

General Permit Fails to Address Today's Forest Challenges

By Dave Gibson

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A logging road stretches north on former Finch Pruyn Company forest lands, now under conservation easement. Photo © Dave Gibson

There has been some good writing on forestry issues in the Adirondack Park in the media recently, stimulated by the APA's proposed, controversial General Permit for clear-cut logging. Adirondack Wild applauds the discussion and encourages more of it.

The APA held a stakeholder meeting recently of Agency staff, forest landowners and managers, scientists, and environmental groups where a conversation ensued about the difficulties that face forests and forest managers today in the Adirondack Park (and beyond). The dialogue needed to happen, and it should continue, but the General Permit (GP) does more than just get in the way of that discussion. It does little to solve the problems discussed, and cuts out the public's involvement in these matters and, even worse, it subjects forest landowners who might apply for the GP to a perception of unfair dealings with the Agency in order to expedite the clear-cutting of their lands. That's may be an unfair characterization, but that is the public's perception. All in

all, this General Permit is a just a bad idea.

Forest management challenges transcend the Adirondack Park Agency's current, limited jurisdiction over forestry activities. One aspect of the discussion we all could agree on is that our common enemy is parcelization, sale and subdivision for development of lands which are classified or zoned as Resource Management under the APA Act, where forest management is one of the primary land uses. None of us around that table want to see any more APA permits that allow Resource Management land to get whacked up and fragmented into clubs, resorts and "great camps." We all want to see working forests encouraged and maintained on lands classified as Resource Management and Rural Use. That includes a common interest in the economic side of forest landownership. After all, ecology and economics have the same root word, "eco," meaning one's house or home.

Despite the Agency's attempt to sell the General Permit on those very grounds of encouraging working forests, it actually does very little to address the underlying challenges of owning large amounts of forest land in the 21st century, attempting to grow trees of varying age classes in a time of acidified or depleted soils and warming climate, and trying to simultaneously foster wildlife habitats and clean water while also responding to expectations of a decent return on investment every five or ten years. On smaller family forests, there are too many examples all across our Northern Forest of routinely treating forests as short-term woodlots for immediate cash needs by harvesting only the most valuable trees at that moment. Referred to generically as high graded forests, the best trees are taken to get the most money right now without much, if any thought to the quality and growth potential of the forest stand left behind. As a consequence, future income from that forest as a forest is significantly reduced, and the chances greatly increased that the land will be sold for development.

While the APA also tries to justify the General Permit, in part, as an incentive for better forestry, it does nothing to make high grading less likely and only applies to a relatively small number of larger landowners in the Park who can afford and benefit from FSC or SFI certification.

While high grading is a real problem, I don't want to sound as if it's the practice of all or even a majority of forest landowners in the Adirondacks, landowners who will also never apply to clear-cut. A large number of them own and manage their land for the long-term for multiple values, and make their management decisions on both

ecological as well as financial considerations. I've met a few of them in my work, and it's been a great pleasure to walk their land and learn how they observe as both foresters and ecologists. They realize that good wood grows on wood, as does the viability of a diversified forest economy in their family, county, or Adirondack Park as a whole. Forest landowners are very hard to generalize, except that those in it for the long-term think and act for the health of their land as a living, breathing organism, as well as a family financial asset.

If the APA's jurisdiction is limited to begin with, and if the proposed General Permit doesn't do a lot to incentivize better forestry across the board, then what is this GP all about?

In part, it's about this APA which wants to be applicant friendly and in all ways "open for business," which can come at the expense of the agency's statewide public interest and responsibilities. In part, it's about larger forest landowners owned by investors who quite naturally support simplified applications and quicker permit answers at reduced cost.

Yet, the Adirondack Park is not just anyplace USA, and the APA is not just any state bureaucracy. Its business should be conducted in the public's view, its applications with a potential regional impact debated by its commissioners, and subject to public comment. The General Permit would allow none of this.

I will attempt to explain APA Commissioner Dick Booth's logical and (for me) compelling reasons expressed at this month's APA meeting why he could not support the General Permit as written.

1. This General Permit, he explained, is fundamentally different than all others the APA has issued. General Permits in the Park are usually issued for beaver dam removal, or for benthic mats over asian clam beds, or co-location of cellular equipment on towers, in other words, site specific activity of a relatively small scale. This General Permit would be issued to timber investors owning hundreds of thousands of acres, with intensive harvesting activity on an unspecified number of those acres. It's a far different type and scale of activity, ill-suited for a General Permit.

2. Booth did not see the reason for the General Permit. The Agency has received and processed through full agency Class A regional project review only two clear-cutting applications since the year 2000 – two in twelve years. It would be far more sensible, Booth said, for APA to gain more experience in processing any future clear-cutting applications that go through normal Class A regional review before

resorting to an expedited General Permit. If the Class A review experience encounters significant problems over a period of time, then a General Permit can be revisited.

3. If the Agency's regulations pertaining to clear-cutting are the real root of the problems, being out of date, or posing significant problems for achieving timber market, forest certification, wildlife habitat or other forest landowner objectives, then let's get on with the task of re-drafting APA regulations in the public's eye.

4. The Agency's environmental assessment form states that the General Permit will "not result in any large or important environmental impacts," not one. Therefore, the Agency staff made a negative declaration according to SEQRA, meaning that they asserted there would be no large or significant impacts to the environment from this General Permit, and therefore no environmental impact statement need be prepared. Dick Booth characterized that assertion (of no significant impacts) as "fictitious."

5. Staff justify the GP partly on the basis that it will result in fewer forest landowners cutting aggressively just under the clear-cutting regulatory thresholds, but numerous landowners of all types seek to avoid the Agency's rules and thresholds for jurisdiction on all manner of new land use and development, including subdivisions. Given the limited jurisdiction of the Agency's law, that is reality. Forest landowners most likely to take advantage of this General Permit are precisely the same landowners who can most easily afford – from a financial perspective – going through a full Class A permit application.

Put a different way, why should the APA provide for a few large Park landowners an answer on a General Permit application for intensive harvesting on a hundred or a thousand acres in just 10 days time when a much larger number of small landowner in the Park potentially may have to wait up to 90 days to learn about their permit applications for some activity affecting an acre or two? There are questions here of fairness and due process under the law in a Park of international, not just statewide importance.

I am pleased that for now the APA has pulled back the General Permit, listened to its commissioners and listened to hundreds of letters and twelve regional and national organizations asking APA to instead engage in dialogue and study of today's forests and forestry management, and base any change in its permitting upon as much good, factual information as possible. Forest landowners have told Adirondack Wild that the roots of the problems they face are in the Agency's outdated (31 year old) forestry regulations governing clear-

cutting. For instance, we are told that the regulation that cutting over a ten year harvest cycle must result in no less than 30 square feet of basal area is confusing and hard to apply in the field, and has very little to do with either good forestry practice or the quality and diversity of the regeneration in the forest understory. If the fundamental source of the complaints among forest landowners is these regulations, then as Dick Booth states, let's get on with it. Regulatory change is done out in the open, and is very transparent, involves lots of stakeholders and advance consultation. That is all part of good governance. The General Permit falls on the opposite side of the spectrum – opaque, neither transparent nor accessible to the public.

I am sympathetic with the problems landowners have described to us, including the problem of beech bark disease and heavy beech sprouting which literally blocks light on the forest floor and, along with deer which preferentially browse other hardwoods, prevents a more diverse forest from regenerating. That is the situation in too much of the Northern Forest. I am not at all conceptually opposed to those landowners who wish to open up their forest stands through heavier cutting that crosses the APA line into a "clear-cut" where it makes good silvicultural sense, for instance to expose those beech "whips" to sunlight and competition, and allow for strong regeneration of the next generation of valuable birch, or hard maple or black cherry while also harboring wildlife habitat diversity. I agree that some of our precious neotropical migrant birds, such as Black-throated Blue Warbler, Chestnut-sided Warbler and others require or prefer younger forests in which to raise nestlings, gather food or find protection from predators. Our endangered Spruce Grouse absolutely requires spruce and tamarack forests of very diverse age classes only found in a managed forest. I note that Audubon New York is one of the groups helping to advise Lyme Timber in its habitat requirements, and applaud such a partnership and encourage more of them. Standards by which these landowners are certified (FSC, for example) require that a percentage of their landholdings be in younger, early successional forest – and a certain percentage is in older, more mature forest at any given time. So, there are win: win scenarios, if you will, being practiced by today's forest managers which the Agency's regulations can probably do more to encourage.

The argument is also made that Adirondack clear-cuts mimic natural disturbances, such as wind storm. But judging from my lay reading on the subject (including articles found in *Northern Woodlands Magazine*, published by the Center for Woodlands Education), the size of the gaps needed to emulate natural disturbance and create good regeneration

and diverse bird habitats in our Northern Forest are on the order of a single tree gap to ¼ acre, on up to 2- 3 acres in size. You do not need to create 25 acre or larger clear-cuts to emulate natural disturbance and create habitat diversity.

As a way forward in the months ahead, APA should:

1. Gain more experience. Put the current application process to the test, as Commissioner Booth suggested. Process any requests for clear-cutting the same as before, as Class A Regional Permits subject to public notice and comment, and action by the commissioners. Bring back the General Permit idea only if it can be shown that the current application process fails during this testing period;
2. Cut away any unnecessary paperwork, "expedite" future Class A permit applications for clear-cutting as much as possible without sacrificing rigor in the review, and see how the Agency and applicants perform, with the informed involvement of other stakeholders;
3. Put together an Agency- stakeholder working group to study the current regulations and recommend any changes, and move those changes forward collaboratively;
4. Continue the dialogue and discussion, and convene a conference on challenges facing working forests in the Adirondack Park which would also inform the regulation changes.