



**DRAFT Minutes of the Regulatory Programs Committee Meeting
May 13, 2021**

The committee meeting convened at approximately 2:30pm.

Regulatory Programs Committee Members Present

Arthur Lussi, John Ernst, and Matt Tebo (DOS). Chair Dan Wilt and Ken Lynch were absent. Brad Austin (ESD, Presiding in Committee Chair's absence)

Other Members and Designees Present

Joe Zalewski (DEC), Zoe Smith, Andrea Hogan, Mark Hall

Local Government Review Board Present

Gerald Delaney, Executive Director

Agency Staff Present

Terry Martino, Executive Director; Christopher Cooper, Counsel; Robert Lore, Deputy Director of Regulatory Programs; Devan Korn, Environmental Program Specialist 2; Kathy Regan, Natural Resource Analysis Supervisor; Colleen Parker, Environmental Program Specialist 3; Sam Boese, Assistant Environmental Engineer.

Approval of Draft Committee Minutes for March 2021

A motion to approve the draft committee minutes was made by Mr. Lussi, and seconded by Mr. Ernst. All were in favor.

Regulatory Programs Report (Robert Lore)

Mr. Lore first reported out on the new pre-application file that the Agency received on April 30 from NYSEEDA (New York State Energy Research and Development). The proposed project calls for construction of a 20-megawatt solar generating facility on a 180-acre portion of the former Benson Mine in the Town of Clifton in St. Lawrence County. The property includes Industrial Use and Resource Management land use areas. The solar panels would be located on a former tailings pile. Agency staff are currently working with the applicant and will schedule a site visit once the project layout is in draft form.

Mr. Lore then gave a brief overview of the Agency's solar application and its recent modifications, noting that the application was created and presented to the Agency Board in June of 2019. The application applies to solar generating facilities that are supplying power to customers off-site. Agency staff realized the need to develop this application after receiving several inquiries from solar providers about implementing these types of projects in the park. After reviewing and issuing the first of these permits last year, Agency staff noted that portions of the application needed additional information. Mr. Lore showed slides to provide an overview of the updates and acknowledged the initial input from Kathy

Reagan, Colleen Parker, Mary O'Dell, and Dan Kelleher for working on the application and providing suggestions. They were later assisted by Ariel Lynch, Beth Phillips, and Kelly McKean. All changes to the application were then approved by Executive Director Martino, the legal division, and the Regulatory Division. The changes included questions related to potential impacts to grasslands birds requiring consultation with NYSDEC, guidance regarding fencing for wildlife movement, clarification that gravel roads are considered impervious surfaces, and guidance on visual simulations and impacts.

Mr. Lore noted that these changes represent the evolution of the solar application since its inception in June 2019, and anticipates that further review of these projects will result in additional updates, and he will continue to provide updates to the board, as well as reporting on new solar applications submitted to the Agency.

Staff then addressed questions from Board members about stormwater runoff from the panels, historical property uses, and planting plans for screening.

Mr. Lore then reported on Saranac Lake Lofts application currently under review in the Village of Saranac Lake, Franklin County, which had been mentioned during the Regulatory Programs Report at the April 2021 meeting.

During a brief overview of the proposal to date, which included slides of the current site, Mr. Lore noted that the Village of Saranac Lake approved the proposed project on April 6, 2021 and that the NYSDEC, NYSDOH and NYSDOT are also reviewing the project. The Agency sent a Notice of Incomplete Permit Application on April 7, 2021, conducted a site visit on April 28, 2021, and are currently waiting for additional information from the applicant. Once the requested information is received and the application is deemed complete, the proposal will be submitted for public comment. Discussions with Mr. Wilt, Chair of the Regulatory Programs Committee, have taken place as to how to possibly proceed with issuing a permit for this project, depending on the amount of public comments/opposition received. Mr. Lore plans to further update the Board as the application process progresses.

Board members and staff discussed the criteria for bringing projects to the board, specifically projects jurisdictional due to exceeding 40 feet in height. Mr. Lussi and Mr. Ernst stated that any commercial or residential project exceeding 40 feet should be brought to the board for review and approval. Mr. Hall suggested establishing a policy for consistency. The board considered what resource concerns were of concern for these projects, focusing on visuals. Mr. Cooper clarified that the 40-foot height triggers jurisdiction only, not a threshold for approval.

Mr. Lussi asked about the review process for amendments and whether the board has an opportunity to review amendments. Mr. Cooper replied that the process is directed by the Regulations and is based on whether the proposed amendment is a material change to the original permit.

P2021-0033: 789 Tarbell Hill, LLC (Devan Korn)

Mr. Korn gave an extensive and detailed overview and presentation of the project including review of jurisdiction, conclusions of law, a description of and slides of the project location and the existing conditions, site history, proposed project details, visual analysis slides, public comment, review by others, and staff's recommendation and permit conditions.

The complete presentation is available at:

<https://nysapa.granicus.com/videos/564/player?autoplay=0&start=10950&stop=13950>

A motion for approval with conditions was made by Mr. Ernst and seconded by Mr. Tebo. All were in favor.

Old Business

None

New Business

None

The committee meeting adjourned at approximately 3:55 pm.