

# **New York State Office of Parks, Recreation and Historic Preservation**



## **STATE PARK ACQUISITION RECORD AND DOCUMENT REVIEW:**

- 1. Crab Island State Park**
- 2. Cumberland Bay State Park**
- 3. Higley Flow State Park**
- 4. Macomb Reservation State Park**
- 5. Pixley Falls State Park**
- 6. Saratoga Spa State Park**
- 7. Whetstone Gulf State Park**

**REPORT  
May 10, 2010**

## I. Executive Summary

The following report has been completed pursuant to the “OPRHP State Park Acquisition Record and Document Review” agreement dated November 10, 2008<sup>1</sup>, which requires OPRHP to review available records pertaining to the acquisition of Crab Island State Park, Cumberland Bay State Park, Higley Flow State Park, Macomb Reservation State Park, Pixley Falls State Park, Point Au Roche State Park, Saratoga Spa State Park and Whetstone Gulf State Park.<sup>2</sup>

To complete this review, searches were conducted of files located in the offices of OPRHP and its Regional Offices, the Department of Environmental Conservation, the Adirondack Park Agency and the Department of Law. Acquisition files that were accessed varied in the documents they contained, but most included purchase agreements, deeds and maps. The richest sources of acquisition information were the DEC archives and the files at OPRHP Regional Offices.

Other literature reviewed included dozens of volumes labeled *Land Purchases for Reforestation Areas, Gaming Refuges and Fishing Rights* and *Minutes of Meetings, State of New York Conservation Department* for the years in which the lands were acquired. *Proceedings of Commissioners of the Land Office* and *Conservation Department Annual Reports* were also reviewed for relevant content.

Unfortunately, OPRHP was unable to locate an acquisition file for Point Au Roche State Park in any of the files and archives that were searched, and that park is therefore omitted from this report. The only available information on Point Au Roche is in the park Master Plan, which recites that the park was acquired in 1974 under the Environmental Quality Bond Act of 1972.

This report is a factual narrative of the acquisitions of each of the seven subject parks for which acquisition information is available. Each park is addressed separately with its own exhibit binder provided with this report. The documents reviewed for each park depended on the contents of the acquisition files themselves. Information that best presented the purpose of the original acquisition, regardless of that purpose, has been included and presented.

OPRHP has reached the following conclusion: this comprehensive review did not identify information in the historical record supporting a conclusion that any of the seven subject State Parks were purchased as Forest Preserve. All seven State Parks are located in Forest Preserve counties, but the State of New York’s intent when originally acquiring these lands is either unknown, or was stated as reforestation, recreational, or park purposes.

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<sup>1</sup> Attached hereto as Exhibit A.

<sup>2</sup> Associate Attorney Jeffrey A. Meyers spent at a minimum 60 hours on document review and analysis. In addition, Legal Intern Samantha David invested a minimum of 300 hours on document review, analysis and report preparation.

## II. History of OPRHP Management of Parks in the Forest Preserve Counties

Chapter 848 of the Laws of 1872 created the Commission of State Parks. The Commission's purpose was "to inquire into the expediency of providing for vesting in the State the title to the timbered regions lying within the counties of Lewis, Essex, Clinton, Franklin, St. Lawrence Herkimer and Hamilton and [to] convert [them] into a public park."<sup>3</sup>

The "Forest Preserve" of New York State was first created by Chapter 283 of the Laws of 1885,<sup>4</sup> which provided that "[a]ll the lands now owned or hereafter to be acquired by the State of New York, within the counties of Clinton, excepting the towns of Altona and Dannemora, Essex, Franklin, Fulton, Hamilton, Herkimer, Lewis, Saratoga, St. Lawrence, Warren, Washington, Greene, Ulster and Sullivan, shall constitute and be known as the Forest Preserve..."<sup>5</sup> The towns of Altona and Dannemora were excepted due to their lands "...already [being] set aside by the Prison Law for the use of the Clinton and Dannemora Prisons."<sup>6</sup> The Forest Preserve, as then defined, was put under the management of the newly created Forest Commission, which would eventually become the Department of Environmental Conservation.

In 1891, the "blue line" first appeared on a map of the Adirondack preserve in the Forest Commission's annual report for the year 1890.<sup>7</sup> This line was used to border an area of the Adirondacks within which the acquisition of State land was to be concentrated.<sup>8</sup> The Blue Line was last expanded in 1956.<sup>9</sup>

In 1892, the Adirondack Park was established.<sup>10</sup> The Adirondack Park was to encompass "...all Forest Preserve lands in certain towns in the counties of Hamilton, Herkimer, St. Lawrence, Franklin, Essex, and Warren"<sup>11</sup> and were to "be forever reserved ... for the free use of all the people."<sup>12</sup>

In 1894, Article 7 was added to the New York State Constitution. It stated that "[t]he lands of the State, now owned or hereafter acquired, constituting the Forest Preserve as now fixed by law, shall be forever kept as wild forest lands. They shall not be leased, sold or exchanged, or be taken by any corporation, public or private, nor shall

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<sup>3</sup> NORMAN J. VANVALKENBURGH, *THE ADIRONDACK PRESERVE: A NARRATIVE OF THE EVOLUTION OF THE ADIRONDACK FOREST PRESERVE OF NEW YORK STATE* 40 (The Adirondack Museum 1979).

<sup>4</sup> *Id.*

<sup>5</sup> Act of May 15, 1885, ch. 283, 1885 N.Y. Laws 482.

<sup>6</sup> VANVALKENBURGH, *supra* note 3, at 41.

<sup>7</sup> *Id.* at 49.

<sup>8</sup> *Id.* at 49.

<sup>9</sup> *Id.* at 308.

<sup>10</sup> *Id.* at 54.

<sup>11</sup> *Id.* at 54.

<sup>12</sup> *Id.* at 5 (internal citation omitted)

the timber thereon be sold, removed or destroyed.”<sup>13</sup> The management of the Forest Preserve remained under the jurisdiction of the Forest Commission.<sup>14</sup>

On April 23, 1924, after 3 different incarnations of the Forest Commission, the State Council of Parks was organized to better coordinate the acquisition of lands outside of the Adirondack and Catskill areas.<sup>15</sup> Its mission was to establish new State Parks, expand existing State Parks and coordinate the State Park regional agencies.<sup>16</sup>

In 1967, chapter 665 reorganized the Division of Parks of the Conservation Department into the Council of Parks and Outdoor Recreation.<sup>17</sup> This reorganization was a “...big step toward reducing the Forest Preserve to the confines of the Adirondack and Catskill parks.”<sup>18</sup> These laws also added two additional park regions to the original ten, splitting the lands in the Forest Preserve counties, but outside of the blue line, among the fifth, tenth and eleventh park regions, which are today’s Central, Thousand Islands and Saratoga/Capital park regions respectively.<sup>19</sup> It’s mission as the head of the division of parks was to “act as a central policy determining agency as to matters concerning park planning, administration and outdoor park recreation...”<sup>20</sup> The division of parks was to remain in the conservation department to “...serve as the executive and administrative agency to implement the policies, plans, programs and directives of the council of parks and outdoor recreation.”<sup>21</sup>

It was with the passage of this chapter that the management of some of the parks in question, Macomb Reservation State Park, Cumberland Bay State Park, Whetstone Gulf State Park, Pixley Falls State Park and Higley Flow State Park, was transferred to the individual park regions.<sup>22</sup>

In 1972, the Office of Parks and Recreation was created.<sup>23</sup> Part of its function was to acquire and establish State Parks and to operate and maintain those parks.<sup>24</sup> The

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<sup>13</sup> *Id.* at 60.

<sup>14</sup> *See Id.* at 63 (63 (*stating* that in 1895, the Fisheries Commission, the Game Commission and the Forest Commission were combined into the Fisheries, Game and Forest Commission); *see also id.* at 64, *citing* Laws of 1895, Ch. 395, Art. 12 (*stating* that the commission “was ‘...given the responsibility of ‘care, custody, control and superintendence of the Forest Preserve.’”); *see also Id.* at 77 (*stating* that Chapter 20 of the Laws of 1900 “...changed the Fisheries, Game and Forest Commission to the Forest, Fish and Game Commission” and management of the Forest Preserve stayed with them); *see also id.* at 106 (*stating* that Chapter 647 of the Laws of 1911 “...changed the Forest, Fish and Game Commission to the Conservation Department consisting of three separate divisions: (1) The Division of Fish and Game; (2) The Division of Lands and Forests and (3) The Division of Inland Waters.”).

<sup>15</sup> *Id.* at 137 (*citing* GURTH WHIPPLE, FIFTY YEARS OF CONSERVATION IN NEW YORK STATE 1885 – 1935 163 (Conservation Department and New York State College of Forestry, 1935).

<sup>16</sup> *Id.*

<sup>17</sup> *Id.* at 248.

<sup>18</sup> *Id.*

<sup>19</sup> Act of April 28, 1967, ch. 665, 1967 N.Y. Laws 1497.

<sup>20</sup> *Id.* at 1493.

<sup>21</sup> *Id.* at 1494.

<sup>22</sup> Memorandum from W. Mason Lawrence, Wilbur E. Wright to Commissioner R. Stewart Kilborne and Chairman Laurence S. Rockefeller (July 21, 1967) (attached hereto as Exhibit B).

<sup>23</sup> Act of May 31, 1972, ch. 660, 1972 N.Y. Laws 2136.

park regions established in Chapter 665 of the Laws of 1967 remained the same, and the Office of Parks and Recreation, through the regional park commissions, retained management responsibility for the existing State Parks located within the Forest Preserve counties, but outside of the Blue Line.<sup>25</sup>

The subject State Parks that were acquired by the Office of Parks, Recreation and Historic Preservation after this time were Crab Island and portions of Saratoga Spa State Park. Crab Island was taken by Eminent Domain in 1988 under §3.19 of Parks Recreation & Historic Preservation Law. The lands for Saratoga Spa State Park were acquired by purchase in 2004.

The Office of Parks, Recreation and Historic Preservation now manages all of the subject parks.

### **III. Taxation of State Park Lands Within the Forest Preserve Counties**

OPRHP's review suggests that many of the parcels purchased for parks purposes were declared part of the Forest Preserve for tax purposes. Review of information from the Office of Real Property Services ("ORPS") confirmed that the State pays taxes on Higley Flow State Park, Pixley Falls State Park, Whetstone Gulf State Park, Cumberland Bay State Park, and Macomb Reservation State Park. According to ORPS, the State only pays school taxes on the lands of Saratoga Spa State Park. However, the State does not pay taxes on the lands of Crab Island or the lands of Saratoga Spa State Park that are outside of the Saratoga Spa city limits.

In general, the State does not pay taxes on State Park lands. The fact that it does on these lands could lend support to the argument that these lands were not purchased for state park purposes. However, even though immunity from taxation is a sovereign right of the State, when a State consents to being taxed such consent will be strictly construed.<sup>26</sup> The State has consented to being taxed for all purposes on "[a]ll wild or forest lands owned by the state within the forest preserve"<sup>27</sup> and to be taxed for all but county purposes on lands purchased for reforestation.<sup>28</sup>

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<sup>24</sup> *Id.* at 2140.

<sup>25</sup> *See generally*, Act of May 31, 1972, ch. 660, 1972 N.Y. Laws 2140.

<sup>26</sup> Towns of Indian Lake, et al. v. State Board of Equalization, 45 Misc.2d 463, 465 (Albany Co. 1965), *aff'd in part* 26 A.D.2d 707 (3<sup>rd</sup> Dept. 1966).

<sup>27</sup> N.Y. Real Prop. Tax Law § 532(a) (McKinney Supp. 2009) (most current amendment of Act of May 22, 1923, ch. 650, 1923 N.Y. Laws 973) (providing for the taxation of state owned wild or forest land within the forest preserve); *see also* *see also* N.Y. Env. Conserv. Law §9-0101(6) (McKinney 2005), *defining* Forest Preserve as "the lands owned or hereafter acquired by the state within the county of Clinton, except the towns of Dannemora, and the Counties of Delaware, Essex, Franklin, Fulton, Hamilton, Herkimer, Lewis, Oneida Saratoga, St. Lawrence, Warren, Washington, Greene, Ulster, and Sullivan: except (a) lands within the limits of any village or city; (b) Lands not wild lands and not situated within either the Adirondack park or the Catskill park acquired by the state on foreclosure of mortgages made to loan commissioners; and (c) Lands acquired under the provisions of sections 9-0107 and 9-0501."

<sup>28</sup> N.Y. Real Prop. Tax Law § 534(1) (McKinney 2008) (*providing* for the taxation of lands for all purposes except county purposes); *see also* N.Y. Env. Conserv. Law §9-0501 (McKinney 2005), *addressing* the acquisition of lands outside of the Adirondack and Catskill Parks as reforestation lands.

In *Towns of Indian Lake, et al. v. State Board of Equalization*, the court found that State forest lands located in the Forest Preserve counties are taxable unless they are purchased under a statute that specifically exempts them from taxation.<sup>29</sup> No such exemption applies to the taxed parcels here.

According to the information provided by ORPS, the lands managed by OPRHP in Cumberland Bay State Park, Pixley Falls State Park, and Whetstone Gulf State Park are taxed as forest lands within the forest preserve counties and it is assumed that is because they were declared as such for tax purposes at the time of their purchase.<sup>30</sup> The lands of Higley Flow State Park and Macomb Reservation State Park were purchased as reforestation lands and are taxed as such under Real Property Tax Law § 534. It is also OPRHP's understanding from tax information provided by ORPS that the State does not pay property taxes on the lands of Crab Island or the lands of Saratoga Spa State Park that are outside of the Saratoga Spa City limits. These lands were clearly purchased for state park purposes and therefore did not raise the issue of taxability.

OPRHP has concluded that the State's practice of making property tax payments on certain parks does not, in of itself, indicate that the lands were purchased for other than state park, recreation or reforestation purposes. New York State Real Property Tax Law does not by itself declare certain lands as being part of the Forest Preserve. Instead, it gives the test, the element of which must be met, in order to determine if the State has consented to be taxed on certain lands.<sup>31</sup> Under real property tax law, all forest preserve lands and reforestation lands are taxed unless they are purchased under statutes that specifically exempt them from taxation.<sup>32</sup>

#### **IV. Review of Subject Parks**

##### **A. CRAB ISLAND STATE PARK**

Crab Island State Park is a forty acre island located in Lake Champlain. It was appropriated by the State in January of 1988.

In or around 1986, the State lost a bidding war for Crab Island with one Roger Jakubowski, a New Jersey businessman.<sup>33</sup> Mr. Jakubowski planned to operate boat tours, picnic and barbecue outings, boat moorings, and rustic camping on the island.<sup>34</sup> As the island includes the burial site of one hundred and fifty American and British soldiers

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<sup>29</sup>26 A.D.2d at 707.

<sup>30</sup> See letters to the Board of Taxation and Finance in the Higley Flow State Park, Pixley Falls State Park, Whetstone Gulf State Park, Cumberland Bay State Park, and Macomb Reservation State Park Binders respectively.

<sup>31</sup> *Towns of Indian Lake, et al.*, supra note 26, 45 Misc. 2d at 465.

<sup>32</sup> *Id.*, 26 A.D.2d at 707.

<sup>33</sup> *Crab Island petition drive begun*, PRESS REPUBLICAN, Nov. 1, 1986. (Crab Island Binder, Exhibit 1).

<sup>34</sup> *Crab Island Recreation Company*, PRESS REPUBLICAN, October 18, 1986. (Crab Island Binder, Exhibit 2).

killed in the Battle of Plattsburgh in 1814, it has a significant historic value and a community effort evolved to encourage the State to acquire it.<sup>35</sup>

In response, the Office of Parks, Recreation and Historic Preservation appropriated Crab Island in January, 1988<sup>36</sup> for “the purposes and functions of the Office of Parks, Recreation and Historic Preservation of the Executive Department.”<sup>37</sup> The appropriation was completed under the Eminent Domain Procedure Law and section 3.19 of the Parks, Recreation and Historic Preservation Law.<sup>38</sup>

In January 1991, Mr. Jakubowski filed an action in the Court of Claims against the State for compensation for the appropriation of Crab Island seeking damages in the amount of one million five hundred thousand dollars.<sup>39</sup> This Claim was resolved on March 31, 1994 when both parties reached an agreement and the Stipulation of Discontinuance was filed.<sup>40</sup>

As stated above, Crab Island was appropriated for the “purposes and functions of the Office of Parks, Recreation and Historic Preservation....” and, accordingly, were purchased as parkland. Crab Island is not actively used by OPRHP.

## **B. CUMBERLAND BAY STATE PARK**

Cumberland Bay State Park consists of 350 acres of land. These lands were acquired in 1932, 1936 and 1937. The 1937 acquisition from the City of Plattsburgh was returned to the City in 1949.

### **a. 1932 Acquisition for State Park and Recreational Purposes (Proposal 1065)**

Correspondence regarding this acquisition provides support that the land was purchased for State Park and recreational purposes. In a letter dated September 19, 1931 to the Conservation Department<sup>41</sup>, the Attorney General concluded that Section 59 of the Conservation Law<sup>42</sup> and Chapter 16 of the Laws of 1926<sup>43</sup> allowed lands within the

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<sup>35</sup> *Crab Island petition drive begun*, *supra* note 34.

<sup>36</sup> Claim at ¶4, *Walter J. Jakubowski v. State of New York*, No. 91127961 (N.Y. Ct. Cl., *filed*, Jan. 7, 1991) (Crab Island Binder, Exhibit 4).

<sup>37</sup> Map and Description of Real Property Acquired and Certificate that Same is Correct: Thousand Islands State Park Region Crab Island in Lake Champlain, Town of Plattsburgh – County of Clinton, State of New York., (Map not attached) (Crab Island Binder, Exhibit 3).

<sup>38</sup> *Id.*

<sup>39</sup> Claim, *supra* note 36, at ¶7.

<sup>40</sup> Stipulation of Discontinuance, *Roger Jakubowski v. The State of New York*, No. 91127961 (N.Y. Ct. Cl., *dated* March 31, 1994) (Crab Island Binder, Exhibit 6).

<sup>41</sup> Letter from John J. Bennett, Jr., Attorney General to Conservation Department (September 19, 1931) (Cumberland Bay State Park Binder, Exhibit 1).

<sup>42</sup> N.Y. Conservation Law §59 (Cahill’s Consolidated Laws of New York State 1930) (Cumberland Bay State Park Binder, Exhibit 24).

<sup>43</sup> Act of Feb. 24, 1926, ch. 16, sec. 1(1), 1926 N.Y. Laws 155 (“AN ACT making appropriation for the extension and improvement of existing State Parks and the establishment of new State Parks and parkways

Forest Preserve to be acquired as State Parks. Further, in a letter dated March 28, 1932 to the Board of Commissioners of the Land Office, the Commissioner declared that the lands were to be acquired because their location on a sandy beach and shore line was desirable as a “public campsite.”<sup>44</sup>

Acquisition records provide contradictory information regarding whether the land acquired pursuant to Chapter 16 of the laws of 1926 was, at the time of purchase, considered Forest Preserve.<sup>45</sup> Although purchased with money from a State Park bond act,<sup>46</sup> they were not under the management of the Council of State Parks because at that time, these parks were still a part of the sixth park region, a region that has always been under the management of the Department of Environmental Conservation and its predecessors.<sup>47</sup> As such, these lands were acquired under the direction of the Conservation Commissioner and not the Council of State Parks. These lands were different from other State Parks because of their location in a Forest Preserve county and their management by the Department of Conservation.

In a letter dated May 13, 1932 to the Hon. Daniel R. Spratt, Dept. of Taxation and Finance and Mr. J.H. Hopkins, District Ranger, the Land Clerk stated that “[t]he above land was acquired for Forest Preserve purposes, and conveyed to the People of New York pursuant to the provisions of Ch. 163, of the laws of 1932.”<sup>48</sup> However with Chapter 163 of the laws of 1932, the Legislature authorized the City of Plattsburgh to convey to the State of New York the lands for “...State Park purposes....”<sup>49</sup> Thus, although located in a Forest Preserve county, it appears as though the legislative intent was to acquire the land for State Park purposes.

The May 12, 1932 deed for this purchase does not address the purpose of the purchase.<sup>50</sup> However, the deed was stamped with a stamp of the Conservation

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in order to create a comprehensive and unified State Park system for the promotion of the recreation, instruction and health of the people...”*providing* “[f]or the acquisition of lands for State Park purposes within the Forest Preserve counties, within or without the limits of the Adirondack and Catskill Parks...” (Cumberland Bay State Park Binder, Exhibit 22) ).

<sup>44</sup> Letter from Commissioner to the Board of Commissioners of the Land Office, re: Proposal 1065 (March 28, 1932) (Cumberland Bay State Park Binder, Exhibit 2).

<sup>45</sup> See, Agreement in Reference to the Purchase of Lands (other than Forest Preserve) by the People of the State of New York: Proposal 1065 (Cumberland Bay State Park Binder, Exhibit 4).

<sup>46</sup> See Act of Feb. 24, 1926 *supra* note 44 (appropriating funds from bonds realized under Act of May 2, 1924, ch. 602, 1924 N.Y. Laws 1109 (Cumberland Bay Park Binder, Exhibit 21)).

<sup>47</sup> See, Act of April 23, 1941, ch.689§ 672(6), 1941 N.Y. Laws 1557 (*describing* the limits of the Sixth Park Region) (Cumberland Bay State Park Binder, Exhibit 25). See also Act of April 28, 1967, ch. 665 §672(6), 1967 N.Y. Laws 1491 (*describing* the sixth park region as amended) (Cumberland Bay State Park Binder, Exhibit 26).

<sup>48</sup> Letter from Land Clerk to Hon. Daniel R. Spratt, Dept. of Taxation and Finance and Mr. J.H. Hopkins, District Ranger (May 18, 1938) (Cumberland Bay State Park Binder, Exhibit 3).

<sup>49</sup> Act of March 15, 1932, ch. 163(1), 1932 N.Y. Laws 514 (*stating* “AN ACT to authorize the city of Plattsburgh to sell and convey to the state of New York for state park purposes certain real property which lies partly within the city of Plattsburgh and partly in the town of Plattsburgh adjacent, to the city limits.”) (Cumberland Bay State Park Binder, Exhibit 23).

<sup>50</sup> See Deed recorded in Book 168 of Deeds, at page 284 in the County of Clinton (Cumberland Bay State Park Binder, Exhibit 5).



Department which reads “State of New York, Conservation Department, Forest Preserve, Certificate No. 1375, File 120.”<sup>51</sup> Staff at the Department of Environmental Conservation with institutional knowledge say this was a form stamp used by the agency at the time and is not meant to indicate the purpose of the acquisition of lands that bear the stamp.

Thus the historical record supports a conclusion that the 1932 acquisitions for Cumberland Bay State Park were for park purposes.

**b. 1936 and 1937 Acquisitions for State Park and Recreational Purposes (Proposals 1202 and 1208)**

The second round of land purchases was in 1936 and 1937 under proposals 1202 and 1208 which provided for the “Purchase of Lands for State Park Purposes”.<sup>52</sup> The lands purchased were parts of Lot 97 of the Plattsburgh Patent and 228± acres of the Cumberland Head Patent.<sup>53</sup> All of these purchases were made for the extension and improvement of State Park lands pursuant to Chapter 16 of the laws of 1926, which provided for the acquisition of State Park lands within the Forest Preserve counties, inside or out of the Adirondack and Catskill parks.<sup>54</sup> Here, the State of New York acquired part of Plattsburgh Patent, Lot 97,<sup>55</sup> for park or reservation purposes under Chapter 16 of the Laws of 1926.

In addition, on May 1, 1937, the City of Plattsburgh donated lands to the state pursuant to Section 64 of the Conservation Law,<sup>56</sup> which provided for the acceptance by the State of “...gifts of any lands located in any county named in section fifty, subdivision two, and in section sixty-three of this chapter, which the department may deem suitable for park or reservation purposes.”<sup>57</sup> However, this land was returned to the City of Plattsburgh in 1949.

All of the deeds for these acquisitions are silent as to the purpose of these acquisitions.<sup>58</sup> However, in a letter to the Board of Commissioners of the Land Office on May 19, 1937 the Commissioner stated that the lands purchased under proposal 1208 were “...necessary to protect the *State Campsite* from undesirable developments...” and

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<sup>51</sup> *Id.*

<sup>52</sup> See Agreement[s] in Reference to the Purchase of Lands for State Park Purpose, by the People of the State of New York; Proposal 1202 – Contracts 1 thru 27; Proposal 1208 (Cumberland Bay State Park Binder, Exhibit 7).

<sup>53</sup> *Id.*

<sup>54</sup> See Act of Feb. 24, 1926, ch. 16, 1926 N.Y. Laws 155 (Cumberland Bay State Park Binder, Exhibit 22), see also, Agreement[s] in Reference to the Purchase of Lands for State Park Purpose, by the People of the State of New York; Proposal 1202 – Contracts 1 thru 27; Proposal 1208 (Cumberland Bay State Park Binder, Exhibit 7).

<sup>55</sup> Minutes of Meeting of the Common Council of the City of Plattsburgh, New York, May 1, 1936 (Cumberland Bay State Park Binder, Exhibit 6).

<sup>56</sup> N.Y. Conservation Law §64 (Cahill’s Consolidated Laws of New York State 1930 (Cumberland Bay State Park Binder, Exhibit 24).

<sup>57</sup> *Id.*

<sup>58</sup> The subject deeds are provided as exhibit 8 of the Cumberland Bay State Park Binder.

was in the best interests of the State.<sup>59</sup> On the other hand, all of the Objections to Title, aside from that for the gift from the City of Plattsburgh, list the acquisition of the property as being for “Forest Preserve” and then list the contract number under which it was acquired.<sup>60</sup> In addition, all letters to the Department of Taxation and Finance from the Title Examiner at the Conservation Department, aside from the letter dealing with proposal 1202, contract #27, state that “[t]he above described land is now part of the Forest Preserve.”<sup>61</sup>

The fact that New York State conveyed ownership of a portion of the park back to the City of Plattsburgh in 1949 indicates that the executive branch and the Office of the Attorney General believed at that time that the lands were not subject to the protections Article 14 section 1 of the State Constitution.

Because all of the lands under proposals 1202 and 1208 were purchased under Chapter 16 of the Laws of 1926, and the purchase agreements state that the land was purchased for State Park purposes, it is clear that the lands now comprising Cumberland Bay State Park were purchased for State Park and recreational purposes. These lands are located within a forest preserve county, but were acquired for state park purposes.

**c. 1937 Gift from the City of Plattsburgh to the State of New York**

The last land acquisition for this park was a gift from the City of Plattsburgh on June 12, 1937.<sup>62</sup> This land was later returned to the City of Plattsburgh by Resolution of the Board of Commissioners of the Land Office, on June 10, 1949 for recreational purposes.<sup>63</sup>

**d. Miscellaneous Correspondence**

In a memorandum dated August 19, 1969 from Gerald J. Rider, Associate Forest Surveyor to A.J. Woodford, Director of Lands and Forests, it is stated that: “...while the operation and maintenance of the former Plattsburgh Campsite might be maintained and operated by the Division of Parks the land would remain as Forest Preserve land under the jurisdiction of the Division of Lands and Forests in the absence of any constitutional amendment to the contrary.”<sup>64</sup>

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<sup>59</sup> Letter from the Commissioner to the Board of Commissioners of the Land Office, May 19, 1937 (Cumberland Bay State Park Binder, Exhibit 11)(emphasis added).

<sup>60</sup> Objections to Title (Cumberland Bay State Park Binder, Exhibit 9).

<sup>61</sup> Letters from Title Examiner to the Hon. Daniel R. Spratt, Dept. of Taxation and Finance and Mr. J.H. Hopkins, District Ranger, June 26, 1936 to June 30, 1937 (Cumberland Bay State Park Binder, Exhibit 10).

<sup>62</sup> Minutes of Meeting of the Park and Beach Commission, City Hall, Plattsburgh, New York, February 25, 1937 (Cumberland Bay State Park Binder, Exhibit 12), *see also* Deed, book number 183, at page 491, County of Clinton (Cumberland Bay State Park Binder, Exhibit 13).

<sup>63</sup> Letter from James A. Fitzpatrick to Director of Lands and Forests, January 19, 1949 (Cumberland Bay State Park Binder, Exhibit 14.)

<sup>64</sup> Memorandum from Gerald J. Rider, Associate Forest Surveyor, to A.J. Woodford, Director of Lands and Forests, August 19, 1969. (Cumberland Bay State Park Binder, Exhibit 16).

While this memorandum has been included in the exhibits for this park, we discount the significance of this document. First, there is a lack of context and it is unknown why this opinion was provided. Second, this opinion is provided by an Associate Forest Surveyor and is not a legal opinion. Third, the opinion lacks legal substantiation aside from its reference to the State Constitution.

**e. Minutes of Meetings of the State of New York Conservation Department; Land Purchases for Reforestation Areas, Game Refuges and Fishing Rights**

The Meeting Minutes of the Conservation Department for February 18, 1936 are entitled “Approval of Land Purchase, Forest Preserve Proposal 1202, Contracts 1 to 27 inc. also 9-A.”<sup>65</sup> As the title suggests, these meeting minutes approved the purchase of lands for Forest Preserve, yet refer specifically to Proposal Number 1202 which, as stated above, dealt with lands acquired for State Park and recreational purposes.<sup>66</sup> The lands purchased were for park and recreational purposes, but are located within a forest preserve county. This analysis is the same for the Meeting Minutes of June 10, 1937 entitled “Approval of Land Purchase, Forest Preserve – Proposal 1208.”<sup>67</sup>

The Meeting Minutes of June 15, 1937 refer to the “Gift of Land, Addition to Cumberland Head Campsite – City of Plattsburgh.”<sup>68</sup> This does not add anything to the above understanding of the lands being a gift for park purposes. This gift is again addressed in Volume VII of the Land Purchases for Reforestation Areas, Game Refuges and Fishing Rights.<sup>69</sup> In either case, the language of Conservation Law §64 makes clear that the gift of lands to the State was for park or reservation purposes and not Forest Preserve, and that land was returned to the City of Plattsburgh in 1949.

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<sup>65</sup> MEETING MINUTES (February 18, 1936), *in* MINUTES OF MEETINGS, VOL. XXVI, January 2, 1936 to Dec. 31, 1936, State of New York, Conservation Department, 7496 (Cumberland Bay State Park Binder, Exhibit 17).

<sup>66</sup> *Id.*, *see also*, Act of Feb. 24, 1926, ch. 16, 1926 N.Y. Laws 155 (Cumberland Bay State Park Binder, Exhibit 22), *see also*, Agreement[s] in Reference to the Purchase of Lands for State Park Purpose, by the People of the State of New York; Proposal 1202 – Contracts 1 thru 27; Proposal 1208 (Cumberland Bay State Park Binder, Exhibit 7).

<sup>67</sup> MEETING MINUTES (June 10, 1937), *in* MINUTES OF MEETINGS Vol. XXVII, January 4, 1937 to December 29, 1937, State of New York, Conservation Department, 7934 (Cumberland Bay State Park Binder, Exhibit 18).

<sup>68</sup> MEETING MINUTES (June 15, 1937) *in* MINUTES OF MEETINGS, Vol. XXVII, January 4, 1937 to December 29, 1937, State of New York, Conservation Department 7938 (Cumberland Bay State Park Binder, Exhibit 18).

<sup>69</sup> Memorandum from Assistant Director of Lands and Forests to the Conservation Department (June 26, 1936) *in* LAND PURCHASES FOR REFORESTATION AREAS, GAME REFUGES, AND FISHING RIGHTS, VOL. VII, JAN. 3, 1936 TO DEC. 22, 1936, STATE OF NEW YORK CONSERVATION DEPARTMENT. (Cumberland Bay State Park Binder, Exhibit 19).

**f. Proceedings of the Commissioner of the Land Office**

Our review included the *Proceedings of the Commissioner of the Land Office*. These proceedings list the properties and their descriptions to be purchased under Proposal 1202, but do not list the purpose for the acquisition. This review did not assist in the analysis of this issue.<sup>70</sup>

**g. 1968 Division of Park Lands in Forest Preserve Counties**

Exhibit 15 in the Cumberland Bay State Park Binder deals with the sectioning off of the areas given to the management of the Thousand Islands State Park Commission in 1968. This “sectioning off” of the lands was prompted by the reorganization of the park regions in 1967 under chapter 665 of the laws of that year. Pursuant to this reorganization, the management of parks, historic sites, and parkways in the forest preserve counties, but outside of the Adirondack park, passed from the Conservation Department to the individual park regions.<sup>71</sup> In the case of Cumberland State Park, the entire park was given to the management of the Thousand Islands State Park Commission “due to the heavy demand for camping in that area.”<sup>72</sup>

**h. Conclusion**

From the foregoing, it can be surmised that the purchase of these lands by the State was likely for park and recreational purposes. The fact that these lands are located in a Forest Preserve county, as now defined by Environmental Conservation Law §9-0101(6), is recognized. However, these lands were purchased for park and recreational purposes. In each case, the Session Laws and Conservation Law authorizing and paying for such acquisitions stated that the purpose was to extend the State Park system. Chapter 16 of the Laws of 1926 was an act for the “extension and improvement of existing State Parks and the establishment of new State Parks... .”<sup>73</sup> The lands acquired for Cumberland Bay State Park were acquired for parks purposes, but are located within a forest preserve county.

**C. HIGLEY FLOW STATE PARK**

Higley Flow State Park consists of one thousand one hundred and fifteen acres. The acquisition of these lands took place in the years 1936, 1937 and 1963. These acquisitions are referred to by a letter designation beginning with the letter “A” and ending with the letter “O” in the acquisition documents.

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<sup>70</sup> See PROCEEDINGS OF THE COMMISSIONER OF THE LAND OFFICE, 1936 (Cumberland Bay State Park Binder, Exhibit 20).

<sup>71</sup> Act of April 28, 1967, ch. 665, sec.1, § 672, 1967 N.Y. Laws 1495 (Cumberland Bay State Park Binder, Exhibit 26).

<sup>72</sup> Memorandum from Mr. Charles J. Elliott to Mr. Ralph D. Wallace, April 30, 1968 (Cumberland Bay State Park Binder, Exhibit 15).

<sup>73</sup> Act of Feb. 24, 1926, ch. 16(1), 1926 N.Y. Laws 155 (Cumberland Bay State Park Binder, Exhibit 22).

### a. 1936-37 Acquisitions

The 1936-37 acquisitions were broken down into groups referred to by the letters “A” through “I.” According to the “Agreement[s] in Reference to the Purchase of Lands for Reforestation Purposes Only, by the People of the State of New York,”<sup>74</sup> all of the land purchases were authorized by one of four session laws, all of which dealt with the planting and maintenance of reforestation areas. Purchases for Proposals A, C, D, E, and G were made under Chapter 27, section 5, of the laws of 1935.<sup>75</sup> Purchases for Proposals B and F were made under Chapter 21, section 1, of the laws of 1931.<sup>76</sup> The purchase of lands under Proposal H was made pursuant to Chapter 360, section 3, of the laws of 1936.<sup>77</sup> The purchase of lands under Proposal I was made pursuant to Chapter 25, section 3, of the laws of 1937, which provided for the acquisition of reforestation areas.<sup>78</sup>

### b. 1960’s Acquisitions

Purchases for Proposals J and K were made in 1963. The purchase of lands for Proposal N was made in 1964. The purchase of lands for Proposal O was made in 1965.

Each of these purchases was contracted for under Purchase Agreements entitled “Agreement in Reference to the Purchase of Lands for Park and Recreation Purposes by the People of the State of New York.” In a further showing of the purpose for these acquisitions by the State, the purchase agreement for proposal J was stamped “Multiple Use Area,” while the purchase agreements for proposals K and N were stamped “Public Campsite.”<sup>79</sup>

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<sup>74</sup> See generally, Agreement[s] in Reference to the Purchase of Lands for Reforestation Purposes Only, the People of the State of New York, Proposals “A” through “I” (Higley Flow State Park Binder, Exhibit 1).

<sup>75</sup> Act of Feb. 14, 1935, ch. 27(5), 1935 N.Y. Laws 349 (*providing* for the reappropriation of funds “[b]y chapter 20, part 3, of the laws of 1934, for:

Acquisition, maintenance and planting of reforestation areas, including personal service (re. \$365,000.00).

By chapter 120, part 3, of the laws of 1933, for:

Acquisition, maintenance and planting of reforestation areas, including personal service (re. \$90,444.42).

By Chapter 25, part 1, of the laws of 1932, for:

Acquisition, maintenance and planting of reforestation areas, including personal services (re. \$21,453.40).”) (Higley Flow State Park Binder, Exhibit 14).

<sup>76</sup> Act of Feb. 17, 1931, ch. 21(1), 1931 N.Y. Laws 61 (*providing* for the appropriation of funds “[f]or the acquisition, maintenance and planting of reforestation areas, including production of trees for the same...”) (Higley Flow State Park Binder, Exhibit 12).

<sup>77</sup> Act of April 27, 1936, ch. 360(3), 1936 N.Y. Laws 1002 (*providing* for the appropriation of funds “[f]or the acquisition, maintenance and planting of reforestation areas...”). (Higley Flow State Park Binder, Exhibit 15).

<sup>78</sup> Act of Feb. 24, 1937, ch. 25(3), 1937 N.Y. Laws 488 (*providing* for the appropriation of funds “[f]or the acquisition, maintenance and planting of reforestation areas...”) (Higley Flow State Park Binder, Exhibit 16).

<sup>79</sup> Agreement in Reference to the Purchase of Lands for Park and Recreation Purposes by the People of the State of New York (Higley Flow State Park Binder, Exhibit 2).

Proposals J, K, N and O were all purchased under chapter 133, section 10, of the laws of 1962, a re-appropriation of funds for the Park and Recreation Land Acquisition Bond Fund, which provided for the “[a]cquisition of lands for the purposes, in the manner and to the extent specified in the park and recreation land acquisition act.”<sup>80</sup> As such, all lands under these proposals were purchased for state park purposes.

The deed for the lands of proposal J is silent as to the purpose of the acquisition.<sup>81</sup>

According to a letter dated December 8, 1964 from Edward G. West, Superintendent of Land Acquisition to Mr. L. Monette, the State Board of Equalization and Assessment, Department of Local Government, the acquisition of land for proposal N was not “considered part of the Forest Preserve.”<sup>82</sup> The attached deed for this property is silent on any issue of Forest Preserve status. However, the cover of the Deed is annotated with “Conservation Miscellaneous Public Campsites...”<sup>83</sup> Unlike the form stamp of “Forest Preserve” used previously in Cumberland Bay, this annotation points to the lands under this proposal as being acquired for use as a public campsite, although the lands are located in a Forest Preserve County.

### **c. Letters to the Department of Taxation and Finance**

All letters to the Department of Taxation and Finance, for the purchases of lands for Proposals A through I, refer to the purchases as being “[p]ursuant to the provisions of Chapter 195 of the laws of 1929.”<sup>84</sup> This law was revised by Chapter 13 of the laws of 1932, providing for the acquisition of park lands within the Forest Preserve counties, but outside of the Adirondack park.<sup>85</sup> Because these lands were purchased under Chapter 13 of the laws of 1932, these lands were purchased for state park purposes.

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<sup>80</sup> Park and Recreation Land Acquisition Bond Fund, ch. 133(10), 1962 N.Y. Laws 792 (*providing* for the re-appropriation of funds “[b]y chapter 523, section 3, of the laws of 1960 [Higley Flow State Park Binder, Exhibit 17], and chapter 193, section 21, of the laws of 1961 [Higley Flow State Park Binder, Exhibit 18], for:

Acquisition of lands for the purposes, in the manner and to the extent specified in the park and recreation land acquisition act (re. \$68,708,838.56).” (Higley Flow State Park Binder, Exhibit 19).

<sup>81</sup> Deed, May 29, 1963 (Higley Flow State Park Binder, Exhibit 5).

<sup>82</sup> Letter from Edward G. West, Superintendent of Land Acquisition, to State Board of Equalization and Assessment, Department of Local Government, December 8, 1964 (Higley Flow State Park Binder, Exhibit 7).

<sup>83</sup> Letter from Edward G. West, Superintendent of Land Acquisition, to State Board of Equalization and Assessment, Department of Local Government, December 8, 1964, attached deed dated Nov. 6, 1964 (Higley Flow State Park Binder, Exhibit 7)

<sup>84</sup> Letters from Commissioner to the Department of Taxation and Finance, various dates (Higley Flow State Park Binder, Exhibit 3).

<sup>85</sup> Act of March 26, 1929, ch. 195, sec. 1, § 60-a(1), 1929 N.Y. Laws 456 (*providing* for the “acquisition of lands outside of the Forest Preserve counties as defined by section sixty two of this article, which are adapted for reforestation ...and for recreation and kindred purposes”) (Higley Flow State Park Binder, Exhibit 11); *amended by* Act of Feb. 3, 1932, ch. 13, sec. 1, § 60-a(1), 1932 N.Y. Laws 15 (*amending ch. 195 of the laws of 1929 by providing for* “the acquisition of lands outside of the Adirondack park and the Catskill park as now fixed and defined by section sixty-three of this article, which are adapted for reforestation...and for recreation and kindred purposes.”) (Higley Flow State Park Binder, Exhibit 13).

#### **d. Land Appropriations**

On approximately March 10, 1964, property owned by James Kelley (proposal L) was appropriated by the State for “Bond Project St. Lawrence 74.6.”<sup>86</sup> The March 10, 1964 letter to the Conservation Department stated: “[t]his project is not considered part of the Forest Preserve.”<sup>87</sup> The land was appropriated for the “purposes or functions of the Conservation Department.”<sup>88</sup>

On or about June 22, 1964, property owned by James & Anna B. Kelley was appropriated by the State for “Bond Project St. Lawrence 74.1 & 74.1A.”<sup>89</sup> The lands for this project were not considered part of the Forest Preserve, but were acquired for the “purposes or functions of the Conservation Department.”<sup>90</sup>

On approximately August 23, 1967, real property owned by the Racquette Valley Fish and Game Club was appropriated by the State for “Bond Project St. Lawrence 74.3.”<sup>91</sup> These lands were not considered part of the Forest Preserve, but were acquired as a reforestation area “for the purposes or functions of the Conservation Department.”<sup>92</sup>

#### **e. Purchase from the Niagara Mohawk Power Corporation**

The only information discovered regarding the purchase of land from the Niagara Mohawk Power Corporation was in the Purchase Agreement, see Exhibit 2 in the Higley Flow State Park Binder, and a letter dated October 9, 1964 from the Chief Land Claims Examiner to the Niagara Mohawk Power Corporation which contained the State’s check for payment of lands.<sup>93</sup> This letter’s subject line refers to “Reforestation, St. Lawrence Area 12, Proposal K.”<sup>94</sup> These lands were most likely purchased as a reforestation area within a forest preserve county, but outside of the Adirondack Park.

#### **f. Conclusion**

All of the early purchases for Higley Flow State Park were authorized by statutes providing for the purchase of reforestation areas. Later purchases were all authorized under the Park and Recreation Acquisition Bond Fund. These lands were purchased for

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<sup>86</sup> Letter from Superintendent of Land Acquisitions to State Board of Equalization & Assessment, March 10, 1964. (Higley Flow State Park Binder, Exhibit 4).

<sup>87</sup> *Id.*

<sup>88</sup> *Id.*

<sup>89</sup> Letter from Edward G. West, Superintendent of Land Acquisition, to State Board of Equalization & Assessment, Department of Local Government, June 22, 1964 (Higley Flow State Park Binder, Exhibit 6).

<sup>90</sup> *Id.*

<sup>91</sup> Letter from Henry F. Gannon, Superintendent of Land Acquisition, to State Board of Equalization and Assessment, Department of Local Government, August 23, 1967 (Higley Flow State Park Binder, Exhibit 8).

<sup>92</sup> *Id.*, see attachment to letter Map and Description of Real Property situate in Lot 27, Township 10 Great Tract 2, Macomb’s Purchase Town of Colton, county of St. Lawrence.

<sup>93</sup> Letter from J. Howard Morin, Chief Land Claims Examiner, to Niagara Mohawk Power Corporation, c/o Herman B. Noll, Esq. (Higley Flow State Park Binder, Exhibit 9).

<sup>94</sup> *Id.*

reforestation, state park, and recreational purposes, but are located within a forest preserve county.

#### **D. MACOMB RESERVATION STATE PARK**

Macomb Reservation State Park (“Macomb”) consists of six hundred acres. Macomb was purchased on April 28, 1947 from the United States of America through The Federal Land Bank of Springfield for \$30,000.00.<sup>95</sup> The OPRHP manages only 600 acres of the 6,372 acre purchase (the remainder is managed by DEC as a reforestation area).

Prior to New York State’s acquisition, Macomb had been used as a military training camp and was improved at the time of purchase. According to the land description provided by The Federal Land Bank, when the State acquired the land that is now managed by the OPRHP, it had:

1. A hard surface county road that ran to the buildings, telephone and electricity, RFD mail route, spring-fed water system with 10,000 gallon elevated tank, 2 to 4 inch pipe lines; Camping and Fishing area, an artificial lake stocked with trout, open fire places, bathing facilities, winding dirt and gravel roads;
2. A one story, four room, house with toilet, shower, electricity, hot water system, and a two-car heated garage;
3. A second one and a half story house with five rooms, pantry, hot water heat, cement floor cellar, electricity, running water, and a separate garage;
4. A main garage and storehouse;
5. And a recreation area consisting of a bathhouse, an open-air pavilion, two pump-houses and other small buildings.<sup>96</sup>

According to the Offer to Purchase Real Estate, the State purchased this property under Chapter 195 of the laws of 1929<sup>97</sup> which allowed for the acquisition of reforestation and recreational lands outside of the Adirondack Park, but within the Forest Preserve Counties.<sup>98</sup>

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<sup>95</sup> See generally, Offer to Purchase Real Estate, January 31, 1947 (Macomb Reservation State Park Binder, Exhibit 2), see also Deed, April 28, 1947 (Macomb Reservation State Park Binder, Exhibit 3).

<sup>96</sup> See Macomb Military Reservation at Schuyler Falls, Clinton County, New York, Land Description (Macomb Reservation State Park Binder, Exhibit 1).

<sup>97</sup> See Offer to Purchase Real Estate, January 31, 1947. (Macomb Reservation State Park Binder, Exhibit 2).

<sup>98</sup> Act of March 26, 1929, ch. 195, 1929 N.Y. Laws 456 (*providing* for the “acquisition of lands for outside of the Forest Preserve counties as defined by section sixty two of this article, which are adapted for reforestation ...”)(Macomb Reservation State Park Binder, Exhibit 15); *amended by* Act of Feb. 3, 1932, ch. 13, 1932 N.Y. Laws 15 (*amending ch. 195 of the laws of 1929 by providing for* “the acquisition of lands outside of the Adirondack park and the Catskill park as now fixed and defined by section sixty-three of this article, which are adapted for reforestation...and for recreation and kindred purposes.”) (Macomb Reservation State Park Binder, Exhibit 16); see also Letter from Commissioner to the Department of Taxation and Finance, June 3, 1947, (*stating* that the purchase was made pursuant to Chapter 195 of the laws of 1929, for the purposes of reforestation areas and for the recreational purposes of the people of the State of New York) (Macomb Reservation State Park Binder, Exhibit 4); see also Land for Reforestation



The deed is silent as to the purpose of the acquisition.<sup>99</sup>

The correspondence regarding this purchase makes it clear that the intention was to use parts of it for public recreation. In a letter dated February 14, 1947 to W. G. Howard, the Director of Lands and Forests, the District Forester stated that the facilities on the property made it an important resource for both recreation and a State production forest.<sup>100</sup> The Assistant Land & Claims Adjuster expanded on this sentiment lamenting that “there [were] no State camp or recreational sites anywhere in [Clinton] county.”<sup>101</sup> The purpose of this acquisition was also referred to in an Albany Times Union article dated February 19, 1947 as a purchase for “...public park purposes.”<sup>102</sup> A letter dated April 18, 1947 from the Assistant Director of Lands and Forests to the Land Bank of Springfield once again states the secondary purpose of the acquisition was for recreational purposes.<sup>103</sup> Finally, in a memo dated May 1, 1947 from the Superintendent of Camps and Trails to one Mr. Skiff, it was stated that the acquisition had “substantial recreational value.”<sup>104</sup>

The location of the Macomb Reservation State Park in a Forest Preserve county was addressed by the Director of Lands and Forests in a memo dated April 16, 1947. It was his understanding that when reforestation lands are “located in a Forest Preserve County, like Clinton, [they] are a part of the Forest Preserve *to the extent that the lands themselves may not be leased, sold or exchanged.*”<sup>105</sup>

The sectioning off of the areas given to the management of the Thousand Islands State Park Commission occurred in 1968. The lands handed over for management were for recreational purposes even though located in a Forest Preserve county.<sup>106</sup>

Given that the deed is silent and the rest of the acquisition documents refer to the property as either reforestation land or just by the land’s location and tract number, it can be surmised that Macomb Reservation was purchased for reforestation and recreational

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Areas, Game Refuges and Fishing Rights, Vol. XIV, Aug 6, 1946 to Dec. 23, 1948, State of New York Conservation Department. (Macomb Reservation State Park, Exhibit 14).

<sup>99</sup> Deed, April 28, 1947 (Macomb Reservation State Park Binder, Exhibit 3).

<sup>100</sup> Letter from District Forester to W.G. Howard, Director of Lands and Forests, February 14, 1947 (Macomb Reservation State Park, Exhibit 5).

<sup>101</sup> Letter from Assistant Land & Claims Adjuster to Conservation Department, Division of Lands & Forests, March 6, 1947 (Macomb Reservation State Park, Exhibit 6).

<sup>102</sup> *State Adds to Public Parks*, Albany Times Union, Feb. 19, 1947 (Macomb Reservation State Park Binder, Exhibit 7).

<sup>103</sup> Letter from Assistant Director of Lands & Forests to P.L. Steere, District Supervisor, c/o Land Bank of Springfield, April 18, 1947. (Macomb Reservation State Park Binder, Exhibit 8).

<sup>104</sup> Memorandum from Superintendent, Camps & Trails to Mr. Skiff, May 1, 1947 (Macomb Reservation State Park Binder, Exhibit 9).

<sup>105</sup> Memorandum from Director of Lands and Forests to J.F. Evans, April 16, 1947 (Macomb Reservation State Park Binder, Exhibit 10), *see also*, Letter from James F. Evans, Director of State Parks, to Hon. James A. Fitzpatrick, April 18, 1947 (emphasis added) (Macomb Reservation State Park Binder, Exhibit 11).

<sup>106</sup> Memorandum from Charles J. Elliott to Ralph D. Wallace, April 30, 1968 (Macomb Reservation State Park Binder, Exhibit 12), *see also* Memo to William D. Mulholland, Director of Lands and Forests, April 30, 1968 (Macomb Reservation State Park Binder, Exhibit 13).

purposes. The improved areas of the Macomb Reservation were acquired for recreational purposes although they are located in a forest preserve county. The improved areas of Macomb are now managed by OPRHP, and the remaining acres are managed by DEC.

#### **E. PIXLEY FALLS STATE PARK**

Pixley Falls State Park consists of three hundred and seventy-five acres.

On May 5, 1924, the People of the State of New York sold the lands that would later become part of Pixley Falls State Park to the town of Boonville, Oneida County. This sale was completed under §33-a of the Public Lands Law.<sup>107</sup>

This sale was pursuant to a formal request on December 15, 1923 by the Town of Boonville to the Commissioners of the Land Office to direct the State Engineer to convey the lands to them pursuant to the provisions of Chapter 230, Laws of 1923 as they would have been useful for a public park.<sup>108</sup> The State Engineer found that the lands of Lot 18 of Matchin's Patent were indeed "suitable for reforestation and park purposes"<sup>109</sup> and were sold to the Town of Boonville. This sale is another example of the fact that the executive branch and the Office of the Attorney General believed at that time that the lands were not subject to Article 14 of the State Constitution.

On February 17, 1930, Mr. Michael Jastrzemyk and Ms. Caroline Jastrzemyk sold 224.94 acres of land in Steuben Township, Matchin's Patent to the People of the State of New York.<sup>110</sup> These parcels of land are located directly to the south of those lands sold to the Town of Boonville for park and recreational purposes. The deed is silent as to the Forest Preserve status of these lands. The copy of the deed provided by the Department of Environmental Conservation is stamped with a stamp of the department. The stamp states: "State of New York, Conservation Department, Forest Preserve, Certificate No. 1163, File 108."<sup>111</sup> As mentioned earlier, staff at the DEC with institutional knowledge have opined that this was a form stamp used by the agency at the time and does not refer to the purpose of the acquisition. The deed is the only information available regarding this purchase; there is no information as to what laws

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<sup>107</sup> Act of the Commissioners of the Land Office, May 5, 1924 (Pixley Falls State Park, Exhibit 1); *see also* N.Y. Pub. Lands Law §33-a (*authorizing* the transfer and conveyance "of any parcel or parcels of unappropriated state lands upon certification that such parcel or parcels are useful for local, park, recreation, playground, reforestation...purposes.") (Pixley Falls State Park, Exhibit 8).

<sup>108</sup> Proceedings of the Land Commissioner 27 (January 28, 1924 (Pixley Falls State Park Binder, Exhibit 2), *see also* Act of April 9, 1923, ch. 230, 1923 N.Y. Laws 424 (*providing* that "...commissioners may, from time to time, direct the state engineer to release, transfer and convey to a ...town..., in consideration of one dollar to be paid to the state of New York, any parcel or parcels of unappropriated state lands upon certification that such parcel or parcels are useful for local park, recreation, playground and reforestation purposes...") (Pixley Falls State Park Binder, Exhibit 9).

<sup>109</sup> Proceedings of the Land Commissioner 28 (January 28, 1924) (Pixley Falls State Park Binder, Exhibit 2).

<sup>110</sup> Deed, February 17, 1930, recorded in Book 907 of Deeds, at page 42 in the County of Oneida (Pixley Falls State Park Binder, Exhibit 3).

<sup>111</sup> *Id.*

these lands were purchased under. Thus, it is not possible to determine the purpose for the acquisition.

On May 28, 1930, the Town of Boonville granted the People of the State of New York a perpetual easement to the land originally sold to them by the State in 1923 for “parks and recreational purposes...” of the State.<sup>112</sup> However, on the Recording Officer’s Certificate of Filing and Recording of Description, the lands are described as “Forest Preserve 1768; Pixley Falls.”<sup>113</sup> These lands are located in a Forest Preserve county, but were provided to the State as park lands meant for public recreational purposes.

On December 1, 1934, the State purchased 27 acres of land in the Town of Boonville, County of Oneida from Mr. Antoni Koziarz and Ms. Mary Koziarz. The deed is silent as to the purpose of the acquisition.<sup>114</sup>

Because the town of Boonville granted the State an easement for State Park and recreational purposes, it can be deduced that the parcels purchased by the State adjoining that property were also to be used for park and recreational purposes of the State.

On or about October 1, 1973, the State acquired “Sub Lot 5 of Great Lot 18 of Matchin’s “Gore” Patent of Steuben Township, in the Town of Boonville, County of Oneida...”<sup>115</sup> by appropriation because the owners were unknown. According to the Map and Description of Real Property, the land was acquired for an “addition to the Forest Preserve Parcel known as the Boonville Gorge (Pixley Falls) State Park.”<sup>116</sup>

The lands that now comprise Pixley Falls State Park were acquired for reforestation and recreational purposes, but are located in a forest preserve county.

#### **F. SARATOGA SPA STATE PARK**

Saratoga Spa State Park consists of a total of two thousand three hundred and seventy-nine acres of land. The majority of this land is located in the City of Saratoga Springs and thus is exempt from Forest Preserve status pursuant to §9-0101(6)(a) of Environmental Conservation Law.<sup>117</sup>

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<sup>112</sup> Deed, recorded in deed book 1980, page 695 in the County of Oneida (Pixley Falls State Park Binder, Exhibit 4); *see also* Deed, recorded in liber 907, page 127 in the County of Oneida (*see maps referring to Pixley Falls State Park as Boonville Gorge State Park*). (Pixley Falls State Park Binder, Exhibit 5).

<sup>113</sup> *Id.*

<sup>114</sup> Deed, recorded in liber 1623, at page 503 in the County of Oneida (Pixley Falls State Park Binder, Exhibit 6).

<sup>115</sup> *See* Map and Description of Real Property Being Situated in Sub Lot 5 – Great Lot 18 – Matchin’s “Gore” Patent – Steuben Township, Town of Boonville – Oneida County (Pixley Falls State Park Binder, Exhibit 7).

<sup>116</sup> *Id.*

<sup>117</sup> N.Y. ENVTL. CONSERV. Law § 9-0101(6)(a) (McKinney 2005) (Saratoga Spa State Park Binder, Exhibit 9).

The approximately 206 acres remaining outside of the City in the Town of Malta were acquired by the State in 2003. The plans for this expansion of Saratoga Spa State Park began in or around August 2001.<sup>118</sup> An internal OPRHP memo from Julia Stokes to A.E. Caccese regarding this expansion indicates that the acquisition of these properties was important to the State for both environmental conservation and recreational use.<sup>119</sup>

Under the Land Purchase Agreement dated July 30, 2003, OPRHP, authorized by section 3.17 of the Parks, Recreation and Historic Preservation law,<sup>120</sup> was to acquire the land by purchase for the purposes and functions of the Office of Parks, Recreation and Historic Preservation.<sup>121</sup>

The deed for this property, dated May 4, 2004, was recorded in volume 01685, page 00160, Saratoga County Clerk's Office. The deed is silent as to the purpose of the acquisition.<sup>122</sup>

It is clear from the information in the acquisition file that the lands in question were purchased as additions to the existing Saratoga Spa State Park for both conservation and recreational use by the people of the State of New York.

## **G. WHETSTONE GULF STATE PARK**

Whetstone Gulf State Park consists of two thousand one hundred acres of land. The acquisition of these lands took place over the years 1929, 1930 and 1952, with the last acquisition in 1992.

### **a. 1929 and 1930 Acquisitions**

The only information discovered for the acquisitions of 1929 and 1930 were letters to the Department of Taxation and Finance. There were fourteen purchases at this time for an approximate total of 521 acres.

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<sup>118</sup> Land Acquisition Project Application, August 14, 2001 (Saratoga Spa State Park Binder, Exhibit 1).

<sup>119</sup> Memorandum from Julia Stokes to A.E. Caccese, February 19, 2002 *in* Saratoga Spa State Park Binder, Exhibit 2) (*stating* that the farm was an important acquisition for the State as “it protects a large portion of the agricultural wetlands that drain into the Kayaderosseras and the southern boundaries of the Spa Park; it is listed in the Open Space Plan [(see Saratoga Spa State Park Binder, Exhibit 5)] as a priority acquisition; it is a Class A trout stream and walleye pike fish hatchery; and it includes the county sewer line, which is a portion of the proposed trail that will connect the Spa Park with the City of Mechanicville and the trail systems along the Hudson River.”; *see also* Victoria R. Spagnoli, *Joint Effort will help park expand: Property purchase would give parkgoers canoe access to Kayaderosseras creek*, Post Star, May 15, 2002 (Saratoga Spa State Park Binder, Exhibit 3); *See also*, Press Release: Governor Announces Land Acquisition at Saratoga State Park (Saratoga Spa State Park Binder, Exhibit 7).

<sup>120</sup> N.Y. Parks Rec. & Hist. Preserv. Law § 3.17 (McKinneys 2009) (*providing* that “the commissioner may acquire such property as may be necessary for the purposes and functions of the office...”) (Saratoga Spa State Park Binder, Exhibit 10).

<sup>121</sup> Land Purchase Agreement between Dorothy Seaman, individually and as administratrix of the estate of Frank C. Seaman, and The People of the State of New York, acting by and through their Commissioner of Parks, Recreation & Historic Preservation. (Saratoga Spa State Park Binder, Exhibit 6).

<sup>122</sup> Deed, recorded in volume 01685, at page 00160 in the County of Saratoga (Saratoga Spa State Park Binder, Exhibit 8).

All letters to the Department of Taxation and Finance make reference to the lands purchased becoming “part of the Forest Preserve.”<sup>123</sup> However, as stated previously, the State has consented to being taxed on State owned forest lands located in Forest Preserve counties, and does so unless they are purchased under a statute that specifically exempts them from taxation.<sup>124</sup> As such, the purpose of the acquisition does not exempt lands owned by the State from being within “...the ‘Forest Preserve’ for tax purposes’...”<sup>125</sup> Therefore, the designation of this land as being a part of the Forest Preserve for tax purposes does not automatically make it part of the Forest Preserve.

Without knowing the source of the appropriated funds used to purchase the lands, or the purchasing authority, no conclusion can be drawn as to the purpose of the acquisition.

#### **b. 1940’s Acquisitions**

In the mid-1940’s the Conservation Department sought to expand Whetstone Gulf State Park. A letter from the Assistant Director of Lands and Forests to one G.M. Powell, mentions that the State was considering a Postwar Plan of damming Whetstone Gulf in order to regulate its flow and to create recreational opportunities.<sup>126</sup> This letter continued by requesting that the purchase options for all lands below the 1,900 ft. contour line that would be necessary to complete the project be obtained.<sup>127</sup> By January 12, 1945 those options had been acquired.<sup>128</sup>

It is clear that the primary intention was to turn the properties into a reservoir, and secondarily for recreational opportunities for the people of the State of New York.<sup>129</sup>

A series of letters from the Assistant Director of Lands and Forests to the Conservation Department describes the payment sources for these purchases.<sup>130</sup> Twelve of the fifteen purchases were authorized under Chapter 57, section 7, of the laws of 1946

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<sup>123</sup> Letters to the Department of Taxation & Finance, February 8, 1929 to September 30, 1930 (Whetstone Gulf State Park Binder, Exhibit 1).

<sup>124</sup> See, Towns of Indian Lake, et al. v. The State Board of Equalization, 257 N.Y.S.2d 301, 304 (N.Y. Sup. Ct. Albany County, Special Term 1965), *partially aff’d* 26 A.D.2d 707 (N.Y. App. Div. 3d Dep’t. 1966), (Whetstone Gulf State Park Binder Exhibit 31); see also N.Y. Real Prop. Tax Law §532(a), (Whetstone Gulf State Park Binder, Exhibit 32).

<sup>125</sup> *Id.*

<sup>126</sup> See Letter from the Assistant Director of Lands and Forests to G.M. Powell, November 24, 1944 (*saying* that the State was “...considering submitting to the Postwar Planning authorities a proposal for a dam on Whetstone Gulf Creek for the purpose of regulating the flow thereof during the summer months, as well as for whatever recreational value the flow may have in itself.” (Whetstone Gulf State Park, Exhibit 2).

<sup>127</sup> *Id.*

<sup>128</sup> See Letter from Grant M. Powell, District Forester, to A.S. Hopkins, Assistant Director of Lands and Forests, January 12, 1945. (Whetstone Gulf State Park Binder, Exhibit 3).

<sup>129</sup> See Letter from the Assistant Director of Lands and Forests to G.M. Powell, *supra* note 117.

<sup>130</sup> See Letters from the Assistant Director of Lands and Forests to the Conservation Department, October 17, 1946 to April 4, 1952 (Whetstone Gulf State Park Binder, Exhibit 4).

and its series of re-appropriations for a storage and regulating reservoir.<sup>131</sup> A few parcels had title irregularities and were ultimately appropriated under Section 676-A of the Conservation Law.<sup>132</sup>

A letter from the Assistant Director of Lands and Forests to the District Forester, C.D. Kingsbury, on June 1, 1948 points out that the Attorney General's Office did not do any duplicate title searches as "...the lands were considered parks and there is a different procedure...for park activities than for reforestation."<sup>133</sup>

In order for the State to flood the land for the reservoir, it was imperative that the Conservation Department obtain an easement from the Gould Paper Company, owner of a right-of-way that had once belonged to the Glenfield and Western Railroad.<sup>134</sup> The easement was obtained and recorded in Liber 243, Page 539 in 1956.<sup>135</sup>

The last acquisition for this project was made on January 22, 1992 and recorded in Liber 545, Page 190.<sup>136</sup> According to a letter dated December 9, 1991, there was a title dispute concerning a 0.23 acre parcel of land claimed by the State as part of Whetstone Gulf State Park while one Ethel S. Frederick was paying taxes on it.<sup>137</sup>

### c. Deeds

All deeds and appropriation documents are silent as to the purpose of the acquisition.<sup>138</sup>

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<sup>131</sup>Agreements in Reference to Purchase of Lands for Whetstone Creek Project, by the People of the State of New York, Proposals 1 through 12. (Whetstone Gulf State Park Binder, Exhibit 5); *see also* Act of February 27, 1946, ch. 57 1946 N.Y. Laws 281 (*re-appropriating* funds originally allotted through Chapter 300, section 16, of the laws of 1945 [*see* Whetstone Gulf State Park Binder, Exhibit 16] which provided thirteen thousand dollars for the "Acquisition of land to provide for a storage and regulating reservoir at Whetstone Gulf.") (Whetstone Gulf State Park Binder, Exhibit 17); *see also*, Act of February 18, 1947, ch. 62, 1947 N.Y. Laws 327 (*re-appropriating* "thirteen thousand dollars from Chapter 300, section 16 of the laws of 1945, and chapter 57, section 7, of the laws of 1946, "for... [a]cquisition land, etc. – Whetstone Gulf...") (Whetstone Gulf State Park Binder, Exhibit 18); *see also* Act of March 24, 1951, ch. 210, 1951 N.Y. Laws 817 (*re-appropriating* seven thousand four hundred and thirty-three dollars and ninety-one cents from chapter 300, section 16, of the laws of 1945 [Whetstone Gulf State Park Binder, Exhibit 19] for land acquisitions for Whetstone Gulf.) (Whetstone Gulf State Park Binder, Exhibit 20).

<sup>132</sup> Agreements in Reference to Purchase of Lands for Whetstone Creek Project, by the People of the State of New York, Proposals 1 through 12. (Whetstone Gulf State Park Binder, Exhibit 5); *see also* N.Y. Conserv. Law §676-a (McKinney 1951) (Whetstone Gulf State Park Binder, Exhibit 21).

<sup>133</sup> Letter from Assistant Director of Lands and Forests to C.D. Kingsbury, District Forester, June 1, 1948 (Whetstone Gulf State Park Binder, Exhibit 10).

<sup>134</sup> Letter from D. G. Rankin, Superintendent of Land Acquisition to Henry Dorrance, August 24, 1955 (Whetstone Gulf State Park Binder, Exhibit 8).

<sup>135</sup> Deed, recorded in liber 243, page 539, May 10, 1956 (Whetstone Gulf State Park Binder, Exhibit 9).

<sup>136</sup> Deed, recorded in liber 545, page 190, January 22, 1992 (Whetstone Gulf State Park Binder, Exhibit 12).

<sup>137</sup> Letter from Douglas R. Wilson, Regional Supervisor, to Ethel S. Frederick, December 9, 1991 (Whetstone Gulf State Park Binder Exhibit 11).

<sup>138</sup> *See* Deeds for Proposals 1 through 16 (Whetstone Gulf State Park Binder, Exhibit 6); *see also* Deed, *supra* note 136; *see also* Deed, *supra* note 137.

#### **d. Miscellaneous Documents**

The meeting minutes of the Conservation Department for the year 1947 approved the purchase of Proposals 1 through 15 for Whetstone Gulf State Park, to be paid for from Chapter 57, section 7, of the laws of 1946.<sup>139</sup>

The meeting minutes of September 14, 1949 call for the purchase of lands from John D. and M. Louise Peterson, his wife. This is not the same parcel that was purchased from Mr. John D. Peterson in 1929.<sup>140</sup> The title of these minutes is “Approval of Purchase of Lands – Forest Preserve – Whetstone Gulf State Park, Pro. 1226.”<sup>141</sup> It is unknown whether this parcel was actually acquired for Whetstone Gulf State Park. None of the information we were able to obtain from the acquisition files for this park mention proposal 1226.

Meeting Minutes from 1952 approved the purchase of land for the Whetstone Creek Project and approved the appropriation of lands for the Whetstone Gulf State Park.<sup>142</sup>

#### **e. Conservation Department – Annual Reports to the Legislature**

The acquisitions for Whetstone Gulf State Park are categorized in the 36<sup>th</sup>, 37<sup>th</sup>, 38<sup>th</sup>, 39<sup>th</sup>, 40<sup>th</sup>, 41<sup>st</sup>, and 42<sup>nd</sup> Annual Reports of the Conservation Department. There are six main categories for these acquisitions, none of which are ever defined. First, “Miscellaneous Land Acquisition.” Lands purchased in 1946, the 36<sup>th</sup> Annual Report,<sup>143</sup> 1947, the 37<sup>th</sup> Annual Report,<sup>144</sup> 1948, the 38<sup>th</sup> Annual Report,<sup>145</sup> 1949, the 39<sup>th</sup> Annual Report,<sup>146</sup> and 1950, the 40<sup>th</sup> Annual Report<sup>147</sup> are designated under this category.

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<sup>139</sup> MEETING MINUTES (Jan. 20, 1947) in MINUTES OF MEETINGS, VOL. XXXVII, JANUARY 2, 1947 TO DECEMBER 24, 1947, STATE OF NEW YORK, CONSERVATION DEPARTMENT, 878 (Whetstone Gulf State Park Binder, Exhibit 13).

<sup>140</sup> See Letter from Alexander MacDonald, Commissioner, to Department of Taxation and Finance and District Ranger, July 25, 1929 (Whetstone Gulf State Park Binder, Exhibit 1).

<sup>141</sup> MEETING MINUTES (September 14, 1949) in MINUTES OF MEETINGS, VOL. XXXIX, JANUARY 5, 1949 TO DEC. 29, 1949, STATE OF NEW YORK CONSERVATION DEPARTMENT, 705 (Whetstone Gulf State Park Binder, Exhibit 14).

<sup>142</sup> MEETING MINUTES (January 7, 1952) in MINUTES OF MEETINGS, VOL. XLII, JANUARY 3, 1952 TO DEC. 31, 1952, STATE OF NEW YORK CONSERVATION DEPARTMENT, 2345 (Whetstone Gulf State Park Binder, Exhibit 15).

<sup>143</sup> STATE OF N.Y. CONSERV. DEPT., THIRTY-SIXTH ANNUAL REPORT FOR THE YEAR 1946, 85, at 28. (Whetstone Gulf State Park Binder, Exhibit 22).

<sup>144</sup> STATE OF N.Y. CONSERV. DEPT., THIRTY-SEVENTH ANNUAL REPORT FOR THE YEAR 1947, 62, at 28. (Whetstone Gulf State Park Binder, Exhibit 23).

<sup>145</sup> STATE OF N.Y. CONSERV. DEPT., THIRTY-EIGHTH ANNUAL REPORT FOR THE YEAR 1948, 77, at 29 and 83. (Whetstone Gulf State Park Binder, Exhibit 24).

<sup>146</sup> STATE OF N.Y. CONSERV. DEPT., THIRTY-NINTH ANNUAL REPORT FOR THE YEAR 1949, 76, at 35 and 100. (Whetstone Gulf State Park Binder, Exhibit 25).

<sup>147</sup> STATE OF N.Y. CONSERV. DEPT., FORTIETH ANNUAL REPORT FOR THE YEAR 1950, 48, at 41 and 111. (Whetstone Gulf State Park Binder, Exhibit 26).

Second, “Postwar Program.” Only lands acquired in 1947 were categorized as such.<sup>148</sup>

Third, “Total Area of Land (under jurisdiction of the Conservation Department, Exclusive of Parks).” Lands purchased in 1948, the 38<sup>th</sup> Annual Report,<sup>149</sup> 1949, the 39<sup>th</sup> Annual Report,<sup>150</sup> 1950, the 40<sup>th</sup> Annual Report,<sup>151</sup> and 1952, the 41<sup>st</sup> Annual Report<sup>152</sup> are designated under this category. This categorization is accurate as lands purchased within these years were acquired to be turned into a reservoir, but are located within a forest preserve county.

Fourth, “Forest Preserve Land Acquisition.” Only lands purchased in 1949, the 39<sup>th</sup> Annual Report<sup>153</sup> were covered under this category.

Fifth, “Miscellaneous Land Acquisition.” Lands purchased in 1950, the 40<sup>th</sup> Annual Report,<sup>154</sup> 1951, the 41<sup>st</sup> Annual Report,<sup>155</sup> and 1952, the 42<sup>nd</sup> Annual Report<sup>156</sup> were put under this category.

Sixth, “Summary Land Acquisitions.” Lands purchased in 1951, the 41<sup>st</sup> Annual Report,<sup>157</sup> and 1952, the 42<sup>nd</sup> Annual Report<sup>158</sup> were put under this category.

All of these categorizations show that although the lands acquired were in a forest preserve county, they were purchased for reservoir and recreational purposes.

#### **f. Transfer of Jurisdiction**

In 1977, the issue of Whetstone Gulf’s management by OPRHP was addressed in an internal Department of Environmental Conservation memo that questioned whether a

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<sup>148</sup> STATE OF N.Y. CONSERV. DEPT., THIRTY-SEVENTH ANNUAL REPORT FOR THE YEAR 1947, 62, at 35. (Whetstone Gulf State Park Binder, Exhibit 23).

<sup>149</sup> STATE OF N.Y. CONSERV. DEPT., THIRTY-EIGHTH ANNUAL REPORT FOR THE YEAR 1948, 77, at 28. (Whetstone Gulf State Park Binder, Exhibit 24).

<sup>150</sup> STATE OF N.Y. CONSERV. DEPT., THIRTY-NINTH ANNUAL REPORT FOR THE YEAR 1949, 76, at 32, 35 and 91. (Whetstone Gulf State Park Binder, Exhibit 25).

<sup>151</sup> STATE OF N.Y. CONSERV. DEPT., FORTIETH ANNUAL REPORT FOR THE YEAR 1950, 48, at 37. (Whetstone Gulf State Park Binder, Exhibit 26).

<sup>152</sup> STATE OF N.Y. CONSERV. DEPT., FORTY-SECOND ANNUAL REPORT FOR THE YEAR 1952, 27. (Whetstone Gulf State Park Binder, Exhibit 28).

<sup>153</sup> STATE OF N.Y. CONSERV. DEPT., THIRTY-NINTH ANNUAL REPORT FOR THE YEAR 1949, 76, at 32. (Whetstone Gulf State Park Binder, Exhibit 25).

<sup>154</sup> STATE OF N.Y. CONSERV. DEPT., FORTIETH ANNUAL REPORT FOR THE YEAR 1950, 48, at 41. (Whetstone Gulf State Park Binder, Exhibit 26).

<sup>155</sup> STATE OF N.Y. CONSERV. DEPT., FORTY-FIRST ANNUAL REPORT FOR THE YEAR 1951 at 40. (Whetstone Gulf State Park Binder, Exhibit 27).

<sup>156</sup> STATE OF N.Y. CONSERV. DEPT., FORTY-SECOND ANNUAL REPORT FOR THE YEAR 1952, 27. (Whetstone Gulf State Park Binder, Exhibit 28).

<sup>157</sup> STATE OF N.Y. CONSERV. DEPT., FORTY-FIRST ANNUAL REPORT FOR THE YEAR 1951 at 35. (Whetstone Gulf State Park Binder, Exhibit 27).

<sup>158</sup> STATE OF N.Y. CONSERV. DEPT., FORTY-SECOND ANNUAL REPORT FOR THE YEAR 1952, 27. (Whetstone Gulf State Park Binder, Exhibit 28).



formal, rather than strictly administrative, transfer of jurisdiction of the lands for Whetstone Gulf had ever taken place.<sup>159</sup> At that time it was discovered that no formal transfer had taken place. The instruction at that time was not to expend any effort to advance a formal transfer.<sup>160</sup> The implication of this memo is unclear.

**g. Conclusion**

From the information available in the file, the original purpose of the 1929 and 1930 acquisitions cannot be determined. However, it is known that the lands purchased have been used as a park by the public since at least 1946 when all letters to the Conservation Department from the Assistant Director, Lands and Forests stated that additional purchases were being made "...for an addition to the Whetstone Gulf State Park."<sup>161</sup> The later acquisitions were all bought for the Postwar Reconstruction reservoir project.

**V. Conclusion**

According to the supporting documentation provided by the acquisition files, most of the lands of the subject parks were purchased under various statutes as either reforestation lands, or lands for parks. All of the lands in question have been managed as State Parks since the time of their purchase. However, all of these lands are located within forest preserve counties as defined in ECL §9-0101(6). In summary, OPRHP's historical record review found that all lands were acquired for reforestation, recreation, state park and reservoir purposes, although they are located outside of the Adirondack Park, but in a forest preserve county.

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<sup>159</sup> Memorandum from Douglas R. Wilson to Harry Decker, October 12, 1977 (Whetstone Gulf State Park Binder, Exhibit 29).

<sup>160</sup> Letter from Robert H. Bathrick, Principal Forester to Doug Wilson, Regional Supervisor, October 20, 1977. (Whetstone Gulf State Park Binder, Exhibit 30).

<sup>161</sup> Letters from the Assistant Director of Lands and Forests to the Conservation Department, October 17, 1948 through April 4, 1952. (Whetstone Gulf State Park Binder, Exhibit 4).