

State of New York
Executive Department
Adirondack Park Agency

In the Matter of Proposed Modifi-
cations to 1999 Enforcement Set-
tlement Agreement E99-025 invol-
ving lands now owned by

Heartwood Forestland Fund III, LP,

**REVISED AGREEMENT WITH
RESPECT TO VIOLATIONS**
(APA Enforcement File
E99-025)

Respondent

WHEREAS, on May 3, 1999 the Adirondack Park Agency's Executive Director signed a settlement agreement entitled "Agreement with Respect to Violations pursuant to section 813 of the Adirondack Park Agency Act and 9 NYCRR Parts 577 & 578 (Enforcement File E99-025)" (hereafter, "1999 Settlement Agreement" or "Settlement Agreement") which was also signed by authorized representatives from Champion International Corporation ("CIC"), Champion Realty Corporation ("CRC"), The Forestland Group, LLC ("TFG") and the NYS Department of Environmental Conservation ("DEC"). The Settlement Agreement resolved certain violations of the statutes and regulations administered by the Agency related to, among other things, the construction and use of certain of the 300-plus hunting and fishing cabins located on a 139,000 acre landholding in northern and western portions of the Adirondack Park while the land was owned by CIC (or its predecessor-in-interest St. Regis Paper Company). The landholding in question consisted of three large, non-contiguous tracts known as the Santa Clara Tract, the Tooley Pond Tract and the Croghan Tract, located in the Towns of Duane, Santa Clara and Waverly, Franklin County; Towns of Clare, Clifton and Hopkinton, St. Lawrence County; Towns of Croghan and Watson, Lewis County; and the Town of Webb, Herkimer County. Privately-owned lands making up these three tracts are predominately classified Resource Management or Rural Use by the Official Adirondack Park Land Use and Development Plan Map;

WHEREAS, the violations resolved by the 1999 Settlement Agreement were brought to the Agency's attention by CIC as

part of a permit application (Project 98-313) it submitted seeking Agency approval for a multi-lot subdivision project involving the three large tracts, which project included proposals: (i) to create thirteen, large, so-called timber investment tracts which would remain in private ownership to allow continued timber management, but which would be restricted by Conservation Easements held by New York State ("easement lands"), with only two principal buildings authorized on each of the thirteen tracts; (ii) to convey various strips of land along certain rivers in fee to the State to become part of the NYS Forest Preserve ("fee lands"); (iii) to allow continued use of the then-existing hunting and fishing cabins on the fee lands for five years and on the easement lands for fifteen years, after which periods the cabins would be removed; and (iv) to undertake certain other development activities including a sawmill and certain log concentration yards. APA Permit 98-313 was issued to CIC, The Conservation Fund, Heartwood Forestland Fund III, LP ("HFF III"), TFG and CRC on June 28, 1999 authorizing the above project subject to Conditions. Thereafter, a closing took place and the "easement lands" were conveyed to HFF III.

WHEREAS, HFF III is now the record owner of the easement lands and seeks to amend the Settlement Agreement and Permit 98-313 (i) to delete the requirement for hunt club camp removal from easement lands, allowing retention of specified camps; (ii) to seek Agency approval after-the-fact for any camps requiring same (including resolution of any noncompliance); and (iii) to seek Agency approval for the subdivision that would result from the proposed creation of an additional parcel to become part of State fee lands, as well as certain other modifications;

WHEREAS, in accordance with the present language of both the 1999 Settlement Agreement and Permit 98-313, all hunt club camps and associated structures located on the easement lands were to have been permanently removed from the landholding by 2014 (with limited exceptions pursuant to settlement term 1, page 11). The Settlement Agreement also expressly provided that CIC and TFG (HFF III is a legal entity affiliated with TFG) were not required to remediate shoreline structure setback violations, in that all structures were proposed to be removed by 2014; nor was remediation required for violations involving lack of an Agency permit for post-August 1, 1973 greater than 500 square foot hunting and fishing cabins, such structures

within river areas or highway travel corridors and shoreline cutting violations. Accordingly, the only violations CIC and TFG were required to remediate under the 1999 Settlement Agreement were those involving (i) the minimum 100 foot shoreline sewage system setback restriction; (ii) sewage systems and other development within 100 feet of a jurisdictional wetland (including structures and other activities intruding into or substantially impairing jurisdictional wetlands); and (iii) other "major" violations involving substantial impact that would continue beyond the license period (e.g., waste disposal areas or significant land disturbances). Now that up to 220 hunt club structures are proposed to remain on the easement lands, all violations related to those structures need to be remediated;

WHEREAS, most of the violations addressed in 1999 involved certain of the hunting and fishing cabins and associated structures located at sites licensed by CIC to hunt clubs and involved failure to comply with the APA Act section 806 shoreline structure and sewage system setbacks, violations involving impact to wetlands and violations related to failure to comply with permit requirements for post-August 1, 1973 greater-than-500 square feet hunting and fishing cabins and for such structures and others in designated river areas or highway corridors. Those violations falling into categories (i), (ii) and (iii) in the immediately preceding WHEREAS paragraph were investigated further by consultants for TFG and HFF III, remediation was then proposed by them and reviewed and approved by APA, and once implemented, camp sites were re-inspected by TFG/HFF III consultants with reports submitted to the Agency confirming remediation;

WHEREAS, again, HFF III and DEC are now desirous of modifying the terms of the 1999 Settlement Agreement and Permit 98-313 to allow a maximum of 220 hunt club camps and their associated structures to continue to remain on HFF III lands after the current 2014 removal deadline. The 220 camps are either presently located (208 camps) or to be located in the future (12 camps) on the so-called easement lands on the three large tracts. HFF III and DEC have discussed terms of camp retention that would be included in revised Conservation Easements for the tracts. As part of the proposed modifications hunt clubs would be eligible, in the sole discretion of HFF III, to continue leasing lands associated with the hunt club structures and one-acre

envelopes around them, provided license terms are complied with by club members. Each camp and a one acre envelope associated with it would be subject to a separate three to five year license between HFF III and the various hunt clubs. Existing camps that exceed 500 square feet in size would be allowed to remain, provided Agency permit approval criteria have been complied with, but they may not be expanded without further Agency approval. Existing camps less than 500 square feet may be expanded to no greater than 500 square feet (or a 25% expansion of the pre-August 1, 1973 size, whichever is greater) without an Agency permit, but may not be expanded thereafter without first receiving any required Agency permit. Similarly, new greater-than-500 sq ft hunting and fishing cabins would require an Agency permit as a Class B Regional Project pursuant to section 810(2)(d)(4) of the Act. HFF III has prepared baseline data to identify the number and locations of all camps (and one acre envelopes including square footages of all structures), structure and sewage system setbacks to shoreline and any involvement of wetlands. HFF III also proposes to convey certain additional lands in a northeasterly portion of the Santa Clara Tract to the State.

WHEREAS, on November 11, 2009 notice was published in the Environmental Notice Bulletin that DEC had accepted, as lead agency, a Draft Environmental Impact Statement regarding the proposed Conservation Easement modifications. Upon the completion of proposed modifications of Settlement Agreement and amendment of Permit 98-313, DEC will proceed with any final revisions to Conservation Easement modifications referenced in the immediately preceding WHEREAS paragraph, and will accept, as lead agency, a Final Environmental Impact Statement and a Response to Public Comment Summary; and where pursuant to 6 NYCRR Part 617.11, DEC will publish said documents in the Environmental Notice Bulletin for no less than 10 days. Within 30 days of notice of a Final Environmental Impact Statement, DEC will release a written findings statement and will make a decision on whether to approve and undertake said Conservation Easement modifications.

WHEREAS, on February 24, 2010 HFF III submitted to APA a written request that it amend the settlement agreement and Permit 98-313 to allow a total of up to 220 hunt club camps to remain on the three large tracts. Agency staff requested additional information by correspondence dated

March 16 and 24, 2010. HFF submitted additional information on August 17 and 27, September 30 and November 1, 2010. The most recent materials include a "TFG Camp Data Spreadsheet" received 8/27/10 containing Camp Data as of 8/17/2010; a 9/30/2010 Larry Denis memo; three plan-size sheets of maps received November 1, 2010 entitled "Camp Envelope Access Map" depicting individual camps for each of the three large tracts; and five additional ledger-size map sheets received November 1 depicting certain camp clusters;

WHEREAS, APA has permit jurisdiction over the proposed changes to Project 98-313 (involving retention of certain hunting camps that had previously been proposed for removal and other modifications affecting the so-called easement parcels) (i) due to the predominant Resource Management classification of the lands involved and the fact that the original subdivision proposal for Project 98-313 is a Class A Regional Project requiring a permit pursuant to section 810(1)(e)(3) of the APA Act (Executive Law, Article 27) triggering review over all land use and development proposed for subdivision lots; and (ii) based on the reservation of permit jurisdiction in the 1999 Settlement Agreement and for changes to the project as set forth in Permit 98-313. Since changes to both the Permit and the Settlement Agreement are involved, the Settlement Agreement must be modified first pursuant to 9 NYCRR 581-2.7 before amending the permit;

WHEREAS, recently, in the process of preparing this baseline data, HFF III identified a number of existing apparent violations involving hunt club structures. These apparent violations include shoreline structure setback noncompliance and post-August 1, 1973 greater-than-500 square foot hunting and fishing cabins undertaken without an Agency permit that were not remediated by issuance of an after-the-fact permit under the 1999 settlement agreement, as well as other apparent violations involving lack of river area and critical environmental area permits, inadequate sewage system setbacks and activities involving wetland impacts without permit, among other items. These apparent violations are set forth as follows:

Camp Name and Number	Apparent Violation
Azure Mountain Club 238	Post-August 1, 1973 greater-than-500 sq ft hunting and fishing cabin without APA

	<p>permit (§810[2][d][4] of Act)</p> <p>Presence of post-August 1, 1973 conventional household septic system, including indoor toilet and leaching facility disqualifying structure's status as a hunting and fishing cabin (see September 28, 2010 letter attached as Exhibit I); it is staff's understanding applicant and club have proposed to address this issue by removal, disconnecting or disabling toilet and using a qualifying sanitary privy and/or non-leaching composting toilet, chemical toilet, incinerator toilet or other approved non-waterborne system.</p>
Azure Mountain Club 240	Post-'73 greater-than-500 sq ft hunting and fishing cabin without permit
Azure Mountain Club 243	Post-'73 greater-than-25% expansion of greater-than-500 sq ft hunting and fishing cabin without permit
Azure Mountain Club 249	Post-73 sink and shower waste piped to outhouse instead of rock-lined pit
Azure Mountain Club 254	Post-'73 greater-than-25% expansion of greater-than-500 sq ft hunting and fishing cabin without permit
Benz Pond Club 94	Post-'73 greater-than-500 sq ft hunting and fishing cabin without permit
Benz Pond Club 97	Post-'73 greater-than-500 sq ft hunting and fishing cabin without permit
Benz Pond Club 227	Post-'73 greater-than-500 sq ft hunting and fishing cabin without permit
Benz Pond Club 228	Post-'73 greater-than-500 sq ft hunting and fishing cabin

	without permit and new cabin in designated river area without permit
Benz Pond Club 231	Post-'73 greater-than-500 sq ft hunting and fishing cabin without permit
Benz Pond Club 234	Post-'73 greater-than-500 sq ft hunting and fishing cabin without permit
Benz Pond Club 235	Post-'73 greater-than-500 sq ft hunting and fishing cabin without permit
Benz Pond Club 236	Indoor toilet (see Exhibit I) and noncompliance with Permit 93-247
Benz Pond Club Leboeuf Hill	Post-'73 greater-than-500 sq ft hunting and fishing cabin without permit
Buckhorn Hunt Club (abandoned)	Trailer (to be removed by 12/31/10)
Buckhorn Mountain Club 1	Post-'73 greater-than-500 sq ft hunting and fishing cabin without permit
Burnt Falls Club Camp 1	Privy in noncompliance with §806(1)(b) 100 ft shoreline setback
East Brook Club 212	Despite conflicting information in data sheets, club contends camp is preexisting; in either case per HFF camp to be relocated due to proximity to wetlands (9 NYCRR 578.3[n][1][i]) and reduced in size to 500 sq ft; relocation by 7/1/11
Everton Fish & Game Club 71	Post-'73 greater-than-500 sq ft hunting and fishing cabin without permit and Camp located in critical environmental area (in RM within 300 ft of state highway right-of-way) without permit
Everton Fish & Game Club 90	Post-'73 indoor toilet (see Exhibit I)

Everton Fish & Game Club 91	Camp located in critical environmental area (in RM within 300 ft of state highway right-of-way) and Post-'73 greater-than-500 sq ft hunting and fishing cabin without permit Indoor toilet (see Exhibit I)
Everton Fish & Game Club 92	Post-'73 greater-than-500 sq ft hunting and fishing cabin without permit (to be reduced to less than 1250 sq ft by 7/1/11) Indoor toilet (see Exhibit I)
Furnace Mountain Club 1	Post-'73 greater-than-25% expansion of greater-than-500 sq ft hunting and fishing cabin without permit Indoor toilet (see Exhibit I)
Mile Brook Club 101	Post-'73 greater-than-500 sq ft hunting and fishing cabin without permit
Mile Brook Club 102	Post-'73 greater-than-500 sq ft hunting and fishing cabin without permit
Mile Brook Club 103	Post-'73 greater-than-500 sq ft hunting and fishing cabin without permit
Mile Brook Club 106	Post-'73 greater-than-500 sq ft hunting and fishing cabin without permit
Mile Brook Club (unknown #) [barn roof?]	Post-'73 greater-than-500 sq ft hunting and fishing cabin without permit
Ozone Club 2	Post-'73 greater-than-500 sq ft hunting and fishing cabin without permit
Quebec Brook Club 2a	Dump needs clean up (constituting waste disposal area without permit) (§810[2][d][6])
Quebec Brook Club 18	Post-'73 greater-than-25% expansion of greater-than-500 sq ft hunting and fishing

	cabin without permit
Quebec Brook Club 24	Post-'73 greater-than-25% expansion of greater-than-500 sq ft hunting and fishing cabin without permit
Quebec Brook Club 25	Post-'73 greater-than-25% expansion of greater-than 500 sq ft hunting and fishing cabin without permit
Silver Mine Club 1	Post-'73 greater-than-500 sq ft hunting and fishing cabin without permit
Skate Creek Club 24	Cabin located on DEC fee land; needs to be moved; indoor toilet (see Exhibit I)
Spruce Mountain Club 3	Indoor toilet (see Exhibit I)
Spruce Mountain Club 12	Cabin on DEC fee; needs to be relocated
Stony Brook Club 1A	Post-'73 indoor toilet (See Exhibit I)
Stony Brook Club 6	Post-'73 greater-than-25% expansion of greater-than-500 sq ft hunting and fishing cabin without permit
Stony Brook Club 39	Post-'73 indoor toilet (See Exhibit I)
Stony Brook Club 42	Post-'73 greater-than-500 sq ft hunting and fishing cabin without permit
Stony Brook Club 45	Post-'73 greater-than-500 sq ft hunting and fishing cabin without permit
Stony Brook Club 46	Post-'73 greater-than-500 sq ft hunting and fishing cabin without permit
Triangle Club 1	Post-'73 greater-than-500 sq ft hunting and fishing cabin without permit
Wonder Club [none] 1	Post-'73 greater-than-500 sq ft hunting and fishing cabin without permit

WHEREAS, Agency regulations at 9 NYCRR 581-2.7 provide that the Agency may not commence processing of any permit application (including an application to amend Permit 98-

313) until unresolved violations have been resolved by settlement agreement. Parties to this agreement are desirous of resolving and settling these violations by written agreement without the need for formal administrative enforcement proceedings. Given the proposal to allow camp structures to remain on the easement lands beyond the 2014 removal deadline agreed to by CIC, the Agency needs to address remediation of any violations not remediated under the terms of the 1999 settlement agreement (including those related to structures which are now proposed to remain) so that they are fully resolved, as well as ensuring remediation of any recently identified violations;

WHEREAS, the Agency also acknowledges that prior Agency permits were issued for a number of the 220 camps which are proposed to remain on the easement lands. Those permits include, among others: Permit 91-308 (Benz Ponds Club 233); Permit 95-174 (East Branch Rod and Gun Club 73, 80 and 88); Permit 95-179 (Mile Brook Club 105); Permit 94-315 (Benz Ponds Club 96); Permit 93-247 (Benz Ponds Club 236); Interim Permit 80 (St. Regis Club 54, 60, 66);

WHEREAS, four of the camps located on HFF III easement lands (Coal Hill Club Trailer 1, Deer River Club 48 and 49 and Sugar Knoll Club, Inc. 1) are situated on land proposed to be conveyed to the state and are therefore proposed to be removed and relocated by 2014. The Agency treats such a relocation on a separate portion of the property as a "new" camp and to qualify as a hunting and fishing cabin, the structure would need to comply with the definition of such a structure in effect at that time;

NOW, THEREFORE, the parties agree to modify the 1999 settlement agreement as follows:

Settlement Terms

1. Agency to Process Permit Amendment Request and Application for After-The-Fact Approval The Agency agrees that once this agreement has been signed by all parties and permit application materials submitted by HFF III seeking to amend Permit 98-313 (i) to allow hunt club camps and accessory structures to permanently remain on the project site [Easement Lands] after the current 2015 deadline (assuming an amended APA permit is

issued authorizing same); and (ii) to authorize the subdivision of land HFF is seeking (allowing the conveyance of a parcel in the northeast portion of the project site) have been transmitted to the Regulatory Programs division, the Agency will commence processing of the amendment request pursuant to Agency regulations at 9 NYCRR Parts 572 and 574 (but starting with a 30-day review for application completeness described below).

2. Continued Use of Camps and Agency Review Procedures Due to the after-the-fact nature of most of the approvals being sought, the Agency and HFF III agree that (i) existing camps may continue to be used during the review process and (ii) while APA review of the application will be pursuant to the procedures in §809 of the APA Act and 9 NYCRR Part 572, the §809 time periods for review of applications will not apply. However, the Agency agrees its review staff will endeavor to review the amendment request project as expeditiously as possible, including requesting within 30 days any additional information required as a result of any omissions in application materials submitted. Further, should Executive staff determine that the project needs to be presented to the Agency board, review staff will endeavor to present it to the board within 60 days of determining the permit application complete.
3. Modification of Camp Removal Requirement The Agency also agrees that the 15-year camp removal deadline for easement lands set forth in Settlement Term 1 of the 1999 agreement may be modified and up to 220 hunt club camps will be authorized to remain on the project site upon approval of the amendment request project by issuance of the amended permit.
4. Remediation and Deadline HFF III agrees that all shoreline sewage system setback, shoreline structure setback, wetland impact and other violations identified above will be remediated as soon as practicable as set forth in the two spreadsheets entitled "HFF III Champion Easement Non-Compliant Camps" updated 8/17/2010 and "Current Status of Camp Compliance - All Camps" (TFG Camp Data Spreadsheet, Camp Data as of

8/17/2010), as well as the September 30, 2010 memo from Larry Denis, but in any event no later than December 31, 2011, by ensuring that

- a. all wastewater treatment systems (including post-August 1, 1973 gray water systems, indoor toilets and leaching facilities [see Exhibit I] and sanitary privies) that are in violation are relocated, modified, disabled or removed, so as to bring all components into compliance with applicable setback restrictions and 9 NYCRR 570.3(m) hunting and fishing cabin definition requirements;
- b. all other structures in violation are relocated, modified or removed, so as to bring them into compliance with applicable restrictions;
- c. all wetland impact and other noncompliance is remediated by that date; and
- d. other remediation is completed as specified in the above spreadsheet and memo prepared by the applicant.

It is acknowledged that while certain violations will require remediation, others (post-August 1, 1973 greater than 500 sq ft hunting and fishing cabin and such cabins in a river area or highway critical environmental area) can typically be resolved by issuance of an after-the-fact permit with Conditions rather than relocation.

5. HFF III to Inspect HFF III further agrees to undertake follow-up inspections needed to confirm completion of any required remediation (pursuant to Settlement Agreement or Permit) and to submit evidence of same (written report and photograph) to the Agency for review and approval.
6. License Provision HFF III agrees that it will include provisions in its hunt club licenses to require that all structures on and all usage of the licensed premises comply with all applicable governmental regulations, including the statutes and regulations administered by APA and DEC.
7. Responsibility for Remediation of Violations It is further understood and agreed that while HFF III, which holds ownership interests in the lands in question, is legally responsible for remediation of violations identified by this agreement, actual remediation will, in the first instance, be sought from and performed by the hunt clubs involved. Notwithstanding the above, HFF III acknowledges its underlying obligation as

12/01/10
Date

NYS Department of Environmental Conservation

By:

Title:

Nancy W. Lussier
Director of mgmt & Budget SVCS

State of New York)
County of Albany) ss.:

On this 1st day of December, 2010, before me, the undersigned, personally appeared Nancy W. Lussier, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (~~are~~) subscribed to the within instrument and acknowledged to me that he/she/~~they~~ executed the same in his/her/~~their~~ capacity(~~ies~~), and that by his/her/~~their~~ signature(~~s~~) on the instrument, the individual(~~s~~), or the person on behalf of which the individual(~~s~~) acted, executed the instrument.

KATHLEEN R. TUBIOLO
Notary Public, State of New York
Qualified in Schoharie County
Reg. No. 01TU6154579
Commission Expires 10/23/2014

Kathleen R Tubiolo
Notary Public

Date

NYS Adirondack Park Agency

By: _____

Title: _____

State of _____)
County of _____) ss.:

On this ____ day of _____, 2010, before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of

satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person on behalf of which the individual(s) acted, executed the instrument.

Notary Public

Exhibit I - September 28, 2010 Tyner to Denis letter

RRT:EMT:mp
11/12/10

NOTARY PUBLIC
STATE OF TEXAS
COMMISSION EXPIRES 11/12/10

NYS Department of Environmental Conservation

Date _____

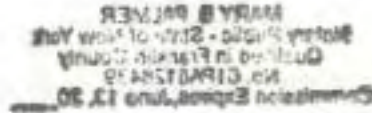
By: _____

Title: _____

State of _____)

) ss.:

County of _____)



On this ____ day of _____, 2010, before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person on behalf of which the individual(s) acted, executed the instrument.

Notary Public

Dec 2, 2010
Date

NYS Adirondack Park Agency

By: Jerry Martino

Title: Executive Director

State of New York)

) ss.:

County of Essex)

On this 2nd day of December, 2010, before me, the undersigned, personally appeared Jerry Martino, personally known to me or proved to me on the basis of

satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person on behalf of which the individual(s) acted, executed the instrument.

MARY B. PALMER
Notary Public - State of New York
Qualified in Franklin County
No. 01PA6128439
Commission Expires June 13, 2013

Mary B. Palmer

Notary Public

Exhibit I - September 28, 2010 Tyner to Denis letter

RRT:EMT:mp
11/12/10