The State Forest Preserve’s Camp Gabriels

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Legislation in the form of a constitutional amendment has been introduced in Albany this session which would “convey certain Forest Preserve that was never intended to be included in the Forest Preserve.” That land is the 92-acre former Camp Gabriels prison in the Town of Brighton, formerly part of Paul Smith’s College, and before that a tubercular sanitarium. How this property and those interested in its conversion from a prison to another use came to this stage is a bit of a long story.

Given that this legislative session has just five days remaining, this 11th hour introduction of a constitutional amendment to Article XIV, the forever wild clause, should be viewed as both very surprising and controversial. It is neither. It’s a lesson learned, I trust, for the State of New York which turned a deaf ear in 2011 to the warning and recommendation of Adirondack Wild: Friends of the Forest Preserve, Protect the Adirondacks and the Atlantic Chapter of the Sierra Club.

In 2011 we watched with mounting concern efforts of the State Office of General Services (OGS) to sell 92-acre Camp Gabriels as surplus State property, through a bidding process. What concerned us was the fact that three state agencies, OGS, APA and the Department of Environmental
Conservation (DEC) failed to identify, or acknowledge the Forest Preserve status of this State-owned property. It became Forest Preserve the instant that the State Corrections Department bought the land in 1987 from Paul Smiths College, regardless of the purpose for which it was purchased and regardless of its intensively developed character.

State-owned land in Adirondack Forest Preserve counties and the Catskill Forest Preserve counties cannot be treated like surplus State-owned land in the rest of the state. In 2011 our organizations offered this opinion to OGS, with copies to DEC, APA and the Governor. The letters reminded these agencies that State law provides that all State-owned land in twelve Adirondack and four Catskill Forest Preserve counties, (which are named in law ECL 9-0101(6)), is Forest Preserve land protected by Section 1 of Article 14 – the “forever wild” provision – of the New York State Constitution. There are exceptions in the law that exclude State-owned parcels from the Forest Preserve which are within the limits of a village or city, and lands, not wild lands, acquired by the State on foreclosure of certain mortgages. Neither exception applied to Camp Gabriels.

As to the already developed condition of Camp Gabriels, the three groups reminded the agencies that an Appellate Division decision in People v. Patenaude (286 App. Div. 140, Third Dept., 1955) addressed the fact that even developed State land may be Forest Preserve.

We concluded our reply to OGS this way:

"Given that the entire acreage of Camp Gabriels, including the land under its buildings, is 'forever wild' Forest Preserve and it cannot be alienated from that status without amending Article 14, the ongoing efforts by OGS to auction Camp Gabriels are clearly unconstitutional. Because the land is Forest Preserve, the Town of Brighton is eligible under State law, and has been eligible all along, to receive annual tax payments from the State. Under the law, DEC has custodial responsibility for the Forest Preserve and APA has planning and oversight responsibility for it within the Adirondack Park. To our knowledge they have not yet responded in any way to the issue at hand nor has OGS asked them to do so. To summarize our position, the land on which Camp Gabriels has been constructed – all of the land – is Forest Preserve as defined in State law. Forest Preserve land cannot be auctioned. It cannot be "leased, sold, or exchanged" except by first amending Article 14 to allow it. There is a process for doing that which we are willing to discuss with you, a process with which DEC and APA also are familiar."

OGS ignored our advice. They continued with efforts to auction Camp Gabriels. APA cooperated by reclassifying this parcel of State Land to a private land classification, Moderate Intensity Use, for redevelopment purposes. APA had no authority to do this, since the auction of State Land in a Forest Preserve county meeting none of the legal exceptions to Forest Preserve violates Article XIV.
For many months Camp Gabriels sat with no successful bidder. Then we received a phone call. The caller was a potential bidder and interested future operator of the property. He could not obtain title insurance since the State could not ensure him clear title. What was he to do? The State was not forthcoming. I listened sympathetically. The property sat again with a potential and enthusiastic future operator who could not proceed with his bid because of the legal miscalculation of three state agencies and the Governor’s office.

Adirondack Wild hopes the lesson is finally learned. The State should not auction off State Land in either the Catskill or Adirondack Parks. If there is any doubt about Forest Preserve status or constitutionality of an action, an opinion of the State Attorney General should be sought.

As for the constitutional amendment now introduced in the State Senate, it finally represents a path forward. The earliest voters could act on it would be 2017, assuming it gains first passage next week or at a special fall session. If not, the amendment would have to wait until 2019. I would only suggest to the sponsors that the words “never intended to be included in the Forest Preserve” be stricken. Whatever the intent and however much after-the-fact, the land is Forest Preserve. An amendment should seek the approval of two separate State Legislatures and of the voters to convey the land out of the Forest Preserve.