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September 5, 2014

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RE: West River Road in Silver Lake Wilderness should be closed, DEC and APA are 3 Years Late in Resolution of this Non-Conforming Use and Natural Resources Continue to Degrade as a Result

Dear Chairwoman Ulrich and Commissioner Martens,

Protect the Adirondacks recently visited the West River Road in the Town of Wells. Most of this road is a town road, and part of it passes through the Silver Lake Wilderness Area, where it is classified as part of the Sacandaga Primitive Area. The last .7 miles of the West Creek Road is a non-conforming use within the Silver Lake Wilderness area because it serves no purpose other than allowing motor vehicles to access Wilderness lands.

Peter Bauer
Executive Director

PROTECT's visit found that the West Creek Road is being used as a gateway into Wilderness lands for motorized vehicles, including All Terrain Vehicles (ATVs). ATVs have driven around barriers and onto what should be hiking trails that start along the West River Road. The last .7 miles of this road, beyond the last inholding of private land, includes a number of unofficial roadside campsites where people have cut down Forest Preserve trees.

The Adirondack Park Agency (APA) and Department of Environmental Conservation (DEC) approved the Silver Lake Wilderness Unit Management Plan (UMP) in 2006. The UMP approved a process by which the non-conforming .7 mile end of the West River Road would be brought "into compliance" within five years. Eight years after the UMP was approved there is no resolution in sight, while natural resources are degraded and the non-conforming road is actively maintained by the Town of Wells.

Protect the Adirondacks

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The APA recognized that this motor vehicle road in a Wilderness area was a non-conforming use because the last .7 miles of the West River Road served no purpose as a Primitive Area, other than allowing motor vehicle access within a Wilderness area. The justification for maintaining this primitive corridor was for private landowners to access their inholdings. With the sale of the western-most inholding, the last .7 miles of the West River Road openly violated the Adirondack Park State Land Master Plan (SLMP). Here is how SLMP describes and provides guidance for the Sacandaga Primitive Area (the West River Road): "Should the private lands west of this section be acquired by the state, this road should be terminated ... and the right-of-way, as well as the acquisition, should become part of the Silver Lake Wilderness."

The last .7 miles of the West River Road remains a road and not Wilderness.

In the APA resolution passed in March 2006 to approve the Silver Lake Wilderness Area UMP, the APA recognized that this motor vehicle road in a Wilderness area was a non-conforming use. The APA enumerated a process to bring this road into conformance within the 5 year period of the approved Silver Lake Wilderness Area Unit Management Plan (UMP). Pertinent parts of the resolution to approve the Silver Lake Wilderness area are below:

WHEREAS, the entire length of the West River Road, also known as Whitehouse Road, is a public road currently maintained by the Town of Wells which passes through State land and three separate private in-holdings within the Silver Lake Wilderness; and

WHEREAS, the Sacandaga Primitive Area designation is recognized by the State Land Master Plan as having highway use and associated legal interests "whose removal, though a long- term objective, cannot be provided for by a fixed deadline"; and

WHEREAS, the Town has gone on record stating that the West River Road provides motor vehicle access to several private parcels, provides important access to the Sacandaga River corridor and serves as an important entrance to the Silver Lake Wilderness Area; and Silver Lake Wilderness Unit Management Plan Resolution
WHEREAS, the Department does not have sole legal authority to close the full extent of the road because Highway Law §212 does not authorize closure of a road which does not pass over or through lands wholly controlled by the State; and

WHEREAS, the Plan commits to efforts to work cooperatively with the Town of Wells to bring that portion of the West River Road that extends beyond the last private in-holding into compliance with the State Land Master Plan by the end of the five-year period covered by this Plan; and

WHEREAS, the Department has committed to completion of a campsite impact assessment for primitive tent sites in the areas, as well as to continued consultation with the Agency regarding design criteria for primitive tent sites to ensure they will conform to the guidelines and criteria of the Master Plan;

The most important part of this resolution is the statement that the DEC will "bring that portion of the West River Road that extends beyond the last private in-holding into compli-

ance with the State Land Master Plan by the end of the five-year period covered by this Plan.” In 2014, some eight years after the UMP was approved, the DEC has not done this work yet. The APA and DEC are three years late in making a decision on the closure of this road. The absence of action has resulted in motor vehicle incursions into the Silver Lake Wilderness area.

The Silver Lake Wilderness Area UMP identifies the west end of West River Road as a non-conforming use. The DEC was tasked with conducting a campsite inventory and making recommendations to the APA about the best way to close this road. Page 79 of the UMP states:

The Master Plan contains several specific provisions on the use of motor vehicles in areas classified as wilderness. The Master Plan, June 2001, states in guideline 2 under the heading “Structures and improvements” on pages 21 and 22, that in wilderness areas “roads and state truck trails” are considered non-conforming structures. Guideline 1 under the heading “Motor vehicles, motorized equipment and aircraft” on page 23 of the Master Plan, provides “public use of motor vehicles, motorized equipment and aircraft will be prohibited.” Thus, the Master Plan does not allow for any use of public motor vehicles on wilderness units within the Adirondack Park. Under the Master Plan, that portion of the road which is not included in the Sacandaga Primitive Area must therefore be closed to the public use of motor vehicles. If, however, the Primitive Corridor does include only 0.7 mile of this road, DEC is without legal authority to effectuate a closure of that portion of the road which reaches to the last parcel of private property situated on the road, because Highway Law §212 does not authorize the Department to close a road which does not pass over or through lands “wholly controlled” by the State.

Further discussions will be held with the Town of Wells to address the future status of the last 0.7 miles of the West River Road. Within the 5-year period covered by this UMP, said discussions will result in action which bring the status of this section of road into compliance with Master Plan requirements. Possible options for effectuating such compliance might include, among other things, an order of abandonment by the Town pursuant to Highway Law § 205(1) or a Commissioner closure order pursuant to Highway Law § 212.

The last .7 miles of the West River Road includes a handful of roadside car camping sites. There are also trails that lead off the road. While some of the trails are gated there are signs of All Terrain Vehicle (ATV) routes around the gates. The west end of the West River Road is close to the Northville Placid Trail. The failure to close the West River Road has allowed motor vehicles to access wild parts of the Silver Lake Wilderness and ATVs to ride on hiking trails.

Attached are pictures of what the West River Road looks like today for the sections located within the Silver Lake Wilderness area.

PROTECT urges the APA and DEC to address this matter. Both agencies are three years delinquent for their own generous 5-year time period agreed to in 2006. The APA Chair voted to approve this time frame as part of the Silver Lake Wilderness UMP as did the APA Counsel when he served as a Board Member (the resolution does not record Art Lussi as having either voted or being absent). The APA and DEC must protect the Park’s Wilderness Areas and the natural resources of the Forest Preserve from motorized abuses.

On behalf of the Board of Directors of Protect the Adirondacks, please let me extend our appreciation for the opportunity to submit these comments on this important issue.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter Bauer". The signature is fluid and cursive, with the first name "Peter" being more prominent than the last name "Bauer".

Peter Bauer
Executive Director

CC Governor Andrew Cuomo
J. Malatros
B. Seggos
A. Tarpinian
P. Walke
S. Eisenstein
APA Board of Commissioners
T. Martino
J. Townsend
W. Linke
M. Gerstman
K. Moser
R. Davis
K. Richards
P. Franke
B. Towers



Two sections of the West River Road within Silver Lake Wilderness Area. This road is a .7 mile non-conforming use within the Silver Lake Wilderness area.



The top picture shows the football-field size dead-end turnaround at the end of the West River Road .7 miles into the Silver Lake Wilderness Area. The bottom picture shows a campsite along the West River Road where barriers have unsuccessfully sought to control ATV incursions into the Wilderness Area.



Two more roadside campsites along the West River Road along the .7 mile stretch within the Silver Lake Wilderness Area.



Two trailheads that begin near the end of the West River Road where it is a .7 mile long non-conforming use within the Silver Lake Wilderness Area. ATVs are using these routes to access Wilderness lands.