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ESFPA *"The People Behind New York's Healthy Forests and Quality Wood Products"*
the **Empire** ENVOY

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FALL 2023 UPDATES

By John K. Bartow, Jr.

Fall is my favorite time of year. It not only ushers in the colors and smells of autumn, but it opens big game hunting and some of the best brewed beers of the year! It also is the time of year that we at Empire State Forest Products Association (ESFPA) get to visit and network with our membership throughout the State and in your places of business.

As we go to print we have completed three of our four Fall regional meetings and had great participation in Saranac Lake, Cortland, and Owego. Our thanks to the Wagner Group and Gutchess Lumber for inviting us and our membership for tours of their hardwood mills. Thanks to our guests from the Adirondack Park Agency for joining us at Mt. Pisgah, Saranac Lake. Thanks to our members for taking time out of your busy schedules for joining us. Our goal is to meet with more than 1/3 of our membership and we are well on our way to getting there.

If you haven't already registered, please sign up to attend our fourth and final regional meeting in Lake George on October 25th and our fall forestry roundtable in Queensbury on November 2nd

Late summer and this fall we also had several tours and meetings with State Legislators in their districts. We have several more coming up and have found this extremely beneficial in sharing with them the challenges as well as opportunities our sector is facing.

We are also meeting with several State agencies as they are preparing their budget and legislative proposals for the

Governor's consideration. As we report on page 3, New York is facing some serious budget shortfalls in 2024 and beyond. How we navigate these fiscal challenges will be the focus of the upcoming legislative session.

Governor Hochul is also still considering signing or vetoing over 500 more legislative bills that passed both houses of the Legislature. As noted in our July ENVOY, we have our position statements developed and submitted on bills relating to stream regulations, use of neonicotinoids, and deforestation. Please keep an eye out for Alerts and our weekly E-news for actions you can take as bills are sent to the Governor.

2024 will also have many bills that did not move last year but could easily move in the next session. We will be sharing position statements and policy papers with you all in December and January as we prepare for the return of the Legislature. Please also mark March 5, 2024, on your calendar as that will be Forestry Awareness Day 2024.

As we come to the close of 2023, we will also start our annual membership appeal. We hope that ESFPA will remain an important resource for your livelihood and businesses and that we will be part of your priorities for 2024.

We hope to see you all as we continue our travels and meetings this fall and winter and wish you and your families the best as we embark on the holiday season in the coming months. Be safe out there and if there is anything we can do to help, please do not hesitate to call or email us!

John Bartow

The Empire Envoy

Empire State Forest Products Association
47 Van Alstyne Drive, Rensselaer NY 12144-8465
tel: 518.463.1297 • fax: 518.426.9502
www.esfpa.org

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ESFPA STAFF

Executive Director

John Bartow

jbartow@esfpa.org

Communication & Member Services Director

Gabriella Ferrera

gabriella@esfpa.org

Office Manager

Dorian Johnson

dorian@esfpa.org

Founded in 1906, ESFPA is dedicated to improving the economic climate for the forest products industry and to promote management of New York's Forests to meet the resource needs of today and for future generations. ESFPA counts among its 400 members furniture companies, lumber manufacturers, forest landowners, timber harvesters, pulp and paper companies, and other wood products manufacturers from across New York State. Members own and manage 1.5 million acres of New York's forests and employ over one-third of the 60,000 individuals who work in the forests and wood-using mills around the state. **The Empire Envoy** is the newsletter of the Empire State Forest Products Association. Copyright© by ESFPA. Articles may be reproduced with permission of the publisher. **The Empire Envoy** is produced monthly for ESFPA members and interested parties. For information on subscriptions or membership, please contact ESFPA.

A MESSAGE FROM THE CHAIRPERSON

Jennifer DeFrancesco, ESFPA Chairperson of the Board



Teamwork makes the dream work. You've probably heard that many times throughout your life and admittedly it probably invokes an eye roll every time.

ESFPA requires teamwork every day. From our great staff, to our very active Board of Directors, to our members who keep us informed of what is going on in their part of New York. That teamwork really shines during our regional meetings. By the time you are reading this we will have completed 4 of our regional meetings. One was held in Ellicottville in June. Three in Saranac Lake, Cortland, and Owego in September. The final meeting will be held in Lake George on October 25th.

The planning for these meetings starts right away at our October Board of Directors meeting. This year we had very active discussions about how to make the meetings informative while still being fun and interesting. I am proud of what we put together. The Ellicottville meeting was very well attended, and we heard great presentations from Senator George Borello as well as Jeff Meyer of Baillie Lumber. There was robust discussion at the Saranac Lake meeting and some interesting presentations from Barbara Rice and others from the Adirondack Park Agency.

We had great tours of Gutchess Lumber and Wagner Lumber in Cortland and Owego. The tours were educational and well put together. Organizing a facility tour takes quite a bit of behind-the-scenes planning and I thank both of those companies for opening their doors to our membership.

At our board meeting on October 26th, we will start the planning for next year's regional meetings. I would encourage you to reach out to our staff or any of our

(See "Message" continued on page 3)

ESFPA Sustaining Members



A MESSAGE FROM THE CHAIRPERSON *(continued from page 2)*

board members if you have any suggestions or would like your facility to be considered for a tour location in 2024.

Visiting each other's businesses and hearing about their triumphs and struggles promotes the feeling of unity. We are truly all in this together for the common goal.

ESFPA's mission statement reads: *To improve public awareness and promote public policy in support of productive and healthy New York forests and the forest products economy to meet the*

needs of society today and for future generations. But we are so much more than that. Our membership is made up of strong-minded (some may say stubborn) people that believe in this industry and what we are doing for the environment and the economy.

Coming together at meetings is a reminder that we are not in this alone and it is only by teamwork that we can truly make our dreams work.

Jennifer DeFrancesco

STATE CORNER

NEW YORK AGENCIES ORDERED TO FREEZE SPENDING IN BUDGET PROPOSALS AMID GAP

New York state agencies are being ordered to freeze spending in their budget proposals for the next fiscal year as the state faces major budget gaps in the years ahead.

In a letter to agency commissioners dated September 20th, New York State Budget Director Blake Washington said budget requests should not exceed what was approved in this year's \$229 billion budget. This is what's known as the annual "call letter" outlining the Governor's priorities and any fiscal constraints.

"Changing economic winds pose a challenge to New York's financial position," Washington writes in the letter. "Extraordinary amounts of post-pandemic Federal fiscal stimulus have ended. The Federal Reserve tightened its monetary policy, and the robust tax collections fueled by market activity and prior year tax increases have subsided. As a consequence, our revenue forecasts have been revised downward, resulting in multi-year budget gaps."

The State Division of Budget is projecting budget gaps totaling \$36 billion over the next three years. Those break down to \$9.1 billion next year, \$13.9 billion for following year and \$13.4 billion for the year after that. The gaps are \$15 billion higher than previous projections and the Division of the Budget points to decreasing tax revenue and federal aid while spending increases. These

projected budget gaps have also been confirmed in reports from the State Comptroller.

The state budget is required to be balanced by law. Budget deficits fluctuate and are based on expectations of revenue and spending targets as they stand now. New York's reserve funds are up to \$19.5 billion after investments over the last five years. However, Washington outlines Gov. Kathy Hochul does not want to raise taxes or rely on reserve funds.

"Acknowledging our fiscal constraints while ensuring fundamental public services and programs are preserved is the task ahead," Washington wrote. "The road to a balanced budget might seem daunting, but I am confident that through sound decision-making, strategic investments, and fiscal discipline, we can continue to show the compassion, care, and leadership that New York is known for."

Agency budget requests are due Oct. 11. The Governor will present a budget to the State Legislature in January, kicking off weeks of hearings and negotiations before the final budget is due April 1.

CLEAN WATER, CLEAN AIR AND GREEN JOBS ENVIRONMENTAL BOND ACT

The Department of Environmental Conservation along with other State agencies conducted a series of stakeholder outreach meetings and a survey on the 2022 voter approved \$4.2 billion Clean Water, Clean Air and Green Jobs Environmental Bond Act (the Bond Act). ESFPA and several association members participated in the in-person and virtual stakeholder meetings and ESFPA submitted comments to the online survey.

ESFPA commented on the use of Bond Act funds for acquisition of easements (State working forest conservation easements as well as land trust easements) and for projects on state owned working forest easements addressing climate change, flood mitigation and recreational use of eased lands.

ACQUISITION OF CONSERVATION EASEMENTS

For nearly 30 years ESFPA member companies have been partnering with New York State on the acquisition and conservation of Working Forest Conservation Easements throughout New York State. To date, we have collectively conserved over 800,000 acres of working forests. This has brought billions of dollars of private equity to match millions of dollars of public financing (EPF and 1996 Bond Act, among others). Acquiring working forests and encumbering conservation easements helps ensure these lands contribute to New York's forest economy, provide recreation access to forest lands, and are a lasting contributor to biodiversity, clean water, and carbon storage and sequestration.

In addition to these Working Forest Conservation Easements, ESFPA has been a supporter of the Environmental Protection Fund (EPF) Easements for Land Trust program which provides funding for land trusts to acquire easements. This is a tremendous tool for keeping forests as forest and enabling land trusts to work with private forest landowners on properties

that the State would not be interested in owning development rights. The only condition ESFPA has had is that such easements do not preclude the active management of forests including timber harvesting. While we would never impose conditions on private landowners to manage or not manage their properties, we would not want language in an easement to preclude a future landowner from pursuing their stewardship objectives.

There have been rumblings that the State Attorney General may be opining that easements may not be eligible for conservation easements. ESFPA would strongly oppose any such opinion as we believe easements both State and land trusts are one of the strongest tools we have to leverage combined public and private conservation in New York while also supporting New York's forest based economy, recreational use of forests and combating climate change. ESFPA supports the commitment of Bond Act funding for the acquisition of both publicly held and land trust held easements.

MITIGATION AND RESTORATION ON PUBLICLY HELD CONSERVATION EASEMENTS

As recently witnessed in the July 2023 storms in the Central Adirondacks/Hudson Valley, the increased intensity of rainfall and flooding has wreaked havoc on public and private infrastructure including dams, culverts and bridges on public and private highways and properties. On State owned conservation easements these damages have tolled in the millions of dollars and the expense has been borne by the private landowners of those eased lands. Yet the public derives a lot of recreational benefits from these Working Forest Conservation Easements and in many instances, the State owns the recreational rights.

Roads and bridges within these easements support hunting camps, fishing access sites, snowmobile trails and access for forest

management and biologic diversity projects. When impacted by these storms, the public loses access to roads including municipal highways, state access roads, and private roads.

Given the public nature of the roads and the public's access on them, these eased properties should be eligible for Bond Act projects related to: climate adaptation and mitigation projects that enhance natural and working forest lands to sequester carbon; flood risk reduction projects such as restoration and removal, alteration, or right sizing dams, bridges and culverts; restoration projects, such as floodplain, wetland, and stream restoration; forest conservation; and endangered and threatened species projects.

RECREATION INFRASTRUCTURE PROJECTS

Lands under State owned Working Forest Conservation Easements provide public recreation rights that support camping, hiking, wildlife observation, hunting and fishing, snowmobile and ATV recreation, horseback riding and a host of other recreational opportunities. In most instances these rights are owned by the State yet are significantly underutilized due

to a lack of resources to develop the infrastructure necessary to permit their use. Bond Act funds should be available to build out this recreational infrastructure and to increase recreational opportunities to relieve overuse pressure on other State lands and recreational resources.

DEC AND STATE PARKS BEGIN PROCESS OF UPDATING THE NEW YORK STATE OPEN SPACE CONSERVATION PLAN

On September 13th, the New York State Department of Environmental Conservation (DEC) Commissioner Basil Seggos and Office of Parks, Recreation and Historic Preservation (State Parks) Commissioner Erik Kulleseid announced the start of the New York State Open Space Conservation Plan (Plan) update process. As required by law, the Plan is updated periodically, relying heavily on the recommendations of nine Regional Advisory Committees (RACs) that are composed of people knowledgeable in open space conservation. All RAC

members are appointed by county governments, or DEC, and State Parks.

"Land conservation is an essential tool in New York State's comprehensive actions to address climate change and protect our natural resources," said New York State Department of Environmental Conservation Commissioner Basil Seggos. "As work begins to revise the New York State Open Space Plan, DEC and our State and local partners will look to both preserve

(See "NYS Open Space Conservation Plan" continued on page 5)

DEC AND STATE PARKS BEGIN PROCESS OF UPDATING THE NEW YORK STATE OPEN SPACE CONSERVATION PLAN *(continued from page 4)*

our lands and waters for future generations while ensuring priorities and projects help to advance New York's Climate Leadership and Community Protection Act (CLCPA) and align with the State's efforts to conserve 30 percent of our lands and waters by 2030."

"The last few years have dramatically underscored the need for open spaces and parkland to help moderate the negative impacts of climate change and provide people with places to get outside and escape the daily stress of life," State Parks Commissioner Erik Kulleseid said. "We look forward to hearing from the public as we renew this statewide open space plan – and build on New York State's outstanding legacy of land conservation and broad access to outdoor recreation."

The RACs will work with the public and staff from both agencies to develop a list of priority land conservation projects and make policy recommendations such as identifying additional ways our open spaces can help address climate change and increasing recreational access to underserved communities. In addition to working with the RACs, DEC and State Parks will collaborate with State agencies including the Department of Agriculture and Markets, Department of State, and Department of Transportation to address issues such as farmland protection, coastal land conservation, and the connection of transportation to land use.

Since 1992, the Plan has served as the blueprint for the State's Open Space Program, guiding land protection investments from the Environmental Protection Fund (EPF). The Plan also covers a broad range of related topics, including protecting

water quality, ensuring environmental justice, protecting air quality, addressing climate change, and educating the next generation about the importance of these topics.

We also expect that much of the effort for achieving the legislative goal of conserving 30% of the State's land and water resources by 2030 (i.e., 30 x 30) will be addressed in the Open Space Plan update.

The entire update process takes approximately two years and includes a public comment period which is anticipated to take place in the summer of 2024. RAC meetings will begin this month. The regional advisory committee contacts is available on the DEC website.

Overwhelmingly approved by voters last fall, the landmark Clean Water, Clean Air and Green Jobs Environmental Bond Act is the largest environmental bond in state history and the first in New York since 1996. The Bond Act makes \$4.2 billion available for environmental and community projects. Specifically, the Environmental Bond Act authorizes \$650 million for open space land conservation and recreation. State agencies, local governments, community-based organizations, and other stakeholders will be able to access Bond Act funding over a multi-year process.

Several ESFPA members and affiliated organizations were appointed to the RACs and we encourage all our members to engage in the Open Space Planning process to ensure some of our priorities are embedded in the plan and its recommendations.

ONE FOR THE AGES



Reported last month in several media outlets and the Northern Woodlands, Arborist Fred Breglia has a lifelong fascination with big trees. In December 2022, Breglia finally tracked down the location of a tree that he had heard rumors about for some time and was keen to evaluate as a potential champion tree – a massive eastern cottonwood near the Hudson River in Schaghticoke. After taking the measurements required by the American Forests' National Registry of Champion Trees, Breglia knew this tree was a contender for champion status. Its measurements include a trunk circumference of 405 inches at 4½ feet above ground level, a tree height of 108 feet, and one-quarter of the average canopy spread (26 feet) which add up to a big tree score of 539 points.

When Breglia submitted the Schaghticoke tree's measurements to New York's Department of Environmental Conservation, he discovered the tree not only qualifies as the champion cottonwood for the state, but it's also the largest tree of any species in the state.

Arborist Fred Breglia stands beside the Schaghticoke cottonwood, the biggest known tree in New York State. Photo by Erin Breglia.

FEDERAL CORNER

FEDERAL 2023 BUDGET

On Saturday, September 30th, with just hours to spare to avoid a federal government shutdown, a bipartisan group of House lawmakers passed H.R. 5860, a Continuing Resolution (CR) to fund government operations through November 17. Sailing through the House with a 335-91 vote, the Senate took up the bill and immediately passed it. Although the stop-gap measure creates some breathing room for lawmakers to agree

on a budget for Fiscal Year (FY) 2023, federal lawmakers still have to come to a final agreement on 12 appropriations bills in 47 days, effectively kicking the can into the fall. Notably, the temporary funding bill does not address controversial topics such as the border wall and aid for Ukraine, issues that have divided lawmakers during the past several weeks. Congress now has until November 17th to adopt a federal budget for 2023.

IMPORTANT WOTUS UPDATE

In late August, the U.S. Environmental Protection Agency (EPA) released its much-anticipated final rule defining Waters of the United States (WOTUS) following the Supreme Court's decision in *Sackett v. EPA*.

EPA's action is helpful in that it removes references to the "significant nexus" test from the rule along with water bodies, primarily wetlands, that do not have a continuous surface connection to rivers, streams, lakes, and other significant water bodies that plainly fall under the EPA's regulatory jurisdiction under the Clean Water Act.

EPA did not address ongoing ambiguity regarding the "relatively permanent" test used to determine whether water bodies are permanent enough to fall under EPA's jurisdiction. That ambiguity, coupled with the agency's determination that it did not require public comment on its changes to the definition, will likely be further litigated.

Overall, this is good news that significantly reduces our exposure to EPA and US Army Corps of Engineers jurisdiction. We will keep you informed as ongoing litigation unfolds and EPA's intentions clarify in the coming months.

MORE ON BATS

In September we heard several reports that the U.S. Fish & Wildlife Service (USF&WS) would be issuing a change in status of the Tri-colored Bat under the federal Endangered Species Act to "endangered". Presently, Tri-colored bats are listed in NY as "High Priority Species of Greatest Conservation Need". In September 2022, USF&WS issued a proposal to list the tri-colored bat as an endangered species based on the best available scientific and commercial information. Nothing further has been reported. If it is listed endangered federally, then it automatically is listed as endangered in NY.

What we need to watch is what is the USF&WS going to do with the interim guidance for Northern Long-eared Bats which runs out in April 2024. Since all these bats are threatened by White Nose Syndrome, how they treat one will likely be how they treat them all. The other thing to watch is the range of each bat. Tri-colored bats are peripheral in NY. NLEB is pretty common throughout the state and Indiana bats are pretty spread out but not in summer roosting above 900'.

This is all going to come to a head in NY next spring as USF&WS revises guidance and New York responds to federal ESA status changes.

CLIMATE NEWS

DEC RELEASES DRAFT POLICY FOR PERMITTING ACTIONS ON DISADVANTAGED COMMUNITIES

New York State Department of Environmental Conservation Commissioner Basil Seggos announced in late September the release of a new draft policy to implement environmental justice provisions of the historic Climate Leadership and Community Protection Act (CLCPA). The proposed Division of Environmental Permits Policy "Permitting and Disadvantaged Communities (DEP-23-1)" is available for public comment until Nov. 27, 2023, and provides guidance in DEC's permitting processes for considering impacts and existing burdens on New York's most vulnerable communities.

"New York State is putting the historic Climate Act into action and the draft policy released today is the latest step in preventing the exacerbation of existing pollution burdens on communities already shouldering significant and harmful climate impacts, including greenhouse gas emissions and air pollution," Commissioner Seggos said. "I encourage New Yorkers to review and comment on the draft policy, which

(See "DEC Releases Draft Policy" continued on page 7)

DEC RELEASES DRAFT POLICY FOR PERMITTING ACTIONS ON DISADVANTAGED COMMUNITIES *(continued from page 6)*

will help advance climate justice by creating a more equitable foundation for building stronger, healthier communities across the state.”

DEC is seeking public comment on DEP-23-1, which would provide guidance during DEC’s permitting process for how and when to consider impacts on disadvantaged communities under the Climate Act’s Section 7(3). Section 7(3) requires that agency actions averts disproportionate burdens on disadvantaged communities and prioritizes reductions of greenhouse gas emissions and co-pollutants in these communities. DEP-23-1 describes the content of analyses required by DEC staff pursuant to the requirements of Section 7(3). It further describes the procedures DEC staff will follow when reviewing those analyses for conformance with the requirements of the Climate Act.

In March, New York’s Climate Justice Working Group (CJWG), which includes representatives from environmental justice groups from across the state and representatives of several State agencies, finalized criteria to identify disadvantaged communities. The criteria considers environmental burdens and climate change risks, socioeconomic factors, and health vulnerabilities. Using a methodology that worked at the census tract level, the CJWG combined and ranked all indicators into an overall score. A list of disadvantaged communities, along with

maps, is available on the Climate Act website. The criteria and methods for identifying disadvantaged communities will be reviewed annually by the CJWG to ensure the State is accurately targeting emissions reductions and investments.

The draft policy released for public comment is the latest of many regulatory and policy steps taken to implement the Climate Act, including finalization of Commissioner’s Policy 49 (CP-49), “Climate Change and DEC Action,” and Division of Air Resources Policy 21 (DAR-21), “CLCPA and Air Permit Applications,” last year. New York State also completed the creation of the New York’s Disadvantaged Communities Barriers and Opportunities Report to identify the barriers faced by disadvantaged communities and recommended actions for State agencies to design climate mitigation, adaptation, and clean energy programs with a focus on climate justice. Additional steps to implement the Climate Act include adopting limits on the statewide emissions of greenhouse gases of 40 percent by 2030 and 85 percent by 2050, completing the Value of Carbon guidance and updates, and issuing the annual greenhouse gas inventory, among other measures.

ESFPA will provide more information on the draft regulation and will be preparing comments on the draft regulation prior to the November deadline.

ESFPA NEWS

ESFPA MEMBER SPOTLIGHT: DAN ROBBINS, LOGGER OF THE YEAR

At this year’s Woodsmen’s Field Days, ESFPA held a “Logger of the Year” contest through anonymous submissions at our booth. After the Field Days, we tallied the votes and there was a clear majority for one person – Dan Robbins. When we gave him a call to inform him of his victory, he seemed bewildered that so many people would want to nominate him as Logger of the Year. However, after speaking with him and hearing more about his life and extensive connections, it was clear why he was so well respected and how he won our contest by a landslide.

Dan Robbins is the owner/operator of Dan Robbins LLC, although this business venture was far from his first experience working in the forest products industry. He actually began his career in the industry at the tender age of only 12, working for his grandfather who owned a wood business. During the day he helped his father work construction, and then helped cut wood at night. At merely 16, when Dan was old enough to drive, he took over that business for his grandfather. At 65 years old now, he has maintained his presence in the industry, working for some of the largest wood product manufacturing companies in the state, including Baillie Lumber Co. and Gutches Lumber Co. He started his logging business in 1984, got into the firewood business in 1986, and sawed for 20 years between 1990 and 2010.

Dan has been a member of ESFPA for over 25 years, ever since his time working for Gutches in the early 1990s. He has also taken many New York Logger Training safety courses over the years and has managed to maintain a record of virtually no injuries at his business. He likes what he does and says his favorite part of the job is being able to work in the woods. Dan has two sons, one of whom is carrying on the family tradition as a 4th generation forest products industry worker by running the felling machine and boring the sugar for his maple syrup facility. That’s right, Dan Robbins also owns his own maple syrup facility, producing 4,000 gallons of syrup per year/ 8,500 taps.

Dan considers himself a jack of all trades, but says he is able to maintain a good balance between his two operations. He states that juggling the businesses actually works out nicely for him, since there is a seasonal cycle between logging and maple syrup production. He always keeps himself busy, noting that our brief phone interview was likely his longest idle time in over a week. It is evident that Dan is an exceptionally hard working man who has been able to spend his life pursuing his passions. We are proud to have him in our industry and would like to congratulate him as the 2023 ESFPA/NYLT Logger of the Year!



ESFPA
Empire State Forest Products Association
New York Forestry Resource Center
47 Van Alstyne Drive | Rensselaer, NY 12144-8465
518.463.1297 | www.esfpa.org

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NY LOG-A-LOAD FOR KIDS UPDATE

Over the years your donations have helped create miracles for countless local children and their families, some of whom are part of our forest industry family. During this year's Regional Meetings, we have also been doing a 50/50 raffle and selling t-shirts for NY Log-A-Load for Kids. So



far, we have raised over \$550 and aim to raise even more at our final 2023 Regional Meeting at the Courtyard Marriott in Lake George on October 25th. We greatly appreciate your help in making even more miracles possible

this year. To register to attend this event, please call us at (518) 463-1297 or email dorian@esfpa.org.

