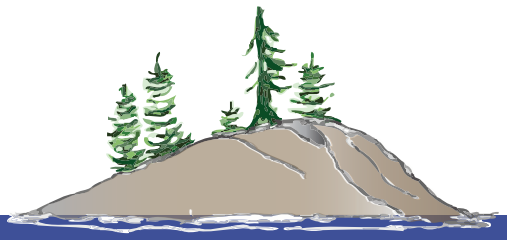
Upper Saranac Foundation

It still is, and always will be, about Water Quality.



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April 19, 2024

John M. Burth
Adirondack Park Agency
PO Box 99
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RPcomments@apa.ny.gov
(via electronic submission)

Re: APA Project No. 2022-0218
DEC Project No. 5-1652-00216/00003

Project Title: USL Marina, LLC, Expansion of an existing marina through the installation of a new dock system to include a total of 92 boat slips available for rent. NYS Route 30 in the Town of Santa Clara, Franklin County New York.

I am the President of the Upper Saranac Foundation (USF), which is a science guided advocacy organization charged with the protection and preservation of the Upper Saranac Watershed.

While the USF is not opposed to the presence of a marina in the watershed, we believe the proposed marina project cannot be approved by the APA without two important necessities:

1. a carrying capacity study of the Saranac Watershed Complex including Fish Creek Ponds and Upper Saranac Lake as stated in the Adirondack Park State Land Master Plan and the Saranac Lakes Wild Forest Unit Management Plan, and;
2. an adjudicatory public hearing under the APA Rules & Regulations Section 580.2.

Carrying Capacity Study
The proposed expanded marina is located on the 79-acre Lower Fish Creek Pond, which is adjacent and connected to Upper Saranac Lake by way of a narrow .85-mile channel. Expanding a marina with the capacity to dock 92 watercrafts will undoubtably increase boat traffic on both Lower Fish Creek Pond and Upper Saranac Lake. What remains unknown is what impact this expansion will have on the ecosystem, water quality, and on landowners and visitor experiences.

The Adirondack Park State Land Master Plan (APSLMP) states clearly that carrying capacity analyses are needed for Adirondack lakes and ponds:

"A comprehensive study of Adirondack lakes and ponds should be conducted by the Department of Environmental Conservation to determine each water body's capacity to withstand various uses, particularly motorized uses and to maintain and enhance its biological, natural, and aesthetic qualities… The importance of the quality of these resources cannot be overemphasized." (p.4)

A second key document which supports the need for a carrying capacity study is The Saranac Lake Wild Forest Unit Management Plan (SLWF-UMP) that was adopted in 2019. Like the APSLMP, the SLWF-UMP recognizes the importance of water body carrying capacities studies, stating that:

"APSLMP recognizes the importance of waterbodies to the Adirondack Park and that these waters have a carry capacity just as land resources do. An action recommended in the APSLMP is for the Department to conduct a comprehensive study..." "An effort to conduct this was the study Adirondack Park Forest Preserve Carrying Capacity of Water Bodies Study: Phase 1 – Selecting Indicators for Monitoring Recreational Impacts, released in 2011" (p. 75).

The Adirondack Park Forest Preserve Carrying Capacity study monitored the ecological and social impacts of recreational use on water bodies using nine pilot waterbodies in the Adirondack Park, one being Fish Creek Pond. Findings for Fish Creek indicated that:

"Fish Creek was in the highest category for recreation use and development impact score, capable of producing physical, chemical, and biological Impacts. (Table 11 - p.64) and a high proportion (97%) of shoreline disturbance" (Table 12 - p.66).

As further evidence of the essential need for carrying capacity studies, we should reference the decision in the recent lawsuit that overturned an APA permit on Lower Saranac Lake, *Thomas Jorling vs Adirondack Park Agency, New York State Department of Environmental Conservation, and LS Marina, LLC, 214 AD3d 98 (3d Dept. 2023)*. The Appellate Division found that it was "*inexplicable*" that a carrying capacity study had not yet been completed for the Saranac Chain of Lakes.

With all the study, planning and analysis clamoring for an Upper Saranac Watershed capacity study, it is frankly "inexplicable" that the APA can proceed with the requested marina permit.

An Adjudicatory Public Hearing

Given the scope, the degree of public interest, and the significance of this project, the USF believes that the APA is required and has an obligation to its constituents to hold an Adjudicatory public hearing. Section 580.2 of the APA Rules and Regulations lists the criteria that should be used by the APA in determining whether to conduct a hearing. A project is deemed appropriate for a public hearing if just one of eight criteria are applicable. We believe that several of these criteria are met and sufficient to warrant a public hearing.

An APA senior attorney in a presentation to the APA Board on December 16, 2021 indicated Adjudicatory hearings must be held if there are "*unclear facts*" that "*prohibit the Agency from determining whether a project is approvable …*"

The USF Board strongly feels that the APA should hold an Adjudicatory hearing to gain essential facts, to review evidence, to allow independent expert testimony and to hear fact-based concerns about how this project may impact the ecosystem, water quality and public enjoyment of the area.

As co-stewards of the Upper Saranac Watershed, the USF sincerely hopes that our two organizations can collaborate in protecting this special resource for generations to come. On behalf of the Board of Directors of the Upper Saranac Foundation, we thank you for considering our comments and concerns regarding the USL Marina, LLC, expansion.

Sincerely,

Tom Swayne
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