

MOVING FROM SUSTAINABILITY TO SURVIVABILITY: ANALYSIS OF THE FINANCIALLY TROUBLED NEW YORK STATE PARK SYSTEM

By: Michael Leafe

Introduction

Any resident of New York State is aware of the state's ongoing budget deficit problems, as news stories continually highlighting the issue pervade daily media. Caught in the midst of the budget woes is one of the State's most valuable assets: the state park system. The state park system's difficulty in securing proper funds is not unique in a time where across the board budget cuts are impacting other critical areas, such as the education and transportation departments. However, years of underfunding and neglect have left state parks in such poor condition that present budget reductions are threatening to close the system. Many citizens are perplexed by the state government's choice to minimize funds allocated to its historic parks, as they hold an abundance of natural resources, provide immense recreational value, and generate a substantial economic return.¹ This report analyzes New York State park policy and the actions of government entities charged with executing it. Accordingly, Part I provides background information on New York State's park system, and examines the system's public value. Part II details the park system's budget crisis, and the historical practices that lead the system's current plight. Lastly, this paper concludes with several suggestions of actions that New York State should take to ensure the state park system survives this period of hardship, and is revitalized to a

¹ See Anonymous, *Natural Disaster*, Metroland, 2010 WLNR 7376455, Mar. 18, 2010 (stating that budget cuts to the park system "doesn't make financial sense"); Delen Goldberg, *Closing Parks Would Save Little*, The Post-Standard, 2010 WLNR 3638860, Feb. 20, 2010 ("[Closing state parks is] a move that would affect hundreds of thousands of Central New Yorkers and produce minimal savings.").

point that it may rightfully reclaim its status as one of the finest in the nation.

I. The New York State Park System

a. History of the State Park System

The earliest workings of a park system in New York started with the 1872 establishment of the Temporary State Park Commission (TSPC).² This temporary governmental body, which was formed as a result of early conservation efforts, had the function of “study[ing] the feasibility of forming a public park in the ‘timbered regions’ of the Adirondack Mountains...”³ TSPC rejected the first proposal to create a recreational park in that area, yet it did advocate that the State preserve the land and timber resources located in the Adirondacks.⁴ The Adirondack and Catskill Forest Preserves were the first additions to the park system that was established in 1885, under the administration of a New York Forest Commission.⁵ It was not until 1970 that park system duties were given to a single, centralized office – the Office of Parks and Recreation.⁶ This department remains today under the current name: Office of Parks, Recreation and Historic Preservation.

b. The Office of Parks Recreation and Historic Preservation

The Office of Parks, Recreation and Historic Preservation (OPRHP) oversees operations for the 178 parks located in 11 separate regions of the New York State park system.⁷ The OPRHP also operates 35 Historic Sites, including the Darwin Martin House in Buffalo, and the

² See, *Executive Branch Dep'ts: Office of Parks, Recreation and Historic Preservation*, http://www.archives.nysed.gov/a/research/res_topics_env_guide_3_oprhp.shtml (last visited Nov. 17, 2011) (overview of NYS park system history).

³ *id.*

⁴ *id.*

⁵ *id.*

⁶ *id.*

⁷ NEW YORK STATE OFFICE OF PARKS, RECREATION AND HISTORIC PRESERVATION, <http://nysparks.state.ny.us/parks> (last visited Nov. 17, 2011).

Old Fort Niagara in Youngstown.⁸ Under Commissioner Rose Harvey, the OPRHP is responsible for carrying out all park operations, including: facility maintenance, land maintenance, trail maintenance, park security, campgrounds, marinas, swimming pools, and recreational programs.⁹ These operations help the office provide a pleasurable experience to the more than 55 million people who visit New York state parks annually.¹⁰

c. The State Council of Parks

While the OPRHP is responsible for carrying out park operations, the Office's actions are dictated under the advisement of the State Council of Parks (SCP). Established by Article five of New York's Parks, Recreation and Historic Preservation Law, the SCP is a 14-member body comprised of the OPRHP Commissioner, the chair of the State Board of Historic Preservation, the Commissioner of the Department of Environmental Conservation, and the heads of all 11 Regional Park Commissions.¹¹ The SCP functions similarly to a private corporation's board of directors, advising the OPRHP on "all matters affecting parks, recreation and historic preservation"¹² In this advisory capacity, the Council reviews the "policy, budget and statewide plans of the department," and makes recommendations accordingly.¹³ In addition, the Council is responsible for compiling a yearly report for the Governor on the condition of, and progress made in the park system, as well as the Council's recommendations on relevant budgetary

⁸ NEW YORK STATE OFFICE OF PARKS, RECREATION AND HISTORIC PRESERVATION, <http://nysparks.state.ny.us/regions/niagara/default.aspx> (last visited Nov. 17, 2011).

⁹ See NEW YORK STATE OFFICE OF PARKS, RECREATION AND HISTORIC PRESERVATION, <http://nysparks.state.ny.us/state-council/default.aspx> (last visited Nov. 14, 2011); and FY 08-09 Capital Funding Budget Hearing: Testimony by Comm'r Carol Ash, US State News, Oct. 30, 2007, available at 2007 WLNR 21501992 (Hereinafter: "FY 08-09").

¹⁰ FY 08-09, US State News, Oct. 30, 2007, available at 2007 WLNR 21501992.

¹¹ See NEW YORK STATE COUNCIL OF PARKS, RECREATION AND HISTORIC PRESERVATION: 2010 ANNUAL REPORT, *5 (2010), <http://nysparks.com/state-council/documents/2010StateCouncilAnnualReport.pdf>.

¹² See N.Y. PARKS REC. & HIST. PRESERV. LAW § 5.09(3) (McKinney 2011).

¹³ See PARKS REC. § 5.09(1) (McKinney 2011).

matters and future state action.¹⁴

d. State Park System Policy and OPRHP Duties

Article 3 of New York’s Parks, Recreation and Historic Preservation Law provides the source for OPRHP policy.¹⁵ PARKS REC. section 3.01 begins with a general declaration that “establishment and maintenance of a statewide system of parks, recreation and historic preservation are ... to be policies of the state.”¹⁶ Accordingly, sections 3.01, and 3.02 depict three main policy ideas for the state park system.

First, state park lands are valuable. Section 3.01, cl. 3 evidences the legislature’s recognition of the public benefits that the park system provides: “It is further declared that the general welfare of each citizen of the state is enhanced and promoted by giving further recognition to the magnificent [state park system] now in existence.”¹⁷ Section 3.01 also identifies the park system’s environmental value, stating that “[the parks’] natural, ecological... resources are *integral* components to the state’s environment...”¹⁸ The state legislature’s comprehensive belief in the park system’s substantial value is summarized later in the statute: “[these resources] contribute substantially to the quality of the environment, and to the quality of our lives.”¹⁹ While the section does lack information detailing how public benefits are derived from state parks, it openly indicates the state’s belief in the value of maintaining the state park system. This paper provides detailed analysis of the state park system’s value in section (e).

Second, the state has a significant conservation interest in its parks. Conservation

¹⁴ PARKS REC. § 5.09(3) (McKinney 2011).

¹⁵ *See generally* PARKS REC. § 3.01 (McKinney 2011) (declaring policies).

¹⁶ *id.*

¹⁷ *id.*

¹⁸ *id.*

¹⁹ *id.*

principles promote balancing two objectives when managing environmental resources: (1) protecting, and improving natural resources; (2) using natural resources through means which maximize social and economic utility.”²⁰ Accordingly, evidence of the state’s interest in balancing the two objectives in managing the park system can be found in sections 3.01, and 3.02. First, section 3.01, cl. 6, declares New York State’s responsibility for managing the park system’s natural resources.²¹ Second, section 3.02 sets forth the OPRHP guiding principles, and demonstrates the state’s interest in balancing both resource management objectives by directing the office to “conserve, protect and enhance the [parks’] natural, ecological, historic, cultural, and recreational resources... and to provide for the public enjoyment and access to these resources...”²²

Lastly, the state has an interest in preserving the park system for the benefit of “future generations.”²³ In addition to directing the OPRHP to balance protection and public use of the parks’ natural resources, section 3.02 also directs the office to manage the park system “in a manner which will protect [the resources] for future generations.”²⁴ The inclusion of the language, “for future generations,” is significant given the section’s previous direction for the OPRHP to observe conservation principles in the office’s management practices.²⁵ The very purpose of the section’s conservation directions – balancing the usage and protection of park resources – is to ensure resource survival for the usage of “future generations.” Thus, it is likely that the phrase, “for future generations,” was included in section 3.02 to emphasize the

²⁰ *Black’s Law Dictionary* (9th ed. 2009) (the supervision, management, and maintenance of natural resources; the protection, improvement, and use of natural resources in a way that ensures the highest social as well as economic benefits.”).

²¹ *See* PARKS REC. § 3.01 (McKinney 2011) (“stewardship of the natural, ecological, historic, cultural and recreational resources within the [state park system] is a primary responsibility of the state.”).

²² *See* PARKS REC. § 3.02 (McKinney 2011).

²³ *id.*

²⁴ *id.*

²⁵ *id.*

importance of the state's interest in maintaining the park system's longevity.

e. The Value of State Parks

- **Recreational Value**

New York State's park system has great recreational value. The park system provides visitors with an abundance of recreational facilities: "5,000 buildings, 29 golf courses, 53 swimming pools, 76 beaches, 27 marinas, 40 boat launching sites, 18 nature centers, 817 cabins, 8,355 campsites, [and] more than 1,350 miles of trails..."²⁶ Not included in these numbers are the numerous disc golf courses, athletic fields, fishing areas, museums and entertainment venues, such as Saratoga Spa State Park's Performing Arts Center. When compared to other state park systems, New York's ranks first in number of both operating facilities and campsites, and fifth in total acreage of parkland.²⁷

The individual benefits of recreational activity in the state parks are plentiful. Parks reduce stress, provide exercise opportunities, allow for exploration of the environment, deter boredom, etc.²⁸ Additionally, parks provide many social benefits: parklands provide a forum to interact with others who are engaging in similar activities, and function as a family or group vacation destination. Recognizing these benefits, people visit New York state parks at a rate of over 56,000 visitors annually, the third highest total in the nation.²⁹ Even when compared to notable national parks, New York's state parks draw in more visitors – annually Niagara Falls State Park sees two times as many visitors as the Grand Canyon and Yosemite National Parks

²⁶ *see* FY 08-09, 2007 WLNR 21501992

²⁷ *id.*

²⁸ BENEFITS OF PARKS AND RECREATION, http://www.gocolumbiamo.com/ParksandRec/About_Us/benefits.php (last visited Dec. 14, 2010) (click on "The Benefits of Local Recreation and Park Services").

²⁹ FY 08-09, 2007 WLNR 21501992

combined.³⁰ And the numbers are increasing. The “staycation,” as former Council Commissioner Carol Ash termed it at the 2009-2010 State Parks capital funding budget hearing, is an increasing trend of families using parks as “affordable, close-to-home vacation opportunities.”³¹ Thus, as both the strength of state and national economies continues to decrease, the parks’ see a correlating increase in visitors, primed to enjoy the parks’ many recreational facilities for their personal enjoyment.³²

- **Educational Value**

New York State’s park system also provides many different forms of educational opportunities. Zoos, and the park system’s established preserves and natural habitats allow for an individual to gain valuable knowledge about local wildlife and ecosystems.³³ Similarly, the park system’s many recreational options give people the opportunity to learn a new sport, hobby or activity, providing them with beneficial personal growth and self-satisfaction.³⁴ Most importantly, parks foster appreciation for the environment. This is especially true for the many state residents that reside in New York’s large urban areas, who do not often experience the wonder of vast, sparingly touched landscapes, and well-maintained, open-air recreation areas.

- **Environmental Value**

The state park system provides New York with significant environmental value in the forms of biodiversity and natural resources. The New York Biodiversity Research Institute

³⁰ *id.*

³¹ Commissioner Ash Speaks on FY 2009-10 State Parks Capital Funding Budget Hearing, US State News, 2009 WLNR 20669172. Oct. 22, 2008. (hereinafter “FY 2009-10”)

³² *id.*

³³ NEW YORK STATE OFFICE OF PARKS, RECREATION AND HISTORIC PRESERVATION, <http://nysparks.com/parks/13/details.aspx> (last visited Dec. 12, 2011).

³⁴ See PARKS REC. § 3.01 (McKinney 2011) (“the individual’s sense of purpose, well being, and identity are foster and strengthened through [park] programs.”).

defines biodiversity as “the sum of the variety of all living organisms at a species level.”³⁵

Biodiverse ecosystems render several benefits to humanity, which include: serving as sources for potential medicinal discoveries, organisms cleaning water of pollutants, plant roots protecting stream banks from erosion, etc.³⁶ Also, these ecosystems are homes for many rare, and endangered species, making the land surrounding these ecosystems valuable assets in protection efforts.

In 2007, the New York Natural Heritage Program performed a study on biodiversity in the state park system, and found that not only were ecosystems in state parks biodiverse, but that the “state park system is critical to the long-term protection of numerous rare species and community types...” in the state, and in some instances, on regional and national levels.³⁷ Overall, the state park system houses 191 globally rare species and natural community types, and provides the only known habitats in New York State for seven of those species.³⁸ Additionally, the Chittenango ovate amber snail’s habitat in Chittenango state park is the species’ only worldwide location.³⁹ Thus, the state park system derives significant environmental value from the exclusive communities of rare species, and the overall ecosystem biodiversity found on state park land.

- **Economic Value**

In a time where budget funding is slim, economic value of the state park system becomes

³⁵ *What is Biodiversity?*, NEW YORK STATE BIODIVERSITY RESEARCH INTSTITUE,

<http://www.nysm.nysed.gov/bri/biodiversity/index.html> (last visited Dec. 12, 2011).

³⁶ See *Why is Biodiversity Important?*, NEW YORK STATE BIODIVERSITY RESEARCH INTSTITUE,

<http://www.nysm.nysed.gov/bri/biodiversity/important.html> (last visited Dec. 12, 2011).

³⁷ BIODIVERSITY IN NEW YORK’S STATE PARK SYSTEM SUMMARY OF FINDINGS, *vi (2007) [hereinafter “Biodiversity”], <http://nysparks.com/publications/documents/biodiversity/BiodiversityCoverSection.pdf>.

³⁸ *id.* at *13.

³⁹ PROTECT THEIR FUTURE: NEW YORK’S STATE PARKS IN CRISIS, *7 (2010) [hereinafter “Protect”], <http://www.ptny.org/pdfs/advocacy/parkreport2011.pdf>.

the most critical factor in advocating for increased government funding. The good news for park supporters: The New York State park system is a source of substantial economic value, one that generates a 5-to-1 benefit-to-cost ratio.⁴⁰ In 2009, the Political Economy Research Institute at the University of Massachusetts-Amherst conducted a study for State Park advocacy group, Parks & Trails New York, on the economic climate of the State park system.⁴¹ The study concluded that not only are the parks themselves money generators, but also that the local businesses surrounding the parks derive a substantial economic benefit from park visitation. New York state parks generate over 20,000 jobs, which include over 5,000 park employees, as well as jobs in the areas around the parks, and workers contracted to perform capital projects.⁴² For example, the economic activity surrounding Saratoga Spa state park lead Advanced Micro Devices to build a computer chip plant in Saratoga County in 2008.⁴³ As part of the corporation's development plans, AMD committed \$5,000,000 "to support local parks, recreation facilities, and community projects."⁴⁴ Additionally, the more than 55,000 park visitors generate \$1.9 billion in local sales revenues.⁴⁵ By dividing the \$1.9 billion by the park system's 2009, \$341 million projected budget, the study reached its 5-1 benefit-to-cost ratio, which lead to the report's conclusion that the New York State park system is extremely valuable.⁴⁶

II. The Budget Crisis

a. History of Underfunding

The New York State park system is in a financial crisis as a result of decades of

⁴⁰ THE NYS PARK SYSTEM: AN ECONOMIC ASSET TO THE EMPIRE STATE, *2 (2009) [hereinafter "Economic"], http://www.ptny.org/pdfs/advocacy/peri_full_report.pdf.

⁴¹ *id.*, at *1.

⁴² *id.*, at *2.

⁴³ *FY 2009-10*, 2009 WLNR 20669172.

⁴⁴ *id.*

⁴⁵ *ECONOMIC*, at *2.

⁴⁶ *id.*

underfunding. At the end of World War II, the state began directing funding once reserved for the parks other to public needs, such as education, superhighways, and local communities.⁴⁷ Later, the recession of the 1970s caused the park system's budget to suffer sever cuts, and its infrastructure began to show noticeable signs of deterioration.⁴⁸ New York's first efforts to repair the State park system came in 1992 as a response to a 1986 study performed by the Rockefeller Institute of Government.⁴⁹ The state created a \$300 million State Park Infrastructure Fund for the next decade of needed park repairs, but that figure paled in contrast to the Rockefeller Institute's estimated \$1.8 billion of needed repairs.⁵⁰ While the fund provided necessary support, overall it remained insufficient, and neglect for the park system has continued into the present.

b. The Current Situation

In 2010, the budget woes of the New York State park system finally came to a head; parks were closed for the first time in the park system's 125-year history.⁵¹ After closing several parks during the spring of 2010, New York had plans to keep 40 percent of the park system closed throughout the summer.⁵² This unprecedented action was significant, given that state parks had remained operational during the economically strained periods of both world wars and the Great Depression.⁵³ The closings did not stem from a lack of park funding in particular, but to save money in the face of an \$8.2 billion budget deficit.⁵⁴ The park closings, which deprived

⁴⁷ See Opinion, *Our state parks, neglected for decades, need support from government, citizens*, Journal News, 2007 WLNR 27659762, Nov. 23 2007.

⁴⁸ *id.*

⁴⁹ See Bob Wiemer, Viewpoints, *If Only Maintenance Were spelled S-E-X*, Newsday, 1993 WLNR 355313, Oct. 11, 1993.

⁵⁰ *id.*

⁵¹ See PROTECT, at *3.

⁵² *id.*

⁵³ *id.*

⁵⁴ See *Natural Disaster*, 2010 WLNR 7376455.

thousands of people access, and hundreds others their jobs, resulted in only \$6.3 million in savings for the state.⁵⁵ Additionally, former Governor David Paterson angered many citizens when he directed \$7.7 million to private companies for apartment projects immediately after announcing the park closings.⁵⁶ Eventually the government caved under the pressure applied by members of the public, and provided an influx of \$11 million to the OPRHP to reopen the parks.⁵⁷ In the end, New York lost \$4.7 million as a result of the decision because of the added costs associated with restarting park operations.⁵⁸ The closure's demonstrate New York's failure to supply proper funding, and may be an indication of the park system's future.

As the possibility of closure looms, state parks continue to operate with insufficient funds, and evidence of the park system's hardship is noticeable. The budget for New York State's park system is divided into two main pools, operating expenditures and capital investment expenditures, both of which are underfunded, and each poses unique issues that the OPRHP must confront.

- **Operating Expenditures Budget Issues**

The state park system's operating expenditures budget finances daily operating costs necessary for the OPRHP to keep the parks open, such as: employee salaries, supplies, light facility maintenance, and landscaping work.⁵⁹ Additionally, the operating budget provides the OPRHP with funding for the many recreational programs and entertainment events that park

⁵⁵ *id.*

⁵⁶ *id.*

⁵⁷ See PROTECT, at *3.

⁵⁸ Compare PROTECT, at *3 (\$11 million to reopen parks), with *Natural Disaster*, 2010 WLNR 7376455, (saving \$6.3 by closing parks).

⁵⁹ See PROTECT, at *15.

visitors enjoy.⁶⁰ Recent budget cuts have been especially cumbersome on the Office's operations. For fiscal year 2010-11, the OPRHP's operating budget was 160 million, an 18% decrease from the \$195 million it was allotted in 2008.⁶¹ As a result, the Office took numerous steps to meet the demands of operating on such modest resources. For example: the 2009 Empire State Games – a service that the park system runs which brings the best high-school athletes from each region of the state together to compete in their respective sports – were cancelled; the Jones Beach fireworks, and other popular programs were cancelled; operating hours and seasons were reduced at 100 state parks and historic sites; the Green Thumb program – which provided park jobs to financially disadvantaged seniors – was eliminated.⁶² In addition, the office laid off 400 full-time employees, and eliminated 1,000 part-time positions.⁶³ As a result of the layoffs, the Office struggles to perform routine jobs that contribute to maintaining the parks in good condition – lawn mowing, trail maintenance, janitorial work, litter pick-up, etc.⁶⁴ Furthermore, decreases to park security personnel, (down to 254 officers from the 590 employed in 2003), have compromised visitor safety.⁶⁵ As the OPRHP's operating budget continues to see cuts, the Office will have to dispose of more programs and employees, and the quality of visitor experience will continue to decline.

- **Capital Expenditures Budget Issues**

The OPRHP's capital expenditures budget serves as the funding source for the addressing the park system's infrastructure needs.⁶⁶ These needs can be broken down into two general

⁶⁰ *id.*

⁶¹ *id.*, at *9.

⁶² *id.*

⁶³ *id.*

⁶⁴ *id.*, at *8-10.

⁶⁵ *id.*

⁶⁶ *id.*, at *11-12.

categories: creation costs, and maintenance costs. Creation costs refer to costs incurred when the Office establishes new facilities in state parks, whereas maintenance costs are incurred through performing work on the park system's existing infrastructure: ie. buildings, trails, roadways, water and sanitation systems, and historic structures.⁶⁷ Like the operations budget, the OPRHP's capital expenditures budget has also suffered funding decreases; yet, infrastructure needs pose a very different threat upon the park system. As the Office's operation's budget decreases, the resulting harms are primarily to visitors' enjoyment of park programs, and the aesthetic pleasure of well-maintained landscapes and facilities – with park safety being an exception.⁶⁸ Additionally, if funding is reinstated, barring possible additional costs associated with resuming operations, the budget need only be restored to the original amount necessary to carry out operation activities.⁶⁹ In contrast, as the capital expenditures budget decreases, the park system's infrastructure needs are neglected and facilities deteriorate.⁷⁰ Deteriorating buildings can become dangerous to use, and park visitors may be denied access.⁷¹ Additionally, outdated utility systems, and waste storage facilities pose threats to humans and wildlife alike.⁷² Finally, unlike the costs of reinstating the park system's operations, infrastructure problems get worse, and repair costs go up during the length of neglect.

This has been the case for the New York State park system, and the OPRHP's outstanding infrastructure needs have reached remarkable levels. Between the years of 1992 – when New York first addressed the park system's deteriorating infrastructure by instituting the \$300 State Park Infrastructure Fund – and 2007, the OPRHP's capital expenditures budget

⁶⁷ *FY 08-09*, 2007 WLNR 21501992 (“creation costs” is my own term).

⁶⁸ See PROTECT, at *8-10.

⁶⁹ See *Natural Disaster*, 2010 WLNR 7376455.

⁷⁰ See PROTECT, at *11-13.

⁷¹ *id.*

⁷² See PROTECT, at *11.

decreased from \$60 million to \$40 million.⁷³ Adjusting for inflation, 2007 funds represented a 50% decrease in buying power.⁷⁴ New York did respond in 2008, by creating the State Parks Capital Initiative, under which the office was able to secure over \$200 million for renovation projects.⁷⁵ However, the initiative no longer provides the necessary boost to complete essential maintenance projects, and the State park system's capital investment budget has hit an all time low of \$31 million.⁷⁶ The initiative's failure is especially concerning given the OPRHP 2010 analysis of the system's essential capital needs, where it identified over \$1.1 billion in backlogged projects.⁷⁷ Meanwhile, buildings, roads, and water systems continue to deteriorate, becoming health hazards to both humans and wildlife. Former OPRHP Commissioner, Carol Ash, exemplified the decrepit state of the park system at the Fiscal Year 08-09 Parks Capital Funding Budget Hearing,

“In my travels across the state, I’ve seen many sobering things. I’ve seen bathrooms that don’t work and shower buildings I’d be embarrassed to take my family to. I’ve seen leaking roofs, crumbling foundations, and worn out facilities. I’ve seen a 52-year old swimming pool that we had to close and demolish because it was leaking 30,000 gallons of potable water a day. I’ve seen basketball courts made unusable by cracked asphalt, rusted backboards, and bent rims. I’ve seen water spigots in our campgrounds marked with signs reading ‘do not drink this water or use it to wash dishes.’ I’ve seen badly eroded hiking trails and woodlands and marshes choked with invasive plants. I’ve seen asbestos tiles and insulation that must be removed from public spaces. I’ve seen the remains of historically significant buildings that were demolished due to a lack of

⁷³ *FY 08-09*, 2007 WLNR 21501992.

⁷⁴ *id.*

⁷⁵ *FY 2009-10*, 2009 WLNR 20669172.

⁷⁶ See PROTECT, at *12.

⁷⁷ *id.*

maintenance funds. I've seen paved parking lots that have deteriorated to the point we actually have to mow them, to prevent grass and weeds from igniting visitors' cars into flame."⁷⁸

Perhaps Ash's most powerful line comes at the end of that testimony, one that conveys her genuine feeling of disgrace, and responsibility for the park system's condition: "And I've seen cabins, that we charge the public a fee to use, that are literally held together with duct tape and spray-foam from a can."⁷⁹ This is the Commissioner speaking about the parks she's been trusted to care for, and while she could have made a forceful statement by identifying the state's liability risks or extent of the hazards, she simply describes individual sights she's encountered – New York State's park system is in such a state of disrepair that the public is in danger of losing it, and it has now become an embarrassment.

III. How Do We Revitalize The Park System?

a. Suggestions For New York State

It is time for New York State to reevaluate the park system's policies. A disconnect between the OPRHP and the Governor/legislature over how to carry out park policies has led to actions taken by each that not only conflict, rather, but stand diametrically opposed: whereas New York State's behavior has focused on reduction (budget cuts, park closure), the OPRHP behavior has focused on expansion (acquisition of 26 new parks since 1992).⁸⁰ These opposing behaviors present a severe risk to state parks by widening the gap between the park system's needs and its financial resources. For the state park system to survive, the state and OPRHP must form a more cohesive understanding of park policy and end the pattern of conflicting

⁷⁸ *FY 08-09*, 2007 WLNR 21501992.

⁷⁹ *Id.*

⁸⁰ See PROTECT, at *9.

behavior. Accordingly, the following paragraphs detail several suggestions on how New York State can address the park system crisis.

- **Add Authoritative Provisions to PRHPL § 3.01 which Clarify the State’s Obligations in Advancing Park Policy**

While PARKS REC. section 3.01 provides numerous declarations of the park system’s benefits, only one concrete obligation is imposed upon the state – operate the state park system.⁸¹ In contrast, section 3.02 asserts clear directions the OPRHP must incorporate into the department’s park operations – ie. “conserve, protect and enhance the [park system’s natural resources].”⁸² Thus, as the OPRHP operates under the guiding principles of section 3.02, it is without a statutory guarantee of cohesive support from the state.⁸³ The OPRHP has dealt with this system for too long, and the lack of cohesion between the Office and New York State over budget issues has left the park system deteriorated.

Addition of basic obligatory language to the statute ensures, at the very least, a minimum standard of conformity with the OPRHP in carrying out park policy. For example, establishing a minimum funding obligation for park infrastructure needs would help the OPRHP address it’s capital projects backlog, and also protects the park system avoid the periods of neglect that contributed to the present infrastructure crisis.

Alternatively, the statute could identify several essential recreation programs and create an obligation of permanent funding for them. The OPRHP canceled many of the park system’s popular programs in response to insufficient operating funds. Creating a funding obligation for

⁸¹ See PARKS REC. § 3.01 (McKinney 2011).

⁸² PARKS REC. § 3.02 (McKinney 2011).

⁸³ Compare PARKS REC. § 3.02 (McKinney 2011) (OPRHP obligations), with PARKS REC. § 3.01 (McKinney 2011) (lacking qualified state support).

popular programs ensures the OPRHP ability to offer important visitor attractions during economically strained periods.

Lastly, determine quality standards for OPRHP guiding principles, and require the state to assist the office in meeting those standards. For instance, section 3.02 directs the office to “provide for the public enjoyment.”⁸⁴ Enjoyment is a subjective emotion; yet, establishing a minimum standard of acceptable quality for visitor experiences might result in improved facility upkeep, or even prevent substantial program cancellations. Whether it’s confusion over the park policy goals, or just plain indifference, adding explicit state obligations and directives should create some conformity between the state and the OPRHP in achieving common policy goals.

- **Provide Clearer Explanations of Responsibilities**

Even where the statute actually asserts a requirement upon the state, the obligation imposed is far from clear. Section 3.01, cl. 6 declares: “stewardship of the natural, ecological, historic, cultural and recreational resources within the state park [system] is a primary responsibility of the state.”⁸⁵ In this statement confusion centers on the word “primary,” providing an example of how the meaning of a word can leave extent of the state’s responsibility open to interpretation. For instance, one reader might interpret the use of “primary” as designating *primary importance* to New York’s stewardship responsibility. Under this construction, the reader assesses the significance of the stewardship responsibility in relation to all of the state’s other responsibilities. In contrast, a second reader may interpret “primary” as designating the state the *primary party* upon which stewardship responsibility falls. This reader assesses the significance of the state’s stewardship responsibility in relation to all other actors to

⁸⁴ See PARKS REC. § 3.02 (McKinney 2011).

⁸⁵ See PARKS REC. § 3.01 (McKinney 2011).

which the duty is charged. Both interpretations can be justified by language from other clauses within section 3.01: the inspiring descriptions of park benefits allude to the interpretation of the responsibility's importance; likewise, the statute twice declares that park management is a state function, evidencing an interpretation of the state's importance as the party who assumes responsibility.⁸⁶ If the declaration were clarified to be in accordance with the first interpretation, it represents a substantial obligation posed on the state as discussed in the previous section. Minimizing the uncertainty of these designated responsibilities will enhance the clarity of the park system's true policy directives, helping avoid further issues attributed to conflicting behaviors.

IV. Final Suggestion and Conclusion

This paper's final suggestion for New York State – bite the bullet, and start restoring funds to the state park system. The park system faces an issue that has moved beyond the specific lost of programs, crumbling buildings, and laid off employees: it is faces survival. The fate of the New York State park system depends on reinstating the funds it has long been deprived. And yet, while this would require a substantial contribution from a state that is already financially troubled, the sizable benefits cannot be ignored.

Operating under an imposing \$8+ billion budget deficit, New York State is desperate to save money; illustrated by the 2010 park shutdown to save .000077% of the deficit.⁸⁷ If the state was inclined to take unprecedented measures in hopes salvaging less than one-ten thousandth of

⁸⁶ See PARKS REC. § 3.01 (McKinney 2011) (“general welfare is enhanced,” “natural [resources] within the state park [system] are integral components of the state’s environment and contribute substantially to... the quality of our lives”); and PARKS REC. § 3.01 (McKinney 2011) (“statewide system of parks... hereby declared to be policies of the state,” “local, state, and national [parks programs] must be coordinated and that is logically a function of the state”).

⁸⁷ Goldberg, *Closing Parks Would Save Little*, 2010 WLNR 3638860.

its problem, reasonably, the state should be even more eager to partake in a venture that would make money, create jobs, bring new business to the state, and enhance tourism.⁸⁸ That venture, is the New York State park system. The number's evidencing the economic value of state park's are notable – a 5-1 benefit-to-cost ratio; \$1.9 billion of economic activity generated.⁸⁹ If the benefit of these potential returns is compared with the effects of the longstanding budget cuts – thousands of jobs lost, dozens of recreation program cancelled, continued deterioration of the system's infrastructure – failing to invest in this venture is foolish.⁹⁰ It should be conceded, that the 5-1 benefit-to-cost ratio does not mean \$5 is returned immediately to the government for every \$1 invested.⁹¹ However, this return is falling into the pockets of New York's businesses and citizens.⁹² Additionally, 40% of the benefit dollars received are coming from outside the state; thus, investing in the park system not only increases economic activity, but also enhances overall community and state wealth.⁹³

Still, it's hard to believe that New York State would choose to fully, or even substantially restore the OPRHP budget at this time, especially given the state's history of neglecting the parks' budget needs.⁹⁴ This significant disconnect between the OPRHP and the state over park system policy likely needs to be reconciled before any major funding action takes place.

However, right now the timing is perfect for New York to invest in the state park system. In the midst of a tough economic climate, the park system offers a low-cost vacation alternative

⁸⁸ See ECONOMIC, at *2-3 (\$1.9 billion in statewide revenue, +20,000 jobs created, \$774 million from non-state residents).

⁸⁹ See *Id.*, at *2.

⁹⁰ See PROTECT, at *9-13.

⁹¹ See ECONOMIC, at *2.

⁹² *id.*

⁹³ *id.*

⁹⁴ See PROTECT, at *9.

and visitation is at an all-time high.⁹⁵ If the state provides the OPRHP with funding to: reinstate recreation programs, repair some of the system's deteriorated infrastructure, and establish new facilities; park visitation would only increase as a result. Accordingly, as more visitors come to the state parks and the surrounding communities, spending will increase, and more money is returned back to the state and its citizens.⁹⁶ Thus, instead of cowering during these tough times, the state should take advantage of an asset that, given proper funding, will thrive under the conditions.⁹⁷

However, until the OPRHP budget is restored, and funding for infrastructure needs is secured, The New York State park system remains in crisis. There is a very real possibility that parks will close in efforts to keep the rest of the system afloat. Yet, before closure becomes inevitable, many park lovers will watch as program cuts and neglected facilities turn the park system into a shadow of what it used to be. Amongst discussions of the park system's budget issues, or the state's financial climate, it can easily be forgotten that the value of the New York State park system takes other forms than money. I conclude this paper with a personal story of my typical experience at a local state park to illustrate the many benefits a person can derive from a single trip to a magnificent New York State park.

V. A Quick Story

It's a beautiful summer day. The sun is shining bright as I get dressed in a tee shirt and gym shorts, lace up my sneakers, grab my bag, and head out the door. I'm about to go play disc golf with some friends, one of my favorite summer activities. If you haven't played disc golf,

⁹⁵ *FY 2009-10*, 2009 WLNR 20669172.

⁹⁶ *FY 08-09*, 2007 WLNR 21501992 ("nearly 80% of visitors participate in dining shopping, and recreational activities outside the park...").

⁹⁷ *FY 2009-10*, 2009 WLNR 20669172 (increasing number of "staycations").

(aka. frisbee golf or “frolf” for short), the name is fairly self-explanatory. It is the sport of golf but played with throwing discs, and rather than holes, the player must propel the disc into a metal basket on a pole. There are several reasons I find this activity appealing, but two stand above the rest – playing is free⁹⁸, and courses are located on the natural landscapes found in parks.⁹⁹ Our destination today – Beaver Island state park, located on Grand Island, New York, and a brisk 20 minute drive from my apartment in downtown Buffalo, New York.¹⁰⁰ As we enter the park, we breeze through the entrance tollbooth as the attendant recognizes my roommates Empire Passport.¹⁰¹ We park a short distance from the first hole and start paying immediately.¹⁰² The scenery is inspiring and varies throughout the course.¹⁰³ Approximately two-thirds of the holes are located on well-maintained open areas along the shore of the Chippewa Channel with Canada visible on across the water.¹⁰⁴ The remaining holes take you through wooded areas of the park, providing challenges to novice and experienced players alike.¹⁰⁵ Throughout the round I can see many of the recreational activities Beaver Island State Park has to offer. Some people are spending the afternoon playing the park’s 18-hole golf course.¹⁰⁶ Others are relaxing on its public beach, tanning, swimming, and enjoying refreshments from the park’s food facility.¹⁰⁷ As the round concludes and we exit the park, I find myself famished, so my friends and I head down the road to Riverstone Grill and get a bite to eat to conclude our day.¹⁰⁸

⁹⁸ Economic value – Affordable source of enjoyment.

⁹⁹ Environmental value – Aesthetic beauty.

¹⁰⁰ Economic value – Close to home.

¹⁰¹ NEW YORK STATE OFFICE OF PARKS, RECREATION AND HISTORIC PRESERVATION, <http://nysparks.state.ny.us/admission/empire-passport/> (last visited Nov. 17, 2011)

¹⁰² Recreational value – Exercise, fun.

¹⁰³ Environmental value – Aesthetic beauty.

¹⁰⁴ Recreational and Environmental value – Exercise, fun, enjoyment of the peaceful serenity of the water.

¹⁰⁵ Recreational and Environmental value – Exercise, fun, experience of the wooded area.

¹⁰⁶ Recreational and Economic value – Playing golf, money-maker for the park.

¹⁰⁷ Recreational value – Swimming, relaxation, social interaction.

¹⁰⁸ Economic value – Spending money at a local business.