

Adirondack Daily Enterprise
April 8, 2010

State purchases scrutinized

AG's office investigating whether state is overpaying for land in the Park

By MIKE LYNCH, Enterprise Outdoors Writer

The state attorney general's office has launched an investigation into state land purchases in the Adirondack Park, following a New York Post report that the state overpaid millions of dollars in October 2008 for a 20,000-acre land tract mostly on Lyon Mountain.

The state paid The Nature Conservancy \$9.8 million for the Lyon Mountain property. That deal came about four years after the Conservancy purchased the property from the Canadian paper company Domtar Industries for \$6.3 million in December 2004.

The Conservancy's purchase was part of a larger 104,000-acre deal from Domtar that included Lyme Timber buying 84,000 acres for \$17.5 million. The state agreed to buy the Lyon Mountain tract in 2005.

In a letter to Attorney General Andrew Cuomo Tuesday, Gov. David Paterson wrote, "You have suggested that recent media reports regarding the state's acquisition of land in the Adirondacks raise concerns about the land transfer system in the state, including the processes through which the state and state agencies appraise, acquire and sell land. It is important that this system be efficient, timely, and reliable."

Paterson went on to state that "under the current facts there is no suggestion that any criminal offenses have taken place," but that he would consider granting the authority to expand the scope of the investigation if evidence suggests this should be done.

The state Department of Environmental Conservation says it arrived at the \$9.8 million asking price after two independent appraisals were submitted by Landvest and Sewall Company in January and May 2008. The appraisals came in at \$8.8 million and \$11 million. The final price split the difference.

"Both appraisals use two different methods of determining the property's value, the sales comparison approach and the income approach," DEC spokesman Yancey Roy wrote in an e-mail. "Those methods assure that the final values reflect all market influences including development opportunities, the passage of time, timber stocking and timber market trends."

The purchase price and contract were approved by the attorney general's office in July 2008, and the state comptroller's office approved it in September 2008.

But the Post says the purchase price was too high.

"Official state records examined by The Post and statements by local officials show the purchase price was heavily inflated and relied on outdated appraisals from a year earlier, when real-estate values in New York and other parts of the nation were still sky rocketing," State Editor Fred Dicker wrote in the Post Monday.

Mike Carr, executive director of the Adirondack Chapter of The Nature Conservancy, said one reason the state's purchase price was substantially higher is that the Conservancy paid less than market value because it and Lyme Timber combined to buy 104,000 acres from Domtar.

"When you buy that kind of volume, there's usually a very significant discount," Carr said.

When the 20,000-acre property was being marketed by itself, it gained in value, he said.

"(There are) a much greater suite of buyers out there for a 20,000-acre block than a 100,000-acre block," Carr said.

During the time period that the Conservancy held onto the property, it paid \$3.4 million in expenses, including town, county and school property taxes even though it is not required to because it is a nonprofit group, according to Conservancy spokeswoman Connie Prickett. Because of those expenses, the Conservancy didn't make a profit on this deal, Prickett said.

James Gonyo, Clinton County's director of real property tax services, was quoted in the Post as saying the purchase price was "higher than we would have assessed it at." He told the Enterprise something different.

"Let me tell you what I told that guy (Dicker)," Gonyo said. "I told him I really couldn't tell him much about the sale. What was not in there at all was that we did not use the sale for comparison purposes simply because it was in several towns and wouldn't be allowed, so I really hadn't done any investigation."

But Fred Monroe, executive director of the Adirondack Park's Local Government Review Board, thinks the state overpaid to pay back the Conservancy for purchasing the land.

"I'd always felt and believed there was some sort of close connection between The Nature Conservancy and the state and that the state reimbursed The Nature Conservancy for their carrying costs," Monroe said.

Monroe said he was suspicious about the sale back when it was reported in 2008 but didn't do anything about it at the time. But the purchase was recently brought up to him again by Bill Starr, who is director of the New York State Forest Fire Lookout Association and recently worked with the DEC on the fire tower study. Monroe said Starr had heard from people he knew within DEC that "this bears looking into." Monroe then informed Dicker about discrepancies in the prices. The Post published Dicker's article Monday.

Monroe said what he would like to see come out of this investigation is a moratorium on state land purchases.

"We would like to see the Legislature accept the governor's proposal for a moratorium," Monroe said. "There's already good reason for the moratorium. The state's in a fiscal crisis. Land purchases have been made without regard to the impacts on local government. There needs to be a process for economic analysis, economic impact statements on these purchases. And it's just a perfect time for the state to step back, carefully evaluate what's gone on in the past, correct anything that is wrong and take a time out."

A moratorium would directly affect the Conservancy, which is currently holding more land with the intention of selling it to the state. The Conservancy bought 161,000 acres from Finch, Pruyn and Co. for \$110 million in June 2007, and in February 2008, the DEC and the Conservancy announced they had agreed upon a conceptual plan for 134,000 of the acres: some for the Forest Preserve, some private with conservation easements.

The Conservancy has already sold 92,000 acres to the Danish pension fund ATP for \$32.88 million but is still negotiating with the state to secure a working forest conservation easement that could happen this spring. Plus, the Conservancy still owns 67,000 acres of land it intends to sell to the state for Forest Preserve.

The Nature Conservancy also bought the 14,600-acre Follensby Pond property near Tupper Lake in September 2008, though any deal with that property is on the back burner until the former Finch, Pruyn lands are sold, Carr has told the Enterprise.

Environmental groups such as the Adirondack Council have been pushing the governor's office to continue purchasing state land. On Wednesday, the Adirondack Council sent a person in a man-sized beaver outfit to the capitol in Albany to lobby on behalf of the Environmental Protection Fund, which holds money used for state purchases.

In the meantime, Carr said he has no problem with an investigation being done.

"We welcome that," Carr said. "I think that's a fantastic result here. We fully support it. We really look forward to working with the attorney general."

Contact Mike Lynch at 891-2600 ext. 28 or mlynch@adirondackdailyenterprise.com.

Fact Box

A breakdown of the land the state purchased from The Nature Conservancy in October 2008.

Lyon Mountain: A 14,400-acre tract with high-quality spruce-fir forests that provides habitat for Bicknell's thrush. The summit of Lyon Mountain, home to a state fire tower, is the highest in this

part of the Adirondack Park and offers hikers a panoramic view of the surrounding lands. The mountain is also ideal for backcountry skiing and snowshoeing.

Ellenburg Mountain: A largely intact 1,700-acre tract of roadless forest that adjoins 7,100 acres of Forest Preserve lands. Access via the Smith Road will make it easier for hunters and hikers to enjoy this property.

Whistle Pond/Keniston Meadows: This 920-acre tract adjoins existing state Forest Preserve.

East Chazy Lake: This 2,900-acre tract, with one mile of undeveloped shoreline, adjoins 1,091 acres of Forest Preserve, keeping the natural splendor of the southern section of Chazy Lake and its associated wetlands intact for paddlers and boaters to enjoy.

(Courtesy of The Nature Conservancy)

Letter from The Nature Conservancy

The Nature Conservancy welcomes Attorney General Cuomo's investigation into the land transfer system in New York State, by which the state and state agencies appraise, acquire, and sell land. We agree with the Governor Paterson that the system should be efficient, timely, and reliable and look forward to working closely with the Attorney General.

While recent interest in the Domtar transaction may have sparked the AG's investigation, it is by no means its sole focus. The Nature Conservancy is confident that all land transactions conducted between our organization and New York State have been completed according to proper procedures.

When the state buys land from The Nature Conservancy or any other entity, the fair market value is appraised independently. The state's purchase price of 20,000 acres of former Domtar lands was determined by two independent appraisals done in May and June 2007 and was upheld by a June 2008 review by the Department of Environmental Conservation. Both the Attorney General and Comptroller approved the transaction in July 2008 and September 2008, respectively.

In the rare instance when the state purchase price exceeds the Conservancy's total project costs, the Conservancy applies the remaining funds toward another project with the state where New York's open space and wildlife conservation goals align with the Conservancy's mission to protect ecologically important lands and waters for nature and people.

Over the past several decades The Nature Conservancy has sold tracts of land to the state at below fair market value. For instance, in December 2006 the Conservancy sold 1,109 acres purchased for \$1,046,200 to New York State for \$644,500. In fact, on a number of occasions the Conservancy has donated land to the state.

Connie Prickett

Spokeswoman for Adirondack Chapter of The Nature Conservancy
Article PDFs
Letter from Gov. David Paterson