard to the UMP. The marina should be compensated for their additional losses of revenue as well as the legal expenses. This lawsuit is another example of a person and or or groups who aren't able to accomplish their agenda through the public process and weaponize the court system purposely delaying progress that would benefit the Adirondack economy and the people who live and play here. As a lawyer and previous DEC employee Mr. Jorling knows the

game and it appears he is playing it at the expense of the marina and the local people.

I also wonder why many environmental groups are buying up property in the Adirondack Park with the intention of selling it to the government?<sup>1,2,3</sup> Who is profiting from that and what is the expense to those of us who live and are trying to make a living here? With Just a quick look at suggested/potential funding in the name of protecting the environment and climate change you can see an astonishing amount of money being spent and often this is occurring at the taxpayers expense.

These expenses are under current consideration:

\$3 billion Restore Mother Nature Bond Act

\$300 million Environmental Protection Fund (EPF)

\$36 million State Land Stewardship category in the EPF

\$10 million sub-allocation for Forest Preserve stewardship to address overuse in Wilderness area

There are many grass root agencies being formed to “protect our environment.” However these groups are often helping to drive many of these absurd lawsuits. Protect the Adirondacks is one of these environmental groups. They wrote an Amicus brief for the lawsuit against the marina and the state agencies. They also appear to have made many misleading statements in regards to the UMP. Protect the Adirondacks should also be held accountable for the presentation of any misleading information they supplied under the guise of environmentalism.

I can't even imagine the extra money spent on the marina project with it dragging on study after study and now through the courts for years. Treating a business like this, when they are significantly improving on something old we had, is not good business, if we want to keep our community alive and thriving. The Saranac Lake Marina has clearly demonstrated they are dedicated to restoring the marina, that they care about the people, the environment and the area we live in!

This project should no longer be held up. Please Allow the marina to move forward with their new vision and allow all of us who have lived and grown up here continue to enjoy our beautiful lakes!

Sincerely,

Colleen and Bob Farmer  
518-637-6829

Below UMP pg.111-112, 191-194 and references.

## **IV. Proposed Management Actions**

### **7. Water Body Carrying Capacity**

The SLWF is comprised of approximately 75,070 acres of Wild Forest lands. There are 142 water bodies totaling 19,000 acres. The waters provide direct recreational opportunities (e.g. swimming, angling, boating), scenic value, and wildlife habitat. Eighty-six water bodies (totaling 2,592 acres) are completely within the unit and wholly surrounded by Forest Preserve. Forty five of the 86 water bodies are greater than 5 acres and total 2,503 acres. Within the planning area are seven public boat launches.

**This UMP includes the following boat launches: Lake Placid, Lake Flower, Upper Saranac Lake, and the Raquette River (known as the Crusher). Additional boat launches in the SLWF planning area include Second Pond, Rollins Pond, and Fish Creek Ponds. There are 14 water or fishing access sites for hand launching of boats.**

There are several ways that water quality is impacted: introduction of nutrients, petroleum products, effluent, sediment, and invasive species; damage to riparian vegetation; and disturbances to bird nesting are pressures and impacts on water bodies from use. **Several waterbodies within the unit are of concern, including Rollins Pond, Square Pond, and Upper Saranac Lake. These have significant potential for impacts from inputs such as shoreline development and ease of access.**

In addition to the environmental impacts, there are also impacts to the recreational experience caused by use on water bodies. **Crowding and conflict impact one's experience on a waterbody. Lower Saranac Lake and**

Follensby Clear Pond **have a significant density of tentsites and ease of access. These factors greatly increase the probability of social impacts.**

**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 which will assess the effects of management actions and public use with respect to the physical, biological and social conditions. This wildlands monitoring guidance framework will likely be based on selecting indicators that will comprehensively monitor the ecological and social impacts of use on the water bodies and surrounding riparian lands to assess the carrying capacity.

The monitoring will examine water-related use and development in the SLWF. The monitoring will select indicators, monitor the indicators, and evaluate against standards to determine the capacity of waterbodies. Indicators may look at ecological impacts (e.g. non-native aquatic plants, fecal coliform, chloride, dissolved oxygen, and water temperature), social impacts (e.g. trip satisfaction, visitor conflict), recreation use (e.g. people at one time, visitor overnight use), and adjacent development (e.g. number of campsites).

This UMP provides information about impacts, but a cumulative assessment between use and impacts has not been done. The following resources within this UMP provides valuable information that will be useful in the assessment of cumulative impacts:

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## **V. Phases for Implementation**

### **Background**

**The overall guidance throughout this UMP is based on implementing the prescribed management actions in phases** that allows land managers to continuously monitor and evaluate the carrying capacity of the lands affected. The phases are outlined to provide initial access to facilities, which will then be monitored for use and impacts to the environment. Once ground use data is collected through monitoring it will be evaluated to determine if the specific thresholds of each facility have been met in order to activate the following phase of the plan. With this phased approach it is understood that the actions in phase

1 will be constructed, and once the carrying capacity of the area in relation to the phase 1 facilities is evaluated successive phases may be implemented. Successive phases are conditional and will need to be activated in order to be constructed. This process will be repeated for each facility outlined below. Monitoring results will determine if successive phases will be started, if the facility will be maintained at its current level of development, or if we need to step back a phase and re-evaluate our management strategy. Through this process we can methodically develop opportunities, monitor them and make decisions to realize the management goals for the area.

**Completing items in the schedule are contingent upon sufficient staffing levels and available funding.** Approval for construction of individual projects is also contingent upon the results of monitoring of use levels from prior projects, assessment of impacts, and a consideration of demand. The estimated costs of implementing these projects are based on historical costs incurred by the Department for similar projects. Values for some projects are based on projected costs for service contracting. These cost estimates do not include capital expenditures for items such as equipment, nor do they include the value of program staff salaries.

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## **V. Schedule for Implementation and Estimated Budget**

### Reoccurring Activities

Maintain boundary lines, including identification and removal of encroachments. (25 miles per year)

Conduct chemical monitoring of limed waters.

Develop facilities maintenance needs list. Develop work plans. Coordinate activities with APA staff, secure needed permits.

Perform routine maintenance on facilities. Areas where natural resources are being degraded will be addressed.

Monitor visitor use levels/impacts and compile visitor register information.

Provide outreach concerning invasive species, proper camping techniques, and LEAVE- NO-TRACE.

Submit sign requests and install signs as necessary. Remove illegal signs.

Conduct biological surveys to monitor and maintain high quality fisheries.

Enhance natural fish barriers and construct fish barriers as needed to prevent the spread of non-native fish.

Address invasive species by taking actions to prevent the introduction of new invasive species and work to eliminate occurrences of invasive species.

Stock fish in SLWF waters consistent with Bureau of Fisheries policies and the Final Programmatic Environmental Impact Statement on Fish Species

Management Activities of the Department of Environmental Conservation

Division of Fish and Wildlife (1980). Stocking efforts will include use of aircraft on remote waters and may involve motor vehicle use on seasonal roads.

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## **Phase 1**

### **V. Schedule for Implementation and Estimated Budget**

(budget listed with UMP)

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Year 1

Rehabilitate the shooting range near Connery Pond.

Build a parking area at the Brewster Peninsula trails.

Improve the Hoel Pond fishing access site.

Mark trails where mountain bikes will be allowed.

Build a ski trail south of Mountain Lane.

Develop the parking and nature trails at Lake Colby.

Close and brush-in the trails identified for closure.

Sign and make improvements to the Loggers Loop Trails.

Improve part of the Rat Pond Road and close segments of the road.

Allow snowmobile use of the canoe carry to Follensby Clear Pond from the Little Square Pond Snowmobile Tail.

Close snowmobile trails as called for in the UMP.

Close the road to campsites numbers 1 and 2 off Floodwood Road.

Construct the parking and nature trails at Lake Clear.

Build new campsites and close existing campsites as called for in the UMP.

Build connector trails between Rollins Pond Campground and the Remsen to Lake Placid Travel Corridor.

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Year 2

Create a parking area at the intersection of State Route 3 and the road to Lonesome Bay.  
Reroute the Scarface Mountain Trail.  
Build new campsites and close existing campsites as called for in the UMP.  
Research the legality of right-of-ways in the SLWF.  
Develop the trail systems near Lake Placid, this will work will continue for several years.  
Reduce the size of the parking area at the intersection of NY Routes 3 & 30.  
Construct a snowmobile trail to Heavens Pond.

## References

1. <https://www.adirondackcouncil.org/page/in-the-news-36/news/governor-finalizes-adirondack-land-purchase-813.html>
2. <https://www.adirondackexplorer.org/stories/thirteenth-lake-now-completely-protected-with-adirondack-land-trust-acquisition>
3. <https://www.openspaceinstitute.org/about>
4. [https://www.adirondackexplorer.org/wp-content/uploads/2021/01/CV21\\_0002\\_Thomas\\_Jorling\\_v\\_Adirondack\\_Park\\_Agency\\_et\\_al\\_PETITION\\_1.pdf](https://www.adirondackexplorer.org/wp-content/uploads/2021/01/CV21_0002_Thomas_Jorling_v_Adirondack_Park_Agency_et_al_PETITION_1.pdf)
5. <https://www.adirondackalmanack.com/2020/08/corrections-on-saranac-lake-marina-commentary.html>
6. <https://www.adirondackexplorer.org/stories/saranac-lake-marina-project-back-in-court>
7. [https://en.wikipedia.org/wiki/Adirondack\\_Park#:~:text=The%20Adirondack%20Park%20is%20a,corresponds%20with%20the%20Adirondack%20Mountains.](https://en.wikipedia.org/wiki/Adirondack_Park#:~:text=The%20Adirondack%20Park%20is%20a,corresponds%20with%20the%20Adirondack%20Mountains.)
8. None
9. Three infrastructure improvement projects in the Adirondacks Boreas Ponds Tract, Lower Saranac Lake,  
<https://www.adirondackexplorer.org/stories/judge-dismisses-challenge-to-saranac-lake-marina>  
  
<https://www.adirondackexplorer.org/stories/judge-dismisses-challenge-to-saranac-lake-marina>



10.

<https://www.adirondackexplorer.org/stories/lower-saranac-lake-marina-challenged>

the subject of court challenges and an Agency Declaratory Ruling. The public is entitled to an explanation of the basis for these abrupt shifts in the Agency's position and should be provided an opportunity to comment thereon. PROTECT is particularly disturbed by the Agency's sudden decision, after years of information requests and data gathering and studies concerning the potential wetland impacts of the project, that no wetland permit is necessary. Coming on the heels of the Appellate Division's overturning of the previously issued wetland permit due to the Agency's arbitrary under-valuing of the affected wetlands, this new non-jurisdictional determination has the appearance of an attempted end-run around the Court's decision.

### **The Public Comment Period Should be Extended**

At the outset, PROTECT requests that the opportunity for public comment be extended for at least an additional 60 days due to the complexity of the proposed project, the magnitude of the administrative record (nearly 3,000 pages), and the numerous legal and factual issues raised by the inadequacies in the application materials and the Agency's reversals of its prior jurisdictional determinations. PROTECT learned of the variance application on May 22, 2023, when a notice of public hearing on the application was published in the *Adirondack Daily Enterprise*. The Agency's public notice includes links to an administrative record consisting of nearly 3,000 pages. The current public comment period apparently expires on Monday, June 12 and the variance application is currently scheduled for consideration by the Agency Board at its June 15 meeting. It is respectfully submitted that a period of less than 60 days to prepare and submit comments on a project of this magnitude and significance is insufficient, and that the Agency's inclusion of the variance application on its June 15 agenda is rushed and premature.

In addition, as the Agency is aware, the proposed marina expansion has been the subject of extended litigation. One of the key issues in the litigation was the Agency's issuance of a wetlands permit for the project premised on its reclassification of wetlands impacted by the marina expansion to a lower value rating. The Appellate Division, Third Department, determined that reclassification to be arbitrary and capricious, and the Court annulled the wetland permit. *Matter of Jorling v. Adirondack Park Agency*, 185 NYS3d 354, 359 (3d Dept. 2023) (holding that the Agency's "reading of the [wetland] regulations . . . is contrary to their plain meaning [and] lacked a rational basis."). Rather than review the proposed project based on the original (higher) wetland value rating as mandated by the Court, the Agency has apparently reversed its earlier longstanding jurisdictional determination and now claims (for the first time in more than a decade) that the proposed project does not need a wetland permit at all. As far as we are aware, the Agency has offered no legal justification or public explanation for this new non-jurisdictional determination.

The Agency has also failed to provide any legal justification or public explanation for why the Agency is requiring a variance application for proposed structures in Crescent Bay but not for the similar proposed structures in Ampersand Bay. This is particularly puzzling because the Agency previously determined that the new structures at both locations require a variance. *See* LS Marina LLC, Application for Variance from Shoreline Restrictions (April 10, 2014). Moreover, the Agency previously confirmed in a Declaratory Ruling involving the Applicant that such structures require a variance. Declaratory Ruling: Jurisdictional Determination J2013-0548 (Oct. 4, 2013) at 3 (concluding that "because your client's proposed structure is not a boathouse or dock and is more than 100 square feet in size, a variance must be obtained for its construction").

At the very least, the public should have additional time to be provided with the Agency's rationale for the new wetland permit and Ampersand Bay variance non-jurisdictional determinations and an opportunity to respond to them.

### **The Applicant's Submissions Fail to Meet the Legal Standard for the Granting of a Variance**

The Agency's regulations governing review of variances require that applications include "the basis of the variance request." 9 NYCRR 576.5(b). Neither the Applicant's submissions nor the publicly available materials on the Agency's website provide any basis for the variance request. The application is therefore deficient on its face, and the Agency has no rational basis for granting a variance. Indeed, the Agency cannot possibly make the findings required for the granting of a variance in the absence of any stated basis for modifying the shoreline restrictions. *See id.* § 576.1(c).

Moreover, the Applicant has failed to meet its burden of demonstrating that the legal standard for the granting of a variance has been met. The APA Act provides that the Agency may grant a variance from the shoreline restrictions "*where there are practical difficulties or unnecessary hardships* in the way of carrying out the strict letter of the restrictions." Executive Law § 806(3)(a) (emphasis added). The Agency's regulations echo this requirement, providing that the Agency may grant a variance "*where there are practical difficulties* in carrying out the strict letter of the provisions of the plan or the shoreline restrictions." 9 NYCRR § 576.1(a) (emphasis added).

As stated by the New York Court of Appeals,

While it would appear that no precise definition of the term 'practical difficulties' has yet been formulated, in general, petitioner must show that as a practical matter he cannot utilize his property or a structure located thereon 'without coming into conflict with certain of the restrictions of the [zoning] ordinance.'

*Fuhst v. Foley*, 45 NY2d 441, 445 (1978).

The regulations make clear that "[t]he burden of demonstrating compliance with the standards set forth in this Part shall rest with the applicant." 9 NYCRR § 576.5(e)(3). Here, there has been no showing of practical difficulties by the Applicant, including no demonstration per the Court of Appeals test in *Fuhst* that the property cannot be utilized without coming into conflict with the shoreline restrictions. In fact, by the Applicant's own admission, the property was successfully operated as a commercial marina "for 90 years and three generations" until it began to fall into disrepair due to a lack of funds to maintain and improve the marina. LS Marina LLC, Saranac Lake Marina Business Plan (Redacted Version) (2016) at 1. Thus, because there is nothing in the application demonstrating practical difficulties in meeting the shoreline restrictions, the Applicant has failed to meet its burden of demonstrating compliance with the regulatory standard for issuance of a variance.

### **The Applicant Has Submitted Contradictory Statements Concerning Existing Structures**

The administrative record shows that the applicant has submitted contradictory statements to the Agency and the courts concerning the number of boat slips that exist at the marina. Those statements also call into question which, if any, of the existing boat slips are lawful. For example, in an affidavit submitted in a real property court proceeding (included in the administrative record), one of the Applicant's principals stated:

In September of 1924, my Grandfather built the main boat house, which is still at the marina today. *From there, as the boating and marina business grew, my Grandfather built 50 covered boat slips, six rental cabins and other buildings, including a house in 1926 and a garage on Route 3 in 1936.*

Affidavit of Donald Kimball Duso, Jr., sworn to on Oct. 31, 2017, ¶ 5 (emphasis added). According to this sworn statement, the affiant's grandfather operated the marina individually and later through Crescent Bay, Inc. until his death in 1979. *Id.* ¶¶ 5, 7. Thus, the affidavit is proof that there were 50 covered boat slips that were constructed at the marina between 1924 and 1979, meaning that there were a maximum of 50 boat slips at the Crescent Bay location on the effective date of the APA Act. Indeed, the Applicant claimed in 2013 that the proposed *expansion* of the Crescent Bay marina would result in 52 boat slips. Declaratory Ruling: Jurisdictional Determination J2013-0548 (Oct. 4, 2013) at 1 (stating that “the proposed development [at Crescent Bay] includes a floating structure with 52 boat slips”).

However, in a prior submission to the Agency, the Applicant claimed that “in the past” there was “docking and mooring capacity for 82 boats” at Crescent Bay. LS Marina LLC, Adirondack Park Agency Application for Major Projects General Information Request (February 1, 2016) at 4; *see also Matter of LS Marina, LLC v. Adirondack Park Agency*, 56 Misc.3d 1207(A) (Sup. Ct. Essex County 2017) (stating that the Crescent Bay site contains “facilities and structures for the docking of 70 boats and moorings for 12 additional boats.”). The Applicant has not provided any information regarding when the additional 20 docking berths were added, but it appears that they must have been added (without the required Agency review and approval) after the APA Act's effective date.

The Applicant also claimed that the “annex” site in Ampersand Bay contains 80 docking slips, and that the total (Crescent Bay plus the annex) is therefore 162 docking slips. *Id.* Yet the Applicant's Business Plan states that there is a total of 165 docking slips at both sites, and this discrepancy is not explained. LS Marina LLC, Saranac Lake Marina Business Plan (Redacted Version) (2016) at 1. Adding to the confusion is a subsequent email claiming that Crescent Bay has 102 boat slips and the annex has 82 boat slips, bringing the total purported number of “existing” slips to 184. Email from Erin L. Burns, DEC Deputy Regional Permit Administrator, to Michael Damp, Saranac Lake Marina (Aug. 7, 2020). And in the recent court case involving the proposed project, the Applicant apparently informed the Court that there are a total of 219 “existing” boat slips at both sites. *Matter of Jorling v. Adirondack Park Agency*, 185 NYS3d 354, 357 (3d Dept. 2023). Thus, the Applicant has provided at least four different figures, ranging from 162 to 219, in various contexts and proceedings for the number of boat slips “currently existing” at the two project locations.

In light of the contradictory information provided by the Applicant, the Agency must (i) presume, based on the affidavit submitted by one of the Applicant's principals, that there was a maximum of 50 boat slips at the Crescent Bay site on the effective date of the APA Act; (ii) determine, based on verifiable evidence, how many boat slips existed at the annex (Ampersand Bay) site on the effective date of the APA Act; (iii) determine how many boat slips exist currently at both sites; (iv) the dates on which additional boat slips were added at both site; and (v) whether those additional boat slips were reviewed and approved by the Agency and are thus lawfully existing. There is simply no rational basis for the Agency to approve any aspect of the proposed marina expansion in the absence of this crucial baseline information.

**The Agency Cannot Grant the Variance or Issue Any Other Approvals for the Proposed Marina Expansion in the Absence of the Mandated Carrying Capacity Study of Lower Saranac Lake**

Lower Saranac Lake is illustrative of the intermingling of public and private lands that characterizes the Adirondack Park. Even though the lake is part of the SLWF and the Department of Environmental Conservation ("DEC") operates approximately 60 public campsites on the shoreline and on islands in the lake, SLWF UMP at 177-181, much of the lake's shoreline is privately owned, including the LS Marina site. The SLWF is located in the middle of the largest population centers in the Adirondack Park; lies within one day's drive of over 70 million people in the northeastern United States and Canada; and is easily accessed by motor vehicle. *Id.* at 1-3. The ease of access, coupled with construction of new and expanded commercial and public boat launches and access sites has resulted in a proliferation of boat traffic in the Saranac Lakes Complex. *Id.* at 59, Table 8.

According to the Applicant, the proposed expansion will (allegedly) increase the number of boat slips at the marina from 219 to 277—an increase of 58 motorboats on an already overburdened lake.<sup>1</sup> As noted in the SLWF UMP, motorboats "have the potential to cause a greater variety and more significant impacts than non-motorized watercraft." SLWF UMP at 75. To address these impacts, the UMP identifies the need for "a comprehensive [carrying capacity] study" of Lower Saranac Lake and other waterbodies in the Saranac Lakes Complex. *Id.* at 112. To date, neither the DEC nor the APA have conducted the mandated carrying capacity study.

The Appellate Division, Third Department, has recognized the importance of the carrying capacity study:

APA itself has acknowledged the importance of such an assessment, including in the [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" . . . — the SLWF UMP sets forth an objective

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<sup>1</sup> As discussed above, the Applicant has submitted contradictory information concerning how many boat slips exist at the two marina sites and has failed to demonstrate how many (if any) are lawfully existing. Consequently, the increase in the number of motorboats resulting from the proposed expansion may be considerably higher.

of conducting a comprehensive study of lakes and ponds to determine their carrying capacity . . . . *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.*

*Matter of Jorling*, 185 NYS3d at 359-360 (emphasis added) (internal citations omitted).

Although the Appellate Division did not need to reach the carrying capacity issue because it annulled the Agency's issuance of a wetlands permit on other grounds, the Court was clearly skeptical of the Agency's decision to allow the significant expansion of a commercial marina in the absence of a carrying capacity study. The Court's skepticism is well-founded, because the Applicant's own Boat Traffic Study concluded that the proposed marina expansion would exceed the boat traffic carrying capacity of Lower Saranac Lake:

It is no surprise that the project, with its increased number of boat slips, will result in increased numbers of boats on the water. Under the peak use scenario when 23% of all boats from all locations utilize just Lower Saranac Lake, there is potential for boat density to be higher than the carrying capacity . . . .

The LA Group, Marina Boat Traffic Study (January 2014) at 6. It is important to note that the parameters used in the Applicant's Boat Traffic Study were based on a similar study conducted at Canandaigua Lake, and thus probably underestimated the likelihood of the project causing an exceedance of the boat use carrying capacity in Lower Saranac Lake. As the study acknowledged, Canandaigua Lake is not reflective of conditions on Lower Saranac Lake because of "Canandaigua Lake's more urban setting, its location not within or adjacent to Forest Preserve and many other factors." *Id.* at 5. In any event, a subsequent supplemental boat traffic study submitted on behalf of the Applicant also concluded that boat carrying capacity will be exceeded because "under the worst case scenario of all boats remaining on Lower Saranac Lake, that peak period boat traffic would slightly exceed Lower Saranac Lake's carrying capacity by 10%." The LA Group, Updated Boat Traffic Assessment (July 2014) at 8.

It bears emphasis that the findings of both the initial and supplemental boat traffic studies that the proposed project will cause the boat density carrying capacity of Lower Saranac Lake to be exceeded addresses only a single aspect of carrying capacity. Neither study evaluated other critical components of carrying capacity, such as impacts to water quality, fish and wildlife, invasive species, or noise levels from the increased motorboat traffic associated with the marina expansion. Given that the Applicant's own consultant concluded that the proposed project will cause the boat density carrying capacity to be exceeded, it is incumbent upon the Agency to suspend consideration of the Applicant's proposal pending completion of a full carrying capacity of Lower Saranac Lake.

## **Conclusion**

For more than a decade, the Agency has been evaluating the Applicant's planned expansion of its commercial marina on Lower Saranac Lake. During that time, the Agency has consistently taken the position that the proposed project requires a wetland permit and variances for structures at both the Crescent Bay and Ampersand Bay locations. Now, in the aftermath of an Appellate Division

decision invalidating its previously issued wetland permit, the Agency has mysteriously reversed itself and now claims that a wetland permit is not required after all. For reasons that are equally unclear, the Agency has also reversed its prior determination (confirmed in a Declaratory Ruling) that a variance is necessary for the proposed structures in Ampersand Bay.

The public deserves an explanation from the Agency for these sudden reversals and an opportunity to comment on them. Thus, for the reasons set forth above, PROTECT urges the Agency to extend the public comment period by at least 60 days or, in the alternative, to deny the variance application.

On behalf of the Board of Directors of Protect the Adirondacks, please let me express our gratitude for the opportunity to submit these comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Amato", written in a cursive style.

Christopher Amato  
Conservation Director and Counsel  
Protect the Adirondacks! Inc.  
P.O. Box 48  
North Creek, NY 12853  
Office: (518) 251-2700  
Cell: (518) 860-3696

**From:** [thomas.jorling](#)  
**To:** [John Ernst](#); [Rice, Barbara \(APA\)](#)  
**Cc:** [Burth, John M \(APA\)](#)  
**Subject:** Aftermath of Jorling v APA  
**Date:** Monday, April 3, 2023 11:08:31 AM

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In response to a FOIL request my attorney received some material regarding the process that might be followed following the recent decision, Jorling v APA, that annulled the permit to build and operate a commercial marina on Lower Saranac Lake.

Included in the material transmitted was documentation that my earlier message to you was transmitted to Mr Norfolk. I have no objection to that transmittal, in fact I should have done it myself. I understand that any communication I have made or will make to the APA staff or Board is available to the public and certainly included in any Administrative record that accompanies the process of evaluating a permit application.

In the material there are copies of an exchange of emails between APA staff and Matt Norfolk setting up a meeting to discuss "the proposal moving forward"; a meeting that was presumably held on Tuesday March 14.

I expect any and all staff from APA who participated in the meeting, and in accord with professional Administrative practice, prepared a memo describing the participants and content of the meeting and any agreements reached with Mr Norfolk regarding "the proposal". I would very much like to receive a copy of such memo or memos (and am requesting such memos now by FOIL) as any such meeting and the content thereof should also be available to the public and certainly be included in the Administrative record of any application to issue a permit to construct and operate a marina on Lower Saranac.

One would have thought that, if the staff at APA were professional and competent and in the interest of avoiding further litigation, the staff, if it met with the applicant, also a litigant, would have inquired of me, the successful litigant, what my views were on a path forward. The fact that they meet with only the applicant suggests an inappropriate, if not unlawful bias on the part of at least some members of the staff, members who should at least be disqualified from any further participation on this matter. Of course, any recommendation from staff to alter the permit process would have to be made after public hearing and referred to the Board for decision.

It is clear that APA, if it is to regain its reputation as a highly professional regulatory Agency whose decisions are trusted and respected by all parties, especially the Courts, must conduct and hold itself to the highest standards of regulatory process. Any departure from total transparency and objectivity with the normal permit application process in this case, as suggested by the reference "the proposal going forward", will further jeopardize APA's reputation as a professional regulatory Agency. There is no permit, there is no partial permit. The Court did not rule that a new permit could be issued by simply addressing the wetlands and carrying capacity issues. The Court ruled that the permit was annulled and all that preceded the permit was annulled meaning that if a new permit is to be issued the regulatory process would have to be started anew. The carrying capacity study required by the SLMP and the approved unit management plan goes to all elements of the permit. Any effort to short cut or make sweet heart deals on the permit process will only further the perception of the APA as other than a highly professional regulatory agency. APA should not act in a manner to invite new litigation. APA should do it right this time.

Attempting through a private unilateral meeting with the applicant to agree to an alternative permit process without the engagement of all parties further erodes any trust in the APA. In attempting to do so the staff is usurping the authority of the Board, further discrediting the agency..

Given:

- > the unanimous decision of a five judge court that a) on wetlands APA acted unlawfully and b) on carrying capacity APA acted "inexplicably"; and
- > APA has no specific regulatory standards or criteria regarding commercial marinas; and
- > the previous proposal was to construct the largest commercial marina in the Adirondack Park; and
- > the decision to construct a commercial facility on what the approved Lower Saranac Lake Unit Management plan describes as a Lake that is a 'prominent feature' and part of the Saranac Lakes Wild Forest must be consistent with the directives of the State Land Master Plan and the approved Unit Management Plan for the Saranac lakes Wild Forest, including the completion of a carrying capacity study; ( Among other questions to be addressed is can the APA authorize the construction and operation of a private commercial facility on a Wild Forest lake) and
- > any decision of APA will be precedential and potentially affect all Adirondack Park lakes and ponds with any privately owned shoreline;

Therefore, the APA should, and if the decision is to be respected and trusted by all parties and avoid further litigation, conduct any further



review of an application to construct and operate a commercial marina on Lower Saranac Lake through, and I request, a formal adjudicatory process.

I can relate that, as a former regulatory decision maker at both the federal and state level, if I learned my staff was meeting behind closed doors with an applicant to craft an alternative permit process, I would be outraged and severe disciplinary actions would follow. And if my program suffered a string of judicial defeats I would (and in the situation at hand recommend to the APA Board) conduct what the military calls a 'stand down' while a thorough review was conducted into the causes of those defeats to determine if changes in personnel, procedures or culture were necessary.

Until the Board, the decision maker under the law, asserts its leadership over the staff, it will continue to be viewed just as a meaningless rubber stamp invite more and more litigation and see further the erosion of support for the Agency.

**From:** [tom jorling](#) on behalf of [thomas jorling](#)  
**To:** [Burth, John M \(APA\)](#)  
**Cc:** [John Ernst](#); [Rice, Barbara \(APA\)](#)  
**Subject:** Project No. 2016-0029A  
**Date:** Monday, May 22, 2023 2:54:06 PM

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We the undersigned submit this request to the Adirondack Park Agency seeking the following: First, Given the significance and precedential character of the decision to grant a permit to replace the permit annulled by the Court, such permit to authorize the construction and operation of the largest marina in the Adirondack Park, we request the Board to order that the process of review to be conducted through formal adjudication. And Second, in any event, that the process be conducted with an opportunity for the public to be heard. Further, we request an opportunity to appear and provide testimony at such public hearing.

At such public hearing the following areas would be addressed.

> The State and all of its Agencies have committed to give high priority to the protection of wetlands. The Court has ruled the wetlands to the Annex site of the proposed marina are ranked under APA regulations with the highest importance value possible, value one. The APA must then abide by its regulations, in Part 578, and prevent any impact, direct or indirect, on such wetlands. At the minimum APA should retain an independent wetlands expert to delineate the exact extent of these value one wetlands as the dramatic increase in the number of boats with high horsepower engines will act on these shallow water submerged and emergent wetlands like powerful weed wackers impairing the function of the wetlands which are also the prime spawning area of the lake.

> The Court ruled the failure of the APA to evaluate the permit after the completion of the mandatorily required carrying capacity study was inexplicable. Given that the Agency has a second chance with a permit process to conduct an adequate, legal review of the project, the Court is unlikely to look upon with favor the failure a second time to act after the completion of a carrying capacity analysis. At the public hearing we would point out the importance and purpose of the carrying capacity analysis. For instance, if after a permit is issued and a carrying capacity study is completed and it finds the Lake's carrying capacity is exceeded, the only remedy would be to limit the use of public boat launches. A classic case of failure to act before the horses have escaped the barn, a condition the Agency and the Park is experiencing in the High Peaks.

> Whether the APA is barred by Article 14 of the State Constitution from issuing a permit allowing a corporation to take a portion of the State's Forest Preserve Wild Forest Waters for commercial purposes.

>We would address whether after the permit was annulled any commercial marina activity can be conducted at the proposed marina sites while a new permit process is pursued. Specifically we would address whether Section 573.6 provides any authority under the circumstances present here to conduct operations while a new permit is processed. We think not. Nothing in the current project occupies the same footprint as the long ago abandoned Duso facility.

The Agency's actions recently have begged litigation; litigation which has reversed Agency actions. The unprofessional, erroneous actions must stop. The Agency should act in a manner that builds trust and respect for its actions. It can only do this by the conduct of processes in a professional, unbiased and fully transparent manner. Do it right. Don't beg more litigation. Carry out your duties and responsibilities to protect the Park according to the highest standards of administrative practice. Repeatedly being reversed in the Courts is not indicative of a competent Agency. The Agency can accomplish respected credible results in this case by conducting the process through adjudication and thereby avoiding any hint of favoritism or bias.

We would also like to be notified when the public notice of a hearing is schedule and request an opportunity to be heard at such hearing..

THOMAS JORLING  
PINEHURST RD  
SARANAC LAKE, NY  
[tjorling@roadrunner.com](mailto:tjorling@roadrunner.com)

SUE COHEN  
PINEHURST RD.  
SARANAC LAKE, NY  
Susan Kaczka Cohen <[suecohen@katz.pitt.edu](mailto:suecohen@katz.pitt.edu)>

JACK DRURY

LAKE ROAD  
SARANAC LAKE NY  
jkdrury@gmail.com

**From:** [wayne Bujold](#)  
**To:** [Burth, John M \(APA\)](#)  
**Cc:** [info@saranaclakemarina.com](mailto:info@saranaclakemarina.com)  
**Subject:** Saranac Lake Marina Boat Docks  
**Date:** Tuesday, May 30, 2023 1:38:29 PM

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Att: Mr. John M. Burth,

I am writing this letter in support of the marina boat docks and roof covers. I am a lifelong Saranac Laker, my father kept a boat at that marina while we grew up here, I now for 20 years have kept my boat there. The place has gone through 2 owners I know of and went into a state of total disrepair, full of rotten wood, unsafe docks and leaking roofs. Finally a responsible owner has the place and it is now an actual well maintained boat marina. Hasn't the APA done enough to stifle businesses in the Adirondacks, there are so few public marinas, most of them are part of hotels and are not for public docking use.

Please let the marina move forward, it is at a price point that the locals can afford, and is a sound environmental change from what was leaking and rotting there before.

--Thank You

Bujold Enterprises, LLC  
518-572-4646

**From:** [noreply-pc@apa.ny.gov](mailto:noreply-pc@apa.ny.gov)  
**To:** [APA Regulatory Programs Comments](#)  
**Cc:** [BRIANFITZGERALD8@GMAIL.COM](mailto:BRIANFITZGERALD8@GMAIL.COM)  
**Subject:** APA Project 2016-0029A Public Comments  
**Date:** Tuesday, May 30, 2023 11:53:24 PM

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Please copy "2016-0029A, Brian Fitzgerald, [brianfitzgerald8@gmail.com](mailto:brianfitzgerald8@gmail.com)" into your message for our reference.

\*\*\*\*\*

Attn: John M. Burth  
Comments from: Brian Fitzgerald  
Email from: [brianfitzgerald8@gmail.com](mailto:brianfitzgerald8@gmail.com)  
Address: 353 Lake Street Saranac Lake NY 12983  
Re: Agency Project 2016-0029A, LS Marina LLC

My Comments:

I am voicing my support for the Saranac Lake Marina project. The improvements that have been made, and are planned, have improved the water quality and the shoreline appearance. Additionally, shoreline erosion has been minimized with the new docks. Please allow the marina to complete the project and install the roof as planned.

I write this letter as someone who lives 1/4 mile from the Annex Marina (Ampersand Bay) and someone who spends a considerable amount of time on Lower Saranac Lake. I will never be able to afford to live on the lake, but this marina allows myself, and my children, to enjoy Lower Saranac Lake frequently. Removing the docks will only hurt the working class and prevent us from easy access to the lake.

Thank you for your time.

**From:** [Richard Shine](#)  
**To:** [Burth, John M \(APA\)](#)  
**Subject:** Covered Docks at the Saranac Lake Marina  
**Date:** Wednesday, May 31, 2023 3:59:48 PM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[image003.png](#)  
[image004.png](#)  
[image005.png](#)

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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.**

Dear John,

I have been a seasonal resident of both Lake Placid and Saranac Lake since I was a child in 1955. We currently own property on Mt. Pisgah in Saranac Lake and have had a slip on the lake at Ampersand Bay resort for over ten years. We are very concerned that in the near future we will lose our covered slip at Ampersand Bay due to the fact that the rental units are being sold and some potential purchasers are demanding a slip with their property. In fact, they have told us that this could indeed be our last summer for a boat slip at their facility.

We have dealt with Saranac Lake Marina off and on for several years going back to the change of ownership. The current owners have proven to be very responsible and have invested a great deal of money to remove the derelict slips that were falling into the water and a hazard to all. New boat slips are needed on this lake as there is far more demand for slips than there are available docks and what has been accomplished so far by Saranac Lake Marina is truly spectacular. Much nicer and more aesthetically pleasing than we expected.

I would gladly move my boat to the Saranac Lake Marina if there were covered slips available. I am an 80-year-old gentleman who still enjoys boating; however, it is becoming far too difficult for me to install my boat cover each and every time I want to use the boat. With a covered slip, this becomes unnecessary and would be very desirable even if I was much younger. The damage done by the birds to the paint on a boat is significantly reduced with a covered slip. Further, when we get our typical summer storms, the water tends to pool on boat covers and that makes them very difficult to remove and much of that water goes into the bilge, mixes with oil and gas, and is eventually discharged into the lake. Likewise, some boats do not have covers and the storm water accumulates in the bilge which gets discharged into the lake. Covered slips help reduce environmental problems and we all want to keep our lake clean.

Covered slips are not offensive and serve a very useful purpose. The idea of covered slips in the Adirondack Park is not a new one. Up until we moved from Lake Placid to Saranac Lake 10 or so years ago, we kept our boat at the Lake Placid Marina and they have had covered slips as long as I can remember, which is a very long time.

The Saranac Lake Marina has been operating for decades and they provide a much-needed service to the visitors who make the local economy successful each boating season. There is no logical

reason not to approve their application to provide much needed covered slips for visitors and locals alike.

Please feel free to contact me if this email generates any questions.



**Richard W. Shine**  
Secretary-Treasurer  
**Manitoba Corporation**  
Email: [rshine@manitobacorp.com](mailto:rshine@manitobacorp.com)  
Phone: 716-685-7001 | Mobile: 716-725-1681  
122 Central Avenue, Lancaster, NY 14086  
[www.manitobacorp.com](http://www.manitobacorp.com)

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**From:** [Kimberly Bickford](#)  
**To:** [Burth, John M \(APA\)](#)  
**Subject:** SL Marina  
**Date:** Thursday, June 1, 2023 10:32:11 AM

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Dear John, I oppose shutting down the marina on Ampersand Bay.

The Marina is a much needed resource for our small community. This marina has also been in existence since my childhood and well many years prior to my 58 years.

I support the existence of the Marina for our community and local resources to offer to visitors & vacationers, who help bring revenue into our community.

I ask you help to support keeping the Marina open, alive and that it continues to help grow our community business's.

Sincerely,

Kimberly Bickford



**From:** [APA Regulatory Programs Comments](#)  
**To:** [Petith, Stephanie L \(APA\)](#); [Stankus, Elizabeth \(APA\)](#); [Burth, John M \(APA\)](#); [Plante, David \(APA\)](#)  
**Subject:** FW: APA Project 2016-0029A Public Comments  
**Date:** Thursday, June 1, 2023 4:49:44 PM

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From: noreply-pc@apa.ny.gov <noreply-pc@apa.ny.gov>  
Sent: Thursday, June 1, 2023 4:49:38 PM (UTC-05:00) Eastern Time (US & Canada)  
To: APA Regulatory Programs Comments  
Cc: ctvpi@hotmail.com  
Subject: APA Project 2016-0029A Public Comments

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Please copy "2016-0029A, chris and jen tissot, ctvpi@hotmail.com" into your message for our reference.

\*\*\*\*\*

Attn: John M. Burth  
Comments from: chris and jen tissot  
Email from: ctvpi@hotmail.com  
Address: 48 brunswick rd saranac lake ny 12983  
Re: Agency Project 2016-0029A, LS Marina LLC

My Comments:

to all concerned;

I am writing in defense of Saranac Lake marina being aloud to install roofs on their docks for the protection of the boats. I have previously submitted for the last law suit.

Since purchasing this marina the current owners have performed extensive environmental clean up work and they have removed ALL of the decrepit buildings from the property. they keep a clean and tidy business as is visible. I understand the roofs will incorporate clear roof panels as consideration for future aquatic life.

This marina has been in existence for I believe almost 100 years and has provided accommodations for the "common" inhabitants of the Adirondacks for that period. It provides access for regular boating for those people that can not afford a laker front home. This area has only become more costly over the years and therefore access to the water is that much farther out of reach for the everyday local inhabitant. This marina is only one of a few locally to allow for that access.

I have been on the water and in the area of the complaining parties property and they addition of roofs to the slips will not be any more imposing than the previously existing in fact they will be less imposing.

We spend many evenings in the summer out in our boat and are always amazed at the lack of boat traffic on lower and middle saranac lakes. Most days and evenings I would be surprised if we see as many as 25 boats on the water.

Lower saranac and middle have been coopted long ago by the state as a lake with public camping areas all around it. These are water access only. there has now been a system put on the internet to obtain sites (used to be first come first serve) again removing one of the few advantages we as tax paying adirondackers enjoyed as a percentage. of putting up with poor work availability, high cost of heat and gas and food. Give your residents who pay taxes to

maintain this area for all others to enjoy just a little, please.

there is no viable reason for this 100 year old business NOT to continue to operate and attempt to provide decent accommodations for its clients. It's enough of falling over ourselves here to play favorites with the wealthy, stop accommodating their whims and take equal care of all your taxpayers.

Thank you, chris and Jen Tissot

**From:** [Dave MacDougall](#)  
**To:** [Burth, John M \(APA\)](#)  
**Subject:** SL Marina project  
**Date:** Friday, June 2, 2023 9:29:59 AM

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Dear Sir

I have recovered error message while trying topmost this comment via the app website.

Please excuse the redundancy if it did get through.

thank you

Dave MacDougall

Comment:

I am writing in support of SL Marina project. I have followed this project with great interest for the past few years as a few of those who are fortunate to own land on the lake have tried to restrict access for those of us who, unlike the current complainant, don't have a private dock on the lake.

I have witnessed recurrent misrepresentations by those parties concerning the usage of the lake. As a retired person I am fortunate to be able to be on the lake on a majority of the nice days during the rather brief boating season. I have never seen crowded conditions on the lake even on the July 4th holiday which is usually the busiest day of the year. Conversations with those who have enjoyed this lake for decades indicate that usage is actually significantly below what it used to be.

There is no question that the well designed docks installed by the marina are a tremendous improvement both aesthetically and environmentally over the dilapidated ones that they replaced. The proposed dock coverings the marina would like to install do not in any way detract from the lake's beauty. They will save boat owners a considerable sum of money over the years by protecting boat covers and upholstery from the deleterious effects of sun exposure.

Please consider that if the marina were forced to close it would preclude access to the lake by many such as myself who are unable to trailer a boat in and out every time we would like to enjoy the lake. I think the question is does the lake exist only for the enjoyment of those fortunate to own land there or should it be open to the rest of us as well. We value and care for the lake as much as do those trying to restrict our use.

**From:** [Colleen Farmer](#)  
**To:** [Burth, John M \(APA\)](#)  
**Subject:** Comments/Information on Saranac Lake Marina  
**Date:** Friday, June 2, 2023 11:35:44 AM  
**Attachments:** [Saranac Lake Marina Letter 2023.pdf](#)

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**References at bottom and PDF version also attached. Can you please confirm you have received my email and this will be submitted. Thank you, Colleen and Bob Farmer**

### Marina Vital to Saranac Lake Livelihood

To Whom It May Concern,

June 1, 2023

I/We are writing this letter in strong support of Saranac Lake Marina moving forward and completing the final stage of the floating dock system by adding roofs over a portion of the docks in Ampersand Bay and at the main marina in Crescent Bay. The marina has gone above and beyond over the last 10 years cleaning up and working hard to improve and update the old broken down boat houses we used for many years. My husband and his family grew up using the marina and enjoying the lakes. Our children also have grown up swimming on the Lower Saranac Lake, fishing with their grandparents, boating through the channel and spending whole days on Lower Saranac Lake, Middle Saranac Lake and Lake Flower with family and friends.

Ten years ago when the Saranac Lake Marina first started the process of renewing the marina it seemed neighbors were on board for this change as the boathouses were referred to as unsafe and an eyesore. They were dilapidated and literally falling down into the water. The marina sought and has made significant and extensive improvements that were badly needed while balancing environmental preservation. In fact the marina has jumped through hoops going through the town, APA and DEC processes making many compromises and taking into consideration wetlands analysis, fish studies, visual impact, drainage, shading, dark sky compliant lighting, solar power, architectural design, color of support posts. They had also reduced the number of slips, removed covered roofs off portions of the proposed expansion, added a hip roof design, and added skylights on portions of the covered docks to protect the submerged aquatic vegetation (largely milfoil beds) in Ampersand Bay.

Keeping the lake accessible is a vital part of doing something to keep our town alive! It is one of the main reasons many of us choose to live here. Yet it seems environmental nonprofits, a few retired state officials, and Thomas Jorling, with his deep pockets and the tactic of just keep swinging until they go away or go bankrupt is driving this fight against the marina and ALL of us, locals who grew up in this area and everyone else who has moved here to enjoy the beauty of the park. The park was established in 1892 for **“the free use of all the people for their health and pleasure.”**<sup>7</sup>

Mr. Jorling has shown his true colors and the bottom line seems to be that he wants to limit the use of the lake for his own personal benefit. A few quotes from the lawsuits/appeals over the years shows your selfishness. “the project will greatly impact the use and enjoyment of the petitioner’s property.”<sup>4</sup> Mr. Jorling “would be adversely impacted “due to the increased noise, increased light, increased activity...”<sup>9</sup> and yet Mr. Jorling has been unable to provide evidence of this. The Adirondack Almanack filed corrections on the Saranac Lake Marina Commentary back on Wednesday August 26, 2020 stating they “removed commentary by Tom Jorling “Weighing in on Saranac Lake Marina plans because it contained inaccuracies...” It seems he is willing to say or do anything to shut down the marina.<sup>5</sup>

Mr. Jorling in his appeal brief argues “that the DEC and the APA are **mandated** to study the carrying capacity of lake in the Adirondack Park...” “failure to conduct or obtain the carrying capacity study required by the SLMP, and by the SLWF UMP, is prima facie evidence that NYSDEC and APA have failed in their duties to protect the Adirondack Park...” and **“The approval of the Project should be vacated...”**<sup>10</sup> Mr. Jorling wants the marina shut down.

Did state agencies “evade the mandate” of the State SLWF UMP without a carrying capacity study? No! Mr. Jorling has misinterpreted SLWF UMP.

**1. There is No Mandate for a water body carrying capacity study to be completed in any time period. Page 111 of the UMP lists the carrying capacity study as a “proposed management action”.**

On pages 191-197 the UMP has a list of “phases for implementation” along with a yearly “schedule of implementation”. We are now just starting year two of the UMP **and It does not list the carrying capacity study in any of the phases for implementation and it is NOT on the schedule of implementation for any of the years listed.**

It is also important to note the UMP implementation is “dependent upon adequate manpower and funding.” (Pg IV UMP) So there is no specific time requirement.

Mr Jorling’s appeal brief referred to pages 10-12 in the UMP and this section stated purpose was to “provide a comprehensive inventory of natural resources, existing facilities and uses, while identifying the special values that justify the protection of this area...” Many other referenced pages include 111-112, 177-185, which all fall under the title **“Proposed Management Actions.”** Not mandated, not required.

“A UMP serves as a mechanism for the Department to **study and identify...**”and “it serves as **an administrative vehicle** for the identification and removal of nonconforming structures as required by the APSLMP. (pg.VIII UMP)

**Therefore State respondents are NOT “required by law to conduct a carrying capacity study”** as per Mr. Jorling point 1 in his appeal brief.<sup>10</sup>

**2. Lower Saranac Lake is not identified as being included in this UMP.** On Page 111 the UMP states, “This UMP included the following boat launches: Lake Placid, Lake Flower, Upper Saranac Lake, and the Raquette River (known as the Crusher). Additional boat launches in the SKWF planning area include Second Pond, Rollins Pond, and Fish Creek Ponds. There are 14 water or fishing access sites for hand launching of boats.”

3. Mr. Jorling also states in his appeal brief it “is necessary to assess the Project’s actual impacts-especially-overuse on Lower Saranac Lake.” This is Mr. Jorling’s speculative opinion and is not provable. According to the UMP page 111 Lower Saranac Lake is not listed or identified as one of the several “waterbodies within the unit that are of concern.”

4. The UMP does state, and lists Lower Saranac Lake with concern to “recreation experience impact” due to “crowding and conflict impacting one's experience on a waterbody.” Mr. Jorling has previously made reference to this. However Mr. Jorling and the lawsuit seemed to have left out the rest of the UMP statement on this. It states the crowding and conflict are caused by “density of tent sites and ease of access.” So if Mr. Jorling was so concerned about “carrying capacity” Why did he not go after the state in 2018 when the state expanded the Second Pond boat launch? Second Pond now appears to have room for 100 boats-most all of which, presumably

would be out on the lake versus a marina where people use their boats occasionally or when on vacation. He should have brought his concerns when Lake Flower was making improvements that would potentially attract more boaters. Both Second Pond and Lake Flower are named as being followed specifically in and by this UMP.

5. While protecting the park is important, it should always be balanced with the true and initial meaning and establishment of the park for **“the free use of all the people for their health and pleasure.”**

In my view Mr. Jorling and his attorney should be sued for apparent lies they have told and the apparent misrepresentation of information to the courts in regard to the UMP. The marina should be compensated for their additional losses of revenue as well as the legal expenses. This lawsuit is another example of a person and or groups who aren't able to accomplish their agenda through the public process and weaponize the court system purposely delaying progress that would benefit the Adirondack economy and the people who live and play here. As a lawyer and previous DEC employee Mr. Jorling knows the game and it appears he is playing it at the expense of the marina and the local people.

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I can't even imagine the extra money spent on the marina project with it dragging on study after study and now through the courts for years. Treating a business like this, when they are significantly improving on something old we had, is not good business, if we want to keep our community alive and thriving. The Saranac Lake Marina has clearly demonstrated they are dedicated to restoring the marina, that they care about the people, the environment and the area we live in!

This project should no longer be held up. Please Allow the marina to move forward with their new vision and allow all of us who have lived and grown up here continue to enjoy our beautiful lakes!

Sincerely,

Colleen and Bob Farmer  
518-637-6829

Below UMP pg.111-112, 191-194 and references.

## **IV. Proposed Management Actions**

### **7. Water Body Carrying Capacity**

The SLWF is comprised of approximately 75,070 acres of Wild Forest lands. There are 142 water bodies totaling 19,000 acres. The waters provide direct recreational opportunities (e.g. swimming, angling, boating), scenic value, and wildlife habitat. Eighty-six water bodies (totaling 2,592 acres) are completely within the unit and wholly surrounded by Forest Preserve. Forty five of the 86 water bodies are greater than 5 acres and total 2,503 acres. Within the planning area are seven public boat launches.

**This UMP includes the following boat launches: Lake Placid, Lake Flower, Upper Saranac Lake, and the Raquette River (known as the Crusher). Additional boat launches in the SLWF planning area include Second Pond, Rollins Pond, and Fish Creek Ponds. There are 14 water or fishing access sites for hand launching of boats.**

There are several ways that water quality is impacted: introduction of nutrients, petroleum products, effluent, sediment, and invasive species; damage to riparian vegetation; and disturbances to bird nesting are pressures and impacts on water bodies from use. **Several waterbodies within the unit are of concern, including Rollins Pond, Square Pond, and Upper Saranac Lake. These have significant potential for impacts from inputs such as shoreline development and ease of access.**

In addition to the environmental impacts, there are also impacts to the recreational experience caused by use on water bodies. **Crowding and conflict impact one's experience on a waterbody. Lower Saranac Lake and Follensby Clear Pond have a significant density of tentsites and ease of access. These factors greatly increase the probability of social impacts.**

**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 which will assess the effects of management actions and public use with respect to the physical, biological and social conditions. This wildlands monitoring guidance framework will likely be based on selecting indicators that will comprehensively monitor the ecological and social impacts of use on the water bodies and surrounding riparian lands to assess the carrying capacity.

The monitoring will examine water-related use and development in the SLWF. The monitoring will select indicators, monitor the indicators, and evaluate against standards to determine the capacity of waterbodies. Indicators may look at ecological impacts (e.g. non-native aquatic plants, fecal coliform, chloride, dissolved oxygen, and water temperature), social impacts (e.g. trip satisfaction, visitor conflict), recreation use (e.g. people at one time, visitor overnight use), and adjacent development (e.g. number of campsites).

This UMP provides information about impacts, but a cumulative assessment between use and impacts has not been done. The following resources within this UMP provides valuable information that will be useful in the assessment of cumulative impacts:

Saranac Lakes Wild Forest – Unit Management Plan – April 2019

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## V. Phases for Implementation

### Background

The overall guidance throughout this UMP is based on implementing the prescribed management actions in phases that allows land managers to continuously monitor and evaluate the carrying capacity of the lands affected. The phases are outlined to provide initial access to facilities, which will then be monitored for use and impacts to the environment. Once ground use data is collected through monitoring it will be evaluated to determine if the specific thresholds of each facility have been met in order to activate the following phase of the plan. With this phased approach it is understood that the actions in phase 1 will be constructed, and once the carrying capacity of the area in relation to the phase 1 facilities is evaluated successive phases may be implemented. Successive phases are conditional and will need to be activated in order to be constructed. This process will be repeated for each facility outlined below. Monitoring results will determine if successive phases will be started, if the facility will be maintained at its current level of development, or if we need to step back a phase and re-evaluate our management strategy. Through this process we can methodically develop opportunities, monitor them and make decisions to realize the management goals for the area.

**Completing items in the schedule are contingent upon sufficient staffing levels and available funding.** Approval for construction of individual projects is also contingent upon the results of monitoring of use levels from prior projects, assessment of impacts, and a consideration of demand. The estimated costs of implementing these projects are based on historical costs incurred by the Department for similar projects. Values for some projects are based on projected costs for service contracting. These cost estimates do not include capital expenditures for items such as equipment, nor do they include the value of program staff salaries.

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## V. Schedule for Implementation and Estimated Budget

Reoccurring Activities

Maintain boundary lines, including identification and removal of encroachments. (25 miles per year)

Conduct chemical monitoring of limed waters.

Develop facilities maintenance needs list. Develop work plans. Coordinate activities with APA staff, secure needed permits.

Perform routine maintenance on facilities. Areas where natural resources are being degraded will be addressed.

Monitor visitor use levels/impacts and compile visitor register information.

Provide outreach concerning invasive species, proper camping techniques, and LEAVE- NO-TRACE.

Submit sign requests and install signs as necessary. Remove illegal signs. Conduct biological surveys to monitor and maintain high quality fisheries.

Enhance natural fish barriers and construct fish barriers as needed to prevent the spread of non-native fish.

Address invasive species by taking actions to prevent the introduction of new invasive species and work to eliminate occurrences of invasive species.

Stock fish in SLWF waters consistent with Bureau of Fisheries policies and the Final Programmatic Environmental Impact Statement on Fish Species Management

Activities of the Department of Environmental Conservation Division of Fish and Wildlife (1980). Stocking efforts will include use of aircraft on remote waters and may involve motor vehicle use on seasonal roads.

Saranac Lakes Wild Forest – Unit Management Plan – April 2019

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### Phase 1

#### V. Schedule for Implementation and Estimated Budget

(budget listed with UMP)

Saranac Lakes Wild Forest – Unit Management Plan – April 2019

Year 1

Rehabilitate the shooting range near Connery Pond.

Build a parking area at the Brewster Peninsula trails.

Improve the Hoel Pond fishing access site.

Mark trails where mountain bikes will be allowed.

Build a ski trail south of Mountain Lane.

Develop the parking and nature trails at Lake Colby.

Close and brush-in the trails identified for closure.

Sign and make improvements to the Loggers Loop Trails.

Improve part of the Rat Pond Road and close segments of the road.

Allow snowmobile use of the canoe carry to Follensby Clear Pond from the Little Square Pond Snowmobile Tail.

Close snowmobile trails as called for in the UMP.

Close the road to campsites numbers 1 and 2 off Floodwood Road.

Construct the parking and nature trails at Lake Clear.

Build new campsites and close existing campsites as called for in the UMP.

Build connector trails between Rollins Pond Campground and the Remsen to Lake Placid Travel Corridor.

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Year 2

Create a parking area at the intersection of State Route 3 and the road to Lonesome Bay.

Reroute the Scarface Mountain Trail.

Build new campsites and close existing campsites as called for in the UMP.

Research the legality of right-of-ways in the SLWF.

Develop the trail systems near Lake Placid, this will work will continue for several years.

Reduce the size of the parking area at the intersection of NY Routes 3 & 30.

Construct a snowmobile trail to Heavens Pond.

#### References

1. <https://www.adirondackcouncil.org/page/in-the-news-36/news/governor-finalizes-adirondack-land-purchase-813.html>
2. <https://www.adirondackexplorer.org/stories/thirteenth-lake-now-completely-protected-with-adirondack-land-trust-acquisition>
3. <https://www.openspaceinstitute.org/about>
4. [https://www.adirondackexplorer.org/wp-content/uploads/2021/01/CV21\\_0002\\_Thomas\\_Jorling\\_v\\_Adirondack\\_Park\\_Agency\\_et\\_al\\_PETITION\\_1.pdf](https://www.adirondackexplorer.org/wp-content/uploads/2021/01/CV21_0002_Thomas_Jorling_v_Adirondack_Park_Agency_et_al_PETITION_1.pdf)
5. <https://www.adirondackalmanack.com/2020/08/corrections-on-saranac-lake-marina-commentary.html>
6. <https://www.adirondackexplorer.org/stories/saranac-lake-marina-project-back-in-court>
7. [https://en.wikipedia.org/wiki/Adirondack\\_Park#:~:text=The%20Adirondack%20Park%20is%20a,corresponds%20with%20the%20Adirondack%20Mountains](https://en.wikipedia.org/wiki/Adirondack_Park#:~:text=The%20Adirondack%20Park%20is%20a,corresponds%20with%20the%20Adirondack%20Mountains).
8. None
9. Three infrastructure improvement projects in the Adirondacks Boreas Ponds Tract, Lower Saranac Lake, <https://www.adirondackexplorer.org/stories/judge-dismisses-challenge-to-saranac-lake-marina>  
<https://www.adirondackexplorer.org/stories/judge-dismisses-challenge-to-saranac-lake-marina>
10. <https://www.adirondackexplorer.org/stories/lower-saranac-lake-marina-challenged>

**From:** [Colleen Farmer](#)  
**To:** [Burth, John M \(APA\)](#)  
**Subject:** Re: Comments/Information on Saranac Lake Marina  
**Date:** Friday, June 2, 2023 1:32:43 PM

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Thank you for responding.

I also wanted to say as much as my comments are in support of the marina I also believe that what I have read from the SLWF UMP my comments are also very supportive of the APA. The APA/DEC should never have been sued by Jorling when you actually read that UMP. He has no argument the APA/DEC did not need to complete a carrying capacity study to evaluate the marina. I hope these findings are helpful to the APA/state as well as the marina to fight against this lawsuit.

Colleen

On Fri, Jun 2, 2023 at 1:17 PM Burth, John M (APA) <[John.Burth@apa.ny.gov](mailto:John.Burth@apa.ny.gov)> wrote:

Thank you for your email. Your comments have been included in the project file and will be considered during review of the project.

## **John M. Burth**

Environmental Program Specialist 3

### **NYS Adirondack Park Agency**

PO Box 99

1133 NYS Route 86

Ray Brook, NY 12977

(518) 891-4050 | [John.Burth@apa.ny.gov](mailto:John.Burth@apa.ny.gov)

[www.apa.ny.gov](http://www.apa.ny.gov)



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**From:** Colleen Farmer <[colfarmer29@gmail.com](mailto:colfarmer29@gmail.com)>  
**Sent:** Friday, June 2, 2023 11:34 AM  
**To:** Burth, John M (APA) <[John.Burth@apa.ny.gov](mailto:John.Burth@apa.ny.gov)>  
**Subject:** Comments/Information on Saranac Lake Marina

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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.*

**References at bottom and PDF version also attached. Can you please confirm you have received my email and this will be submitted. Thank you, Colleen and Bob Farmer**

### **Marina Vital to Saranac Lake Livelihood**

To Whom It May Concern,

June 1, 2023

I/We are writing this letter in strong support of Saranac Lake Marina moving forward and completing the final stage of the floating dock system by adding roofs over a portion of the docks in Ampersand Bay and at the main marina in Crescent Bay. The marina has gone above and beyond over the last 10 years cleaning up and working hard to improve and update the old broken down boat houses we used for many years. My husband and his family grew up using the marina and enjoying the lakes. Our children also have grown up swimming on the Lower Saranac Lake, fishing with their grandparents, boating through the channel and spending whole days on Lower Saranac Lake, Middle Saranac Lake and Lake Flower with family and friends.

Ten years ago when the Saranac Lake Marina first started the process of renewing the marina it seemed neighbors were on board for this change as the boathouses were referred to as unsafe and an eyesore. They were dilapidated and literally falling down into the water. The marina sought and has made significant and extensive improvements that were badly needed while balancing environmental preservation. In fact the marina has jumped through hoops going through the town, APA and DEC processes making many compromises and taking into consideration wetlands analysis, fish studies, visual impact, drainage, shading, dark sky compliant lighting, solar power, architectural design, color of support posts. They had also reduced the number of slips, removed covered roofs off portions of the proposed expansion, added a hip roof design, and added skylights on portions of the covered docks to protect the submerged aquatic vegetation (largely milfoil beds) in Ampersand Bay.

Keeping the lake accessible is a vital part of doing something to keep our town alive! It is one of the main reasons many of us choose to live here. Yet it seems environmental nonprofits, a few retired state officials, and Thomas Jorling, with his deep pockets and the tactic of just keep swinging until they go away or go bankrupt is driving this fight against the marina and ALL of us, locals who grew up in this area and everyone else who has moved here to enjoy the beauty of the park. The park was established in 1892 for **“the free use of all the people for their health and pleasure.”**<sup>7</sup>

Mr. Jorling has shown his true colors and the bottom line seems to be that he wants to limit the use of the lake for his own personal benefit. A few quotes from the lawsuits/appeals over the years shows your selfishness. “the project will greatly impact the use and enjoyment of the petitioner’s property.”<sup>4</sup> Mr. Jorling “would be adversely impacted “due to the increased noise, increased light, increased activity...”<sup>9</sup> and yet Mr. Jorling has been unable to provide evidence of this. The Adirondack Almanack filed corrections on the Saranac Lake Marina Commentary back on Wednesday August 26, 2020 stating they “removed commentary by Tom Jorling “Weighing in on Saranac Lake Marina plans because it contained inaccuracies...” It seems he is willing to say or do anything to shut down the marina.<sup>5</sup>

Mr. Jorling in his appeal brief argues “that the DEC and the APA are **mandated** to study the carrying capacity of lake in the Adirondack Park...” “failure to conduct or obtain the carrying capacity study required by the SLMP, and by the SLWF UMP, is prima facie evidence that NYSDEC and APA have failed in their duties to protect the Adirondack Park...” and **“The approval of the Project should be vacated...”**<sup>10</sup> Mr. Jorling wants the marina shut down.

Did state agencies “evade the mandate” of the State SLWF UMP without a carrying capacity study? No! Mr. Jorling has misinterpreted SLWF UMP.

**1. There is No Mandate for a water body carrying capacity study to be completed in any time period. Page 111 of the UMP lists the carrying capacity study as a “proposed management action”.**

On pages 191-197 the UMP has a list of “phases for implementation” along with a yearly “schedule of implementation”. We are now just starting year two of the UMP **and It does not list the carrying capacity study in any of the phases for implementation and it is NOT on the schedule of implementation for any of the years listed.**

It is also important to note the UMP implementation is “dependent upon adequate manpower and funding.” (Pg IV UMP) So there is no specific time requirement.

Mr Jorling’s appeal brief referred to pages 10-12 in the UMP and this section stated purpose was to “provide a comprehensive inventory of natural resources, existing facilities and uses, while identifying the special values that justify the protection of this area...” Many other referenced pages include 111-112, 177-185, which all fall under the title **“Proposed Management Actions.”** Not mandated, not required.

“A UMP serves as a mechanism for the Department to **study and identify...**”and “it serves as **an administrative vehicle** for the identification and removal of nonconforming structures as required by the APSLMP. (pg.VIII UMP)

**Therefore State respondents are NOT “required by law to conduct a carrying capacity study”** as per Mr. Jorling point 1 in his appeal brief.<sup>10</sup>

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Colleen and Bob Farmer  
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Below UMP pg.111-112, 191-194 and references.

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Saranac Lakes Wild Forest – Unit Management Plan – April 2019

Pg 111

## **V. Phases for Implementation**

### **Background**

**The overall guidance throughout this UMP is based on implementing the prescribed management actions**

**in phases** that allows land managers to continuously monitor and evaluate the carrying capacity of the lands affected. The phases are outlined to provide initial access to facilities, which will then be monitored for use and impacts to the environment. Once ground use data is collected through monitoring it will be evaluated to determine if the specific thresholds of each facility have been met in order to activate the following phase of the plan. With this phased approach it is understood that the actions in phase 1 will be constructed, and once the carrying capacity of the area in relation to the phase 1 facilities is evaluated successive phases may be implemented. Successive phases are conditional and will need to be activated in order to be constructed. This process will be repeated for each facility outlined below. Monitoring results will determine if successive phases will be started, if the facility will be maintained at its current level of development, or if we need to step back a phase and re-evaluate our management strategy. Through this process we can methodically develop opportunities, monitor them and make decisions to realize the management goals for the area.

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Pg 191

## V. Schedule for Implementation and Estimated Budget

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Address invasive species by taking actions to prevent the introduction of new invasive species and work to eliminate occurrences of invasive species.

Stock fish in SLWF waters consistent with Bureau of Fisheries policies and the Final Programmatic Environmental Impact Statement on Fish Species Management Activities of the Department of Environmental Conservation Division of Fish and Wildlife (1980). Stocking efforts will include use of aircraft on remote waters and may involve motor vehicle use on seasonal roads.

## **Phase 1**

### **V. Schedule for Implementation and Estimated Budget**

(budget listed with UMP)

Saranac Lakes Wild Forest – Unit Management Plan – April 2019

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Create a parking area at the intersection of State Route 3 and the road to Lonesome Bay.

Reroute the Scarface Mountain Trail.

Build new campsites and close existing campsites as called for in the UMP.

Research the legality of right-of-ways in the SLWF.

Develop the trail systems near Lake Placid, this will work will continue for several years.

Reduce the size of the parking area at the intersection of NY Routes 3 & 30.

Construct a snowmobile trail to Heavens Pond.

## References

1. <https://www.adirondackcouncil.org/page/in-the-news-36/news/governor-finalizes-adirondack-land-purchase-813.html>
2. <https://www.adirondackexplorer.org/stories/thirteenth-lake-now-completely-protected-with-adirondack-land-trust-acquisition>
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4. [https://www.adirondackexplorer.org/wp-content/uploads/2021/01/CV21\\_0002\\_Thomas\\_Jorling\\_v\\_Adirondack\\_Park\\_Agency\\_et\\_al\\_PETITION\\_1.pdf](https://www.adirondackexplorer.org/wp-content/uploads/2021/01/CV21_0002_Thomas_Jorling_v_Adirondack_Park_Agency_et_al_PETITION_1.pdf)
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6. <https://www.adirondackexplorer.org/stories/saranac-lake-marina-project-back-in-court>
7. [https://en.wikipedia.org/wiki/Adirondack\\_Park#:~:text=The%20Adirondack%20Park%20is%20a,corres ponds%20with%20the%20Adirondack%20Mountains.](https://en.wikipedia.org/wiki/Adirondack_Park#:~:text=The%20Adirondack%20Park%20is%20a,corres ponds%20with%20the%20Adirondack%20Mountains.)



8

None

9

Three infrastructure improvement projects in the Adirondacks Boreas Ponds Tract, Lower Saranac Lake,

<https://www.adirondackexplorer.org/stories/judge-dismisses-challenge-to-saranac-lake-marina>

<https://www.adirondackexplorer.org/stories/judge-dismisses-challenge-to-saranac-lake-marina>

10.

<https://www.adirondackexplorer.org/stories/lower-saranac-lake-marina-challenged>



**From:** [Katie Brennan](#)  
**To:** [Burth, John M \(APA\)](#)  
**Subject:** Saranac Lake Marena APA permits  
**Date:** Monday, June 5, 2023 12:33:34 AM

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You don't often get email from brennankatiej@gmail.com. [Learn why this is important](#)

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

Hello,

We are writing in support of the new dock space on Lower Saranac Lake provided by Saranac Lake Marina, as well as plans that have been approved.

As you know, this has been a working marina for nearly a century. Through the years many local families have used this space to keep their boats, access the lake and through this develop a deeper attachment to the area and the natural beauty of the Adirondacks. The Saranac Lake Marina is a great asset to the area and those passionate about conservation and stewardship. In my experience, boat traffic on the lake is light - even on hot weekend days - and boaters are very competent and respectful of other traffic and campers on the lake in how they operate their vehicles, as well as noise levels.

Further, we have been impressed by the thoughtful dock construction and work Saranac Lake Marina has undertaken to modernize their docks, while mitigating the negative impacts on neighbors and the natural environment.

They provide a valuable service to the community and boaters on the lake. The Marina owners are thoughtful and passionate custodians of the Saranac Chain of Lakes. In our experience, they actively support boaters to use the lakes respectfully, thoughtfully and with skill. The marina shop prominently displays information on how to boat responsibly and protect the environment. They have had effective communication with boat/slip owners about protocols and environmental protection. They also work hard to support boat owners with boat washes and maintenance to ensure boats are in good working order from both a safety and environmental impact perspective.

I grew up in the tri-lakes region, moved away for a number of years and recently moved back with my husband and daughter. I camped on Lower Saranac with my family each summer growing up. We did not have lake front property but were able to experience the lake and camping on the water - deepening our understanding of the natural world and developing a commitment to conservation. Coming back to the area after living elsewhere for almost 20 years, I have been delighted that the boat traffic on the lake still seems as light as I remember it. The lake is not overcrowded and other boaters are both respectful and skilled craft operators - again, this is part of the culture of education and considerate, skillful boating that Saranac Lake Marina helps to instill among boat owners and those renting for the day. The marina has also provided a valuable, affordable, community resource for regular residents who do not have lake front property to enable them to enjoy the lake in a responsible way. This is notable at a time where thoughtful stewardship and access to natural resources in the park has been a challenge more broadly - e.g. the DEC trailheads are overcrowded and arguably more could be done to support appropriate access and education at those sites.

Please let me know if further input would be helpful.

All the best,  
Katie

Katie Brennan  
Resident - Lake Placid, NY  
Dock slip lease holder, Saranac Lake Marina since 2022

**From:** [Don Morrison](#)  
**To:** [Burth, John M \(APA\)](#)  
**Subject:** Saranac Lake Marina Support  
**Date:** Friday, June 2, 2023 10:00:40 PM

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I would like to endorse those who support those who have the plan to keep on keeping on supporting the Saranac Lake Marina and all the incredible work that has gone into making it what it is today. Gone are the wooden eyesights of not long ago. Today it is an up-to-date facility serving hundreds of boaters in a first class facility. I believe the addition of roofs is a great idea.

It is such a treat to see the Marina being used and enjoyed by so many. My family grew up enjoying the lake and marina so much and it became such a wonderful place to go. This is a way to become part of that lake for so many.

You have my full support of what has become a remarkable part of our life.

Sincere,

Mr. Donald Morrison  
Jay

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



June 7, 2023

Mr. John Burth  
NYS Adirondack Park Agency  
P.O. Box 99  
Ray Brook, NY 12977

**Re. Public Hearing, Variance Request, Project 2016-0029A, LS Marina, Lower Saranac Lake**

Dear Mr. Burth,

We write in response to the June 5 public hearing called by the Agency for a variance to the Agency's shoreline restrictions. We listened carefully to that hearing. Although information was presented to show that the applicant's demolition of old marina structures since 2015 appear more protective of the shoreline and littoral zone, insufficient information was shared at the hearing to determine if the actual application for a variance meets the APA's regulatory standards.

**Standards for Review of Variances Not Met:** Agency staff failed to make any statements on June 5 as to compliance with standards for review of variances to the shoreline restrictions. The failure to actively participate in the substance of the June 5 hearing is especially troublesome because of the Appellate Court's reversal of Agency Permit 2016-0029. Under these circumstances it is disappointing the Agency would not wish to underscore its most rigorous review of the variance requested.

At no time during the hearing did APA staff respond to the question of whether the variance requested is the minimum relief necessary, the first factor to be considered in reviewing a variance pursuant to the Agency's Variance Regulations at Part 576.1. Although the total number of boat berths proposed at both the Main and Annex Marinas (292 total) have decreased by 24 since the Court's reversal of APA's 2020 permit, it remains a significant increase – about 120 berths - over what pre-existed there. Of the 292 total berths proposed, 174 are covered boat berths. This variance is for the largest marina in the Adirondack Park. It must also be noted that the Applicant has created the hardship, a significant factor to be considered under Section 576.1.

Further, the fact that that the Appellate Court has annulled the prior permit and correctly determined that the wetlands in question are Value Rated "1" has serious implications for another significant variance factor under Part 576.1, namely whether granting the variance would adversely affect the natural resources. At no time during the hearing did APA staff discuss the impact to the Value "1" wetland. Under Part 578.10, such wetlands must be preserved intact, and no activity may cause degradation or loss of any part of the wetland and its associated values. This is an extremely rigorous standard that was not addressed June 5 by either the applicant or the staff.

**Adjudication Needed:** Whether a variance for a large increase in the size and capacity of the marina would adversely affect Class 1 wetlands and other natural and scenic resources of Lower Saranac Lake and the entire Saranac Lake chain of lakes, and whether the imposition of conditions would ameliorate adverse effects (Part 576.1(5,6) are regulatory considerations that can only be adequately addressed and answered through adjudication.

Under the regulatory criteria set forth in Part 580.2 of the APA Regulations this request must proceed to an adjudicatory hearing.

1. Size/complexity of project. This would be the largest marina in the Adirondack Park in an area of mixed private land and Forest Preserve on the Saranac Lake chain, a heavily used waterbody.
2. Degree of Public Interest. The record shows there is strong public interest in this matter.
3. Significant issues related to approval. The presence of the Value "1" wetland and the mandate to preserve it in 578.10 is alone a significant enough issue.
4. Approval only with substantial modifications/conditions. The fact that the Value "1" wetland must be preserved obviously requires significant project modification or conditions.
5. Possibility that information at a hearing would be of assistance. Because of the utter lack of information June 5 regarding impacts to the Value "1" wetland, an adjudicatory hearing is required. Moreover, the potential for new information to be adjudicated includes how this marina expansion granted through the variance may impact upon the recreational carrying capacity of Lower Saranac Lake and the other lakes in the Saranac Lake Wild Forest. With respect to the annulled LS Marina permit, the Appellate Court in 2023 stated that it found the absence of a carrying capacity study and evaluation "inexplicable." APA needs to explain.

It is undisputed that the APA is required under the Act to evaluate a project's potential for adverse impacts on adjoining landowners and uses, including the uses and users of Lower Saranac Lake, where the shorelines, beds and banks are 98% Adirondack Forest Preserve. Also undisputed is the Act's requirement to evaluate the conformance of a given project with other government controls, including the Adirondack Park State Land Master Plan, the Saranac Lake Wild Forest Unit Management Plan. The APA Act and the APSLMP makes mandatory carrying capacity analysis to adequately determine whether permits or variances can be granted. Without it, APA cannot adequately evaluate undue adverse impacts to reach a determination in this matter.

As an adjudicatory hearing would reveal, a waterbody carrying capacity study is entirely practicable. *Adirondack Park Forest Preserve Carrying Capacity of Water Bodies Study, Phase 1*, was requested by the DEC and delivered to the DEC by its principal investigators in 2011. For over ten years, that report has been available to inform the DEC and APA about how to go about this necessary and legally mandated study and evaluation.

**To conclude:** the application fails to meet the legally required standard for review of variances. The Court ruling and the very substantive, controversial issues raised by the application deserve and demand adjudication.

Thank you for considering our comments and for incorporating them in the hearing record.

Sincerely,



David Gibson, Managing Partner

Adirondack Wild: Friends of the Forest Preserve  
P.O. Box 9247, Niskayuna, NY 12309  
518.469.4081  
[Adirondackwild.org](http://Adirondackwild.org)

Cc: Barbara Rice, Executive Director  
David Plante, Deputy Director  
Chris Cooper, Counsel  
John Ernst, Chair, and Agency Members and Designees  
Rick Hoffman and Directors, Adirondack Wild



Jason Brill  
29 Cortez Ln  
Saranac Lake, NY 12983  
June 5, 2023

To Whom It May Concern:

Lower Saranac is the people's lake. It does not belong to the few folks that are fortunate enough to own or have inherited property on it. The Saranac Lake Marina is the only full service marina to serve both Middle and Lower Saranac. It has been a marina for nearly 100 years. We have the opportunity to support this newly renovated marina that we can all be proud of. It will be one that blends with its surroundings and that caters to local boat owners. It is a business that is concerned with the lake and all the people that want to be on this natural wonder that we all hold so dearly in our hearts and dream about through each long winter.

Of additional importance is the fact there are already too few generators of income and employment in this village and its environs. For the various agencies to stymie that business by tying up the application and approval process with frivolous red tape on top of the folks crying "not in my backyard" would be a great shame.

This is our lake. We need a marina on it. To ask people to trailer their boats in would be even more destructive to the environment. There are not nearly enough slips on lake flower and it is time to side with the majority of people rather than the very few that have homes on the lake and that think it is only theirs to use.

Sincerely,  
Jason Brill

Gail Brill  
29 Cortez Ln  
Saranac Lake, NY 12983

June 5, 2023

To Whom It May Concern:

The use of a private, affordable, and accessible marina gives area residents a chance to enjoy and explore our beautiful home. We do not own lakefront property and never will be. We are year-round community members that need access to one of this areas most cherished resources. We are grateful, deeply grateful to Mike Damp and the Saranac Lake Marina for allowing us access to such beauty.

We thank the late Don Duso and his family for making it possible. Now we are again at a crossroads. Enter Mike Damp, to hoist, clean, replace and re-envision this necessary resource. To the members of the Adirondack Park Agency Board, we implore you to allow the Saranac Lake Marina to move into its next necessary phase. I know so many local people that use the Marina and support it's success. For all of us and for all those that have yet to get out there, please approve the permits for the Saranac Lake Marina. Please make sure that easy access to Lower Saranac is not only for wealthy shore owners, but for all the rest of us too. Thank you for considering my plea.

Sincerely,  
Gail Brill  
Saranac Lake

Date: June 2, 2023  
To: NYS Adirondack Park Agency  
Attention: John Burth  
From: Paul and Eileen Leahy  
RE: Saranac Lake Marina

We support the Saranac Lake Marina. Our family is fortunate to be able to moor a boat on Lower Saranac Lake at the marina. Our families grew up on the lake with tent platforms in Lonesome Bay and near Crescent Bay. Such enjoyable and memorable times. This privilege, unfortunately, ended in the summer of 1975 when the tent platforms were dismantled. The forward and progressive movement of the Saranac Lake Marina has once again afforded families to enjoy all Lower Lake has to offer. Let's focus on what the marina has done to move forward.

This is a great resource for our local area. We need tourists to keep our local businesses and economy thriving and we need people and families to want to stay in this area and make a living.

Over the past ten years the Saranac Lake Marina has taken every possible step necessary to meet and often exceed governmental agency guidelines. The docks are well designed and installed with incredible expertise with safety as its number one concern.

Many boats on the water are moored at campsites or open public areas. We see boats drifting down the Saranac River to Lake Flower and boats making their way to Middle Saranac for a day out with family and friends. Many boats are simply anchored for a good portion of the day.

We were taught as young kids to be courteous and respectful to all fellow boaters and shore owners. Perhaps our Department of Environmental Conservation should emphasize this practice to all parties on the water?

Environmental issues are a concern for water, land and air quality. However, the need for humans to be an integral part of our environment is crucial.

Our family has experienced positive interactions with the entire staff at the Saranac Lake Marina. There is a common bond among the patrons which breeds respect, courtesy and a positive upbeat attitude. We are all extremely fortunate and appreciative of the opportunity we are afforded here in our beautiful Adirondack home.

Please focus on the positive steps this marina has taken to meet both environmental and human interest and allow the marina to continue to move forward with their well designed plans. Thank you!

Paul and Eileen Leahy  
119 Trudeau Road  
Saranac Lake, NY 12983  
(518) 891-2067  
leahyfarm@gmail.com

**To: NYS Adirondack Park Agency**

**From: Barry and Rosanne Brogan  
57 Nordic Way  
Saranac Lake, NY**

June 2, 2023

Dear APA:

I am submitting this letter in support of Saranac Lake Marina's permit application, which is being considered by the APA. My family and I have been customers of the Saranac Lake Marina and its previous iterations for the past 23 summers. The marina offers middle income families such as ours the only realistic option for in-water boat access on ANY of the Saranac Lakes. To be clear on this point, we live with water all around us yet access to Lower, Middle and Upper Saranac Lake is limited to trailering to the State boat launches (not the most environmentally sound practice), getting on a long waiting list for Ampersand Bay's very few slips, or utilizing the recently renovated and much improved facilities at the Saranac Lake Marina. There is no commercial over-night transient or seasonal dockage or moorings available on Upper Saranac Lake at all.

This is a regrettable situation for a community and a State Park that seeks to offer top notch resort activities and should by all accounts be attracting people from all over the country if not the world to come and enjoy our wonderful clean and refreshing waters. The truth of the matter is that if a visitor who may be staying in Lake Placid, or at the Hotel Saranac or the Saranac Waterfront Lodge, wants to put a boat in Lower Saranac Lake and leave it overnight, the only available facility IS Saranac Lake Marina. Remember these hotels and short term rental properties have limited space for parking and cannot accommodate multiple boat trailers. Saranac Lake Marina is offering these accommodations.

It is my understanding that Saranac Lake Marina has modified its plan to meet property owner concerns and will now have a mix of covered and un-covered dock slips. This is a reasonable compromise that meets the concerns of neighbors, and increases the opportunity to advance sailing (see below) as a viable option on Lower Saranac Lake as well as save motorboat owners significant maintenance costs. Bringing covered slips to Lower Saranac creates many cost savings for middle income lake users. Specifically, sun damage to roof and side canvas, vinyl seats, and floor carpets are an ongoing expense that is greatly accelerated with prolonged exposure to the sun. Open boat (such as fishing and ski boats) owners avoid the constant need to bail out their boats after every rain storm. Many of us who own pontoon boats are familiar with every three to five year need to have canvas roofs re-stitched or replaced at a cost of hundreds to several thousand dollars.

It is also my understanding that Saranac Lake Marina has already invested in an invasive plant abatement program and will continue to do so. I am aware of no other business or organization that is currently investing in removing invasive plants from Lower Saranac Lake.

The APA has a unique opportunity to vote in support of the Saranac Lake Marina project and vote in favor of smart, limited, environmentally sound growth. The proposed project makes economic sense for the greater Saranac Lake Community and for the Adirondack park as a whole. The project strikes a critical balance between size and affordability.

Without a good working Marina, access will continue to become more exclusive for the wealthy and well to do who can afford lake front property but most of whom neither live nor work here in the Adirondacks. New facilities at the main marina and at the annex have alleviated the issues with spring flooding and has improved access for senior citizens who can now manage boating from the new marina facilities but have little chance at launching or retrieving their boats from a trailer. At the annex new state of the art dock facilities have reduced the shore line erosion.

Finally, in 2020 I launched SAIL Adirondacks LLC, a new sailing charter business to serve the Tri Lakes. As I have mentioned in previous communications to State agencies, Saranac Lake Marina is THE ONLY access point to place a sailboat of any size on Lower Saranac Lake. The new facilities at Saranac Lake Marina, a mix of covered and uncovered slips provide handicap accessible docks. Sailboats can now be assigned to one of the uncovered slips allowing access for older or handicapped clients. I support the Saranac Lake Marina application as a middle income year-round resident, as a father who has raised his family on Lower Saranac Lake, as an environmentalist, and small business owner looking to grow his business utilizing the new infrastructure that will be put in place at Saranac Lake Marina.

I urge the APA to approve the Saranac Lake Marina project as updated in 2023.

Thanks

Barry Brogan  
SLM Customer  
518 524 0073

To: Adirondack Park Agency

From: Tom Jorling

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

Date: June 2, 2023

Enclosed is a package of materials for submission to the Agency regarding the proposed LS Marina LLC project.

## CARRYING CAPACITY

In the case *Jorling vs APA* the Court annulled the permit to construct a marina on Lower Saranac Lake and ruled 1) then Agency acted unlawfully by not valuing correctly the wetlands at the Annex site; and 2) found that the failure to use the required carrying capacity analysis was “unexplained and inexplicable.

The APA, if it is to retain any credibility as a decision maker must take this admonition on carrying capacity seriously and before entertaining any subsequent permitting process involving the marina require the completion of a carrying capacity study for Lower Saranac Lake. WHY?

The carrying capacity analysis, required by the State Land Master plan and in the Saranac Lakes Wild Forest Unit Management Plan, is a necessary analysis performed on significant resource of the Adirondack Park to prevent overuse and impairment and degradation of the of the resource. It is uncontested that Lower Saranac Lake is a significant and treasured natural resource. 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. 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)

The Board cannot act on any new permit application for this marina without the benefit of a carrying capacity analysis. WHY?

>>Without a carrying capacity analysis the APA has no information the number , size and power of boats using Lower Saranac Lake. There is now no inventory or count of the boats (engine or human powered) on the Lake whether on the Lake by shore owners, by private boat launches or by the 5 public boat launched that provide access to the Lake. Without information on the

number, type of vessels using the lake it is impossible to evaluate use and overuse and impacts and impairment of the Lake.

>>Without a carrying capacity study there is no information on shore erosion.

>> without a carrying capacity analysis there is no knowledge of trends on water quality.

Without a carrying capacity study there is no information on the populations of animals and plants, including invasive that utilize the Lake for nesting, or feeding such as loons osprey, eagles, minks, otters, beavers minks otters and other fish and wildlife.

>>without a carrying capacity analysis there is no information to evaluate the impacts or conflicts that arise from the multiple users of the Lake, swimmers, paddle boaters and boarders, motor boaters, water skiers, jet skiers, campers on the State Island campsites, and the myriad of other users who enjoy the beauty and tranquility of a Wild Forest Lake.

>>without a carrying capacity study there is no information of the location, density and extent of invasive species, such as milfoil, which when transited by power boats shred and spread the species.

>> without a carrying capacity analysis there is no information on the impacts on a Wild Forest Lake and its living inhabitants of noise, increased turbulence, wakes.

In summary 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.

The Board and its individual members cannot dishonor the generations of New Yorkers who labored long and vigorously to perpetuate the magnificent, world envied, landscape that is the Adirondack Park. So the request to the Members of the Board is simple: Do your job.



The treasured Article XIV of the New York State Constitution states:

“The lands of the State, now owned or hereafter acquired, constituting the Forest Preserve as now fixed by law, shall be forever kept as wild forest lands. They shall not be leased, sold or exchanged, or be taken by any corporation, public or private, or shall the timber thereon be sold, removed or destroyed.”

The Adirondack Park Agency Act defines “Land”. “ Land means the earth, on or below the surface of the ground, including water and air above, the flora and fauna.” Section 802.27

The waters of New York State are owned and held in trust by the State for the public.

The approved Saranac Lakes Wild Forest Unit Management Plan applies to the Saranac Lakes Wild Forest and states it is “comprised of approximately 75,070 acres of wild forest land and 19,000 acres of waterbodies” which includes the 2,285 acre Lower Saranac Lake. The approved unit management plan clearly includes within its purview the waterbodies that are part of the Forest Preserve and the Saranac Lakes Wild Forest unit of the Forest Preserve. Several statements in the approved plan underscore this point:

> page v: The APSLMP classifies the lands which are the subject of this UMP as part of the Saranac Lakes Wild Forest.”

>page vii: “The proposed management actions identified in this plan are primarily confined to the SLWF lands and waters.”

>page1: The most prominent features of the unit are lakes, ponds and rivers. In many ways these waterways are to this unit what mountains are to the adjacent High Peaks Wilderness Area.”

> page 2: “There are 142 waterbodies which cover nearly 19,000 acres. The major focus of the SLWF are the three Saranac Lakes: Upper Saranac (5,250 acres), Middle Saranac (1,376 acres) and Lower Saranac (2,214 acres)”

>page 3: “The SLWF is comprised of approximately 75,070 acres of Wild Forest Lands and 19,000 acres of waterbodies.”

>page 58: “The SLWF’s water resources are one of the most prominent features of the region.”

In proposing to grant a permit to build a marina occupying State owned, Forest Preserve, Wild Forest Waters, the APA would be acting unlawfully, contrary to the Constitution by effectively allowing a private corporation to ‘take’, and exclude the public from a portion of the Wild Forest waters for commercial purposes. Simply put, the Agency cannot authorize what the Constitution forbids, the taking of Forest Preserve, Wild Forest waters by a corporation

While written long ago it is clear the framers intended there be no alienation of any portion of the forest preserve, including its waters by any private or public corporation. LSL Marina is a corporation.

The Constitution’s prohibition applies to Lower Saranac Lake and the Agency must comply with it.

## REBUILDING AND REPLACEMENT

It has been asserted that at the Annex site the project pending before the APA does not require a new permit, citing section 573.6 of the APA regulations.

Section 573.6(a) provides:

“(a) No agency permits 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, provided subdivisions (c), (d), (e), and (f) of the section are adhered to.”

There is nothing in the project currently installed at the Annex site that is on the same foundation or in the same location as the previous structures.

In the Agency files there is a document I submitted to the APA on the issue of removal of the old structures. I supported the removal but requested the Agency to make careful drawings and measurements of the old structures in case an applicant sought to Rebuild and Replace the old structures. Those structures were narrow slips 6' to 7' feet wide all along the shore. There were no docks extending approximately hundreds of feet into the lake with 11" foot slips in 22' feet 'U' shaped openings.

If the Agency staff think these differences meet the definition of same, it is clear they are showing favoritism and bias to the applicant.

The Board must take seriously its responsibilities review the old structures, including photographs and drawings and make a precedent setting determination whether the new structures meet the definition of 'same' before opening the barn door of precedent.

## WETLANDS PROTECTION

The State of New York has long emphasized the importance of freshwater wetlands. That emphasis is made more emphatic in The Adirondack Park under the Adirondack Park Agency Act and the regulations promulgated thereunder. In the APA regulations, Part 278, this emphasis is given meaning.

In this case there wetlands at issue are valued at level one, the highest value wetland subject under section 578.3 to the highest level of protection specifically:

“Wetlands rated 1. The proposed activity:

- (I) would be compatible with preservation of the entire wetland; and
- (II) Would not result in degradation or loss of any part of there wetland or its associated value.”

Following the Court’s decision establishing the value one rating a responsible Agency would have retained an outside independent wetlands specialist to delineate the exact extent of the wetlands adjacent to the Annex site to enable the evaluation of the impacts of the project, direct or indirect, on the wetland.

Indirect impacts on this shallow submerged and emergent wetland include the effects of transit by multiple boats with engines ranging from 30 to 150 horsepower turning stainless steel propellers at high rpms that act as super charged weed whackers. Even if the staff would have made cursory observations they would see the impacts on the wetlands are as if an out of control lawnmower had made repeated passes over the area.

Such impacts are prohibited by section 578.10 (a). The Agency’s recommendation to approve the project is in violation of its duty to protect the wetland and the staff should withdraw its recommendation for a more professional exercise of its responsibility to protect a level one wetland which is also a primary spawning area of the lake.

This filing will serve to appeal the denial dated April 19, 2023 (attached) of a FOIL request I made to the Adirondack Park Agency (also attached).

In an earlier response to a FOIL request The APA provided to my attorney an exchange of email letters between officials of the Agency and an applicant, LS Marina LLC, for a permit to build and operate a marina on Lower Saran Lake. As apparent in the letters the Agency and the applicant arranged a meeting to discuss a "path forward" following the unanimous decision of the Court of Appeals in a case I brought, *Jorling v APA*, (copy attached) annulling a permit APA had issued to the applicant.

As I was the successful party in challenging the earlier issued permit, I have an interest, and so does the public, in what the Agency and the applicant were discussing in a meeting to discuss the "path going forward" a path that presumably would be a repeat of a permit process subject to the State of New York's Administrative Procedures Act.

No matter what scholarly descriptions of Administrative Procedure one refers they all contain some version of the following purpose:

"Administrative law embodies general principles applicable to the exercise the powers and duties of authorities in order to ensure that the myriad and discretionary powers available the executive conform to basic standards of legality and fairness. The ostensible purpose of these principles is to ensure that there is accountability, transparency and effectiveness in exercising of power in the the public domain, as well as observance of the rule of law. It embodies positive principles facilitate good administrative practice; for example, in ensuring that the rules of natural justice or fairness are adhered to. It operates to provide accountability and transparency, including participation by interested individuals and parties in the process of government." (P. Leyland and T. Woods, Textbook on Administrative Law, 4th ed.

Fairness and transparency requirements placed on an Agency by standard practice of Administrative Law prevent an Agency from meeting behind closed doors with an applicant to discuss "a path forward" without providing an account of such meeting to the public and parties of interest.

The denial document states it is based on the exception for inter or intra agency material "which is not instructions to staff that affect the public". Yet the Agency's admitted purpose of the meeting was to discuss a "path forward", subject matter that clearly affects the public. Holding such a meeting without such accounting smacks of favoritism at best and unsavory conduct at worst. Precisely the abuses the Freedom of Information Act and Principles of Administrative law seek to prevent.

Withholding and account of the meetings Agency personnel have held with an applicant is contrary to the transparency requirements of Administrative Law and certainly the purposes and legal standards of the New York Freedom of Information Act. Therefore I appeal to this Court seeking a reversal of the APA denial of my FOIL request and ask the Court to order the APA to release all records of meetings and agreements between the the applicant and Agency officials.

Alan Latourelle  
7 Saranac Lane  
Saranac Lake, NY 12983  
(518)524-7334

June 3, 2023

NYS Adirondack Park Agency  
PO Box 99  
1133 NYS Route 86  
Ray Brook, NY 12977

Dear John M. Burth,

Re: Saranac Lake Marina

Lower Saranac Lake encompasses approximately 2285 acres with one marina, with about 275 slips and about 30 boathouses along the shoreline. It's neighbor Lake Placid encompasses approximately 2173 acres with three marinas, with approximately 300 boat docks/slips and approximately 150 boathouses along its shoreline. The Saranac Lake Marina boaters also have access to Middle Saranac Lake and Lower Saranac Lake. I don't feel the additional slips are going to adversely affect the lake.

For the most part, the boaters that use the Saranac Lake Marina are conscientious and care about the lake and the environmental impact they have on the lake. Most go to one spot on the lake and spend the day there to relax and enjoy the beauty of the lake. Even with the added docks the traffic on the lake is pretty light most days.

I've been docking my boat at the marina, both in Ampersand bay and currently at the main marina in Crescent bay for over a decade. I have watched the transformation the new owners have made in cleaning up both sites. Their commitment to the environment and concern for the lake quality shows in this massive and costly undertaking. They completed the removal of the old wooden boat houses and foundations that who only knows what was used to treat the wood from rotting. With the new docks there's no longer boats beached along the shoreline. This has greatly improved the shorelines and wetlands at both locations.

I feel there has been a few entitled shore owners that want to stop the local, hard working middle class people from having reasonable access to the lake. This sure seems like a classic case of not in my back yard. I don't think the APA was wrong in issuing the original permits. Between the hearings with the Town of Harrietstown, the APA, and all the other agencies involved. This should not be an issue this far along in the process, and the permits should have not been pulled. Its very disheartening to see how a few can have so much influence.

Thank you for taking the time to read my comments.

Sincerely,

Alan Latourelle

*Peter G. Crary  
402 Kiwassa Road  
Saranac Lake, New York 12983  
(518) 891-4408*

May 31, 2023

NYS Adirondack Park Agency  
PO Box 99  
1133 NYS Route 86  
Ray Brook, NY 12977

ATTN: John M. Burth  
Environmental Program Specialist 3

Dear Mr. Burth:

I write in support of LS Marina's renewed application for a variance to place covers on its pre-existing boat slips. In its decision in this matter, the Appellate Division upheld the grant of this variance to the marina without a boating capacity study, based upon the Agency's thorough review of all relevant environmental factors. There is no reason to deviate from that determination now.

Our family has had boats at Saranac Lake Marina and its predecessor since it opened in 1924, and I personally have had boats there since 1985. I have seen the good, the bad and the ugly at this marina over the years. Before the present management took over, I watched the marina experience a slow, painful decline. The shoreline boathouses deteriorated over the years until they were unsafe and falling into the lake. Stormwater runoff control and wastewater treatment were questionable. An underground gasoline tank near shore was leaking. In short, conditions were deplorable.

In the past few years, I have seen the marina rise like a phoenix under the current ownership. As recognized by this agency and the Appellate Division, the improvements implemented under this variance and otherwise will result in significant benefit to the environment. The marina has removed the pre-existing shoreline boathouses at both main and annex locations. It has removed the

underground gasoline tank that was leaking and replaced it with a new fiberglass double walled tank. It has also begun a milfoil removal program at the annex and plans boat wash stations. The agency conditioned its earlier approval on installing wastewater treatment systems and stormwater runoff controls. It also required that the structures be painted green and brown to blend in and that lighting be faced downward to avoid light pollution.

The removal of the shoreline boathouses improved water quality at both marina locations. This has provided wildlife habitat and allowed shoreline wetlands to revegetate, stabilizing the shoreline and preventing erosion into the lake. Water quality will also be enhanced by implementation of the stormwater runoff prevention program and wastewater treatment system required under the agency's variance. Unfortunately, should the variance now be denied, these improvements could be lost. The applicant or a future owner could reconstruct the pre-existing boathouses, reversing these environmental gains. And there would be no stormwater or wastewater oversight. Finally, as recognized by this agency and the Appellate Division, if the variance were denied, the marina could add more than the 73 additional boat slips sought in its application. The marina opponents studiously avoid any mention of these potential adverse consequences.

In view of the litigious history of this matter, it can be anticipated that the need for a boating capacity study will again be raised. That issue is simply not relevant here. At issue here is only whether the marina's pre-existing boat slips will be covered. There is no issue remaining concerning the number of those boat slips. In fact, because the Appellate Division upheld the number of boat slips without a boating capacity study, relitigating that issue would be barred by collateral estoppel. Gadani v DeBrino Caulking Assoc, Inc, 86 AD3d 689 (3d Dept, 2011).

Based upon its environmental benefits, the variance application should be granted.

Sincerely,

Peter G. Crary

5-30-2023

Mr. John Burt, Env. Tech. NYSAPA

Dear Mr. Burt,

I am writing in support of the ongoing upgrades and environmentally improved docks and slip covers at the Saranac Lake Marine.

My personal opinion is that both the APA, DEC and SLM have operated in the best interests of the citizens of the Adirondacks and the spirit of the law.

A single resident should not be allowed to use the courts to disrupt the operations of a century old business which is attempting to meet the requirements of multiple government agencies. This personal feud needs to be stopped before more energy, time and money is wasted.

I also believe that the APA and DEC need to conduct some type of study to determine carrying capacity. This study which needs to set standards, should be conducted through the entire Adirondack Park. While this is taking place, I believe that common sense usage and expansion should be allowed.

Thank you for your efforts and understanding.

John F. LaHart

Lake Clear, NY

[djlahart@roadrunner.com](mailto:djlahart@roadrunner.com)

CC SLM



5-30-2023

To: **John M. Burt, NYS APA**

From: Ann E. Snow

Subject: Saranac Lake Marine

I, 100%, support the Saranac Lake Marina. Over the past 10 years, I have written many letters and attended many meetings in support of the marina. SLM purchased a neglected, dilapidated 100-year-old marina, which was dangerous for, both the people using it and the environment. SLM has built environmentally safe floating state of the art docks, which meet or exceed, all the requests of the APA and DEC. It is time to cover the slips and move on.

Once again the APA is abusing its power by subjecting SLM to additional changes, requirements, legal loops and prolonged litigation. Enough! A zillion more studies could be done with a little or no change in the long term outcome. It appears that common sense no longer exists, when one lakefront property owner can use the courts to hold SLM and its customers, hostage.

SLM deserves utmost credit for its years of trying to comply with every request made by the APA, DEC, and the courts. It is time to move on, stop the harassment, legal delays and expense.

The vast majority of the boat slips are rented by local Adirondack residents who can remember the old marina and appreciate the vast improvements. This marina provides a safe, environmentally sound access to the lake, for many who would not otherwise be able to enjoy these waterways.

I do not want our voices to be continually be ignored. It is time for the leaders to listen to our voices. We have been patient, written letters, attended meetings and expressed our frustration. Now the courts, APA, DEC and the powers to be, need to listen to the PEOPLE.

The opportunity is here to put this harassment to rest. Please Support the SLM and the vast number of people who want this marina to succeed.

Thank you for your understanding and support.

Ann E. Snow

Saranac Lake, NY.

ahsnow@verizon.net

Memorandum

TO: Members of the Board and Executive Director of the Adirondack Park Agency

FROM: Thomas C Jorling

SUBJECT: AFTERMATH OF JORLING V APA

As the party who brought the litigation that resulted in the Appellate Court annulling an APA permit to construct and operate a commercial marina on Lower Saranac Lake, I thought it would be helpful to the Board to provide some comments as it navigates and carries out its responsibility in the days ahead.

First,

I assume the Board has notified the applicant that since the permit has been annulled there can be no activity or operations at the two marina sites and to begin preparations to removal facilities and installations in or on the waters of the State of New York, especially at the annex site in light of the Court's determination that the wetland affected by the annex site is a value 1 wetland.

Second,

In the event a new application is filed to construct and operate a marina on LSL and, given the

Facts:

>>there are no rules or regulations specifically governing the construction and operation of commercial marinas in the Adirondack Park (other than Lake George and parts of Schroon Lake);

>> to my knowledge APA has never permitted a new commercial marina in the Park, and thus, this is a case of first impression;

>> this will be the largest marina in the Park (this is based on a survey through google earth and I certainly can be corrected if DEC or APA have documented a larger marina)

>> the marina, as previously applied for was a significant Class A project;

>> the evaluation of this case of first impression will be precedential. It doesn't take a crystal ball to anticipate that if a permit for this project is granted there will be more and that all Lakes in the Park with privately owned shorelines could be candidates for such marinas;

>> the Court determined the wetlands affected at the annex site are value 1 wetlands and it is also uncontested that the wetland area at the annex site is if not the most, then

one of the most productive fish spawning areas of the Lake;

>> since the permit was annulled, if a new application is filed it should be considered de novo and the application considered a new project and evaluated accordingly;

The Board should therefore instruct the staff that any new application should be processed through adjudication. Without any rules or regulations establishing standards or criteria for commercial marinas in the Park (and the Board should instruct the staff to commence such a regulation writing process) adjudication assures the outcome will be more trusted and respected than outcomes produced through ordinary public comment. Given the decision in the recent Lake George case, the Board needs to know that you have all of the information, that the public has been afforded a public hearing, and that your decisions is above reproach from the standpoint of being open and transparent.

I should add that no one should, and certainly I don't, relish the fact that an applicant has been harmed by the unlawful action of APA. Perhaps the applicant will seek redress from APA for the costs it incurred in reliance on what the Court determined was an unlawful permit. If such effort is undertaken I would support it with testimony since I, and others, presented to APA the exact interpretation of APA rules the Appellate Division used in determining that APA acted unlawfully. This means the staff intentionally rejected the correct interpretation and presented to the Board without any acknowledgement that there were different — and the Court found correct — interpretations without informing the Board at the time of its decision of competing interpretations. The staff therefore deprived the Board of information essential to carry out its duty as the decision maker.

Third,

The Court ruled that the failure to comply with the legal requirement to conduct a carrying capacity study prior to making a decision on a project that is going to substantially affect the use and potential overuse of the Lake was "INEXPLICABLE". Indeed it is. the Board must, if it is to retain credibility and properly carry out its sworn duty to protect the natural resources and character of the Park, refuse to consider the application until a carrying capacity study is completed.

The carrying capacity analysis, required by the State Land Master plan and in the Saranac Lakes Wild Forest Unit Management Plan, is a necessary analysis performed on significant resource of the Adirondack Park to prevent overuse and impairment and

degradation of the resource. It is uncontested that Lower Saranac Lake is a significant and treasured natural resource. Even a cursory read of the APA and Governor approved Unit Management Plan for the Saranac Lakes Wild Forest underscores the Lake's importance.

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. 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)

The Board cannot act on any new permit application for this marina without the benefit of a carrying capacity analysis. WHY?

>>Without a carrying capacity analysis the APA has no information the number , size and power of boats using Lower Saranac Lake. There is now no inventory or count of the boats (engine or human powered) on the Lake whether on the Lake by shore owners, by private boat launches or by the 5 public boat launches that provide access to the Lake. Without information on the number, type of vessels using the lake it is impossible to evaluate use and overuse and impacts and impairment of the Lake.

>>Without a carrying capacity study there is no information on shore erosion.

>>Without a carrying capacity analysis there is no knowledge of trends on water quality.

>>Without a crying capacity study there is no information on the populations of animals and plants, that utilize the Lake for nesting, or feeding such as loons ,osprey, eagles, minks, otters, beavers and other fish and other wildlife.

>> Without a carrying capacity study there is no ability to evaluate the status and trends on the location, density and extent of occupation of the Lake by invasive species and the effect of the operation of propellor driven boats on the spread of invasive species such as milfoil, which when transited by boats shred and spread the species.

>>Without a carrying capacity analysis there is no information to evaluate the impacts or conflicts that arise from the multiple users of the Lake, swimmers, paddle boaters and boarders, motor boaters, water skiers, jet skiers, campers on the State Island campsites, and the myriad of other users who enjoy the beauty and tranquility of a Wild Forest Lake.

>> Without a carrying capacity analysis there is no information on the impacts on a Wild Forest Lake and its living inhabitants from noise, increased turbulence, and wakes on the myriad of users of the Lake and its campgrounds.

In summary, 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.

The Board and its individual members cannot dishonor the generations of New Yorkers who labored long and vigorously to perpetuate the magnificent, world envied, landscape

that is the Adirondack Park. So the request to the Members of the Board is simple: you

are the decision maker. You have been entrusted with a solemn obligation, be sure you require all the tools and information available to you to carry out that obligation lawfully and effectively.