


THIS IS A TWO-SIDED DOCUMENT

 <p>NEW YORK STATE OF OPPORTUNITY.</p> <p>Adirondack Park Agency</p> <p>P.O. Box 99, 1133 NYS Route 86 Ray Brook, New York 12977 Tel: (518) 891-4050 www.apa.ny.gov</p>	<p>APA Permit 2024-0025</p>
<p>In the Matter of the Application of</p> <p>MARION RIVER CARRY RAILROAD CO., INC. Permittee</p> <p>for a permit pursuant to § 809 of the Adirondack Park Agency Act, 9 NYCRR Part 577 and 9 NYCRR Part 578</p>	<p>Date Issued: May 1, 2024</p> <p>To the County Clerk: Please index this permit in the grantor index under the following names: 1. Marion River Carry Railroad Co., Inc.</p>

SUMMARY AND AUTHORIZATION

This permit authorizes a two-lot subdivision in an area classified Resource Management on the Adirondack Park Land Use and Development Plan Map in the Towns of Arietta and Indian Lake, Hamilton County.

This authorization shall expire unless recorded in the Hamilton County Clerk's Office within 60 days of issuance of a signed and notarized permit. The signed and notarized permit shall be recorded in the names of all persons listed above and in the names of all owners of record of any portion of the project site on the recordation date.

The project shall not be undertaken or continued unless the project authorized herein is in existence within five years of the date the permit is recorded in the Hamilton County Clerk's Office. The Agency will consider the project in existence when an authorized lot has been conveyed to an outside party.

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

This permit does not convey any right to trespass upon the lands or interfere with the riparian rights of others in order to undertake the authorized project, nor does it authorize the impairment of any easement, right, title or interest in real or personal property.

Nothing contained in this permit shall be construed to satisfy any legal obligations of the permittee to comply with all applicable laws and regulations or to obtain any governmental approval or permit from any entity other than the Agency, whether federal, State, regional, or local.

PROJECT SITE

The project site is a 353.3±-acre parcel of land located on both sides of NYS Route 28 in the Towns of Arietta and Indian Lake, Hamilton County, in an area classified Resource Management on the Adirondack Park Land Use and Development Plan Map. The site is identified as Town of Arietta Tax Map Section 45, Block 1, Parcel 3.11 and Town of Indian Lake Tax Map Section 45, Block 2, Parcel 2.1. The site is described in a deed from Raquette Lake Navigation Co., Inc to Marion River Carry Railroad Co., Inc dated June 14, 2001 and recorded on July 9, 2001 in the Hamilton County Clerk's Office in book of Deeds 224 at Page 246.

The project site contains 800 feet of shoreline on the Marion River and 250 feet of shoreline on Utowana Lake. The project site is partially located within the designated Marion River Scenic River area, partially located within 1/8 mile of lands of the State of New York designated Wilderness, and partially located within 300 feet of the edge of the right-of-way of NYS Route 28. The northern portion of the project site contains wetlands comprised of conifer swamp/shrub swamp/emergent marsh complex with a value rating of 1 pursuant to 9 NYCRR Part 578.5. Additional wetlands not described herein or depicted on the Site Plan may be located on or adjacent to the project site.

The project site is improved by a pre-existing single-family dwelling with on-site water supply, an on-site wastewater treatment system, and a detached garage/barn located on the north side of NYS Route 28 in the Town of Indian Lake.

The project site was created as "Lot 7" in a three-lot subdivision as authorized by Agency Permit 2012-0150.

PROJECT DESCRIPTION

The project as conditionally approved herein involves a two-lot subdivision of a 353.3±-acre parcel to create Lot 7-North, a 50.7±-acre lot located north of NYS Route 28 (15.6± acres in the Town of Arietta and 35.1± acres in the Town of Indian Lake) and improved by a pre-existing single family dwelling, and Lot 7-South, a vacant 302.6±-acre lot located south of NYS Route 28 (86.1± acres in the Town of Arietta and 216.5± acres in the Town of Indian Lake). No new land use or development is proposed as part of the project.

The project is shown on an annotated Subdivision Map titled "Map of Proposed Conveyance of a Portion of the Lands of Marion River Carry Railroad Company, Inc.," prepared by William D. Hollister, LS, annotated and submitted by Donna Pohl, and received by the Agency on February 2, 2024. A reduced-scale copy of the Subdivision Map is attached as a part of this permit for reference.

AGENCY JURISDICTION

Pursuant to Section 809(2)(a) of the Adirondack Park Agency Act and Adirondack Park Agency regulations at 9 NYCRR Part 578, a permit is required from the Adirondack Park Agency prior to any subdivision involving wetlands in the Adirondack Park.

Pursuant to Adirondack Park Agency regulations at 9 NYCRR Part 577, a permit is required from the Adirondack Park Agency prior to any subdivision of Resource Management lands located within any designated scenic river area in the Adirondack Park.

Pursuant to Section 809(2)(a) of the Adirondack Park Agency Act, a permit is required from the Adirondack Park Agency prior to any subdivision in a Resource Management land use area in the Adirondack Park and prior to any subdivision of Resource Management lands within 300 feet of the edge of the right-of-way of any state highway in the Adirondack Park.

This permit amends the Conditions related to Lot 7 of Agency Permit 2012-0150 .

CONDITIONS

THE PROJECT IS APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

1. The project shall not be undertaken until this permit has been recorded in the Hamilton County Clerk's Office.
2. This permit is binding on the permittee, all present and future owners or lessees of the project site, and all persons undertaking all or a portion of the project. Copies of this permit and Subdivision Map shall be furnished by the permittee to all subsequent owners or lessees of the project site prior to sale or lease, and by the permittee and/or any subsequent owner or lessee to all persons undertaking any development activities authorized herein.
3. In addition to complying with all terms and conditions of this permit, all future activities on the project site shall be undertaken in compliance with the requirements of New York State's Adirondack Park Agency Act, Freshwater Wetlands Act, Wild, Scenic and Recreational Rivers System Act, and the Adirondack Park Agency's implementing regulations [9 NYCRR §§ 570-588].
4. This permit amends and supersedes the terms and conditions of Permit 2012-0150 in relation to the project site. The terms and conditions of Permit 2012-0150 shall no longer apply to the project site.
5. All conditions in Permit 2012-0150 involving Lots 5 and 6 as described in that permit remain in full force and effect.
6. All deeds conveying all or a portion of the lands subject to this permit shall contain references to this permit as follows: "The lands conveyed are subject to Adirondack Park Agency Permit 2024-0025, issued May 1, 2024, the conditions of which are binding upon the heirs, successors and assigns of the grantors and all subsequent grantees."
7. Subject to the conditions stated herein, this permit authorizes a two-lot subdivision as depicted on the Subdivision Map. Any subdivision of the project site not depicted on the Subdivision Map shall require a new or amended permit.

8. The undertaking of any new land use or development on the project site within one-quarter mile of the Marion River, within 300 feet of the right-of-way of NYS Route 28, or within one-eighth mile of the Blue Ridge Wilderness shall require a new or amended permit. The construction of any additional dwelling or other principal building on the project site shall require a new or amended permit. The undertaking of any activity involving wetlands shall also require a new or amended permit.
9. No accessory structures shall be permitted on the project site without prior Agency review and approval in the form of a new or amended permit, or letter of permit compliance, as determined by the Agency.
10. Pursuant to Agency regulations implementing the Wild, Scenic and Recreational Rivers System Act, new structures are prohibited within 250 feet, measured horizontally, of the mean high water mark of the Marion River.

Docks as defined under the Town of Arietta and Town of Indian Lake land use codes are excepted from this requirement. Fences, poles, lean-tos, and bridges are also excepted from this requirement, except that no fence, pole, lean-to, or bridge greater than 100 square feet in size may be located within 100 feet of the mean high water mark. Zoning laws for the Towns of Arietta and Indian Lake have been approved by the Adirondack Park Agency. Therefore, the shoreline setback restrictions of the Adirondack Park Agency Act are administered by the Towns and may be more restrictive than the Agency's.

11. Prior to undertaking construction of any dock on Lot 7-North, written authorization of plans for the dock, including all attached upland structures, shall be obtained from the Agency.
12. There shall be no boathouses on Lot 7-North.
13. Within 300 feet of the edge of the right-of-way of NYS Route 28, no trees, shrubs or other woody-stemmed vegetation may be cut, culled, trimmed, pruned or otherwise removed or disturbed except for an area not to exceed 15 feet in width for maintenance of the existing driveway on Lot 7-North. This condition shall not be deemed to prevent the removal of dead or diseased vegetation or of rotten or damaged trees or of other vegetation that presents a safety or health hazard.
14. Inside and within 250 feet of the mean high water mark of the Marion River, no trees or other vegetation shall be harvested, cut, culled, removed, thinned or otherwise disturbed on Lot 7-North without prior Agency review and approval, except for the removal of dead or diseased vegetation, rotten or damaged trees, or any other vegetation that presents a safety or health hazard. Forest management activities between 100 feet from the mean high water mark of the river and one-quarter mile shall meet the standards and conditions of the Agency's river regulations (9 NYCRR 577.6).


CONCLUSIONS OF LAW

The Agency has considered all statutory and regulatory criteria for project approval set forth in the Adirondack Park Agency Act, the Freshwater Wetlands Act and 9 NYCRR Part 578, the Wild, Scenic and Recreational Rivers System Act and 9 NYCRR Part 577, and 9 NYCRR Part 574. The Agency hereby finds that the subdivision authorized as conditioned herein:

- a. will meet all of the pertinent requirements and conditions of the approved local land use program of the Towns of Arietta and Indian Lake;
- b. will not have an undue adverse impact upon the natural, scenic, aesthetic, ecological, wildlife, historic, recreational or open space resources of the Park or upon the ability of the public to provide supporting facilities and services made necessary by the project;
- c. will secure the natural benefits of wetlands associated with the project, consistent with the general welfare and beneficial economic, social, and agricultural development of the state;
- d. will be compatible with preservation of the entire wetland and will not result in degradation or loss of any part of the wetland or its associated values;
- e. will be consistent with the purposes and policies of the Wild, Scenic and Recreational Rivers System Act;
- f. will comply with the restrictions and standards of 9 NYCRR § 577.6; and
- g. will not cause an undue adverse impact upon the natural, scenic, aesthetic, ecological, botanical, fish and wildlife, historic, cultural, archeological, scientific, recreational or open space resources of the river area, taking into account the commercial, industrial, residential, recreational or other benefits that might be derived therefrom.

PERMIT issued this 1st day
of May, 2024.

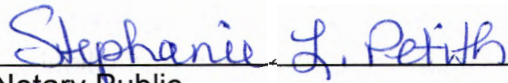
ADIRONDACK PARK AGENCY

BY: 
David J. Plante, AICP CEP
Deputy Director, Regulatory Programs

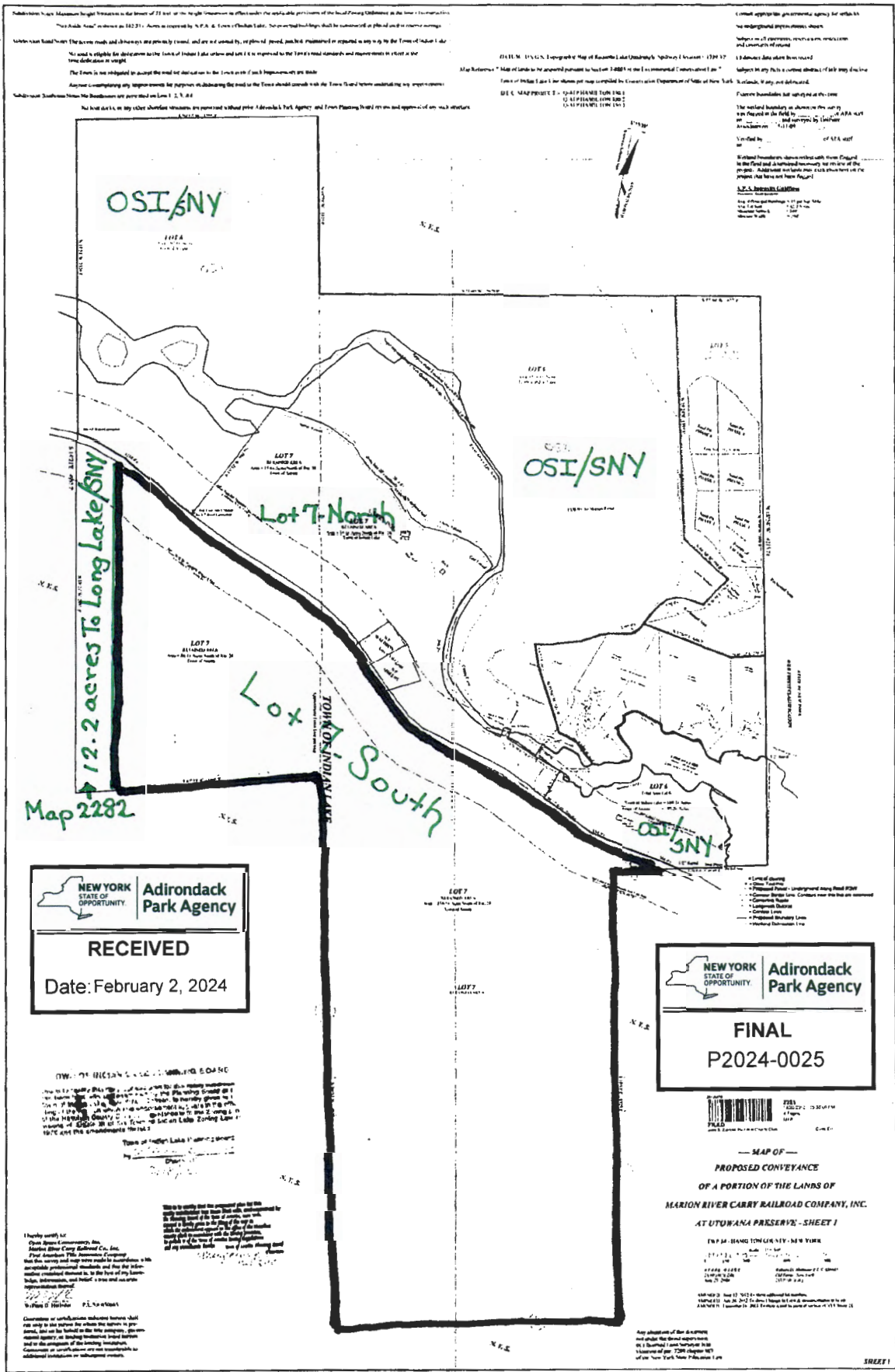
STATE OF NEW YORK
COUNTY OF ESSEX

On the 1st day of May in the year 2024, before me, the undersigned, a Notary Public in and for said State, personally appeared David J. Plante, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that they executed the same in their capacity, and that by their signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Stephanie L. Petith
Notary Public, State of New York
Reg. No 01PE6279890
Qualified in Franklin County
Commission Expires April 15, 2025


Notary Public

ATTACHMENT D(1)



12221 Sheet 1