

**Adirondack Council
Adirondack Mountain Club
Adirondack Wild: Friends of the Forest Preserve
Protect the Adirondacks!
Sierra Club Atlantic Chapter
Upper Saranac Foundation**

July 17, 2023

Honorable John Ernst, Chair
Adirondack Park Agency
PO Box 99
Ray Brook NY 12977

RE: Carrying Capacity Analysis Needed for Upper Saranac Lake Complex

Dear Chair Ernst,

The organizations listed above are extremely concerned about the size and scope of the proposed USL Marina (formerly Hickok's boat livery) on Lower Fish Creek Pond (APA Project No. 2022-0218). This project seeks a major expansion of a marina on Lower Fish Creek Pond that will have impacts across the Upper Saranac Lake complex of interconnected waterbodies.

The proposal's location on a tiny waterbody, its close proximity to Fish Creek Campground, the number of proposed boat slips (98), the types of watercraft proposed, and the distance the slips, buoys and lights would extend into the narrow channel (more than 200 feet, or half the existing boat channel) all pose substantial impacts on existing aquatic uses, aquatic resources, aesthetic resources, water quality, neighboring private and public landowners, and public safety.

We all heartily agree with your statement from May 2023 that "The greatness of the Adirondack Park is fundamentally rooted in the interdependence of the public and private regional land use plans." Your statement is an important affirmation by the APA about the interconnectedness and mutual dependence between the private lands and the public Forest Preserve in the Adirondack Park. This interconnectedness requires that potential impacts from a major private land development on the Forest Preserve must be evaluated.

A carrying capacity study of these tightly interconnected waterbodies in the Saranac Lake Wild Forest is required by the Adirondack Park State Land Master Plan (Master Plan). These waterbodies see some of the highest rates of boat use in the Adirondack Park. The number of businesses, private camps, many of which are boat access only, the array of Forest Preserve lands on the shoreline, and major facilities like the Fish Creek Campground, illustrates the importance of a carrying capacity study as part of the APA's review of a proposed major marina expansion on Lower Fish Creek Pond. The impacted Forest

Preserve areas include the Saranac Lake Wild Forest (SLWF) and the Fish Creek Campground Intensive Use Areas.

The Master Plan states: “The physical, biological and social carrying capacity of the water body or other water bodies accessible from the site will not be exceeded.” The Master Plan requires that every Unit Management Plan (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.” (p 10-11) This study should be undertaken by the Department of Environmental Conservation (DEC). 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” (p 10-11)

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.” (p 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 Upper Saranac Lake) that are the subject of a UMP and include private ownership along the shoreline.

Though long required under the Master Plan, the DEC has refused to prepare these studies and the APA has never held the department accountable. The decision of the recent lawsuit *Thomas Jorling vs Adirondack Park Agency, New York State Department of Environmental Conservation, and LS Marina, LLC, 214 AD3d 98 (3d Dept. 2023)* that overturned a permit for an expanded marina on Lower Saranac Lake stated that it was truly “inexplicable” that such a study has not been prepared before now for that lake. A carrying capacity study is critical to analyzing impacts to recreational users, water quality, fish and wildlife, invasive species, and noise levels from the increased motorboat traffic associated with projects subject to APA review.

Connectivity of the Relevant Waterbodies

The site of the proposed marina is located in the Town of Santa Clara, Franklin County, on Lower Fish Creek Pond, which is part of the SLWF. Lower Fish Creek Pond is connected to Square, Follensby Clear and Little Square ponds, and to Upper Saranac Lake, which connects to Middle and Lower Saranac Lakes and adjacent waterbodies. Together, this array of interconnected lakes and ponds comprise the “Saranac Lakes Complex.”

The Saranac Lakes Complex includes both waterbodies wholly surrounded by State-owned Forest Preserve lands and waterbodies with a combination of State-owned and privately owned shorelines. Regardless of the type of shoreline ownership, the waterbodies comprising the Saranac Lakes Complex are part of the SLWF that must be protected by the APA.

Appropriate Level of Boat Use Must be Examined and Determined by Carrying Capacity Study

As recognized in the SLWF UMP that governs the Saranac Lakes Complex, 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 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. (SWLF UMP p 111).

The SLWF UMP further explains that motorboats "have the potential to cause a greater variety and more significant impacts than non-motorized watercraft." (p 75) To address these impacts, the SLWF UMP identifies the need for "a comprehensive [carrying capacity] study" of the waterbodies in the Saranac Lakes Complex. (p 112)

The SLWF UMP recognizes that the Saranac Lakes Complex in the vicinity of the project site is already experiencing substantial increases in boat traffic. For example, between 2014 and 2017 the number of boats using the Fish Creek boat launch increased by more than a factor of ten, from 164 to 1,947 boats. *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.* The proposal to add even more motorboats to an already overburdened system of lakes and ponds must be evaluated in the context of the carrying capacity of those waterbodies as required by the SLWF UMP.

The fact that the project is on private lands does not relieve the APA of the obligation to consider the project's effects on the State-owned waterbodies that are part of the SLWF. As stated in the UMP:

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. (p 61)

The SLWF UMP explicitly recognizes 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. (p 62)

Thus, the project's location on private lands does not absolve the APA of its obligation to consider the project's impacts on the Saranac Lakes Complex, particularly when the purpose and effect of the project will be to increase motorboat use on waterbodies in the Complex.

APA Must Ensure that a Carrying Capacity Study is Conducted

In conclusion, the proposed marina project will result in increased boat traffic on lakes and ponds in the SLWF, so a comprehensive carrying capacity study of the type called for in the SLWF UMP is a prerequisite to the APA being able to conduct an adequate review of the proposed project's impacts on Adirondack Park resources.

Adirondack Park Forest Preserve Carrying Capacity of Water Bodies Study, Phase 1, was requested by the DEC and later delivered to the DEC in 2011. For over ten years, that report has been available to inform the DEC and the APA about how to proceed with this necessary and legally mandated study and evaluation. The APA should not delay any longer calling for the implementation of the methods and procedures set forth in the *Phase I* report.

Sincerely,

Peter Bauer, Executive Director
Protect the Adirondacks

Raul J. Aguirre, Executive Director
Adirondack Council

Julia Goren, Deputy Director
Adirondack Mountain Club

David Gibson, Managing Partner
Adirondack Wild: Friends of the Forest Preserve

Roger Downs, Conservation Director
Sierra Club Atlantic Chapter

Tom Swayne, President
Upper Saranac Foundation

cc: Barbara Rice, Executive Director
Hon. Basil Seggos, NYS DEC Commissioner
APA Counsel/Regulatory Affairs
Executive Chamber