

# The APA Says Science Can Wait

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Only recently considered a separate species from the Gray-cheeked Thrush, the Bicknell's Thrush has one of the most restricted breeding and wintering ranges of any North American bird.

It's happened again. The Adirondack Park Agency (APA) has eliminated a permit condition for advance studies to assure no harm comes to sensitive wildlife from new development on four mountain summits.

The entire project – a new Emergency Communication system for Essex County – could have still gone forward and been completed by next winter according to New York State Police – even with the permit condition in place. It's remarkable how little pressure is required to cause APA to abandon its statutory purpose to protect delicate biological and physical resources of the Adirondack Park.

Readers will recall how the Adirondack Park Agency re-drafted its permit order for the Adirondack Club and Resort to cover up its failure to require the applicant to undertake and complete a comprehensive biological inventory. In its October, 2011 draft order APA staff wrote that "a comprehensive biological inventory of the site was not conducted." Therefore, staff concluded, it was impossible to reach findings concerning possible undue adverse impacts to wildlife and wildlife habitats. That statement and conclusion was completely faithful to the actual hearing testimony and hearing record upon which the Agency must make its determination. By January, 2012, Agency

executive staff expunged that paragraph, replacing it with: "site investigations to evaluate wildlife and habitat followed standard guidelines and procedures."

Further, in spite of plenty of expert testimony presented by Adirondack Wild: Friends of the Forest Preserve during the ACR hearing that after-the-fact biological studies of amphibian populations would fail to substantially alter the permit and the location of subdivision housing, and would not be subject to the same level of scrutiny and public vetting as pre-permit studies, APA went ahead and issued ACR a permit conditioned upon after-the-fact biological surveys of amphibian populations. Regardless of what those surveys turned up, the permit stated that only immaterial changes to the ACR subdivision design could be authorized.

By way of more background, APA had repeatedly asked the ACR applicants to perform comprehensive biological surveys in 2005-2006, but gave up in frustration and declared the permit application complete in Dec. 2006. No pre-hearing and pre-permit biological surveys were ever conducted.

This month APA staff, under pressure from local government and without any public discussion among Agency members, eliminated a permit condition for studies of Bicknell's thrush before construction was permitted on top of four mountain summits during the bird's nesting season of mid-May through July.

In granting a permit for the Essex County emergency radio communications system at the end of 2012, APA authorized a permit condition that might postpone mountaintop activity to install the new whip antennae and other equipment for a few months. Unless the county could demonstrate through biological studies that such construction activity would not disturb nesting Bicknell's thrush – a species that may well end up on the federal endangered species list by year's end – the APA limited the start of construction on Little Whiteface, Blue Mountain, Gore Mountain and Mt. Morris, where the species is known or suspected to occur, until August 1. APA wrote in the permit that use of heavy machinery, pneumatic tools, air compressors and gas-powered generators during those months might further endanger a shrinking number of Bicknell's thrush. That precaution was seconded by ornithologists intensively studying the bird. The condition would still permit construction on these summits to go on throughout August and September and, if the weather cooperated, well into the fall season.

These four summits all have pre-existing communication equipment to

which new microwave dishes, or antennae would be placed, and non-essential equipment removed. The permit was issued in December, 2012 and neither Essex County nor the general public commented in the negative. While all parties supported the goal of modernizing the emergency communication system, APA staff took care to ensure that the location of the new antennas and other equipment complied with APA's Towers Policy. That policy states that any new towers should be substantially invisible from travel corridors and other viewing points, and should be located near roads and power lines, preferably co-located on existing equipment.

The APA's staff concern for Bicknell's thrush was limited to the four summits with thrush habitat. Seven of the mountains or hills involved in the construction of the new emergency communications system lack this habitat and would not be affected at all by the May-August limitations. So, the Emergency Communications System permits were issued in December with the support of the Essex County Emergency Services staff and the New York State Police, the two applicants. In the meeting minutes, there is no record of objections to the permit condition calling for the precautionary measures to protect Bicknell's thrush.

Months later, the grumbling began in Essex County that APA cared more about birds and insects than human safety, and local leaders went to Governor Cuomo.

Without even waiting for the next public meeting of the Agency, executive staff has now eliminated the permit requirement for advance studies of the bird. Now, the permit states that all construction can go forward on all the mountains beginning May 1 while the bird and its habitats are being studied. Staff is quoted in the media to say that if evidence shows that the thrush is being disturbed by the new construction, the agency might shut down the project at those sites. No criteria or thresholds for reaching such a decision are given. Such statements sound about as consequential as those after-the-fact salamander studies in Tupper Lake.

The Agency's staff actions this month should disturb every New Yorker and should be questioned and reversed by Agency members because, once again, the APA has made its primary, statutory mission to protect the Park's natural resources a secondary consideration to pleasing political leaders – and done so in between public meetings of the Agency. A new emergency communication system for Essex County could have been installed by next winter knowing that Bicknell's thrush had not been unnecessarily harmed by the activity. Talk about win:

win scenarios. Yet, the Agency caved in to the cheap, easy insult from local government. When it comes to the ecological sciences to guide when and where new development should be sited, and where adverse impacts should be avoided, in other words when it comes to its legislative mandate to protect natural resources this APA talks a good game. But when the right pressure point is pushed to accuse the agency of not being "open for business," it seems the talk is all you get. So much for "letting science guide the decision," a popular but all too often meaningless phrase in Ray Brook and in Albany.

The permit reversal is even more objectionable because APA knows how much effort is being expended to study and protect the Bicknell's thrush in its limited North American breeding range in the Adirondacks, Green Mountains and Catskills, and in its highly limited and degraded Caribbean overwintering range on the Dominican Republic. Just last fall, an alliance of North American scientists and conservationists took the unusual step of funding a team of Dominican biologists to work in the migratory songbird's Caribbean wintering habitat. That work was announced in Lake Placid and was awarded a grant from the Adirondack Community Trust.