

**ADIRONDACK WILD:
FRIENDS OF THE FOREST PRESERVE**

**ADIRONDACK WILDLIFE REFUGE
AND REHABILITATION CENTER**

NORTHEAST ECOLOGICAL RESTORATION PROJECT

PROTECT THE ADIRONDACKS

SIERRA CLUB - ATLANTIC CHAPTER

THE ADIRONDACK COUNCIL

ADIRONDACK MOUNTAIN CLUB

CHAMPLAIN AREA TRAILS (CAT) NETWORK

ENVIRONMENTAL ADVOCATES OF NEW YORK

NATURAL RESOURCE DEFENSE COUNCIL

NATIONAL WILDLIFE FEDERATION

February 12, 2013

The Honorable Governor Andrew M. Cuomo
Executive Chamber
State Capitol
Albany, NY 12224

Joseph Martens, Commissioner
NYS Department of Environmental Conservation
625 Broadway,
Albany, NY 12233

Leilani Ulrich, Chairwoman
NYS Adirondack Park Agency
PO Box 99
Ray Brook, NY 12977

RE: **Opposition to Proposed General Permit for Silvicultural Clear-Cutting
Treatments for Sustainable Forestry in the Adirondack Park, 2012 G-1**

Dear Governor Cuomo, Commissioner Martens, and Chairwoman Ulrich:

The conservation and environmental organizations listed above are opposed to the draft General Permit for Silvicultural Clear-Cutting Treatments, 2012 G-1. The proposed General Permit is scheduled to be voted on for approval by the Adirondack Park Agency (APA) at its monthly meeting on February 14, 2013. We find the purpose and content of General Permit as well as the APA's process to develop and approve it to be deeply flawed.

We strongly urge the APA to postpone action on this General Permit or deny it.

A much better public process that would likely lead to a much better public outcome would be for the APA to reconvene its Technical Advisory List (TAL), which successfully assisted the APA on its rules and regulations reform for a number of years. The TAL, along with a broad array of large forest landowners and foresters, should work to reform the APA's outdated rules and regulations on a variety of forest management regulations, including clear-cutting.

Flawed Process Undermines APA Board Review and Public Transparency

For the reasons enumerated below, our organizations believe the APA's proposed general permit to be a flawed approach to public policy. From a process standpoint, we find the proposed general permit and application order inconsistent with the criteria that an APA Class A regional project review requires, and, potentially, a significant threat to the ecological health and well being of private forestlands and adjacent natural resources of the Adirondack Park due to large clear-cutting.

From a legal standpoint we find the process selected by the APA based upon approval of a negative declaration under SEQRA to be flawed given the wealth of scientific information about the negative impacts from clear-cutting and given the sheer land mass involved in this decision, which could be well over 1 million acres.

Public comments ran 90% against this draft general permit. Among the more than 240 comments submitted to the APA were notable letters from scientists, attorneys, environmental organizations, landowners, professional foresters, and citizen commenters, where the great majority expressed strong opposition to the draft general permit. The General Permit is widely perceived as an attempt to carve out expedited clearcut logging privileges for a handful of the largest private timberland owners solely through a staff approval process lying outside the bounds of normal Agency permit review procedures, closed to public review, and closed to the comments and votes of APA Commissioners. The lack of transparency and accountability badly violates Governor Cuomo's standards of openness within state government.

We urge the Governor, Commissioner Martens, and Chairwoman Ulrich to withdraw or deny action on the current proposed General Permit 2012 G-1 at this time.

The correct course for an issue of this magnitude should be a full Generic Environmental Impact Study (GEIS) and a stakeholder inclusive process to evaluate forestry trends and needs in the Adirondack Park. This GEIS should evaluate all options for addressing the purported principal goals of the proposed general permit, which is improving forest management in the Adirondack Park.

Groups Strongly Support Forestry and a Robust Forest Products Industry

Our organizations are united in the interest of supporting forest stewardship across the private and conservation easement lands of the Adirondack Park. As part of our missions we encourage, educate, and support forest management. Many of our members are large and small forestland owners who manage their lands for a variety of forest products.

Our organizations have been committed for decades to building a long-term and sustainable base of working forests throughout the Adirondacks. We helped to create New York's conservation easement program as well as many other policies around sustainable forest management and certification. Unfortunately, the draft General Permit for clear-cutting is a major step backwards.

Many of our organizations participated in a January stakeholder session at the APA and made it abundantly clear that we can support regulatory reform and process efficiency changes in APA board review of clear-cutting silviculture treatments and stand ready to work towards a win-win solution that meets the needs of forest industry while maintain the public interests in the Adirondack Park. Stakeholders made clear that the General Permit does little or nothing to eliminate the practice of high-grading, or to incentivize better forestry among smaller family or commercial woodlot owners in the Park unable to afford FSC or SFI certification standards. New regulations could address the needs of both larger and smaller forest landowners and incentivize better forest practices.

Basis for Opposition to the Proposed General Permit 2012 G-1

The listed organizations oppose the APA's draft general permit for clear-cutting for seven primary reasons detailed below.

1. APA provided no factual basis to demonstrate the need for a new General Permit.

APA staff have conducted limited public outreach to experts in this field and have failed to provide any factual basis of need or a credible justification to support the draft general permit. The APA designed this general permit around the recommendations and anecdotes from forest products industry professionals alone. Public policy should not be created by anecdote, but rather by research, data, and science. When asked about the lack of data to justify the need for this draft General Permit at the January stakeholders meeting APA staff responded that they believed

the new General Permit “won’t hurt and it might help.” It is unacceptable that the APA would consider eliminating Class A Regional Project Review for potentially large tract clear-cuts without any factual justification or impact assessment.

2. Negative Declaration action under SEQRA is deeply flawed and should be rescinded.

The APA should rescind the negative declaration that it issued for the proposed General Permit for clear-cutting, and it should conduct a new environmental assessment of this action. A positive declaration is more appropriate. Once a positive declaration is issued, the APA should then prepare an Environmental Impact Statement (EIS) because the proposed General Permit has the potential to have at least one significant adverse environmental impact, if not many.

The negative declaration issued by the APA on this matter in November 2012 contains significant errors. These include: 1) listing total acres on the Environmental Assessment Form (EAF) as “>25 acres” when, in reality, this General Permit will likely affect more than 1 million acres; 2) the APA answered “NA” to EAF questions about soils, hunting and fishing, presence of rare, threatened and endangered species, as to whether unusual land forms exist, as to whether properties are used for “open space recreation” (many certified easement lands contain public recreation rights), scenic views, lakes, ponds, or wetlands, as well as whether the project is “located in or substantially contiguous to critical environmental areas.” Given the varied and diverse topography, the vast public recreational rights to easement lands, and the fact that many hundreds of miles of private forest lands border the Forest Preserve, we believe that a negative declaration of wholly inappropriate.

Perhaps, the most notable mistake in the EAF is that on the question as to whether the proposed action is contiguous to “listed historic sites and districts” the EAF states “NA.” We point out that the Forest Preserve is listed on the National Register of Historic Places.

The APA’s failure to identify even a single adverse environmental impact from the proposed clear-cutting General Permit, or to acknowledge that there was public controversy related to the action, signals that the APA failed to take the required hard look at the environmental impacts of the General Permit and that it failed to provide a coherent rationale for a negative declaration.

3. APA General Permits have been used for minor projects in the past and are not appropriate for large-scale forest clear-cutting that could total hundreds of acres per cut.

Section 809 (13)(3) authorizes the APA’s use of General Permit. That use, however, has been traditionally bounded and relegated to low impact, site specific project uses such as beaver dam removal, site-by-site hand harvesting of invasive aquatic

species, such as Eurasian watermilfoil, and co-location of cell phone tower antennae, among other projects. Clear-cuts of forests over 25 acres, and potentially multiple clear-cuts over hundreds of acres or more in large patch tracts and strips, are well beyond standard General Permit criteria.

Long ago, the APA managed an 18-month process for stakeholder review and study that led to the APA's current clear-cutting rules and regulations. At the completion of this effort, the APA Chairman Theodore M. Ruzow wisely stated:

"When a [forest] stand is cut, it is an irreversible act – if it is an error in judgment, the harm cannot be overcome in a man's lifetime."

A General Permit is the wrong tool for approving clear-cuts over 25 acres or more and cuts of below 30 square feet of basal area at diameter at breast height (DBH) per acre. We further believe that the APA Act and the 1982 APA rules and regulations both require Class A regional project review, public comment, and Board deliberation that would otherwise be eliminated under the General Permit provisions.

4. FSC and SFI certification programs are not equivalent to APA Class A regional project review.

The General Permit is based on the integrity of the FSC and SFI certification standards and practices. While these are admirable programs that have helped to improve forest management, they are not adequate substitutes for APA project review. We note that several states have augmented FSC and SFI programs with laws and policies to provide additional review over clear-cutting, high-grading, land use conversion. In the Adirondack Park, many of these protections are currently provided through the current Class A regional permit review. We do not believe that the purpose of FSC and SFI certification programs is that they replace environmental impact review by public agencies.

5. The draft General Permit poses wide-scale negative impacts to ecosystems, watershed quality, and ecological connectivity.

The proposed General Permit could impact as much as 20% of the Adirondack Park and much of the 780,000 acres of state-held conservation easements. Clear-cutting has long been recognized as potentially devastating to forest and ecosystem health. In a message to the US Congress, over 600 regionally and nationally recognized foresters, biologists, ecologists and scientists, including leaders such as Dr. E. O. Wilson and Dr. Peter Raven, stated:

"Clearcutting and other even-aged silvicultural practices and timber road construction have caused widespread forest ecosystem fragmentation and degradation. The result is species extinction, soil erosion, flooding, destabilizing climate change, the loss of ecological processes, declining water quality, diminishing

commercial and sport fisheries, etc. Even-age logging includes the application of clearcutting, high-grading, seed-tree cutting, shelterwood cutting, or any other logging method in manner inconsistent with selection management.”

Many scientists note the following impacts from clear-cutting, many of which will result through the proposed new General Permit:

- Significant degradation of native biodiversity including reductions of habitat for mammals, cavity-nesting birds and insectivores.
- Degradation of the forest soil surface as well as compaction of organic layers and the drying out of exposed soils due to sun and rain exposure.
- Habitat depletion of deep-forest species of animals, amphibians, bird life including many threatened and endangered species.
- Jeopardizes ecosystem function and ecological connectivity between cut-over lands and adjacent sustainably management private lands and Adirondack Forest Preserve – for which these lands were to serve as ecological buffers under the Adirondack Park Land Use and Development Plan.
- Imperil the forest soils to be increasingly susceptible to the impacts of acid rain and deposition which, cumulatively together, can reduce the viability of native commercial and ecologically endemic forest tree species in the Adirondacks such as Sugar Maple, Black Cherry, Red Spruce, etc.
- Change and disrupt rain, snow and melt-water runoff patterns while impairing or eliminating root water absorbing capacity leading to significant soil erosion and down stream impacts to stream, river, wetland, water, fisheries and ecological quality and potential property damage as well in high water flooding events that have become more the norm with the impacts of global climate change.
- Open up areas of forest lands in the core of the Adirondacks to a higher degree and incidence of invasive species which combat native, endemic species and typically lead to a resultant loss of endemic biodiversity.
- Accentuate global climate change by aggressive removal of the forest overstory, the unnatural heating, warming and drying out of forest soils and reducing the capacity of native forest biomass across un-even aged stands to store carbon over time.
- Lead to a potentially devastating increase in the use of chemical herbicides that can add toxins and accumulate toxic interference and impacts across all levels of the biotic web and food chain.

There are many negative ecological impacts to forest clear-cutting that are being overlooked by the APA. A General Permit is simply not adequate to address the full range of potential impacts.

6. Poorly regulated clear-cutting will undermine the scenic character and Tourism-based economy of the Adirondack Park.

Due to the significant acreage of today's SFI and FSC certified forest lands in the Adirondack Park that might fall under the proposed General Permit, significant scenic and aesthetic impacts could impact the Park's primary economic base in regional, state, national and international tourism. Historically since before the 1950's and on up to today, what makes the Adirondack Park different than all New England States – as well as states to the south and west – is the fact that in the Adirondack Park we have for the most part restored and sustained a deep, rich and continuous forest canopy. Long-term maintenance of our forest canopy and integrity through the "forever wild" Forest Preserve, in concert with private land and forestry regulation and incentives, is essential to secure the natural, wild and rural mountain quality of the Adirondack Park and the tourism economy, jobs, employment and benefits it supports.

As proposed, the new General Permit fails to provide sufficient consideration for the scenic character factors that make the Adirondack Park unique in the northern United States and a global model for wild and working landscape conservation.

7. APA forest clear-cutting policy is best reformed by a public, multi-stakeholder rules and regulations revision process.

The best process moving forward on an issue of major long-term consequences, such as forest clear-cutting over 25 acres, is to reform pertinent APA rules and regulations through a public process. The APA has a successful history of managing rules and regulations reform through an admirable public process. In fact, the new APA Counsel James Townsend, capably managed such a public process during the time he served as an APA Commissioner.

A number of the organizations listed on this letter participated for years on Technical Advisory List (TAL) committee led by Mr. Townsend to update and revise regulations regarding hunting camp and dock definitions and non-jurisdictional boat house size and design regulations, among many other items. We encourage the APA to reconvene the TAL, and include a broad array of industrial forest landowners and scientists, to look at the issue of rules and regulations reform for forest clear-cutting.

For all the reasons detailed above, we urge denial or postponement of action on the APA's proposed new General Permit 2012 G-1 in regard to silvicultural treatments of clear-cutting forestry in the Adirondack Park.

Thank you very much for the opportunity to comment on this important issue.

Sincerely,

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