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**SUPREME COURT OF THE STATE OF NEW YORK**  
**APPELLATE DIVISION – THIRD DEPARTMENT**

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In the Matter of the Application of  
THOMAS JORLING,

**No. 533913**

*Petitioner-Appellant,*

v.

NEW YORK STATE ADIRONDACK PARK AGENCY ET AL.,

*Respondents-Respondents,*

For a Judgment Pursuant to Article 78  
Of the Civil Practice Law and Rules.

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**BRIEF OF *AMICUS CURIAE* PROTECT THE ADIRONDACKS! INC.**

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Dated: October 12, 2022

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## **QUESTION PRESENTED**

Whether Respondent Adirondack Park Agency, when reviewing the proposed expansion of a commercial marina that is likely to have water quality, fish and wildlife, and social impacts on publicly owned waters constituting part of the Forest Preserve in the Adirondack Park, may ignore a mandate that the carrying capacity of those waters be evaluated and approve the expansion in the absence of a carrying capacity study.

## **PRELIMINARY STATEMENT**

This appeal involves issuance by Respondent Adirondack Park Agency (“APA” or “Agency”) of a permit to expand an existing commercial boat marina on Lower Saranac Lake in the Adirondack Park (“the Project”). Lower Saranac Lake is part of the Saranac Lakes Wild Forest (“SLWF”), a complex of publicly owned lakes and adjacent lands that includes Upper, Middle and Lower Saranac Lakes and connecting waterbodies including Second Pond, Weller Pond, Oseetah Lake and Lake Flower (together, the “Saranac Lakes Complex”). R.73. The SLWF is part of the Forest Preserve in the Adirondack Park, which is protected by the “Forever Wild” clause of the New York State Constitution. N.Y.S. Const. Art. 14, § 1 (“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.”).

It is undisputed that both the Adirondack Park State Land Master Plan (“Master Plan”) and the Unit Management Plan (“UMP”) for the SLWF call for the Department of Environmental Conservation (“DEC”) to prepare a study of the carrying capacity of Lower Saranac Lake and other waterbodies in the Saranac Lakes Complex. “Carrying capacity” means the ability of natural resources to withstand and sustain human activity and the environmental impacts resulting from those activities. In the case of waterbodies such as the Saranac Lakes Complex, it means the impacts on water quality, fish and wildlife, and user experience resulting from

the substantial increase in boat traffic caused by the proposed marina expansion. Affidavit of Peter Bauer in Support of Motion for Leave to File *Amicus Curiae* Brief, sworn to on October 12, 2022 (“Bauer Aff.”) ¶ 2. DEC has not prepared a carrying capacity study for Lower Saranac Lake or for any of the waterbodies in the Saranac Lakes Complex.

The Project, as approved by the APA, will involve construction of new boat slips and moorings at two sites on Lower Saranac Lake. Combined, the new construction will add a total of 73 new boat accommodations. Even though boat traffic on Lower Saranac Lake will inevitably increase as a result of the Project and the UMP for the SLWF identifies Lower Saranac Lake as being particularly at risk from overuse, the APA issued a permit for the Project in the absence of a completed DEC carrying capacity study.

Respondent does not dispute that DEC has an obligation to conduct a carrying capacity study of Lower Saranac Lake and other waterbodies in the Saranac Lakes Complex; nor does it dispute that DEC has failed to complete that study. Rather, Respondent claims that it is free to ignore development constraints on potential impacts to adjacent Forest Preserve lands and waters when reviewing a private development project—despite the fact that the Project’s very purpose is to facilitate increased recreational use of the adjacent—and already overburdened—Lower Saranac Lake.

Respondent's position is directly at odds with the legal framework and purpose of the Adirondack Park. What makes the Adirondack Park unique is that it includes both public and private lands that together comprise one of the most prized wild and open space treasures in the nation. The Adirondack Park Agency Act, the Master Plan and case law interpreting both make abundantly clear that management of public and private lands in the Park are to be coordinated in order to afford the greatest degree of protection to the Park's scenic and natural resources. Respondent's claim that public and private lands in the Park must be managed in artificial isolation from one another flies in the face of this bedrock principle and should be rejected by this Court.

### **STATEMENT OF FACTS**

The Project involves the construction of covered floating dock structures at two locations on Lower Saranac Lake: the Main Marina and the Annex. R. 62.<sup>1</sup> The floating dock structures will extend hundreds of feet into Lower Saranac Lake. R. 11, 73, 332. At the Main Marina, the number of boat slips and moorings will increase from 124 to 178. R. 62, ¶ 5. At the Annex, the number of boat slips will increase from 95 to 114, R.62 ¶ 8. Thus, the Project will add a total of 73 new boat slips and moorings on Lower Saranac Lake.

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<sup>1</sup> References to pages of the Record on Appeal are preceded by "R."



Lower Saranac Lake is part of the constitutionally protected Forest Preserve and is included in the SLWF. Management of Lower Saranac Lake is governed by the UMP for the SLWF, which was prepared by DEC and approved by the APA. New York State Department of Environmental Conservation, Saranac Lakes Wild Forest Unit Management Plan and Final Environmental Impact Statement (“SLWF UMP”) (April 2019), available at [https://www.dec.ny.gov/docs/lands\\_forests\\_pdf/saranaclakesump.pdf](https://www.dec.ny.gov/docs/lands_forests_pdf/saranaclakesump.pdf) (last visited Oct. 11, 2022).

### **INTEREST OF THE PROPOSED *AMICUS CURIAE***

PROTECT is a New York not-for-profit corporation. It is a grassroots membership organization dedicated to the protection, stewardship, and sustainability of the natural environment and human communities of the Adirondack Park and the New York State Forest Preserve for current and future generations. Bauer Aff. ¶ 6.

PROTECT has a compelling interest in the carrying capacity issue raised on this appeal based on (i) the organization’s history of advocating for the APA and DEC to evaluate the carrying capacity of waterbodies in the Adirondack Park as required by the Master Plan; (ii) the fact that the continuing failure by the APA and DEC to conduct studies of carrying capacity as required by the Master Plan is an issue of Park-wide importance; (iii) PROTECT’s sponsorship of annual water quality surveys of numerous waterbodies in the Park, including Lower Saranac Lake;

and (iv) PROTECT's prior involvement in this matter urging APA and DEC to conduct a carrying capacity study of the Saranac Lakes Complex prior to approving the proposed marina expansion. *Id.* ¶¶ 10-16.

## **ARGUMENT**

### **RESPONDENT'S APPROVAL OF THE PROJECT IN THE ABSENCE OF A DEC CARRYING CAPACITY STUDY OF LOWER SARANAC LAKE WAS ARBITRARY AND CAPRICIOUS**

There is no dispute that the purpose of the Project is to facilitate recreational use of Lower Saranac Lake by creating an additional 73 accommodations for boats. Respondent nevertheless claims that it was under no obligation to consider the DEC carrying capacity study of Lower Saranac Lake mandated by the SLWF UMP prior to approving the Project. Brief for State Respondents at 27. In the APA's view, it is free to ignore the conclusions in the SLWF UMP that Lower Saranac Lake is particularly at risk from overuse and that the lake has seen a significant increase in boat traffic over the past two decades. SLWF UMP at 59, Table 8; 111. Although not explicitly stated, Respondent's argument implies that it may also disregard the fact that Lower Saranac Lake is part of the Forest Preserve and is thus protected by the "Forever Wild" clause of the New York State Constitution. N.Y.S. Const. Art. 14, § 1; *see also Adirondack Mtn. Club Inc. v. Adirondack Park Agency*, 33 Misc.3d 383, 390 (Sup. Ct. Albany County 2011) (holding that the "classification system

[established in the Master Plan for Forest Preserve] does not exclude State-owned water in general or State-owned water that it contiguous to privately held land.”).

Respondent’s novel theory that the intermingled public and private lands in the Adirondack Park must be managed in artificial isolation from one another has no legal basis, is directly at odds with the purpose, intent and plain language of the Adirondack Park Agency Act (“APA Act”) and should be rejected by this Court.

**A. The Adirondack Park is Unique in Combining Public and Private Lands Into a Park of National Significance**

The report of the Temporary Study Commission on the Future of the Adirondack Park, which led to passage of the APA Act and the adoption of the Master Plan, emphasized the uniqueness and interdependence of the mix of public and private lands in the Park:

After more than two years of study, this Commission has come to the conclusion that a massive state action program is necessary to make the Adirondack Park a viable and lasting entity. The program must be concerned with both the private and the public lands. The mixture of the two in the Park is one of its greatest strengths . . . It is imperative, if the Adirondacks are to be saved, that the state develop an overall, long-range plan for all the pubic and private land in the park and exercise a degree of control over the uses to which lands may be put.

Temporary Study Commission on the Future of the Adirondack Park, *The Future of the Adirondack Park* (1970) at 26, 28 (pertinent portions annexed as an Addendum to this brief); *see also Protect the Adirondacks! Inc. v. Dep’t of Env’tl. Conserv.*, 37 NY3d 73, 77-78 (2021) (“The Adirondack Park currently encompasses

approximately six million acres of public and private lands.”); *Adirondack Wild: Friends of the Forest Preserve v. N.Y.S. Adirondack Park Agency*, 34 NY3d 184, 187 (2019) (“[The Adirondack Park’s] six million include 2.6 million acres owned by New York State and 3.4 million acres which are privately held.”); Adirondack Park Agency website, available at [https://apa.ny.gov/about\\_park/more\\_park.html](https://apa.ny.gov/about_park/more_park.html) (last visited Oct. 5, 2022) (“The Adirondack Park is unique in its intricate mixture of public and private lands.”).

Taken together, the public and private lands comprising the Adirondack Park are “larger than several New England states . . . incorporate[e] more territory than Yosemite, Yellowstone, Glacier, Grand Canyon, and Great Smoky Mountain National Parks combined . . . [and include] 3,000 lakes and ponds and 30,000 miles of rivers and streams . . . .” *Adirondack Wild*, 34 NY3d at 187.

Management of the Park’s public and private lands is entrusted to DEC and APA:

[The] New York State Department of Environmental Conservation (DEC) was established in 1970, with a mandate to “[p]rovide for the care, custody, and control of the forest preserve” . . . [The] Adirondack Park Agency (APA) is concerned with “developing long-range park policy” to advance “optimum overall conservation, protection, preservation, development and use of the unique scenic, aesthetic, wildlife, recreational, open space, historic, ecological and natural resources of the Adirondack park” . . . DEC, in consultation with APA, develops individual management plans for units of land classified in a master plan, which “shall guide the development and management of state lands in the Adirondack park.”

*Protect the Adirondacks*, 37 NY3d at 77-78.

The Court of Appeals has underscored the need for APA and DEC to work in tandem to protect the Park's resources: as the "[a]gencies charged with managing park property must balance, within applicable constitutional, statutory and regulatory constraints, the preeminent interest in maintaining the character of pristine vistas with ensuring appropriate access to remote areas for visitors of varied interests and physical abilities." *Adirondack Wild*, 34 NY3d at 187. Indeed, as noted by the Court of Appeals, protection of the Park's resources—whether on public or private lands—is a matter of statewide concern:

In the face of increasing threats to and concern with the environment, it is no longer, if it ever was, true that the preservation and development of the vast Adirondack spaces, with their unique abundance of natural resources -- land, timber, wildlife, and water -- should not be of the greatest moment to all the people of the State.

*Wambat Realty Corp. v State of New York*, 41 NY2d 490, 495 (1977).

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 DEC operates approximately 60 public campsites on the shoreline and on islands that dot the lake, SLWF UMP at 177-181, much of the lake's shoreline is privately owned, including the Project site.

## **B. The Saranac Lakes Complex is Increasingly Impacted by Boat Traffic Originating From Both Public and Private Lands**

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. SLWF UMP 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 an explosion in boat traffic in the Saranac Lakes Complex.

For example, at the Second Pond boat launch, which provides direct access to Lower Saranac Lake, the number of boats using the launch more than tripled between 2005 and 2017, from 1,676 to 5,282. *Id.* at 59, Table 8. Between 2001 and 2017, the number of boats counted at the Upper Saranac Lake boat launch increased by more than 40 percent, from 1,204 to 1,713. *Id.* And between 2011 and 2017, the Lake Flower boat launch, which provides access to Lower Saranac Lake through Oseetah Lake and a lock system, saw boat use increase by more than 45 percent, from 1,603 to 2,338.<sup>2</sup> *Id.*

As recognized in the SLWF UMP, the increased boat use has potentially significant environmental and social impacts:

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

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<sup>2</sup> Data for the years prior to 2011 is unavailable. *Id.*

pressures and impacts on water bodies from use . . . 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.*

*Id.* at 111; (emphasis added).

The SLWF UMP goes on to note that motorboats “have the potential to cause a greater variety and more significant impacts than non-motorized watercraft.” R. 83; 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. SLWF UMP at 112. Yet, as Respondent concedes, “DEC has not yet completed a full carrying capacity study of Lower Saranac Lake.” R. 190 (APA Answer) ¶ 161.

### **C. The Master Plan and the APA Act Require that Management of Public and Private Lands be Coordinated to Protect Park Resources**

The APA Act establishes a legal mandate that the Master Plan “shall guide the development and management of state lands in the Adirondack park.” Exec. Law § 816; *see also Adirondack Mtn. Club*, 33 Misc.3d at 387 (“Because the [Master Plan] and amendments thereto are subject to approval by the Governor, it has been construed as having ‘the force of a legislative enactment’” *citing Helms v. Reid*, 90 Misc.2d 583, 604 (Sup. Ct. Hamilton County 1977)); *Adirondack Wild*, 34 N.Y.3d at 192 (2019). (“accepting for purposes of this case that the Master Plan is a ‘law’”).

The Master Plan requires that every UMP “contain . . . an assessment of the physical, biological and social carrying capacity of the area with particular attention to portions of the area threatened by overuse.” Master Plan at 10-11.<sup>3</sup> Based on the analysis of carrying capacity, the UMP must include “the regulation or limitation of public use such that the carrying capacity of the area is not exceeded . . . .” *Id.* For lands and waters classified as Wild Forest (such as the SLWF), the Master Plan specifies that access to waterbodies can be provided only if the “physical, biological and social carrying capacity of the water body or other water bodies accessible from the site will not be exceeded.” *Id.* at 40. Significantly, the Master Plan does not differentiate between waterbodies wholly surrounded by public land and those that include private lands on the shoreline; nor does it absolve DEC and APA from the obligation to consider carrying capacity for waterbodies (such as Lower Saranac Lake) that are the subject of a UMP and include private ownership along the shoreline.

As noted above, the UMP for the SLWF includes a commitment to complete a carrying capacity study for the Saranac Lakes Complex, and specifically identifies Lower Saranac Lake as being particularly at risk from overuse. SLWF UMP at 111-112. Even though the APA provided comments on the draft UMP and ultimately approved it as consistent with the Master Plan, Respondent now seeks to disavow

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<sup>3</sup> The Master Plan is available at [https://www.apa.ny.gov/Documents/Laws\\_Regs/APSLMP.pdf](https://www.apa.ny.gov/Documents/Laws_Regs/APSLMP.pdf).



any responsibility for its implementation or the need to consider—much less be bound by—the UMP’s findings and management constraints. Respondent’s irrational stance cannot be reconciled with this Court’s prior conclusion that the primary responsibility of the APA is “preservation of the Adirondack Park and its resources together with the environment and scenic attributes of the area.” *Ryan v Adirondack Park Agency*, 186 AD2d 922, 924 (3d Dep’t 1992).

Respondent claims that “APA is simply not required to apply provisions of the master plan in a permitting proceeding that, as here, concerns private property,” Br. for State Respondents at 27, and that applying the requirements of the Master Plan and the SLWF UMP to the marina project would be “in direct contravention of the APA Act’s plain text and overarching scheme.” *Id.* at 30-31. To the contrary, the Master Plan, the APA Act and the SLWF UMP make clear that management of public and private lands in the Adirondack Park is to be coordinated to provide the utmost protection to the Park’s resources.

The APA Act explicitly acknowledges that the Park is a mix of private and public lands that must be managed in concert:

In the past the Adirondack environment has been enhanced by the intermingling of public and private land. A unique pattern of private land use has developed which has not only complemented the forest preserve holdings but also has provided an outlet for development of supporting facilities necessary to the proper use and enjoyment of the unique wild forest atmosphere of the park. This fruitful relationship is now jeopardized by the threat of unregulated development on such private lands . . . The basic purpose of this article is to insure optimum

overall conservation, protection, preservation, development and use of the unique scenic, aesthetic, wildlife, recreational, open space, historic, ecological and natural resources of the Adirondack park.

Exec. Law § 801.

The APA Act makes clear that coordinated management of public and private lands within the Park is essential to preserving its natural resources and open space character:

The Adirondack park land use and development plan set forth in this article recognizes the complementary needs of all the people of the state for the preservation of the park's resources and open space character and of the park's permanent, seasonal and transient populations for growth and service areas, employment, and a strong economic base . . . *Adoption of the [private] land use and development plan and authorization for its administration and enforcement will complement and assist in the administration of the Adirondack park master plan for management of state land. Together, they are essential to the achievement of the policies and purposes of this article and will benefit all of the people of the state.*

*Id.*; (emphasis added).

This sensitivity to the interrelationship between public and private lands is enshrined in the APA Act's requirement for Respondent to make specific findings prior to issuing a permit, including that:

The project would not have an undue adverse impact upon the natural, scenic, aesthetic, ecological, wildlife, historic, recreational or open space resources *of the park* or upon the ability of the public to provide supporting facilities and services made necessary by the project . . . In making this determination, *as to the impact of the project upon such resources of the park*, the agency shall consider those factors contained

in the development considerations of the plan which are pertinent to the project under review.

*Id.* § 809(10)(e); (emphasis added). Notably, contrary to Respondent’s claim, the Act requires Respondent to consider potential impacts to *Park* resources, not just impacts to resources on the private lands proposed for development. *See Residents’ Comm. to Protect the Adirondacks, Inc. v. Adirondack Park Agency*, 24 Misc.3d 1221(A) (“The APA’s oversight obligation . . . extends to both public and private development of the Adirondack Park.”).

Respondent’s insistence that public and private lands in the Park must be managed separately is also contrary to the explicit recognition in the SLWF UMP of the critical and interdependent relationship between public and private lands. The UMP states:

The SLWF cannot be considered without recognizing the uses of adjacent lands. The character of the surrounding lands and what occurs on those lands impacts the SLWF, just as the SLWF has an impact on the lands that surround it. Private lands can affect the environmental condition of the SLWF, the management actions which the State needs to take, public use, and public interest in the area.

SLWF UMP at 61.

The UMP goes on to explicitly recognize that activities on adjacent private lands can affect the quality of public lands and waters:

There are developed private lands directly adjacent to many parcels of the SLWF. *The more developed this adjacent private land is, the greater impact on the SLWF.* Human impacts extend beyond any development . . . The adjacent developed private land also impacts recreational activities. Those areas of the SLWF in close proximity to

developed private property become unusable or undesirable for activities such as hunting and camping . . . . *Future developments on private property near the lands of the SLWF can increase the impacts to the unit.*

*Id.*; (emphasis added).

Respondent's position on this appeal that the Agency's decisions on private land projects can ignore impacts to adjacent public lands is also contrary to its guidance to the public. Respondent's *Citizen's Guide to Adirondack Park Agency Land Use Regulations* acknowledges that the APA "was created in 1971 by the New York State Legislature to develop long-range land use plans *for both public and private lands within the boundary of the Park.*" Adirondack Park Agency, *Citizen's Guide to Adirondack Park Land Use Regulations* at 1 (emphasis added), available at <https://apa.ny.gov/documents/guidelines/citizensguide.pdf> (last visited on Oct. 6, 2022).

It simply makes no sense that Respondent, which was directly involved in the preparation and approval of the SLWF UMP, now claims that it is free to ignore the management constraints and scientific conclusions set forth in that document. In particular, its claim that a DEC carrying capacity study of the already overburdened Lower Saranac Lake can have no bearing on its review of the Project—the primary purpose of which is to increase recreational use of Lower Saranac Lake by boaters—undermines the clear intent of the Master Plan and the APA Act that management of public and private lands be coordinated to protect the Park's resources.

Respondent's attempt to divorce its review of the Project from the adjacent and intermingled public waters of the SLWF and its approval of the Project in the absence of a DEC carrying capacity study of Lower Saranac Lake was arbitrary and capricious.

## CONCLUSION

For the reasons set forth herein, the decision of the court below should be reversed and the Petition granted.

Dated: Albany, New York  
October 12, 2022



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## **ADDENDUM**

# **The Future of the Adirondack Park**

**Temporary Study Commission  
on the Future of the Adirondacks  
1970**



If what makes the Adirondacks different . . . is wildness, then it must be said that it is most unlikely that there will ever be any more of this quality in the future than there is now, and the preservation of the present level will require deliberate planning and restraint of natural impulses and trends very much in evidence now.

C.H.D. Clarke

## Chapter 1

# Private and Public Land

### Adirondack Park Agency

1. *An independent, bipartisan Adirondack Park Agency should be created by statute with general power over the use of private and public land in the Park.*

2. *The Agency should prepare a comprehensive plan for the Park.*

3. *The Agency should have planning and land use control powers over private land in the Park.*

4. *Local governments should have a role in the planning and zoning of private land that reflects their legitimate interest in the private land.*

5. *The Agency should work closely with the Department of Environmental Conservation and with the Hudson River Valley Commission, the Lake George Park Commission and the four regional planning boards having jurisdiction in the Park.*

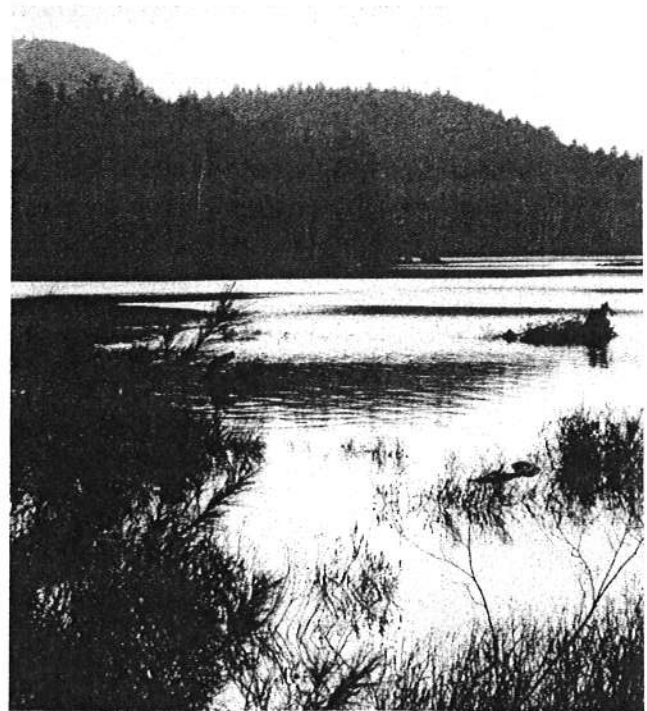
6. *The Agency should have planning power consistent with Article XIV over the state land within the Park subject to mandatory consultation with the Department of Environmental Conservation.*

7. *The administration of the state land within the Park should remain with the Department of Environmental Conservation.*

8. *Pending the completion of the comprehensive plan, the Agency should have interim powers over development in the Park of parkwide significance.*

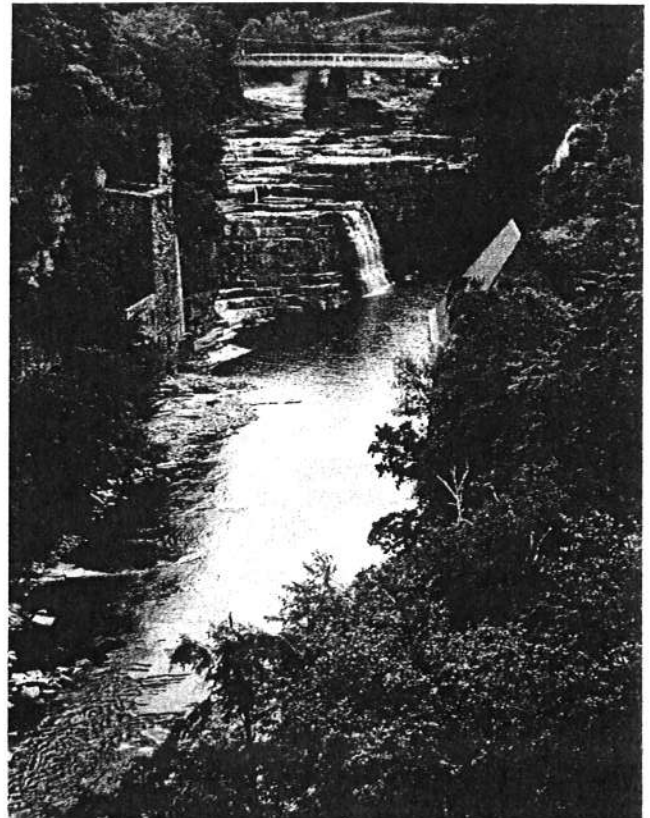
9. *The members of the Agency should consist of the Commissioner of Environmental Conservation, the Director of the Office of Planning Coordination, and seven private citizens, including the chairman, appointed by the Governor to serve staggered seven year terms.*

10. *Three of the seven citizens should be legal residents of the Adirondack Park and no more than four should be members of the same political party.*



The Adirondack Park Agency will preserve the wild forest atmosphere of the Park.

Ausable Chasm is one of the Park's most famous private attractions.



A crisis looms in the Adirondack Park. It threatens the integrity of New York's finest natural resource and outdoor recreation area. The crisis is a familiar one. Throughout this country unplanned development of both private and public land is despoiling resources once considered limitless. Only today, after two centuries of exploitation, are Americans beginning to realize that resources are finite. This growing awareness is largely a result of the urban blight characteristic of metropolitan areas and now spreading throughout the country. Smog-ridden cities, suburban sprawl, billboard jungles, polluted lakes and rivers, and a disrupted ecosystem have contributed to a reconsideration of the relationship between man and his environment. Man's survival is at the core of this concern.

Some areas of the country have managed to escape the destructive hand of man but even these sanctuaries are now subject to the unrelenting pressures of an increasingly urbanized society. The Adirondack Park has long been such a sanctuary. Whether it will continue to be one depends on the foresight and resolve of all New Yorkers.

Clearly the state has a substantial interest in the preservation and enhancement of the Adirondack Park. The latter provides recreation for millions of New Yorkers and protection for the headwaters of five major watersheds. It is the largest and most vital segment of the state's open spaces.

After more than two years of study, this Commission has come to the conclusion that a massive state action program is necessary to make the Adirondack Park a viable and lasting entity. This program must be concerned with both the private and the public lands. The mixture of the two in the Park is one of its greatest strengths. But, while the state owned forest preserve of 2,250,000 acres is protected by Article XIV, unguided development on the 3,500,000 acres of private land will destroy the character of the entire Park if immediate action is not taken.

The Commission's studies indicate that almost 80 per cent of these private lands are devoted to open space uses. The private forest land in the Park is approximately equal in acreage to the forest preserve. The importance of the privately owned land to the preservation of the open space character of the Park is apparent, and the continued existence of many of the private holdings is vital to the Park's economy.

The relationship between public and private land has generally been harmonious and complementary. Even today few visitors can distinguish forest preserve from privately owned forest land. However, the immutability of private open space

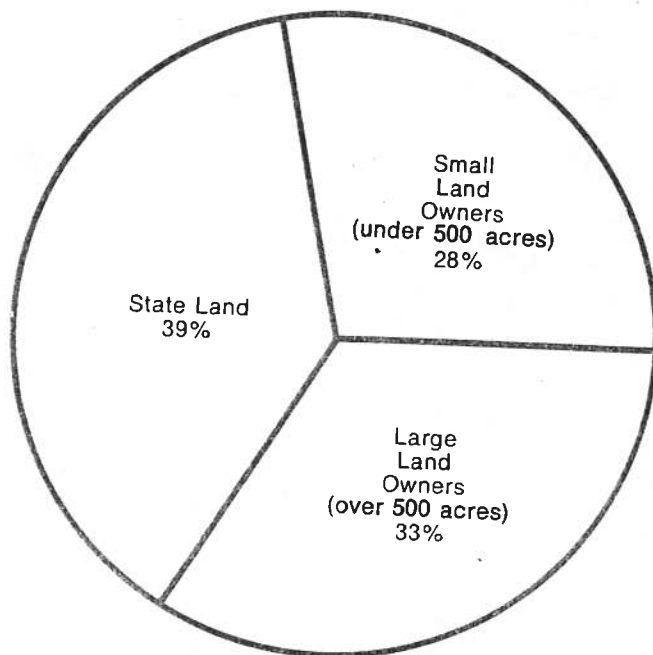
can no longer be assumed. The number of signs along the highways advertising new seasonal home and commercial developments attests to the growing pressures from an increasingly affluent and leisure oriented society.

The ownership pattern of private lands in the Park adds to the problem of unregulated development and contributes to the sense of urgency felt by the Commission. There are 626 owners whose individual holdings are more than 500 acres in size. These owners hold slightly less than two million acres or 53 per cent of the privately owned land in towns entirely or partially in the Park. Most of these own less than 2,500 acres each, but there are 32 owners each owning more than 10,000 acres, who collectively hold 1,171,390 acres. Three corporate owners in the forest industries category own more than 125,000 acres each.

The future of the Park lies largely in the hands of these 626 owners. Most of their holdings are classified as private forest and, therefore, make a vital contribution to the sense of vastness felt by Park visitors. As only one per cent of the land-owners own more than 50 per cent of the private land, the actions of a very few people can decide the fate of the Adirondacks.

The Park's fate is also dependent on actions by the thousands of owners of smaller parcels who control the balance of the private land. The key to maintaining the Park as a *lasting* entity lies in the avoidance of misuse by all landowners, large and small.

Land Ownership in the Adirondack Park



The private owner of a lovely Adirondack shoreline property may now, if he likes, build on its shores a movie theater or an amusement center or a trailer park. What is more important he or his heirs, who will be concerned with inheritance taxes, are free to sell the shore front to developers to be broken up into 50 or 100 or 500 small building lots. And this is beginning to happen.

There are approximately 36,000 non-resident private and corporate landowners in the towns wholly or partially within the Park. These non-residents hold more than two million acres or 60 per cent of the total of privately owned land and account for 55 per cent of indicated market value. A majority of them live in New York State in towns other than the Adirondack town in which they own land. Nearly three-quarters of them hold property classified as a seasonal residence. It can be safely assumed that most of these non-resident landowners are interested in open space preservation.

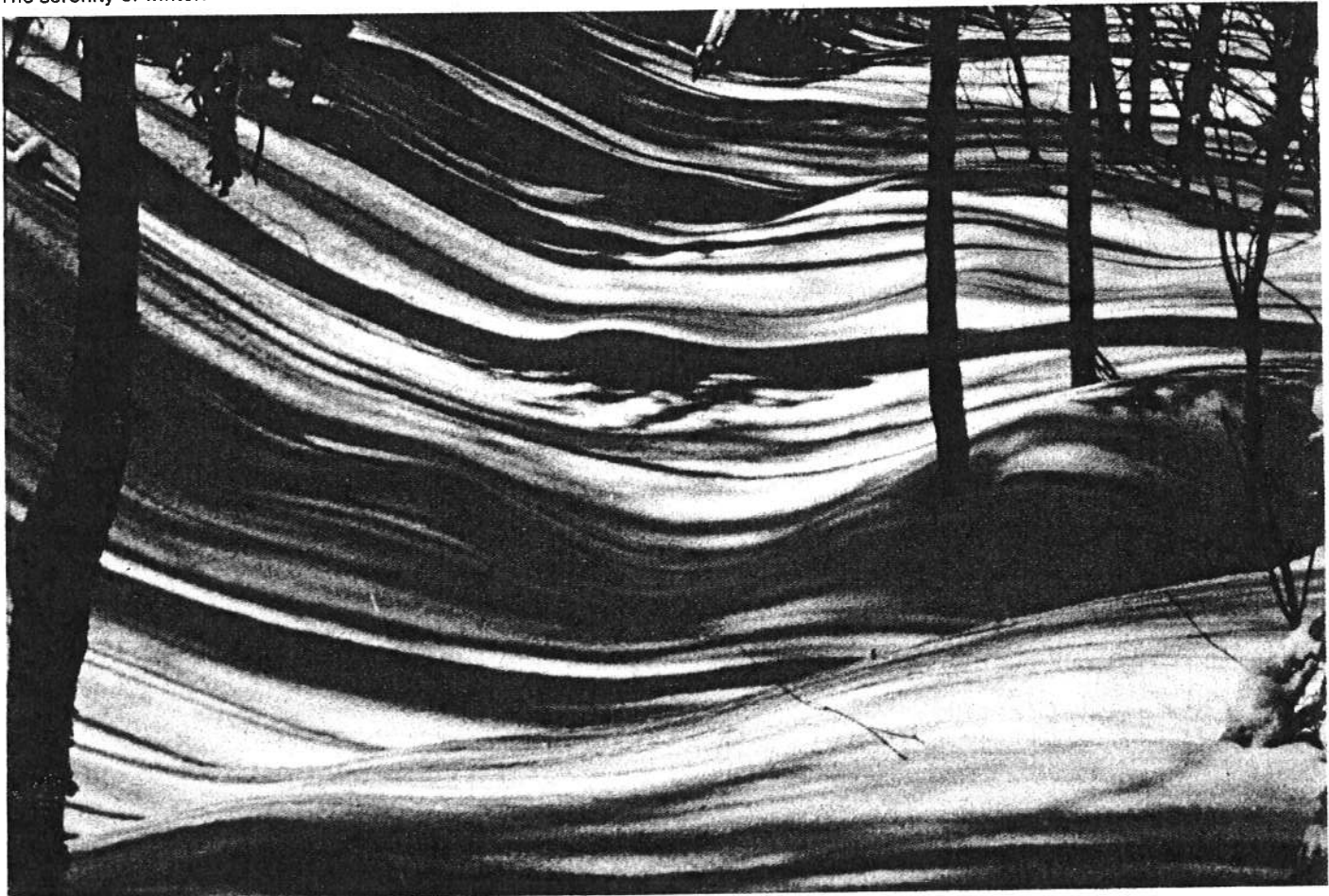
Most of these seasonal residences have been built on an individual basis, frequently on large lots. Subdivision has been infrequent. Today, however, the profitability of subdivision has attracted the attention of corporate and individual landowners. Demand for seasonal homes is

beginning to accelerate subdivision of large tracts into small lots. Seasonal residences have an important place in the Adirondack Park, but, without adequate planning and land use controls, subdividing will destroy the Park.

The power to enact land use controls is vested in local government by state enabling legislation, but only a few municipalities in the Adirondack Park have provided any form of control. Communities with small populations find it difficult to establish effective planning and land use controls over their vast open space areas. Of the 87 towns entirely or partially within the Park, only 17 have a population greater than 2,500. There are 39 towns with populations less than 1,000 and four towns contain less than 100 people. Queensbury in Warren County is the only town with a population of 10,000 or more and most of these residents live in the part of the town outside of the Park. Partly because the towns have limited financial resources and partly because, until recently, there have been no development pressures, less than ten per cent of the land has been zoned. Under these conditions, it is not reasonable to rely primarily on local government to plan and implement effective land use controls.

At the regional level there are several exceptions

The serenity of winter.



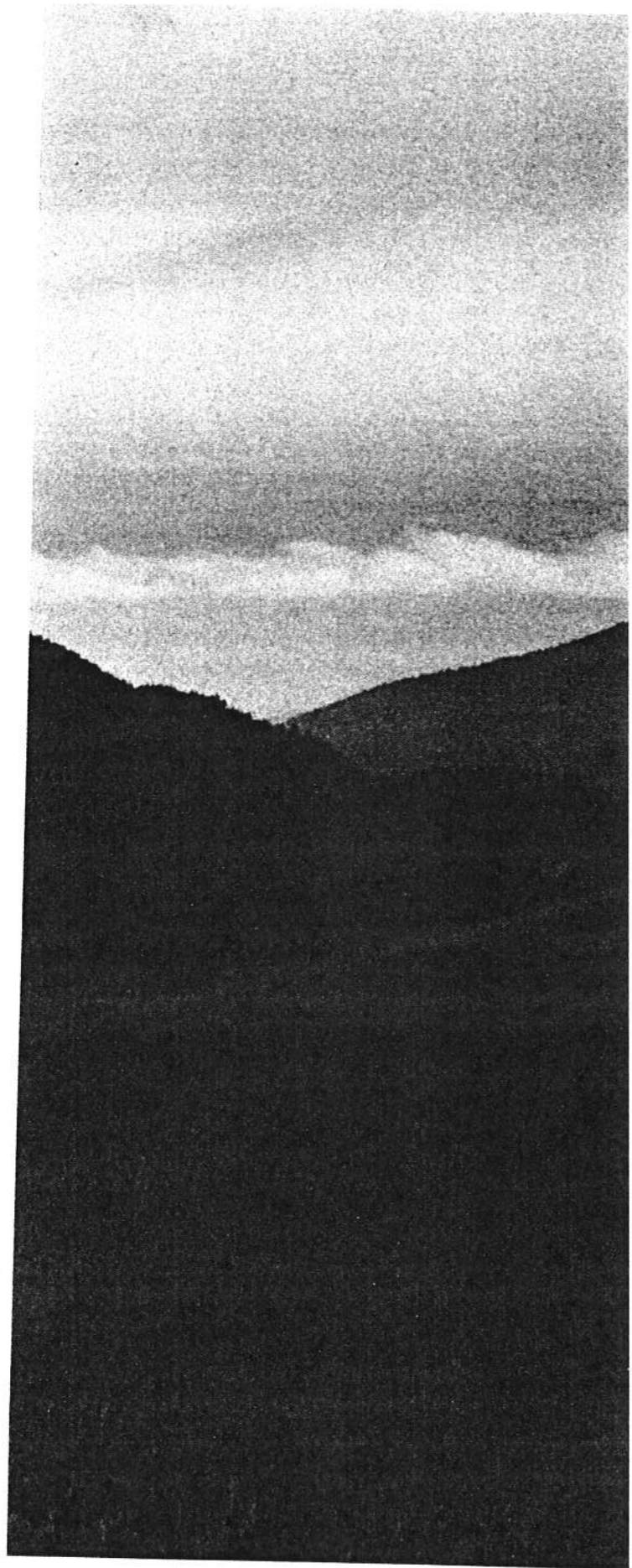
to the general lack of planning in the Park that deserve mention. Four regional planning boards serve the Park area—the Black River-St. Lawrence, Capital District, Lake Champlain-Lake George and the Oneida-Herkimer Regional Planning Boards. These entities have limited land use control powers; their most pressing problems are associated with the population centers under their jurisdiction. No plan for the Park could be complete without their close cooperation. The Hudson River Valley Commission has statutory comprehensive planning authority, including limited project review powers, in a two-mile wide corridor along the Hudson. Although its jurisdiction in the Park is limited territorially, it covers one of the Park's most sensitive areas. A more specialized agency is the Lake George Park Commission. It possesses on-premises sign control powers, permissive zoning powers, and limited development permit powers. This commission has done an outstanding job and should be closely consulted regarding any parkwide planning. But, while these agencies can make significant contributions, they cannot provide solutions to overall Park problems because of their limited powers and territorial jurisdictions.

For many years it was the responsibility of the Conservation Department — on the whole faithfully and efficiently executed — to protect and administer the Adirondack forest preserve. This responsibility is now in the hands of the new, important Department of Environmental Conservation that was formed to combat a multiplicity of environmental dangers throughout the state.

The new Department does not have land use control power over the 3.5 million acres of private land in the Adirondack Park. This land, now generally free of restraint, poses a grave and growing threat to the entire Park. It is imperative, if the Adirondacks are to be saved, that the state develop an overall, long-range plan for all the public and private land in the Park and exercise a degree of control over the uses to which these lands may be put. Land use control powers over private land should not be assumed by a regular state administrative department, but should be vested in an independent Agency.

How can Park planning and land use controls best be implemented? The answer is by the establishment of an independent, bipartisan Adirondack Park Agency with planning and land use control powers over all the land in the Park. Only through a centralized land use framework can state, regional, and local concerns all be provided for. This is the central recommendation

Wispy clouds sculpt Morgan Mountain.





## **PRINTING SPECIFICATIONS STATEMENT**

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