

Marina lawsuit presses state to study 'overuse'

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*A view of Lower Saranac Lake from the waters off of the Saranac Lake Marina.
Photo by Mike Lynch*

It's not every day that a former head of a New York agency sues his old department.

But late last year, Thomas Jorling sued the Department of Environmental Conservation, which he led during much of Gov. Mario Cuomo's administration.

Jorling wants to [stop the expansion of a marina near his property on Lower Saranac Lake](#). He worries more boats will alter the lake and [ruin his time there](#).

The lawsuit is now raising larger issues than his personal enjoyment. Steeped in the bureaucracy and details of environmental regulations, Jorling's case is dredging up years of uncomfortable questions about whether the state lacks the know-how and will to protect the Adirondack Park.

Jorling alleges the state had [a duty to study](#) the lake and other lakes among 94,000 acres of land and water in the heart of the park before approving the marina expansion on Lower Saranac Lake. He argues the Adirondack Park Agency and the Department of Environmental Conservation have repeatedly and illegally failed to study how much development and tourism the park can handle.

A ruling in Jorling's favor could cause significant changes to regulations inside the park. The questions about "overuse" by hikers in the popular High Peaks, he says, stem from a [similar failure by the state](#) to grapple with issues of how much human activity the Adirondacks can handle.

Jorling's attorney, Claudia Braymer, said the state's failure to study how humans interact with the environment is a larger problem that hasn't been dealt with.

"Does that just go unresolved forever?" she said.



Another marina expansion, off of Upper Saranac Lake, is on hold while local officials consider lakefront zoning. Photo by Mike Lynch

In the court filings, the state [admits it hasn't done a full study of Lower Saranac](#), but it argues it didn't need to. The state spent years analyzing the project and said it knows the expanded marina [won't unduly affect the lake or the people already there](#), dismissing what it calls Jorling's attempt to "[preserve his view](#)" at his "vacation property" from a marina that is a quarter mile away.

Jorling's lawsuit was prompted by the APA's decision to approve LS Marina LLC's plans to expand two marina sites on Lower Saranac Lake. The company owns the marina in Crescent Bay, and a smaller one in Ampersand Bay, near Jorling's property. The expansion would allow the marinas to upgrade aging facilities and allow them to [hold a third more boats, bringing their total to 292 boats](#).

Buried in a maze of state planning documents for the park are calls for the state to do "carrying capacity" studies of each section of the park. In 2019, [the APA approved a plan](#) for the section of the park around Saranac Lake.

Carrying capacity is a land or water manager's term for the place's population threshold, beyond which there may be ecological or other damage.

That 2019 plan called for the state to do a comprehensive study of lakes — everything from pollution to how people enjoyed them — and then figure out how to balance a lake's health with human enjoyment.

The larger department, DEC, is supposed to do the studies, and the smaller APA is supposed to take the studies into account when it makes decisions.

That pairing has rarely, if ever, happened, said Chad Dawson, a former member of the Adirondack Park Agency's board.

Dawson, an academic who studies how humans use and abuse nature, [resigned from the board late last year](#), unconvinced that his voice mattered.

Ten years ago, he co-authored a paper on how the state should reckon a lake's carrying capacity. Yet, he and others say little has been done since then. He blames an understaffed DEC and a complicit APA that hasn't forced the issue.

“Here is the heart of the matter: neither APA nor DEC want to engage the carrying capacity issue because they lack the political will power to address what will be the result — the need for regulations and restrictions on the amount and type of recreational boating facilities and use,” Dawson said in an email.

The studies are admittedly complicated. There are hundreds of lakes to review. And study results could lead to unpopular decisions, like limits on use of popular lakes.

Jorling’s lawsuit isn’t the first to focus on carrying capacity. In the absence of detailed studies, critics of the APA argue the agency has been making random or uninformed decisions.

“They just decide what they want to build and they justify it, or in some cases the second floor decides,” said John Caffry, an environmental attorney who has worked on cases against the state. The second floor of the Capitol is where the governor’s office is located in Albany.

A review of the few court cases on carrying capacity in the park don’t show a clear pattern.

In [one 2009 decision](#) involving Gore Mountain Ski Center, a judge found that the state had done a carrying capacity study even if it never used the words “carrying capacity” in its study, suggesting the term is open for interpretation.

In [a 2011 case](#) involving Lows Lake, another court found the state needed to consider the capacity of the lake, even if didn’t own all the land around it.

LS Marina did its own study of boat traffic, which the APA used. Jorling argues that it looked at boat traffic and didn’t consider “quiet, solitude, and preventing conflicts” among other people on the lake.

In a legal response, LS Marina argued Jorling is [too far away to sue](#). His home is a quarter mile from the marina.

The company’s attorney, Matthew Norfolk, said some of the larger issues Jorling is trying to raise are between Jorling and the state.

“My client, LS Marina, LLC, submitted everything the Adirondack Park Agency (APA) required,” Norfolk said in an email. “The permit and variance

applications were approved in accordance with the law existing at the time, which has not changed since the approvals.”

Essex County Judge Richard B. Meyer is scheduled to hear arguments in the case on Friday, April 23.

Whether the carrying capacity issues comes to the fore in this week’s hearing, the issue won’t end there.

The Town of Santa Clara, which governs part of the land on Upper Saranac Lake, has paused approval of an LS Marina project there, citing the need for further study of the zoning laws around the lake.

The Upper Saranac Foundation has called for a carrying capacity study there, too, citing more intense use of the lake. Guy Middleton, the lake manager for the foundation, said different levels of government need to know what a lake can withstand before they approve new projects.

“Each should understand the carrying capacity from the jurisdiction that they rule over,” he said.

There’s at least one lake in the park whose managers have tried to figure these issues out: Lake George. On the largest and most trafficked lake in the Adirondacks, there’s an extra layer of protection beyond the DEC and APA.

There, the Lake George Park Commission has [studied boat traffic](#) with the goal of making sure the lake and its popular bays don’t become congested.

“That is kind of a guiding document,” said Dave Wick, the commission’s top staffer.

The Park Commission hasn’t approved a significant commercial marina expansion on Lake George in at least 30 years.