

Next steps for the Adirondack Rail Trail

On September 26th Judge Robert G. Main Jr. overruled the entire 2016 Unit Management Plan (UMP) that would have allowed the construction of a multi-use recreation trail on a 34-mile segment of the Remsen-Lake Placid railroad right of way. In doing so, the judge stopped construction of both the recreation trail and the upgraded railroad from Remsen to Tupper Lake, since both state projects are linked and their funding is dependent on the UMP.

The judge based most of his ruling on what a “travel corridor” is in the State Land Master Plan (SLMP). To define a travel corridor, he used the current travel corridors inventoried in the SLMP (“1,220 miles of travel corridors, of which 1,100 are highway, 120 miles make up the Remsen to Lake Placid railroad”) and concluded that since current travel corridors are highways and railroads no other use is anticipated or permitted. But the SLMP defines a travel corridor as including “the Remsen to Lake Placid railroad **right-of-way**” [emphasis mine]. Note that the Adirondack Park Agency (APA) did not say “Remsen to Lake Placid railroad” in its definition, as it did in listing existing travel corridors, it added “right of way”, for a reason.

Whether a “railroad right of way” implies that railroad traffic must exist on that corridor is the central question. For the judge, a “travel corridor” ceases to be a travel corridor when there is a change of use from vehicular to other uses, even if it includes “travel”. When that happens, he says, the land in question must be reclassified into one of the other nine land categories. “Recreational trails are not included in the nine forms of land classification in the SLMP” he notes.

The judge equates a multi-use rail-trail to other recreational trails, which is clearly not the case. Rail-trails exist in every state and are used by millions of people. There are 147 rail trails in New York covering over 1254 miles. They are all former or current railroad right-of-way’s, which distinguishes them from hiking or mountain biking trails like the Jackrabbit Trail.

The judge carefully dropped “multi-use” when referring to the proposed trail since, in addition to hiking, multi-use rail-trails are used for many things including transportation, mostly by bicycles and snowmobiles, and frequently for commuting as well as for recreation. So, if you believe that a “travel corridor” cannot include a rail-trail, as the judge does, he says the land must become Wild Forest or some other category when the tracks come up. But that creates a logical inconsistency, since rail-trails need maintenance, regulation, policing, and traffic controls as do other travel corridors.

It is reasonably clear that the Adirondack Park Agency did not intend the judge’s interpretation to apply when it adopted that language, and that the Departments of Transportation (DOT) and Environmental Conservation (DEC) did not interpret it that way either. The Remsen-Lake Placid corridor has been used for recreation for decades. Most of it has not had train traffic on it for over 40 years. It is leased by the State to snowmobile clubs in the winter, used by skiers and snowshoers, and even had peddle-bikes operating out of Saranac Lake for several seasons. It defies logic to say that bike, foot, snowmobile and other non-train traffic is not “travel”.

The APA’s careful choice of “right of way” versus just “railroad”, suggested future non-railroad uses for the corridor. Note that the 1996 UMP for this corridor, the one that is once again in effect, did exactly that – it anticipated conversion of some or all the corridor to recreational and other travel uses. So, in approving the 2016 UMP revision, the APA obviously considered its legality under the SLMP, since the APA itself drafted the SLMP. The judge is telling the APA that it violated its own rules in approving the plan. “Approval and implementation of the 2016 UMP” (by the APA, he says) “is an impermissible

circumvention of the APA Act". He goes on to say "The rationalization by respondents [i.e., the State] that a multi-recreational use trail is qualified for continuation as a travel corridor is not based in reason. It defies common sense. The court rejects this contention as irrational and, hence, arbitrary and capricious". If I were an APA commissioner I would be deeply offended.

There were two other parts of the judge's scathing dismissal of the 2016 UMP. First, he said that the Parks department approval of the historical status remediation proposed by DEC came too late (it was proposed but not approved when the UMP was passed). Second, he added an issue not even claimed in the suit, the clearing of title issues on three properties, was also resolved after the UMP was approved. He could have simply stayed the implementation of the UMP until these two items were demonstrably resolved, but chose to vacate the entire plan based on that single "travel corridor" issue.

So, what's next? The State could appeal the judge's ruling claiming both judicial error in his reading of the APA's definition of "travel corridor" and bias, based on the wording and tenor of his ruling. Or the State could ask the APA to re-clarify the definition of "travel corridor", to make it even clearer that travel corridors exist, whether or not train and vehicular traffic operate on them, perhaps even specifically referring to "rail-trails", since there are other possible rail-trails in the Park. In the latter case, DEC and DOT would have to re-submit the UMP for approval, but it could do so without changes on an expedited time table since all the work has been done.

In summary, I believe a common sense reading of the law and its history would support the case for an appeal, but the belt-and-suspenders approach would be to do both, i.e., file an appeal but re-word the SLMP and re-do the UMP process quickly.

Ernest E. [Lee] Keet, Lives in Saranac Lake and is a member of Adirondack Recreational Trail Advocates (ARTA)