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July 25, 2014

NYS Department of Environmental Conservation  
ATTN: Josh Clague, Natural Resources Planner  
625 Broadway, 5<sup>th</sup> Floor,  
Albany, NY 12233  
(*Via Electronic Submission*)

**RE: Essex Chain Lakes Management Complex Draft Unit Management Plan and the Draft Community Connector Multiple-Use Trail Plan for the Towns of Newcomb, Minerva, and North Hudson**

Dear Mr. Clague,

On behalf of the Adirondack Council, I want to thank you for the opportunity to comment on the recently released *Essex Chain Lakes Management Complex Draft Unit Management Plan and the Draft Community Connector Multiple-Use Trail Plan For the Towns of Newcomb, Minerva, and North Hudson*. The management directives instituted by these documents will shape the landscape surrounding the Chain of Lakes for generations to come. It is imperative that these Unit Management Plans (UMPs) meet the Department's highest standards and match the spectacular nature of these lands in detail, accuracy and thoroughness.

The Adirondack Council has long advocated for the preservation of the Essex Chain of Lakes and its surrounding environment in a manner that would provide the greatest protection for this unique and ecologically rich landscape. The creation of the broader Essex Chain of Lakes Primitive Area (ECLPA), including the Pine Lake Primitive Area (PLPA), and the reclassification of the Hudson Gorge Wilderness Area (HGWA), are legacy achievements that should be embraced by all the parties that helped to make that happen.

Given the importance of these lands, the amount of work that went into the classification process, the hard decisions that each stakeholder made, and the success of the final outcome, the Council feels that these draft UMPs in their current form threaten to undermine the positive narrative that had emerged with the Governor's signing of the classification package this past winter.

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Printed on paper produced at International Paper's Adirondack mill.



SUSTAINABLE FORESTRY INITIATIVE

Of particular concern is the speed and singular focus the Department has shown in making these plans available without the customary due diligence and attention to detail that has long marked the UMP process. This concern is only magnified when the process expands and links complex and potentially controversial uses between adjoining UMPs and private easement lands as is being proposed currently with the Draft Community Connector Multiple-Use Trail Plan (DCCMUTP) and the Upper Hudson Woodlands Recreation Management Plan (UHWRRMP).

While the Council supports and encourages the New York Department of Environmental Conservation's (NYSDEC) use of Complex Planning to integrate the Forest Preserve lands with adjoining conservation easement lands, the release of these draft plans underscores clear procedural issues, a lack of information, inadequate analysis, and a phased approach that is not in keeping with the intent of the Unit Management Planning process as defined in the State Land Master Plan. We urge the Department to take the time needed to fully analyze the full range of uses and impacts, in particular the route and needs associated with winter recreational uses, and provide a revised Draft UMP **after** this and other relevant analysis is completed.

Given the sensitivity of these lands and the Department's mandate to protect these fragile resources, an interim Stewardship plan could be implemented that would allow for temporary management activities, including those already implemented, to move forward while the planning process is more rigorously handled. The William C. Whitney Area Stewardship Management Plan is one such example that clearly shows that the NYSDEC has the understanding and resources to implement a temporary management strategy for handling sensitive natural resources and recreational use simultaneously with a broader UMP process.

The Council firmly believes that in determining a Primitive Classification for the Essex Tract, the Adirondack Park Agency (APA) clearly sought to balance the critical environmental protection these lands deserved with the appropriate access and recreational opportunities that would support local communities and make this region a signature Adirondack destination. While there were some elements within the classification that the Council was unsatisfied with, these concerns were overshadowed by the clear "win" the end result represented for the vast majority of stakeholders.

For the first time in a century the general public has the opportunity to access lands *that had been privately held and closed to them*. We strongly support the intent underlying the APA's classification and believe that incorporation of these sensitive lands and waters into the Forest Preserve as "wilderness in waiting" fits the APA's primary classification objective that states the protection of these critical natural resources is paramount.

### **UMPs Undermine the Public Trust**

One of the most compelling stories underlying the Essex Chain of Lakes classification process was the extent to which stakeholder groups were able to engage in a meaningful and civil dialogue about the outcome of these new Forest Preserve lands. Local communities and sportsmen were able to present their concerns about limits on access and recreational opportunities, while environmentalists were able to underscore the significance of keeping the lakes and interior of these lands motor-free to protect their unique ecological richness.

In creating the Essex Chain of Lakes Primitive Area, the APA successfully navigated these competing interests and found a solution that would create a motor-free interior while concentrating limited seasonal access and winter motorized use in narrowly defined Wild Forest corridors. This solution also included an option for restricted motorized access to the junction of Fourth and Fifth Lake for those with mobility limitations. A CP3 access area was specifically identified and universally supported to provide greater access for persons with disabilities, who would otherwise be unable to get to the lakes from the general public parking lot at Deer Pond. As the Council indicated throughout the classification process, expanded access for those with mobility limitations was vital and important and the proposed CP3 lot accomplished that goal and was rightfully lauded.

However, the inclusion of a second parking area open to the general public in close proximity to this CP3 access area is a clear breach of the broader agreements that the Council believed were in place and contradicts the intent of the APA classification that expressly sought to create a wilderness experience for all by keeping these lakes and general access to them non-motorized. At the very least, building a general public lot in close proximity to the CP3 lot violates the very tenets at the core of the Motorized Access Program for People with Disabilities (MAPPWD) where, “permit holders are permitted uncommon access to activities such as hunting, fishing, camping and wildlife observation...who can use a permitted vehicle to travel beyond the reach of public roads, to areas where others must hike or bike. The permit provides access for those who seek solitude, connection to nature, undisturbed wildlife habitat, and inclusion with fellow sportspeople.”(NYSDEC website)

From an ecological perspective, the location of this general first-come, permit-only, public lot not only impacts the “primitive experience” but also exponentially increases the potential for the introduction of exotic invasive species and could be the single largest entry point for contamination of the larger lake ecosystem. The Adirondack Park State Land Master Plan (APSLMP) clearly states that “an assessment of the impact of the physical, biological and social carrying capacity of the area with particular attention to portions of the area threatened by overuse in light of its resource limitations and its classification under the master plan” (APSLMP, pg 10). The ECLMC UMP mentions invasive species in two (2) sentences

throughout the document and is clearly lacking any such assessment when it comes to both access and the very real ecological risk that invasive species pose to the Essex Chain of Lakes.

### **UMP Poses Legitimate Legal Questions**

The Adirondack Council acknowledges that the presence of the Polaris and Gooley hunting clubs and their leased rights through 2018 poses a unique management challenge. The Council honors the commitments that the Nature Conservancy made when those leases were signed and understands that lease holders will have continued motorized use of the Essex lands for access, hunting, and fishing through the immediate future.

What is poorly explained and legally ambiguous throughout the ECLMC UMP is the NYSDEC's assertion that private roads maintained by the Finch Timber Company, and only open to private club members, are now open to broader public travel based on pre-existing use that predates the APSLMP and the Wild, Scenic, and Recreational Rivers (WSRR) Act. While this use justification may be plausible on certain sections of the road network, the Council has strong misgivings with the legal "grandfathering" argument as it pertains **to the entire road network** on the Essex Tract. These concerns include:

1. The NYSDEC has provided only a vague general statement regarding historic use of roads throughout the tract, which does not satisfy the heavy burden imposed by case law on those asserting grandfathered status.
2. There is similar vagueness in the narrative descriptions of the periodic use of roads by a relatively small group of private individuals and if opening these roads to fulltime use by the general public constitutes an impermissible expansion and/or modification of the claimed preexisting use.
3. Consistent with New York case law, the ASLMP discourages the permanent continuation, modification or expansion of preexisting non-conforming uses as proposed by NYSDEC in this case and requires that such uses be terminated or phased out as soon as possible.
4. Grandfathering protections do not apply to indefinitely preserve recreational uses (such as road use) or uses not retained by private entities.
5. The NYSDEC has not presented any facts that would establish any of these roads as Town roads.
6. The lack of any appendix or UMP documentation of the legal remedies needed to complete recommended management activities and the proper compliance with all applicable laws and regulations.

The Council strongly believes that the interior of the ECLPA must remain motor-free once the lease agreements expire in 2018. This must be explicitly stated and supported throughout the document, especially in regard to the portion of the Chain Lakes Road North (CLRN) that



members of the Inner Gooley Club can currently use. This road is not open to the public now and should not be designated as such in the future.

By potentially opening up every road within the ECLPA to this grandfathering argument, the NYSDEC would then have the discretion to potentially leave this broader road network open indefinitely to as yet undefined uses “pending eventual wilderness classification, if their continued use will not adversely affect the character of the resources of the primitive area or impinge upon the proper management of an adjacent wilderness area” (APSLMP, pg 27). Again, this is a significant and substantive issue that must be addressed in greater detail and must be in keeping with the overall intent to keep the interior of the ECLPA motor-free after 2018/19.

### **UMP Process Lacks Details and Analysis**

The Council offers the following specific recommendations and comments on the Essex Chain Lakes Management Complex UMP and the Community Connector Multiple-Use Trail Plan as follows:

#### **Cumulative UMP Issues:**

- 1) In looking in-depth at the ECLMC UMP, as well as the CCMUTP and Upper Hudson Woodlands Recreation Management Plan (UHWRMP), the Adirondack Council is strongly encouraged that the NYSDEC is looking to implement broader complex planning across Forest Preserve units and conservation easement lands. We agree with the NYSDEC that this style of holistic management is the only way to capture the broader management issues on a landscape scale, especially in light of the mosaic of uses that adjoining public and private lands under easement provide. But for every added layer of management planning, additional time and resources need to be committed to the overall planning effort. This effort sets a poor precedence for future complex plans to follow.
- 2) The UMP process as a whole needs to be transparent, open **and** comprehensive. Simply stating within a UMP that critical uses will be addressed at some point in the future may meet some technical SEQRA threshold and be packaged as transparent but in practical terms is opaque and misleading for most of the general public. There is an expectation that the NYSDEC will provide the fullest accounting of management options for a forest unit through the UMP process, including adequate time for the Department to provide thorough analysis before public comment. In this case, the elements linking the UHWRMP, the ECLMCUMP, and the Community Connector Trail Plan only compound the need for full and deliberate scoping so that the full impact of these overlapping projects can be understood. The Adirondack Council urges the NYSDEC to slow this process down and provide informational hearings that will allow the public a full voice on the final uses that will be allowed on these lands.

3) The Council has spent decades reviewing unit management plans across the spectrum of Forest Preserve lands. In comparison to other Primitive Area UMPs, such as the 2010 Hurricane Mountain Primitive Area UMP (since reclassified to Wilderness), the ECLMC UMP is clearly lacking in the rigorous analysis and assessment called for in the APSLMP. At a total of 45 pages, including maps and appendices, the ECLMCUMP is approximately 140 pages shorter than the Hurricane Mountain plan. A full and rigorously developed UMP, according to the APSLMP needs to be far more complete at the time of public comment and include the following:

1. an inventory, at a level of detail appropriate to the area, of the natural, scenic, cultural, fish and wildlife (including game and non-game species) and other appropriate resources of the area and an analysis of the area's ecosystems;
2. an inventory of all existing facilities for public or administrative use;
3. an inventory of the types and extent of actual and projected public use of the area;
4. an assessment of the impact of actual and projected public use on the resources, ecosystems and public enjoyment of the area with particular attention to portions of the area threatened by overuse; and,
5. an assessment of the physical, biological and social carrying capacity of the area with particular attention to portions of the area threatened by overuse in light of its resource limitations and its classification under the master plan.

#### **Essex Chain Lakes Management Complex Specific**

- 1) The segmentation of uses, particularly a determination on the uses involving the unclassified corridors separating the ECLPA from both the Hudson Gorge Wilderness Area (HGWA) and the Pine Lake Primitive Area (PLPA) is a fundamental failure in this UMP. By not making a determination of use or fully presenting a preferred alternative on snowmobiling and pushing that decision off to the future, the NYSDEC undermines the expectations of all the stakeholders who worked so hard to find agreement on the Primitive Classification. The Adirondack Council urges the NYSDEC to complete the studies and take the time needed to complete their analysis of the uses involving the unclassified corridors before moving any of these management plans forward.
- 2) With respect to the proposed alternatives concerning a bridge over the Cedar River there are multiple issues, including the need to move the location of the preferred alternative into a portion of the recently classified HGWA. The Council appreciates that moving the bridge may be less intrusive and cause less environmental impact in the long term but this possibility should have been addressed prior to the final approval of the classification package. Secondly, the design of the preferred alternative raises significant structural concerns about the width of the bridge, the stated live load, and the types of materials used in its construction. Again, segmenting future issues and not fully accounting for them in

this plan, or not allowing for enough time to complete necessary planning studies, is a significant and glaring shortcoming of this UMP. As with the grandfathering clause concerning roads within the interior of the Primitive Area, this plan should include a full appendix of the legal determinations needed to ensure proper compliance with all applicable Wild, Scenic, and Recreational River Act laws and regulations.

- 3) The Adirondack Council agrees that protection of critical natural resources were at risk now that the general public has full access to the Essex Chain of Lakes. However, the implementation of protective measures, such as building primitive campsites and instituting a public camping permit system, should have been more appropriately captured in an interim stewardship plan. Defining them as existing uses within the UMP even as they are being built is a poor statement on the nature of this planning process. Even if these uses were done in consultation with APA staff and are compliant with the APSLMP, it again highlights the process flaws within this plan.
- 4) The Council does not believe at this time that a phased implementation of management strategies is in keeping with the technical merits of the larger unit management planning process defined with the APSLMP. In the future, the implementation of these types of resource protection measures should be a component of some form of interim planning, such as the stewardship plan implemented for the Whitney Wilderness Area and not as an ongoing activity while the UMP is open for public input and comment.

**Draft Community Connector Multiple-Use Trail Plan Specific:**

Conceptually the Adirondack Council supports the creation of multiple-use trails that can highlight the regions scenic and ecological treasures and provide for a wide spectrum of recreational uses. We believe that when done right, these trails can provide the kind of access that protects the scenic and ecological resources that are at the heart of the user experience and still allow for broad use by the general public. With regard to the Draft Community Connector Multiple-Use Trail Plan the Council offers the following comments:

- 1) The Adirondack Council has been on record that the continued use of the Polaris Bridge after the expiration of the Polaris Club's leases would not be in compliance with the SLMP and needs to be removed.
- 2) The Council has long been on record in opposition to the proposed preferred alternative trail segment in Section 4 if that trail included snowmobile access through the interior of the Vanderwhacker Mountain Wild Forest. As has been documented, this area is ecologically sensitive, has significant wetlands, and has legitimate conformance issues concerning remote interiors as defined within the 2009 NYSDEC Snowmobile Management Guidance document.

- 3) The DCCMUTP also fails to note anywhere in the document that the feasibility of Section 4 is entirely contingent upon any determination of winter uses on the Essex Chain of Lakes Primitive Area. This oversight compounds the larger issue of segmentation and the flaws in attempting complex planning across multiple units without fully integrating linked uses simultaneously.
- 4) Section 3's preferred alternative poses similar issues concerning segmentation issues and long range planning. The Council believes that outstanding questions remain about the feasibility of securing critical private land-owner agreements to link segments of this trail together. In addition, there are questions about the mileage caps for new snowmobile trails, and costs associated with building these new trail segments. The Council would encourage the NYSDEC to complete the Boreas Tract transaction and secure the necessary land-owner agreements before proceeding with a final plan.
- 5) Again, where appropriate, the Council does not object to many of the overall goals within this community connector multi-use plan but believes that additional work needs to be completed before all the pieces can be fully articulated in a comprehensive plan. Pressure to move this plan and those UMPs that are linked through use, forward in such a rushed manner only builds uncertainty, diminishes the end product, and puts in question the long term outcomes that were celebrated when the classification process was completed. This rush to provide a second rate planning product should be a cause of concern for all the stakeholders involved

In closing, the creation of the Essex Chain of Lakes Primitive Area and the reclassification of the Hudson Gorge Wilderness Area is one of the great Forest Preserve success stories of our time. The work done by countless stakeholders will shape the legacy of future generations and should be celebrated. But it is a legacy that must also honor the work and compromises that went into finding balance and common ground from the start of the process. There is significant room for improvement in both the unit management plans and the planning process. We urge the NYSDEC to take the time to get these plans right and to fully engage the public on a fully transparent, open, and comprehensive planning process. Thank you for accepting and reviewing our comments.

Respectfully,



Rocci Aguirre  
Conservation Director