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January 15, 2018

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Hon. Andrew Cuomo
Governor
Executive Chamber
State Capitol
Albany, NY 12224

RE: Buildings on the Forest Preserve

Dear Governor Cuomo,

The State of New York continues to face the challenge of managing buildings that remain on the Forest Preserve in the Adirondack Park after the state acquires new lands. This is not a new issue. Previous administrations have dealt with the issue of the Constitutional requirement that Forest Preserve lands remain "forever wild" differently, some making ad hoc choices with long-term implications for Forest Preserve law and policy, others trying to sort out durable long-term solutions. Article XIV, section 1, the famed forever wild provision, of the NYS Constitution states: "The 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 the timber thereon be sold, removed or destroyed." Today, buildings on the Forest Preserve are limited to two uses by longstanding state policy: 1) state administration of Forest Preserve management; 2) educational and historic preservation purposes.

Retention of buildings on the Forest Preserve has been a controversial issue for decades. This issue has been sorted out through state policy, but has never been litigated by the courts. The result has been to limit the number of such buildings. Today, the state manages a small number of state administrative buildings on the Forest Preserve, such as the caretakers cabins at Lake Colden, Marcy Dam, the Raquette River and Wakely Dam. The state also manages the Whitney Headquarters on Little Tupper Lake as a state administrative area that houses seasonal work crews and assists the state in its administration of the William C. Whitney Wilderness Area. There are also state buildings on Intensive Use areas, both those approved through Constitutional Amendments at Gore and Whiteface Mountain Ski Areas, and those that have been developed through state policy on

Protect the Adirondacks

PO Box 769, Lake George, NY 12845 518.685.3088

www.protectadks.org info@protectadks.org

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dozens of State Campgrounds in classified Intensive Use areas.

The state has also built a policy of retaining buildings for public educational and historic preservation purposes, such as the historic Great Camp Santanoni. This is a classified Historic Area under state policy and is being restored and managed as a living museum. The state has spent millions of dollars restoring and stabilizing Camp Santanoni, which includes more than a dozen buildings. Other buildings have been managed as private land inholdings in the Forest Preserve, such as the cabin owned by the Open Space Institute at the Preston Ponds, the Lighthouse on Valcour Island owned by the Clinton County Historical Association, or Great Camp Sagamore owned by a non-profit.

The Carey Administration saw its Commissioner of the Department of Environmental Conservation (DEC), Peter Berle, remove building in the West Canada Lakes area and remove the Nehasne Lodge at Lake Lila in the 1970s. In the 1980s, the state purchased Debar Pond and Debar Lodge, a collection of two dozen buildings. Under the terms of the state's purchase, the private landowners retained use of the Debar Lodge until 2005. The lodge has been mostly empty since then, though there have been reports of state employees occasionally occupying the facility, and today some one is mowing the expansive lawn and maintaining the grounds of an area classified as Wild Forest. No formal decision has been made on the future management purposes or policy implications for retaining Debar Lodge. The DEC has embarked upon a new Unit Management Plan (UMP) for this area, which may attempt to sort out these issues.

The Pataki Administration purchased over 125,000 acres of new lands for the Forest Preserve. In purchases of Little Tupper Lake, Bog Lake, Clear Pond, and Round Lake, which formed the cornerstones of the William C. Whitney and Round Lake Wilderness Areas as well as the historic expansion of the Five Ponds Wilderness Area, the Pataki Administration worked closely with private organizations to make sure that all buildings were either removed from the properties in advance of state purchase or that the state had a clear administrative purpose for retaining buildings that it purchased.

Your administration has chosen to complicate this already complicated issue by retaining two new buildings on the "forever wild" Forest Preserve. In your landmark purchase of 69,000-acres of former Finch, Pruyn and Company lands from The Nature Conservancy in 2012, two buildings were acquired which the state apparently plans to retain – the farmhouse on the Chain Lakes Road on Hudson River, part of the former Outer Gooley Club, and the cabin at the 4 Corners on the Boreas tract. The state has offered no plans or stated purpose for how it will manage these buildings, despite an approved UMP for the area that includes the farmhouse. Currently, these buildings have neither administrative or historic preservation purposes.

As a result of the policy opening from your decision to retain the farmhouse and 4 Corners cabin, the state is now being pushed by local government leaders, historic preservation groups, and the hut-to-hut advocates to retain a cluster of more than a dozen buildings comprising the main Gooley Club on Third Lake of the Essex Chain Lakes, which the State purchased with the explicit requirement that the buildings will be removed in 2018. Protect the Adirondacks has supported

the 4 Corners cabin on the Boreas tract as a small area that could be classified as State Administrative as some form of caretaker's cabin, and used for various purposes, such as search and rescue, among other things. Protect the Adirondacks opposed retention of the farmhouse on the Chain Lakes Road and opposes retention of the Gooley Club buildings.

State Land Master Plan and Buildings on the Forest Preserve

As mentioned above, state policy has been formulated over the past 40 years to allow buildings on the Forest Preserve that are utilized for state administrative or public education/historic preservation purposes. Under no conditions, can buildings on the Forest Preserve be used for any kind of public recreation or residential purposes. They cannot be leased or rented or used by the public for lodging purposes.

The State Land Master Plan has worked effectively for over 40 years to protect the natural resources and manage public recreational use on the Forest Preserve. The SLMP is unequivocal on the matter of buildings for public use on the Forest Preserve. They are simply not allowed. The SLMP also provides clear direction on the question of new structures of the Forest Preserve:

Insofar as forest preserve lands are concerned, no structures, improvements or uses not now established on the forest preserve are permitted by these guidelines and in many cases more restrictive management is provided for. (p 16)

This passage makes it clear that the SLMP does not contemplate new structures or improvements being allowed on the Forest Preserve where they are not currently established.

Furthermore, three definitions shape SLMP prohibitions on buildings for public use on the Forest Preserve.

19. Improvement - any change in or addition to land, which materially affects the existing use, condition or appearance of the land or any vegetation thereon, including but not limited to foot, horse, and bicycle trails, roads, administrative roads, snowmobile trails, cross country ski trails, improved cross country ski trails, trail heads, picnic areas and individual primitive tent sites. (p 18)

29. Ranger Stations or Ranger Cabins - enclosed buildings constructed or maintained by the Department of Environmental Conservation, suitable for human habitation and manned seasonally or year-round by administrative personnel to facilitate administrative control of lands and public use thereof under the jurisdiction of the Department. (p 19)

36. Structure - any object constructed, installed or placed on land to facilitate land use, including but not limited to bridges, buildings, ranger stations or ranger cabins, sheds, lean-tos, pit privies, picnic tables, horse barns, horse hitching posts and rails, fire towers, observer cabins, telephone and electric light lines, mobile homes, campers, trailers, signs, docks and dams. (p 20)

These definitions make it clear that the only time that buildings are allowable on the Forest Preserve is if they are used for state administrative purposes and used by administrative personnel.

The SLMP is clear that no buildings are allowed for public residential use on the Forest Preserve. The only buildings allowed on the Forest Preserve are for administrative purposes, such as the caretaker's cabins at Lake Colden or Raquette Falls, or the various buildings used by Rangers and seasonal DEC staff at the state Administrative Area at Little Tupper Lake, among others.

The SLMP also sets out management standards for Historic Areas in which buildings on the Forest Preserve are maintained. This management classification has been used for state parks at John Brown's Farm and Crown Point fort as well as for Camp Santanoni and the firetowers on Hurricane and St. Regis Mountains. The SLMP defines Historic areas as such:

Historic areas are locations of buildings, structures or sites owned by the state (other than the Adirondack Forest Preserve itself) that are significant in the history, architecture, archeology or culture of the Adirondack Park, the state or the nation; that fall into one of the following categories;

- state historic sites;
- properties listed on the National Register of Historic Places;
- properties recommended for nomination by the Committee on Registers of the New York State Board For Historic Preservation; and that are of a scale, character and location appropriate for designation as an historic area under this master plan and the state has committed resources to manage such areas primarily for historic objectives. (p 46)

The SLMP sets out guidelines for management of use of Historic Buildings that were written to protect the essential wildland values of the Forest Preserve even as buildings were being maintained. The SLMP clearly sets out guidelines for management of Historic Areas:

Basic guidelines

1. The primary management guidelines for historic areas will be to preserve the quality and character of the historic resources, that is, to the greatest extent feasible, in a setting and on a scale in harmony with the relatively wild and undeveloped character of the Adirondack Park.
2. All historic areas will be designed, managed and interpreted so as to blend with the Adirondack environment and have the minimum adverse impact possible on surrounding state lands and nearby private holdings.
3. Construction and development activities in historic areas will:
 - avoid material alteration of wetlands;
 - minimize extensive topographical alterations;

- limit vegetative clearing; and,
- preserve the scenic, natural and open space resources of the historic area.

4. Each historic area will be designed, managed and interpreted in conformity with a special historic area unit management plan for the area, filed with and approved by the Agency after public hearing as being consistent with this master plan. Special unit management plans will be prepared in consultation with the Agency for the two existing historic areas as soon as possible. No new structures or improvements at existing or proposed historic areas will be constructed prior to the approval of such special unit management plans. Such structures and improvements will conform to this master plan and special historic area unit management plans. (p 47)

The SLMP sharply limits the scope of how buildings that are retained for historic purposes can be managed. The primary purpose is historic preservation and these buildings are to be managed in harmony with the surrounding Forest Preserve. As such they are living museums in the Forest Preserve that are available for the public to visit, but are not places to be used for residential or lodging purposes.

While your administration has not stated any purpose for Debar Lodge, the farmhouse on the Hudson River, or the 4 Corners cabin, the SLMP is clear that the only purposes for which these buildings would be eligible are for state administration or for public education as historic areas. While the 4 Corners cabin sits on new Forest Preserve lands pending classification, the Debar Lodge and farmhouse on the Hudson River are located on lands classified as Wild Forest. The state has announced no purpose for these buildings, though has taken steps to stabilize them, or in the case of Debar Lodge, to actively maintain the grounds as acres of open grass lawn.

In general, the use of a Historic Area classification has worked with Camp Santanoni and the two state parks. Camp Santanoni has been stabilized and is slowly being restored, and stands as a living museum mostly for self-guided tours by the public. If the state plans to undertake similar programs for the Debar Lodge, the farmhouse on the Hudson River, or the 4 Corners cabin, it must classify these areas as Historic. If it is planning to utilize these buildings for administrative purposes this should be explicit in the relevant Unit Management Plans, which in the case of the farmhouse has not been done in the recently approved Essex Chain Lakes Complex UMP.

Compliance with Environmental Conservation Law - ENV § 9-0109. Acquisition of lands within the Adirondack or Catskill Parks

The Environmental Conservation Law was amended in the early 1980s, in the wake of the DEC's decision to retain the Great Camp Santanoni. ECL Section 9-0109 states that the State of New York should not buy historic structures unless absolutely necessary to protect critical and unique natural resources. Any buildings that are purchased as part of open space protection efforts should be removed unless they have historic significance. The state is required to document the historic significance of buildings on lands that it acquires. ECL Section 9-0109 states:

1. Unless deemed necessary for the conservation of critical and unique natural land areas or of significant wild forest land areas, the state shall not acquire or accept fee simple ownership of structures or improvements in the Adirondack or Catskill parks listed or eligible to be listed on the state register of historic places including that amount of land on which such structures or improvements are located that is necessary for their maintenance and use.

2. Prior to any land acquisition by a state agency within the Adirondack or Catskill parks, the commissioner or responsible chief executive officer proposing such acquisition shall undertake a review of such action pursuant to the state environmental quality review act as provided in article eight of this chapter and, when applicable, the New York state historic preservation act of 1980. [FN1]

3. If such structures or improvements in the Adirondack or Catskill parks are offered to the state for purchase or as a gift, it shall be the responsibility of the state agency to which such offer is made, in accordance with guidelines prepared for notifying potential private purchasers, to search for a private purchaser or donee who would preserve such structures or improvements, if the present owner thereof consents.

4. Historic structures and improvements which are located within the Adirondack and Catskill parks and owned by the state prior to the effective date of this section [FN2] and which existed prior to acquisition by the state may be maintained provided that:

a. the commissioner of parks, recreation and historic preservation finds that such structures and improvements are listed or are eligible to be listed on the state register of historic places pursuant to subdivision one of section 14.07 of the parks, recreation and historic preservation law ; and

b. the commissioner finds that such structures and improvements can be maintained for public enjoyment and understanding of the forest preserve or for departmental activities necessary in protecting forest preserve lands in the parks in a manner that will not disturb the existing degree of wild forest character of land on which the pre-existing structures or improvements are located or the wild forest character of land adjacent thereto; and

c. such maintenance is in accordance with reasonable regulation of the forest preserve in the Adirondack and Catskill parks consistent with article fourteen of the state constitution.

The recording provisions of section sixty-three of the public buildings law shall apply if such structures and improvements are not maintained or are substantially altered or demolished.

In compliance with this law, any new structures that are purchased on lands added to the Forest Preserve that the state plans to retain due to historic preservation values, must be documented for historic values.

PROTECT Opposes Retention of Gooley Club Buildings on Third Lake of Essex Chain Lakes

As mentioned above, there is now a movement in the Adirondacks to retain the main cluster of

more than a dozen buildings of the “Gooley Club” on Third Lake of the Essex Chain Lakes for use as some kind of historic museum of Adirondack hunting and fishing camp culture or for use as part of a hut-to-hut lodging network. Protect the Adirondacks opposes the retention of these buildings and strongly urges the state to sustain its plans to remove these buildings in 2018 and clear the site completely, thus allowing it to be ecologically restored or utilized for primitive camping.

The forever wild provision of the State Constitution prohibits buildings on the Forest Preserve for public use. At issue is Article 14, Section 1, of the State Constitution, the forever wild provision, which states that:

The 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 the timber thereon be sold, removed or destroyed.

Public use of “closed” cabins in a network of cabins across the Forest Preserve was voted down in a proposed Constitutional Amendment in 1932, known as the Porter-Brereton Amendment. It is only through a Constitutional Amendment that buildings for public use could be allowed on the Forest Preserve. If the Cuomo Administration seeks to use the Forest Preserve as a location for some kind of hut-to-hut network or program where buildings, either seasonal or permanent, are used for public lodging, the only lawful way this can be done in through a Constitutional Amendment.

The state has a set of serious decisions to make on how it will lawfully manage the two buildings it has publicly affirmed it plans to retain – the farmhouse on the Chain Lakes Road and the 4 Corners cabin. The state has a major decision to make on the future of Debar Lodge. We strongly urge the state to hold steady with plans to remove all the Gooley Club buildings on Third Lake in the Essex Chain Lakes and restore this area to a natural setting.

On behalf of the Board of Directors of Protect the Adirondacks, thank you for the opportunity to inform you on our views on these important matters facing the future of the Adirondack Park and Forest Preserve.

Sincerely,



Peter Bauer,
Executive Director

CC V. Lannon, Executive
R. Shah, Executive
B. Seggos, DEC
K. Moser, DEC
R. Davies, DEC

R. Steggeman, DEC
K. Richards, DEC
K. Regan, APA
W. Linck, APA
APA Board

T. Martino, APA
J. Townsend, APA