



Adirondack Park Agency

SHERMAN CRAIG
Chairman

TERRY MARTINO
Executive Director

DRAFT MINUTES
State Land Committee
February 1 and 2, 2018
Agency Meeting
KF:KDR:mp

State Land Committee February 1, 2018

The State Land Committee convened at 9:20 am.

State Land Committee Members Present:

Karen Feldman, Committee Chair, Chad Dawson, Arthur Lussi, William Thomas and Robert Stegemann (DEC)

Other Members and Designees Present:

Sherman Craig, Chairman, Daniel Wilt, John Ernst, Bradley Austin (DED) and Lynne Mahoney (DOS)

Absent - Barbara Rice

Local Government Review Board

Frederick Monroe, Executive Director

Agency Staff Present:

Terry Martino, Executive Director, Sarah Reynolds, Acting Counsel, Kathy Regan, Kevin Prickett, John Barge, Elizabeth Phillips, Ed Snizek, Mary O'Dell, Aaron Ziemann and Mary Palmer

Approval of January 2018 Draft Minutes

By motion of Dr. Dawson, seconded by Mr. Stegemann, the November minutes were unanimously approved.

***To hear the full description of the February meeting, please see the Agency's website.**

Ms. Regan thanked Agency and DEC staff for all their hard work and time on the classification package.

Ms. Regan's presentation included the classification process, SEQRA and APSLMP requirements, the MapBook, summary of public comment, changes that were made to the MapBook following the hearings and public comment, SEQRA Determination of Significance for the MacIntyre Tracts and the Resolution for the 2016-2017 classification excluding Boreas.

Dr. Dawson asked why the smaller areas on Mapbook HM-06 and 07, dissected by a powerline, are being proposed as Wild Forest. Dr. Dawson stated that the Agency is to protect the lands and keeping those parcels Unclassified would essentially provide Wilderness protection. Classifying the land Wild Forest based on the assumption that something might happen in the future (snowmobiling) is not the full protection it deserves. Ms. Regan said the Agency is required to classify lands as quickly as possible and leaving it as Unclassified was not considered to be the right option. She also reminded the Board that it is possible to reclassify Wild Forest to Wilderness should that be deemed appropriate in the future. The smaller parcels adjacent to State Route 28 could have been classified as either Primitive or Wild Forest. Staff chose to classify these parcels as Wild Forest as not to preclude a future snowmobile trail.

Mr. Craig said he is comfortable with the classification as Wild Forest, because the land is not abutting the wilderness and is directly adjacent to a highway.

Dr. Dawson said Parcel ES-09 also had a dissection and staff reached a different decision. He asked what the difference is between these situations. Ms. Regan said the difference is ES-09 has a Right-of-Way (ROW) across State land, and for HM-06 /07 a private tract runs through the state land, not a ROW.

Dr. Dawson noted his objection of going through the Mapbook classifications so quickly. He stated the process has already taken a year and a half and that he would like to see multiple Board meetings to complete this action. Ms. Feldman said that the Board is discussing the important tracts, the ones which need discussion and not all of the parcels need this level of discussion.

Mr. Ernst asked if the snowmobile trail was a proposed route for a community connector trail or just a potential route. Ms. Regan said it is a potential link between Indian Lake and Minerva.

Mr. Monroe said it is relevant to this situation to point out that the Adirondack Park State Land Master Plan (APSLMP) states that in addition to the protection of the natural resources, we should also permit and encourage recreational use, as long as it does not impact the resources.

Mr. Monroe said staff should take a closer look at the Full Environmental Assessment Form (FEAF) as there seems to be inaccuracies. Mr. Monroe continued by stating that MacIntyre East has a long history of commercial forestry, and hunting and fishing clubs. He said part 1 of the FEAF lacks information for proposed uses, the maps do not show roads and the existing character of the land, and some questions in Part 2 are not answered. Ms. Phillips explained that some sections of the form do not need to be completed because the classification itself does not impact the land. She also stated that answering "no" to certain questions enables you to skip to other sections of the FEAF.

Ms. Regan acknowledged that during the public comment process there was a request for maps depicting the existing road network and such a map was included in the FSEIS.

Mr. Monroe disagreed that the classification action does not have an impact on the land. There will be impacts on plants and animals due to the change in land use, there will be elimination of scenic views, loss of recreational resources, existing types of recreation will be lost and existing transportation patterns will also be impacted. Ms. Phillips said the classification action is not what immediately impacted these uses, these impacts were the result of adding the land to the Forest Preserve.

Mr. Monroe said that is one of the flaws of the process. People are making comments without having seen the land. He noted that Local Government would like to have seen more alternatives for MacIntyre East and West.

Mr. Thomas asked about the current buildings in the land and how they affect the classification. Ms. Regan explained that the land can be classified as Wild Forest (or another classification category) with buildings. The buildings will be removed and that will not affect the classification. The leases expire at the end of September 2018.

Mr. Thomas asked what will happen with the land once the buildings are removed. Ms. Regan said the DEC will go through a UMP process to determine the future uses allowed on the land.

Dr. Dawson asked what evidence there was to show there are not impact on plants and animals. Ms. Regan said the wetlands will be protected by the wetlands regulations. When The Nature Conservancy acquired the land they did a Rapid Ecological Assessment to determine what land should be kept in fee and added to Forest Preserve, what property should go to the Towns for other purposes, and what land should remain private for forest management.

Dr. Dawson said that document should be added to the FEAF. Ms. Regan stated that it is listed as a reference in the FSEIS.

Ms. Reynolds noted that this is a three-step process: acquisition, classification and UMP implementation. The Agency is in the second step and some of the questions being asked do not need answers at this stage, those will be part of the UMP process. Mr. Stegemann agreed and said most of the questions being raised are relevant to the UMP process and need to be asked and answered at that stage.

Ms. Regan asked if the Board thinks the FEAF should be revised. Ms. Feldman asked if the questions in the FEAF have been answered correctly. Ms. Regan said that staff believes they have, but that is the Board's decision.

Mr. Craig said there are two choices: the State Land Committee can accept the recommendations and move to the full Agency for discussion and changes, or the Committee can recommend changes.

Mr. Ernst said his concern is the protection of wetlands. Mr. Stegemann said the classification of Wild Forest protects the wetlands immediately by adding the land to Forest Preserve. What is proposed in a UMP, which is subject to SEQR, will determine what uses can occur in that Wild Forest.

Dr. Dawson asked why the classification on Parcel ES-26 (Palmer Pond) could not be part Wilderness and part Wild Forest. Ms. Regan explained that Wilderness was a possibility but staff chose to classify it as Wild Forest because it was at the edge of the Dix Wilderness, near the Northway, and close to houses. Also by having Wild Forest adjacent to the road, more recreational opportunities are possible.

Dr. Dawson asked why the classification on Parcel ES-27 (Niagara Brook) could not be part Wilderness and part Wild Forest. Ms. Regan explained that staff considered Wilderness for the land north of the Blue Ridge Road. Staff discovered that there is a right-of-way through the parcel and it was more appropriate to classify that section as Wild Forest. She explained the Wilderness/Wild Forest boundary on the existing Forest Preserve north of the parcel was created by a road that is now being abandoned. DEC Foresters have asked us to use natural boundaries whenever possible, so we used the brook as the dividing line between Wilderness/Wild Forest.

Dr. Dawson asked for clarification as to why a 500 foot set-back was not used like it has been in the past. Ms. Regan said staff did not agree on each parcel and it was done in consultation with the DEC. We reached a compromise with them that addressed some of their needs.

Mr. Craig said even though we may not agree it seems like a reasonable compromise between Wilderness/Wild Forest.

Dr. Dawson again noted his concern that the classification is being pushed along too fast and not having enough information on these parcels makes it difficult to make decisions. Mr. Lussi said he appreciates Dr. Dawson asking questions and making them part of the record. Mr. Craig added that the Board saw these presentations last February and there have been other opportunities to ask staff any questions, but with the approval process occurring now, he understands why there may be additional questions.

Mr. Ernst asked why there could not be a 1,000-foot corridor on either side of the brook for additional protection. Ms. Regan said there could be but it would be harder for the foresters to follow, and they asked the stream be used as a boundary. Additional protection of the stream can occur through the UMP.

Dr. Dawson said he is looking for the greatest protection possible, which is the spirit of the APSLMP. He pointed out his trust for this DEC, but not necessarily ones in the future, so he prefers the classification to do as much as possible.

Ms. Feldman added that the parcels are already protected by being Forest Preserve and will be with future UMPs.

Dr. Dawson asked why staff came to the decision of Wild Forest for FL-01/HM-10 (Benson Road parcel). Ms. Regan said there were discussions of considering Wild Forest to the South and a new Wilderness Area to the north. Staff, in consultation with the Department, determined that a Wild Forest classification was warranted.

Dr. Dawson asked for clarification why the lines are where they are on HM-05 (Good Luck parcel). Ms. Regan said this parcel was challenging for the staff because the parcel abuts Wilderness and Wild Forest. Staff did not want Wilderness all the way to the west because a reclassification would put private landowners under different Agency jurisdiction, and that seemed like an undue hardship. Review of where to divide the parcel was discussed with many people and the line was chosen based on the characteristics and capacity to withstand use. The area to the south was kept Wild Forest in the event that a potential snowmobile trail could pass through.

Mr. Monroe said he appreciates the recognition that classification of State Land affects private land owners.

Mr. Ernst noted that this has been a tremendous amount of work and the Board receives it at the end of the process. He asked if there is any way that the State Land Committee can sit in on the difficult discussions and be able to report back to the full Board. Ms. Reynolds said that if the Committee is meeting with staff it needs to be an open public meeting with notice, a requirement of the Open Meeting Law.

Dr. Dawson said the descriptions for ES-19 and ES - 27 state that with this action we are combining the Dix Mountain Wilderness with the High Peaks Wilderness. Ms. Regan said it will be discussed more later as we are trying to keep Boreas separate from the non-Boreas classifications. There is a proposal the two Wilderness Areas be merged into one area, at request of the Department.

There was discussion whether a change of the Unit name should be made in the MapBook description or wait for the updated APSLMP Area descriptions. Dr. Dawson noted that the language in the APSLMP will get changed as a result of this action and should be addressed. The change would need to be an Agency action and it is not currently proposed. Further discussion resulted on amending the draft resolution to reflect this action.

Ms. Feldman reminded the Committee that this one Resolution considers two separate matters. One is that this classification complies with SEQRA. The second is the classification complies with the APSLMP.

Ms. Reynolds noted that there are two separate votes, and not because a Board member has to recuse himself from one of the votes. They are separate Agency actions, especially for SEQR purposes.

Ms. Feldman suggested that the Resolution be approved with two conditions: the reference to High Peaks Wilderness be deleted from the Mapbook descriptions so it only references Dix Mountain (ES-19 and ES-27), and ministerial corrections be made on the Acreage Chart for the Mapbook.

Ms. Feldman put the motion on the table with those two conditions, and it was seconded by Mr. Thomas for further discussion.

Mr. Thomas asked how the Board will handle Dr. Dawson's other issues with the other parcels. Ms. Feldman stated that explanations have been given by staff. The question is if the Board is comfortable with those decisions or if there needs to be further explanation. There is a motion on the table so the Board can choose to vote for or against it, depending on how they feel.

Mr. Thomas asked if the committee agrees, will this recommendation be referred to the full Board tomorrow. Ms. Feldman confirmed.

Mr. Thomas said that going to full Board there could possibly be more questions and wondered if some of Dr. Dawson's concerns should be tabled until there could be more discussion. Mr. Lussi said he endorsed staff's response to Dr. Dawson's questions. Mr. Lussi stated that he is comfortable with the committee voting, as proposed by Ms. Feldman's motion. Tomorrow when the full Board has its discussion they can bring up their concurrences or objections with Dr. Dawson's comments. Mr. Stegemann agreed.

Dr. Dawson asked if it was an appropriate request to ask staff to write down what they have verbally responded to and add that to the record. Mr. Craig said that would be covered in the minutes. Mr. Lussi agreed and said when staff speaks it is part of the minutes from the meeting and becomes part of the official record.

Mr. Craig said he understood Dr. Dawson's concerns of wanting the highest possible protection for land. In looking at the APSLMP it does not say that the Board has to classify every piece of land at the highest possible classification. He pointed out the Agency and DEC staff have evaluated the capacity of the lands and he supports their recommendations.

Ms. Feldman said with respect to Dr. Dawson, she understands he is looking for an explanation of how staff reached those decisions. At the end Dr. Dawson may disagree with the conclusions, staff noted that they are not easy decisions, and there is room for disagreement.

Mr. Stegemann said the decisions on the key parcels are what the Board is trying to address at this time.

Mr. Stegemann asked the committee to reconsider the condition of referencing the High Peaks Wilderness being deleted and only reference Dix Mountain. He suggested the committee consider any re-alignment of High Peaks or Dix Wilderness as a separate action.

Board members discussed the merits of keeping the relevant parcel descriptions as being added to the Dix Mountain Wilderness rather than adding them to High Peaks Wilderness. The committee decided to amend the motion to keep these parcels as being added to the Dix Mountain Wilderness. The merger of these two large Wilderness areas has been documented in Appendix D, the APSLMP Area Descriptions.

Ms. Feldman asked if all were in favor of the Resolution. The committee was all in favor.

Thursday February 1, 2018 (afternoon)

Mr. Ernst is recused from the Boreas classification and was not present for this presentation.

Ms. Regan said the Board will hear an overview of the SEQRA and classification process, then RASS and Legal Staff will cover the physical, biological and intangible considerations, retained rights, established facilities and structures and improvements.

Ms. Regan reviewed the summaries of public comment, the changes made to the DSEIS, Boreas Tract Alternatives and Analyses, and the Preferred Alternative.

Mr. Monroe asked if the Preferred Alternative will allow CP-3 motorized access to the dam. Ms. Regan said it did not. This classification is Primitive from the last parking area to the dam and private motor vehicles are not allowed on lands classified as Primitive.

Ms. Feldman said there are two procedural things to cover. First, the rest of the day will be devoted to questions and answers. No motions will be made. The second point is to remind everyone that that it is impossible to discuss this without mentioning recreational activities. She reminded the committee of the job to classify the land, details of recreational activities will occur later in a UMP.

Ms. Regan addressed Dr. Dawson's question about Universal Access versus CP-3 access. Universal Access is first-come, first-served. CP-3 has very strict requirements and a permitting system. CP-3 access cannot occur in lands classified as Wilderness, Primitive or Canoe, thus the introduction of a Wild Forest corridor.

Dr. Dawson asked what the requirements are to apply for CP-3 or Universal Access, and if it is a requirement to apply it to all new areas. Ms. Regan said there are several requirements as a result of the Galusha Settlement. There is a CP-3 policy that people have to follow, and they also have to contact the DEC for permission to access these

areas, and it is limited access. Mr. Stegemann said that access will be determined in the UMP. This classification offers possibilities, not certainties.

Mr. Craig said Universal Access is first-come, first-served, and should not have to be that way. Mr. Craig would prefer to see a program where a person self identifies themselves as having a physical limitation. He said we are providing the possibility for the DEC to provide special consideration for people to have access.

Dr. Dawson asked how staff got to these four alternatives. The APSLMP states the DEC will provide a summary of the acquisitions and information to the Agency. He pointed out the Agency is left with choices that might not be the best, but are the ones allowable under the policies and law available to us. All four alternatives were based on the existence of the Gulf Brook and Boreas Roads. Allowing the road three miles into a Wilderness area (alternatives 3 and 4) seems counter to that classification category. We need to talk about the consequences.

Mr. Craig said the SEQR process requires reasonable alternatives, not all alternatives. These are the alternatives that staff came up with and were done in consultation with the DEC. The goal was to provide access reasonably close to the ponds. The law does not require CP-3 or ADA access to every pond.

Dr. Dawson asked if it was possible to provide access to other water bodies for persons with disabilities. Mr. Stegemann said the wilderness is in the eye of the beholder. The DEC has an interest in providing for persons with disabilities without impacting the character of the area. This classification is an opportunity for persons with disabilities to access wilderness.

Mr. Monroe said it is important to keep this in context. Looking at the whole package there is about 33,000 acres being devoted to Wilderness, and it is not unreasonable to make a few concessions to help everyone get to the pond.

Dr. Dawson said Alternatives 3 and 4 would have added more wilderness. Alternative 2B precludes a substantial amount of acreage being heavily protected. He said there are other places to be able to provide CP-3 and Universal access, it does not have to be at the Boreas Ponds.

Mr. Lussi asked if we want a true wilderness and a special pristine experience, why keep the man-made dams. He pointed out staff did come up with reasonable alternatives and he supports their recommendation.

Dr. Dawson suggested that the discussion needs to be on how much can we protect for present and future generations.

Mr. Thomas said the Wild Forest Corridor is the proper way to go. The dam is there and needs to be managed by the DEC, we should find a way to get access to the dams for everyone. He asked what can be done in a Primitive area. Ms. Regan said dams

are conforming structures in all classification categories according to the APSLMP. In Primitive areas the DEC can maintain the dam using motorized vehicles.

Mr. Stegemann reminded the committee that the APSLMP states protecting the natural resource character is paramount, in this case the classification of the ponds as Wilderness. The discussion about what the appropriate classification for that area has been very healthy. The APSLMP also states that accommodating other uses that do not compromise that area should be contemplated. He pointed out there is a need in the Park to accommodate a wilderness experience for people with disabilities. He said this can be done in a way that does not compromise the natural resources and should be done where possible. This is a very well thought out plan and when you put a UMP layer on top of it, it will be controlled.

Ms. Feldman said one of the mitigating factors for universal access is that the traffic would be very limited because it is a dead-end. These UMPs Management Actions will determine how the property is managed. If DEC manages the property the way they say they are going to, the land will be protected and at the same time people will be able to enjoy the beauty and serenity of the area.

Mr. Stegemann said the management will be constrained by the classification. It is not all Wild Forest, it is Wilderness with a narrow corridor and a very limited opportunity to provide public access.

Mr. Thomas commented that the roads around the pond could be usable as shown in Alternative 1. People say there should be more Wilderness, and some that say there should be more Wild Forest.

Ms. Feldman said there is a lot of focus on this one area. She pointed out we have received a lot of comments, especially for Wilderness, from people saying they want help to access the ponds. She said we are trying to respond to that request to allow them this opportunity.

Dr. Dawson said we are talking about all water bodies. It seems that we put all the weight of the decision on this one access point. There is so much more that can be done here. There are some that want opportunities away from motorized uses and people that want to be away from congested areas. There are plenty of lakes and water bodies in New York State that are public and accessible for everyone. There are very few of them that are isolated and preserved for the future. He said this is a chance to provide something very rare. Is it comfortable, no. Is it easy, no. He pointed out that he does not believe everyone has a right to everything and we should allow people to have the right to a remote area.

Mr. Thomas said when the opportunity is in front of you to allow that to happen we should let it happen. Dr. Dawson added that when there is the opportunity to protect something we should take that avenue.

Mr. Craig said if anyone thought of any other questions overnight, there is still time for them tomorrow.

Ms. Feldman adjourned the meeting at 3:40 until the next morning.

Friday February 2, 2018 (continued)

Mr. Ernst is recused from the Boreas classification and was not present for this part of the presentation.

Mr. Craig expressed his thanks to DEC staff Kathy Moser, Rob Davies and Tom Martin for their assistance in making sure that issues were well thought out. He also thanked the Adirondack Chapter of The Nature Conservancy for putting the money together to purchase the Finch Pruyn lands, and all the research and work they did.

Ms. Regan said that this morning there will be a committee vote on the Boreas part of the classification package, then it will go to full Board for their vote. While in full Board they will look at the MapBook and vote on that. She said the Board will go through the same motions for SEQR and APSLMP requirements. Ms. Regan discussed those requirements.

Ms. Feldman asked for a motion from the State Land Committee to approve the Resolution that states the SEQR requirements have been met and the Preferred Alternative 2B for the Boreas Tract complies with the APSLMP.

Mr. Thomas made the first motion and it was seconded by Mr. Stegemann. Mr. Lussi and Ms. Feldman also approved. Dr. Dawson was opposed.

Mr. Ernst returned for the remainder of the meeting.

Ms. Feldman said she would like to amend the motion she made on Thursday to approve the map classifications with two conditions. She said the first condition was revising some red-line on the maps of Dix Wilderness and High Peaks Wilderness.

Mr. Craig asked for clarification. Ms. Feldman said that Dix Wilderness will be merged with the High Peaks Wilderness and it will be referred to only as the High Peaks Wilderness. Ms. Regan said the MapBook descriptions had these two parcels going into the High Peaks. The Mapbook descriptions are not being altered for the motion, as discussed in the prior afternoon.

Ms. Feldman said the second condition is correcting the Mapbook acreage chart. Ms. Regan said the changes still need to be made to the chart. Ms. Feldman added that staff was given permission to make ministerial changes.

Mr. Lussi asked if the bulk of the addition to the High Peaks is MacIntyre East and West, as well as Casey Brook. Ms. Regan said those are the large parcels that would be added to the High Peaks Wilderness, but a few smaller parcels are also included.

Dr. Dawson asked what happens between Dix and High Peaks. Ms. Regan said there will no longer be a line between two units. They will become one unit, the High Peaks Unit, with land and water will be approximately 275,000 acres in size.

Ms. Feldman made a motion to amend her Thursday's motion regarding the Dix Mountain Wilderness. All were in favor.

Ms. Reynolds clarified that the motion coming to the full Agency from the committee is the motion from Thursday with only one of the two conditions. Ms. Feldman answered affirmatively.

Old Business

None

New Business

None

Karen Feldman, Committee Chair, adjourned the meeting at 9:45 am.