

# **PROTECT** **THE ADIRONDACKS!**

February 19, 2014

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Sean Reynolds  
Senior Forester  
NYSDEC Region 5  
P.O. Box 296  
Ray Brook, NY 12977

## **RE: Draft Recreation Management Plan for the 18,000-Acre Kushaqua Conservation Easement Tract**

Dear Mr. Reynolds,

This letter provides comments from Protect the Adirondacks on the new draft Recreation Management Plan (RMP) for the 18,000-acre Kushaqua Conservation Easement tract issued by the Department of Environmental Conservation (DEC). These lands are located in the Towns of Franklin and Brighton in Franklin County and are surrounded on all sides by Forest Preserve in the Debar Mountain Wild Forest area for which there is no Unit Management Plan. PROTECT notes that this entire tract is an "Easement A" under the original conservation easement with International Paper Company in 2004, which provides broad public recreational access. In 2006, Lyme Timber Company purchased the forest management rights over this tract. Under the terms of the conservation easement, Lyme Timber Company must approve the RMP.

PROTECT congratulates the DEC for issuing this draft RMP. Public recreation plans for conservation easements have been long in coming and we look forward to the development of RMPs on other tracts. This is the first RMP for a major conservation easement tract and may serve as a prototype for future plans. Many of PROTECT's comments are applicable to future conservation easement recreational management plans as well as specific to the Kushaqua tract.

The recent Forest Preserve classification process between the Adirondacks Park Agency (APA), DEC and Cuomo Administration over parts of the former Finch Paper lands made its decision mantra "something for everybody." PROTECT finds that the scant non-motorized recreational access opportunities in this RMP violates this new ethos.

### **Protect the Adirondacks**

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PROTECT is concerned that this RMP is principally a motorized recreational use plan. The dominant recreational activities are All Terrain Vehicle (ATV) riding, snowmobiling, and drive-in camping. The hiking trails are largely shared with ATVs. Mountain bike riders share roads with ATVs and motor vehicles.

### **Comments for all Conservation Easement Recreational Management Plans**

- The actual conservation easement for this tract should be included as an appendix to the RMP for ease of reference for the public. PROTECT had to obtain the IP easement through a Freedom of Information Request and this will be burdensome for the general public.

If the easement is deemed too big for an appendix by the DEC, as it is over 400 pages, then PROTECT believes it would be a great public service for all state held conservation easements in the Adirondack Park to be posted to the DEC website. We note that the DEC Conservation Easements section of its website does not contain all conservation easements in the Adirondack Park that are currently held. The Kushaqua conservation easement is not currently listed, among others.

- Current aerial photography maps of the Kushaqua tract should be provided in the appendices and overlaid with private and proposed public recreational opportunities. Recent clearcuts, extensive strip cuts, and shelterwood cuts dominate the Kushaqua conservation easement lands. These heavy cutting practices will impact public and private recreation and should be considered and identified as part of the DEC's planning. The public should be informed of the current status of silvicultural management on this tract.
- The Physical Resources chapter should include a section on "Forests." This section should provide more information than the "Vegetation" part in "Biological Resources." Much more information on the condition and character of the forests on this tract should be provided.
- DEC should provide an Enforcement Plan section for this RMP with more detail than is currently on page 20. This section should provide the names and titles of Rangers and Conservation Officers, among other DEC staff, who are responsible for enforcement of this RMP. This section should also detail the likely time that these staff will devote to enforcement activities on this tract.
- It is PROTECT's opinion that much of the public limits on motorized use detailed in this RMP will be largely unenforceable due to the limited DEC regulations for motor vehicle use on conservation easement lands, specifically by All Terrain Vehicles (ATVs). This is also a major problem for DEC staff on the Forest Preserve where effective enforcement against ATV trespass is severely undermined by the absence of official DEC rules. PROTECT notes that while a draft Commissioner's Policy exists for ATV use on the Forest Preserve, this is an inadequate substitute for actual regulations.

- There was no SEQRA documentation provided in this RMP, though this is a requirement in the APA-DEC MOU on conservation easements. PROTECT believes that a full Environmental Assessment Form should be developed and attached as an appendix.
- DEC claims in this RMP that there is a public demand for drive-in campsites, yet provides no data in support of this contention. DEC should provide data on the public demand for drive-in campsites.
- The State of New York and a private landowner jointly pay local property taxes, among other taxes, on this property. A schedule of the taxes paid on this property by the state and private landowner for the past five years should be provided as an appendix. Additionally, if this land is enrolled in New York State Real Property Tax Law 480/480-a programs, this should be disclosed and confirmation of stumpage payments should be provided in an appendix.
- If forestlands on this tract are FSC/SFI certified, all applicable data should be provided in an appendix that details where the public can access public information about the Kushaqua tract certification. The RMP references SFI certification, but not FSC certification. Is this accurate?
- This property is under active forest management. Data should be provided for total volumes of wood removed in recent years and harvest schedules for the next five years according to its forest management plan.
- DEC is actively promoting hunting on these lands. The 31 camps currently on the property likely include hundreds of total members, many of who trap as well as hunt. Wildlife harvest data should be gathered by the DEC and put in an appendix, especially since the public is being actively encouraged to hunt and trap on these lands. Also, it's likely that the private landowner has data on wildlife harvests as part of their SFI/FSC certification compliance.
- Public ATV use raises issues for nearby homeowners and property owners. Since ATV riding will be allowed on this conservation easement, this will enable the opening of local municipal roads to ATV use under the criteria of the State Vehicle and Traffic Law. What planning has the DEC undertaken to control ATV trespass on neighboring properties and the Forest Preserve and attendant natural resource damage?
- More boundary line maintenance information should be provided than what is included on page 18. Since so much of the boundary lines of this property border the Forest Preserve, an appendix should be included that details recent state and Lyme Timber Company boundary maintenance activities.
- The RMP provides Appendix G "Implementation Schedule" that details proposed spending on various administrative tasks and for building the public recreational infrastructure. PROTECT asks what guarantees are there that DEC will fund any of these activities?

- DEC proposes linkages to Forest Preserve trails in the Debar Mountain Wild Forest Area though that UMP is not completed. PROTECT believes that the DEC would be well served to coordinate planning between RMPs and UMPs when they share public recreation opportunities and facilities.

PROTECT sees many ways that the DEC can improve its RMP format through full disclosure and inclusion of various data as appendices that are important for public use and understanding of a state conservation easement tract. The comments provided above should be used to revise the DEC's RMP template.

### **Comments for Kushaqua Conservation Easement Recreational Management Plan**

Below, PROTECT provides a list of comments specific to the draft RMP for the Kushaqua conservation easement lands.

**Compliance with Conservation Easement:** PROTECT has reviewed the conservation easement (CE). The CE states on page 18 "that the capacity of the Protected Property to accommodate public recreation is limited." PROTECT's review of the draft RMP failed to find any biological and or ecological data by which the DEC assessed the "capacity" of the Kushaqua tract.

The CE also references on page 18 a document "Standards for Public Recreational Roads and Trails" that "establishes minimum standards and specifications for roads and trails designated for public use." If this is still an authoritative document in use by the DEC it should be attached as an appendix.

**Questions about DEC enforcement of ATV use rules:** The RMP says that leaseholder rights outside of their 1-acre envelopes and a designated access route are no greater than public rights. While leaseholders have specific ingress and egress routes, once at their camps leaseholders can then operate ATVs widely across the property the same as the public. The RMP provides no information as how the DEC will enforce these restrictions.

The "Motorized Uses" section on pages 21-22 details a series of rules that are unenforceable. The listing of these rules in an RMP does not give DEC enforcement officials any authority. The current regulations for conservation easements in Section 190.12 (part of Section 190: Use of State Lands) must be revised to include things like speed limits, trespass violations, fines, among other things.

**Consistency of RMP and APA-DEC MOU:** The APA-DEC MOU details a wide variety of activities that are, in essence, non-jurisdictional by the APA, even though the overwhelming majority of this tract is classified as Resource Management.

- The MOU states that when developing an RMP the DEC shall "prepare a SEQRA assessment" yet none is provided in this draft RMP (page 11).
- The MOU sets out a process by which the DEC will seek written review

comments from the APA on draft RMPs. There is no confirmation in the RMP that this was completed.

**Drive-In Campsites:** The RMP designates 10 drive-in campsites. PROTECT encourages the DEC to evaluate opportunities for parking areas in the western and north parts of the Kushaqua tract that could allow backpackers to access more remote areas of the Debar Mountain Wild Forest Area. PROTECT also encourages the DEC to evaluate siting lean-tos on the Kushaqua tract for public use.

Further, PROTECT notes that the DEC does not plan to undertake campsite construction until Year 3. We believe that this should be a higher priority.

**Non-Motorized Public Recreational Activities:** Non-motorized public recreation is not a priority in this plan. Motorized uses far out-weigh non-motorized usage. Non-motorized recreational opportunities principally include hiking, mountain biking and cross-country skiing, though there are limited opportunities for non-motorized canoeing on the few waterbodies in the tract.

Several foot trails and trailheads are designated in the RMP, but mostly are shared use trails with ATVs. Mountain bikes routes are shared with automobiles and ATVs. We encourage the DEC to develop some non-motorized hiking and mountain bike trails. Further, as a managed tract this forest provides great opportunities for education and interpretation.

**Mountain biking Opportunities:** While, PROTECT notes the widespread opportunities for mountain bike riding on all the roads and trails open to the public, the overwhelming majority of these roads and trails are shared with ATV riding and other motor vehicles. PROTECT believes these is a public safety issue for mountain bike riders on roads heavily used by ATVs and other motor vehicles. We encourage the DEC to find some non-motorized mountain bike routes.

**Disabled Access:** PROTECT supports construction of accessible campsites for the disabled community. PROTECT encourages DEC to make this a higher priority as it's currently listed as a Year 3 action.

**Data/Inventories Provided:** This RMP contains very little in the way of natural resource data. Much less information is provided than in a standard Forest Preserve UMP. PROTECT believes that recreational management decisions should be based on natural resource considerations.

**Snowmobile Trails:** PROTECT notes that a main snowmobile trail corridor already passes through the tract and that a new loop is proposed. PROTECT objects to any new trails into the Debar Mountain Wild Forest area because these trails have not been planned and approved in a UMP. Further, these proposed trails do not connect communities, but are likely Class I trails, for which there is little enthusiasm in the snowmobiling community due to the lack of amenities on the route and the constrictions for trail width, design, construction and grooming.

**Cross-Country Skiing:** The RMP fails to include any designated areas solely for cross-country skiing or snowshoeing.

#### Issues Associated With All Terrain Vehicle Use and Abuse

PROTECT sees ATV use on the public Forest Preserve as an experiment that failed. Scores of Forest Preserve roads were illegally opened by the DEC in the 1990s and then closed in 2005. PROTECT is concerned about the vast network of ATV roads proposed. The RMP states "Public ATV use shall be restricted solely to roads and trails capable of supporting ATV use, and shall be managed in a manner that prevents damage to natural resource values and biological diversity." (p. 17)

**ATV Use and Impact Assessments:** The sheer number of roads opened to public ATV use makes this activity the dominant recreational public use envisioned by the DEC for these lands. PROTECT finds no inventories or assessments about the character and condition of these roads and trails to withstand ATV use. If the DEC has made these assessments, they should be provided in an appendix. If the DEC has not made any such assessments, they should be made before the RMP is completed.

**Will ATVs Access Kushaqua Tract from Local Roads and Endanger Area Homeowners?** PROTECT is concerned that the Kushaqua tract will become an ATV riding destination. We envision a scenario where local roads are opened to ATVs by local governments to provide connections to the Kushaqua tract. Such actions will be disruptive to nearby residents and the public that lives in the area and drives nearby roads. If ATVs are to be allowed in the Kushaqua site, DEC should state that they should be trailored to the trailhead parking area and not ridden there by accessing local roads. DEC should also engage with the Towns of Brighton and Franklin, as well as Franklin County, to make sure that roads in these municipalities are not opened to ATVs.

**Negative Impacts from ATV Trespass on the Forest Preserve:** ATVs should not go near the Forest Preserve boundaries, so as to avoid trespass on the Forest Preserve. The RMP proposes dead-ending numerous ATV routes on at the Forest Preserve boundary (Appendix B-3). We do not find any information about barriers that would prevent ATV access to the Forest Preserve. Because such barriers are often ineffective, it would be preferable to move all ATV routes away from the Forest Preserve boundary.

At the same time, this recreation management plan covers forest lands within the boundary of the Adirondack Park, and directly adjacent to Debar Mountain Wild Forest, state lands protected as "forever wild." This plan clearly opens up increased access to these "forever wild" lands, including the likelihood of trespass by motor vehicles. Accordingly, the plan should carefully consider the impact of the increased recreational uses that it proposes on these protected state lands, and on the Park generally, and limit these uses where necessary to prevent adverse impacts.

**New Enforcement Regulations are Needed:** The existing regulations for Conservation easements in Section 190.12 (part of Section 190: Use of State Lands) should be revised to include all current easements in the Adirondack Park as only

the earliest easements are listed.

The pertinent parts of these regulations governing public use state:

*b. General. Unless specified otherwise in this section, the following regulations also apply to persons using conservation easement lands.*

*1. No person shall deface, mutilate, remove or destroy any sign or structure of the landowner, lessee or the department.*

*2. No person shall erect any sign, structure, gate, barrier or other improvement unless specifically authorized in the conservation easement.*

*3. No person other than the landowner, its invitees, or lessees, or the department shall operate a motor vehicle or snowmobile on any roads or trails except those roads and trails posted for such use.*

*4. No person other than the landowner, its invitees, or lessees, or the department shall occupy any structure except in conjunction with temporary camping.*

The RMP states that there will a 25 mph speed limit, but without regulations this is unenforceable. As you can see above there is no speed limit in current DEC regulations for conservation easements.

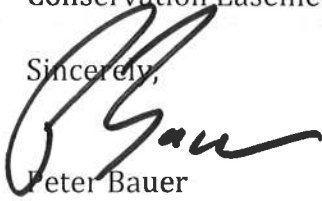
Further, we note that these regulations are for conservation easements and we are unaware of similar regulations that prohibit the use of ATVs on the Forest Preserve. Such regulations are needed to aid DEC officials in their work to protect the Forest Preserve.

**ATV Use in Conflict with Hiking Trails:** The RMP plans to allow a hiking trail/ATV trail to access Lookout Peak, part of Loon Mountain. With so much of the Kushaqua tract opened for motor vehicle use, it is unfortunate that one of the few hiking trails will be shared with ATVs. There should be a hiking trail with no motor vehicle use from trailhead to summit of both Loon Mountain and Lookout Peak on the Kushaqua tract.

**Signage:** While a large section of this plan focuses on signage, probably with good reason given the difficulty in managing all the motorized uses, there is no discussion at all of signage nor of interpretation that focuses on the unique opportunity of putting recreational uses within an operating industrial forest. There should be both signs and interpretive trails that explain the nature of forestry operations on these lands specifically, and in the Adirondack Park generally. The Park landscape has been logged for over a hundred and fifty years, and these operations have had a major impact on the Park. Forestry operations will also continue in the Park in the future. Planning for an interpretive agenda explaining the history, ecology, and economics of forestry practices is a unique opportunity in this tract. Indeed, visitors might go there in order to learn about modern forestry.

On behalf of the Board of Director of Protect the Adirondacks, please accept our gratitude for the opportunity to provide these public comments on the Kushaqua Conservation Easement Recreational Management Plan.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter Bauer". The signature is fluid and cursive, with a large initial "P" and "B".

Peter Bauer  
Executive Director