



October 16, 2015

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Kathy Regan
New York State Adirondack Park Agency
PO Box 99
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RE: Essex Chain Lakes Complex Final UMP Public Comment

Dear NYS Adirondack Park Agency,

Please find these comments on the Essex Chain Lakes Complex Final Unit Management Plan (ECCFUMP) released by the Adirondack Park Agency for public comment. The Essex Chain Lakes, the wild Cedar River and the Hudson and Goodnow Rivers constitute a cluster of stunning natural resource areas.

There are numerous problems with this plan. This plan fails to conform with the Adirondack Park State Land Master Plan (SLMP), sets poor precedent for recommending actions that requires SLMP revisions, widely violates the NYS Wild, Scenic and Recreational Rivers Act,

These management problems largely stem from the poor 2013 Forest Preserve classification process where political deals forced the wrong classifications on these lands. The classifications sought to allow a variety of recreational uses that violated other state laws. The majority of these lands should have been classified, and would have been much better protected, as Wilderness lands.

The principal management objective for the Essex Chain Lakes area should be forest restoration and natural resource preservation.

Please find the comments from Protect the Adirondacks on this deeply flawed Essex Chain Lakes Final Unit Management Plan.

Kafkaesque Review Process

We're in a Kafkaesque world at the Adirondack Park Agency (APA) when a public official can stand up at an APA meeting and say that a snowmobile trail that runs from Indian Lake to Newcomb to Minerva is not, in fact, an Indian Lake to Minerva trail.

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We're in a Kafkaesque world when a public official can stand up at the APA and say that snowmobile trails where people drive motor vehicles, unlike say a hiking trail where people walk, must be the shortest route possible from community to community.

Essex Chain Complex Final UMP Marred by Poor Public Review Process

The APA and DEC have a Memorandum of Understanding (MOU) for the implementation of the Adirondack Park State Land Master Plan (updated in 2010). The purpose of this MOU is to detail a publicly accountable process for the development and approval of UMPs for the Forest Preserve. These are public lands, after all, so it stands to reason that there should be a publicly accountable process for developing management plans.

The MOU Section IV details adoption of UMPs. The MOU enumerates steps for ample consultation between APA-DEC staff, which the MOU states are "exempt from the Freedom of Information Law (FOIL)." The MOU process is clear that the DEC should develop UMPs with regular consultation by the APA to get constant informal and formal feedback on management issues and compliance with the SLMP.

The MOU states that prior to release of an "official draft" UMP by the DEC, APA staff will "receive UMP materials for review coincident with the Department's team members, consult on APSLMP conformance issues, participate in planning team discussions, and review preliminary UMP drafts, and comment on UMP text and management actions" (Page 9). The DEC is also supposed to give the APA an "initial draft" of a new UMP prior to release of a "public draft." The "initial draft" is supposed to be a fully developed UMP with all management alternatives fully developed and assessed as well as "inventories" and various "assessments" included in completed UMPs.

An "initial draft" is an important step because within 45 days of receipt of it, the APA senior staff is supposed to provide its response on SLMP to the DEC. The DEC is then supposed to "advise the Agency in writing of its response to Agency staff comments on the initial draft UMP." None of this happened with the ECCUMP. The APA states that it provided feedback in person because the issues were too complex to be written. This is not a credible position. DEC never sent any written comments back to the APA.

At the June 2015 APA meeting, the DEC passed over the "initial draft" and consultation steps and went straight to the "public draft" phase.

This failure of the APA to uphold the existing schedule and process for UMP development is partly responsible for a UMP that widely violates existing state laws, policies and regulations.

The Forest Preserve deserves better.

DEC Public Hearing Comments Ran 87% opposed to the Retention of the Polaris Bridge

An analysis of the public comments, through a Freedom of Information request, found that after removing duplicate letters or people who submitted multiple letters, there were around 1600 total comments from individuals and organizations. Around 1400 comments (over

85%) opposed the new snowmobile trail through the Vanderwhacker Mountain Wild Forest trail and opposed retention of the Polaris Bridge. Around 150, just 15%, favored these actions. Unfortunately, the DEC failed to include any mention of this overwhelming public sentiment against construction of this new snowmobile trail and retention of the Polaris Bridge in its “Response” document. Nor did it provide any meaningful statistical breakdown on the public comments.

Was the DEC swayed by such an overwhelming showing of opposition? Not at all. The ECCFUMP retains as its centerpiece the development of a major new snowmobile trail through a trailless section of the Vanderwhacker Mountain Wild Forest and retention of the Polaris Bridge.

ECCFUMP Fails to Conform with the NYS Wild, Scenic and Recreational Rivers Act

The ECCFUMP fails to conform with the NYS Wild, Scenic and Recreational Rivers Act (WSRRA) in four specific areas: 1) Retention of the Polaris Bridge in a Scenic River corridor; 2) Construction of the Cedar River Bridge in a Scenic River corridor; 3) Designation and maintenance of the Chain Lakes Road for motor vehicles within a Wild River corridor; and, 4) Designation and maintenance of a floatplane access campsite within a Wild River corridor.

The ECCFUMP seeks to retain the Polaris Bridge over the Hudson River, designated a Scenic River under the WSRRA, at the Blackwell Stillwater for use as a “multi-use trail” connection. The major use of this bridge is as a river crossing for a new class II community connector trail between Minerva and Indian Lake. New motorized uses are not allowed in Scenic River areas under the WSRRA and 6 NYCRR Part 666 regulations. DEC provides an elaborate justification about the legality of this action through novel legal fictions about historic land uses on the bridge that predate the WSRRA and through issuance to itself of variances and permits under the WSRRA, though the criteria for such variance and permits prohibit these actions. The APA should not allow legal fictions about historic land uses to be used and should scrutinize the criteria for issuance of the WSRRA permits and variances. If the APA does its due diligence on these matters, it will conclude that retention of the Polaris Bridge violates the WSRRA.

WSRRA Regulations Requires that Bridges Should be Constructed with Naturally Occurring Materials: The WSSRA states that any bridge within a designated river corridor must be “constructed, to the greatest extent, of naturally occurring materials.” The Polaris Bridge does not meet this standard.

WSRRA Regulations Limits Trails to 4 Feet in Width in Scenic River Corridors: DEC regulations 6 NYCRR Part 666.3 “Definitions” states that a “trail” “means a marked and maintained path or way four feet or less in width, and located and designed to provide for reasonable access in a manner causing the least effect on the local environment.” Yet, in the ECCFUMP the DEC proposes to build a class II community connector trail 9-11 feet in width over the Polaris Bridge (itself much wider than 12 feet). The ECCFUMP clearly conflicts with 6 NYCRR Part 666.

APA Must Scrutinize DEC’s Claims that Historic Public Recreational or “Existing Land Uses” Allow Motor Vehicle Use in Designated WSRRA Corridors: The ECCFUMP proposes to allow motor vehicle use with Scenic and Wild River corridors throughout the Essex Chain

Lakes Complex area. The ECCFUMP seeks (a) continued operation of motor vehicles, including snowmobiles, in the “Complex Area” that includes Scenic river corridors; (b) motor vehicle access to the “Iron (Polaris) Bridge;” (c) construction of a new bridge over the Cedar River; and (d) motor vehicle access in Wild river corridors on the Chain Lakes Road (south) and on the north shore of Pine Lake. As we will show in the sections below, the DEC justifications for how it can legally accomplish these objectives to expand motorized uses are based on legal fictions.

The WSRRA plainly and simply does not allow such actions. The statute clearly states:

§ 15-2709 (2). Administration of the system.

2. After inclusion of any river in the wild, scenic and recreational rivers system, no dam or other structure or improvement impeding the natural flow thereof shall be constructed on such river except as expressly authorized in paragraphs b and c of this subdivision.

Notwithstanding anything herein contained to the contrary, existing land uses within the respective classified river areas may continue, but may not be altered or expanded except as permitted by the respective classifications, unless the commissioner or agency orders the discontinuance of such existing land use. In the event any land use is so directed to be discontinued, adequate compensation therefor shall be paid by the state of New York either by agreement with the real property owner, or in accordance with condemnation proceedings thereon. The following land uses shall be allowed or prohibited within the a public official can stand up and say that a snowmobile trail that runs from Indian Lake to Newcomb to Minerva is not, in fact, an Indian Lake to Minerva trail. exterior boundaries of designated river areas depending on the classification of such areas:

b. In scenic river areas, the continuation of present agricultural practices, the propagation of crops, forest management pursuant to forest management standards duly promulgated by regulations, limited dispersed or cluster residential developments and stream improvement structures for fishery management purposes shall be permitted. There shall be no mining, excavation, or construction of roads, except private roads necessary for residential, agricultural or forest management purposes, and with the further exception that public access through new road construction may be allowed, provided that there is no other such access within two land miles in either direction.

The statute clearly places strict limitations on public motorized uses in Scenic River areas. In the ECCFUMP, the DEC attempts to contrive an argument that there had been longstanding public motorized uses through these Scenic river corridors by asserting that special rights for leaseholder who rented lands from Finch, Pruyn and Company, or that 19th century town roads used by horses and wagons somehow constitute modern public motorized use rights. DEC acknowledges the weakness of this argument on page 1: “Although the public has travelled through these lands throughout history and individuals have had recreational access to these lands with permission of the landowner (through leases and other types of agreements), the general public has not had unfettered use of portions of the Complex Area in over one hundred

years.” Given that the “public has not had unfettered use of portions of the Complex Area in over one hundred years” PROTECT strongly disagrees with DEC’s attempt to allow and expand motor vehicle use in protected WSRRA areas where the laws prohibits it.

The ECCFUMP contends that motor vehicle use within the Scenic River corridor at the point of the Polaris Bridge and proposed Cedar River Bridge are exempt from WSRRA prohibitions against motorized uses. With regards to the Polaris Bridge, the DEC claims it has authority under its interpretation of the WSRRA to allow the continued use of motor vehicles, primarily snowmobiles, within designated river areas as an existing land use (p. 176). The DEC explains this novel legal theory in the ECCFUMP on page 112:

DEC records indicate that a bridge existed at this location previously, and both DEC and the APA issued permits to allow the construction of the existing bridge which subsequently allowed motor vehicle use for timber harvesting and recreational purposes. Therefore, the operation of motor vehicles, including snowmobiles, on the trail leading to and over the Polaris Bridge is considered an existing land use and is allowed to continue pursuant to the WSRRA Act statute and its implementing regulations (ECL section 15-2709.2 and 6 NYCRR section 666.13[A][1]; see also 6 NYCRR section 666.2[i][3]&[4]).

The “recreational purposes” in this case that provided an “existing land use” was private and exclusive recreational access that was subject to lease payments. It is a legal sleight of hand for the DEC to argue that these former private exclusive rights can be somehow be grandfathered and exempted from the WSRRA restrictions.

On page 163 of the ECCFUMP, in response to a comment that it was illogically arguing for “grandfathered” rights where there are no reserved rights in the deed to the State, DEC stated:

Unless encumbered by a reserved right, the State can exercise its discretion to determine how best to manage the property while seeking a balance between protecting the natural resources of the area, and allowing reasonable public access. “Grandfathered’ rights” is a term ordinarily associated with land use law, but the language that appears in the Wild, Scenic and Recreational Rivers System Act is whether existing land uses are allowed to continue without expanding or altering the historical use. DEC has determined that current law and regulation allow the continued use of certain structures and improvements located in the Complex Area.

In response to a comment that there is no grandfathering provision to allow continued use of the roads and bridges, or any such activities undertaken on the lands while under private ownership, on page 165 DEC states “Current law and regulations specifically allow existing land uses to continue within designated river areas notwithstanding any laws or regulations to the contrary. DEC and the Agency retain the discretion to determine management actions that are the most appropriate to balance public access and natural resource protection.”

The ECCFUMP fails on both these points. First, through construction of a new class II community connector trail, and attendant ecological destruction from building a road-like trail through a wild, trailless part of the Forest Preserve, the ECCFUMP is seeking to profoundly expand and

alter the historical use. Second, the APA and Dec do not “retain the discretion” to cause environmental harm, especially when other viable alternatives exist.

While the ECCFUMP disingenuously attempts to argue that the Polaris Bridge had motorized recreational “uses” that predated the WSRRA, DEC makes similar, though also unusual, claims about historic motor vehicle “uses” on Chain Lakes Road at the site of the proposed Cedar River Bridge. DEC argues that both sides of the Cedar were used by motor vehicles and “[s]nowmobiles crossed on the frozen river surface after the [1978 Cedar River] bridge washout until State acquisition” in 2013 (Page 106). Though DEC uses these facts to support its contention that there was historic public motor vehicle access to this location that pre-dated the WSRRA, it also acknowledges that it may also issue itself a permit for the construction of a bridge and of a “multi-use trail.” PROTECT finds no credible basis for the claims of historic public uses of the Scenic River corridor on the Cedar River.

Last, there is long-established legal precedent that the Environmental Conservation Law cannot trump the State Constitution. The courts have held since the early 20th Century that (absent reserved rights in the deed to the State) individuals cannot acquire vested rights in the Forest Preserve, nor is there any common law doctrine of adverse possession available to them. There is no valid principle, in fact or in law, by which this proposition can be maintained. The courts held very early on that no individual may achieve vested rights in Forest Preserve lands, or acquire them by adverse possession. PROTECT is at a loss to understand how the DEC can somehow recognize private leased uses as new public rights to Forest Preserve lands.

We point out that DEC defines, outside the “Definitions” section in the WSRRA, without indicating its regulatory significance in any way, “Land uses lawfully existing” 666.2(i)(4). In subdivision (j) thereof it says that any existing land use which is discontinued for a year following the effective date of Part 666 will thereafter be considered a new land use subject to Part 666. The Nature Conservancy ownership, starting in 2007, only allowed private leased uses and no public uses whatsoever to the Polaris Bridge and to the Cedar River and the location where DEC seeks to build a bridge.

It simply is not credible administration and management of public lands for the DEC to utilize legal fictions and sleights of hand.

DEC Actions on Chain Lakes Road and Pine Lake Violate “Wild River” Protections under the WSRRA: DEC makes a similar claim with regard to continued motor vehicle use of the Chain Lakes Road South within the wild river area, asserting that it is an existing land use that is authorized to continue by statute and regulation for many of the same reasons used to support bridges in Scenic River corridors. For all of the reasons enumerated above, PROTECT is at a loss to see how a private use can be exempted from the Wild River restrictions. Wild River corridors are to be treated as Wilderness areas with no motor vehicle use. The Chain Lakes Road within the Hudson River Wild River corridor violates the WSRRA.

Lastly, DEC asserts that float plane use and docks on Pine Lake within the Cedar River Wild River corridor is exempt from protections:

The use of floatplanes and docks for the purpose of providing access to the remote

areas of the Complex Area predates, and continued regularly after the enactment of the WSRRS Act. Therefore, the DEC has determined that continued floatplane operations and the use of docks as a necessary component of floatplane operations on Pine Lake are existing uses, and they are authorized to continue by statute and regulation. (See ECL section 15-2709.2 and 6 NYCRR section 666.13[A][1]). (Page 55)

Wild River corridors are to be treated as Wilderness areas with no motor vehicle use. Floatplane use within the Cedar River Wild River corridor violates the WSRRA.

APA and DEC Permits for Polaris Bridge Never Recognized Public Recreational Uses: The DEC also attempts to substantiate its legal fiction that “existing” land uses can continue once lands transition from private to Forest Preserve. On page 112, the ECCFUMP references permits issued by the APA and DEC:

The use of bridges and trails at the location of the existing Polaris Bridge, predates and continued regularly after the enactment of the WSRRS Act. DEC records indicate that a bridge existed at this location previously, and both DEC and the APA issued permits to allow the construction of the existing bridge which subsequently allowed motor vehicle use for timber harvesting and recreational purposes. Therefore, the operation of motor vehicles, including snowmobiles, on the trail leading to and over the Polaris Bridge is considered an existing land use and is allowed to continue pursuant to the WSRRS Act statute and its implementing regulations (ECL section 15 2709.2 and 6 NYCRR section 666.13[A][1]; see also 6 NYCRR section 666.2[i][3]&[4]).

It’s important to note the absence of the word “public” anywhere in the passage quoted above. Nor does the word “public” exist in the APA or DEC permits that reference the secondary use, after forest management, for the construction of the Polaris Bridge.

More important is Finding of Fact 6 in APA Permit (91- 200) that provides, in pertinent part, “Other than access via the [Hudson] river, the site is not accessible to the general public.”

DEC’s statements that APA and DEC permit substantiate historic “public” use of the Polaris Bridge are an attempt to deliberately mislead.

WSRRA Compliance cannot be Achieved through DEC Issuance to Itself of a Permit and Variance under the WSRRA: The ECCFUMP states that DEC can retain the Polaris Bridge in a Scenic River corridor through issuance to itself of a permit and variance under 6 NYCRR Part 666. PROTECT finds this reasoning flawed as there is a major test for variances and permits in 6 NYCRR Part 666.13(e) that requires any new trail for non-motorized open space recreation uses to be “located, designed, and constructed to minimize its visibility from the river, to minimize alteration of the natural environment, and to avoid undue environmental impacts; have its uses effectively restricted to those specified by the person undertaking such activity; and have any associated bridges designed so as to not interfere with the recreational use of the river.”

The ECCFUMP states that its Preferred Alternative 1A, across the Polaris Bridge, “will not affect the river resource.” This is a narrow reading of the impacts of retaining this bridge and PROTECT believes that a larger assessment is required. The proposed new 9-11 foot wide snow-

mobile trail to be cut through a trailless part the Vanderwhacker Mountain Wild Forest area, which has not seen an axe in 100 years, will cause severe environmental harm and disturbance. This “trail” will require the cutting of thousands of trees of all sizes, destruction of the under-story, extensive grading, excavation and bench cutting with heavy machinery, replanting with a grass mixture, removal of rocks and stumps and construction of dozens of bridges. This road-like trail will stand starkly different from the surrounding forest. PROTECT believes that given the viable alternatives west of the Hudson River for a class II community connector snowmobile trail and given the fact that Indian Lake and Minerva are already connected with a class II community connector snowmobile trail, that use of the Polaris Bridge and construction of an unnecessary and duplicative snowmobile trail constitutes an undue environmental impact.

6 NYCRR Part 666.8 (f) states that before a rivers system permit is issued, it must be determined that:

- (1) the proposed land use or development is consistent with the purposes and policies of the Act and with the provisions of this part;
- (2) the resources specified in Section 666.2(e) of this Part will be protected and the proposed activity will not have an undue adverse environmental impact;
- (3) no reasonable alternative exists for modifying or locating the proposed activity outside the designated river area [id.]; and
- (4) actions proposed to be undertaken by state agencies are designed to preserve, protect or enhance the resources and values of designated rivers.”

As stated above there are clearly reasonable alternatives to retention of the Polaris Bridge and its use as part of a new, unnecessary and redundant class II community connector snowmobile trail. An honest assessment of the very real alternatives that exist – such as the fact that Indian Lake and Minerva are already connected via an approved class II community connector snowmobile trail – shows the illegitimacy of the DEC’s actions to utilize the Polaris Bridge. Put quite simply, DEC’s discussion of alternatives to use of the Polaris Bridge are not real discussions, but simply meant to be quickly looked at and discarded. PROTECT does not believe that an honest assessment of the use of the Polaris Bridge conforms with the permit and variance requirements of 6 NYCRR Part 666.

DEC’s 6 NYCRR Part 666 Regulations Environmental Impact Statement Clearly States Prohibitions on Public Motor Vehicle Use in Scenic River Corridors: The restrictions for public motorized uses within Scenic river corridors are evident in various statements made by the DEC in its Environmental Impact Statement (EIS) promulgated at the time of adoption of 6 NYCRR Part 666 in 1986. These statements shine additional light on DEC’s prohibitions and limitations for management of Scenic river corridors. In its “Public Response” section, the EIS states:

The Regulations have been amended to prohibit motorized open space recreational uses in scenic river areas. Therefore, bridges for this use have been prohibited. (Page 57)

The Department agrees that motorized recreational vehicles should not be allowed to operate in scenic river areas due to their relatively undeveloped nature and the concur-

rent extensive low intensity recreational and other passive outdoor uses which pre-dominately take place within such river areas and conflict with motorized recreational vehicles. (Page 58)

A maximum width of four feet has been established for foot trails. This will assist in precluding inappropriate motorized uses on such trails and prevent designation of roads as foot trails. (Page 31)

The Regulations have been amended to prohibit motorized open space recreational uses in scenic river areas. (Page 60)

Note that the EIS states such types of motorized bridges can be created in Recreational river areas, but not in Scenic river areas.

It is manifestly clear that the only way that a major class II community connector snowmobile trail can lawfully be built in the Cedar or Hudson River Scenic corridors, or bridges for motor vehicle use can be built or maintained across these rivers, is for the Legislature to change the WSRRA classification from Scenic to Recreational, otherwise amend the WSRRA, or for the DEC to change 6 NYCRR Part 666.

It should also be pointed out that the EIS provided important guidance on River Management Plans too: “[I]t should be noted that management plans control river specific actions and in no way provide relief or relaxation of the provisions contained in statewide regulations. Management plans can only recommend more stringent controls than those contained in the Statewide Regulations.” (Page 39)

Wild, Scenic and Recreational Rivers Act Requires “More Restrictive” Protections in Instances Where APA-DEC Have Conflicting Regulations: The APA has sadly taken the position that public motorized recreational activities are allowed in an WSRRA Scenic corridor that runs through a Wild Forest area because motor vehicles are allowed in some parts of Wild Forest areas. This narrow reading of the SLMP regulations stands in direct conflict with DEC’s regulations with regard to allowable uses in Scenic River corridors. Just as the APA Act directs the APA to promulgate regulations for State lands through the SLMP, the Environmental Conservation Law directs the DEC to develop regulations for the WSRRA. DEC WSRRA Regulations at 6 NYCRR Part 666.4 states “Management of scenic river areas will be directed to preserving and restoring their natural scenic qualities.” PROTECT questions how retention of the Polaris Bridge across the Hudson River or construction of a Cedar River Bridge meets the requirement to preserve and restore “their natural scenic qualities” of these rivers.

More importantly, the ECCDUMP fails to recognize a guiding principle in the WSRRA for how to adjudicate conflicting state agency rules and regulations. Article 27, Section 15-2721 of the Environmental Conservation Law, which governs the WSRRA, states:

§ 15-2721. Conflict with other laws.

Any section of the state wild, scenic and recreational rivers system that is or shall become a part of the Forest Preserve, the Adirondack or Catskill Parks or any other state park, wildlife refuge, or similar area shall be subject to the provisions of this title, and the laws and constitutional provisions under which the other areas may be administered, and in the case of conflict between the provisions of those laws and constitutional

provisions and the provisions of this title, the more restrictive provisions shall apply.

The ECCDUMP takes the position that a Scenic River corridor should be managed no differently than Wild Forest lands. This interpretation violates the WSRRA, as quoted above, because DEC regulations at 6 NYCRR Part 666.3 “Definitions” states: “ ‘Trail’ means a marked and maintained path or way four feet or less in width, and located and designed to provide for reasonable access in a manner causing the least effect on the local environment.”

The APA staff memo prepared for the July 9, 2015 meeting states:

In 2009, the Adirondack Park Agency formally reviewed and approved – as conforming to the relevant guidelines and criteria of the APSLMP – the “Management Guidance: Snowmobile Trail Siting, Construction and Maintenance on Forest Preserve Lands in the Adirondack Park” (Guidance). The Guidance prescribes DEC’s current snowmobile trail development and maintenance practices, considers snowmobiles’ potential impacts and is being implemented in this Plan. Specifics for each of the trails proposed in the Plan will be identified and follow the Guidance, in Work Plans submitted by the Department for Agency review, thus enabling staff another opportunity to ensure impacts are minimized.

The authoritative document for the dimensions of a class II community connector snowmobile trail is the APA-DEC “Guidance” where 9-11 foot wide class II community connector snowmobile trails in Wild Forest areas were deemed in conformance with the SLMP. Yet, it is clear that the 9-11 foot wide standard stands in stark conflict with the 4-foot requirement under DEC’s 6 NYCRR Part 666 implementing regulations. In situations of such conflict, the WSRRA, as quoted above, requires that the more restrictive requirement should prevail, which in this case would be 4 feet versus 9-11 feet. PROTECT is at a loss to understand how the DEC can propose a trail more than twice the width of what is allowable under DEC’s own regulations in 6 NYCRR Part 666 and comply with the “more restrictive” requirement of the WSRRA.

Proposed Indian Lake to Minerva Snowmobile Trail Violates Wild, Scenic and Recreational Rivers Act, APA-DEC Snowmobile Trail Guidance, and 2006 NYS Snowmobile Plan

The new class II community connector snowmobile trails through the Vanderwhacker Mountain Wild Forest area south of Route 28N, which will utilize the Polaris Bridge, is unnecessary and redundant because Indian Lake and Minerva are already connected with a major snowmobile trail system. This proposed trail also violates the APA-DEC Snowmobile Trail Guidance, violates the 2006 NYS Snowmobile Plan, and violates the WSRRA and regulations.

This new trail should be rejected as unnecessary and redundant.

ECCFUMP Fails to Adequately Discuss Alternatives to New Trail Through Interior of Vanderwhacker Mountain Wild Forest Area: PROTECT is mystified by the failure of the DEC to honestly consider alternatives to a new class II community connector trail Alternative 1A through the Vanderwhacker Mountain Wild Forest area. DEC provided flimsy analysis of alternatives and never looked seriously at the fact that Indian Lake and Minerva are already connected by approved snowmobile trails through Newcomb.

It is simply not a legal or credible UMP because of DEC's abject refusal to honestly assess a variety of other snowmobile alternatives, such as a trail on the Goodnow Flow Road, or through Wild Forest lands south of the Goodnow Flow, that connects to the Wild Forest corridor, or how the existing Indian Lake to Newcomb trail is linked with Minerva.

Indian Lake and Minerva are Already Connected by a Major Snowmobile Trail through the Blue Mountain and Vanderhacker Mountain Wild Forest areas and Conservation Easement Lands: In July 2015, the APA approved a new class II community connector trail from Newcomb to Minerva. This new trail, parts of which are already under construction, will connect to other snowmobile trails in Newcomb that lead to the communities of Long Lake, Blue Mountain Lake and Indian Lake. The ECCFDUMP justifies the need for retaining the Polaris Bridge and building a new snowmobile trail through a wild and trailless section of the Vanderhacker Mountain Wild Forest area in order to connect the communities of Minerva and Indian Lake, yet these communities are already connected by snowmobile trails.

Position that Community Connector Trails should be on "Shortest Routes" Available Makes No Sense: The DEC has taken the position that the new class II community connector snowmobile trail through the Vanderhacker Mountain Wild Forest area is necessary to connect the communities of Indian Lake and Minerva. As we all know, Indian Lake is already connected to Minerva through an existing snowmobile trail system. DEC rejects this trail for two principal reasons. First, DEC says that the existing Indian Lake-Newcomb-Minerva trail is not a direct route because it contains spurs/connections to Blue Mountain Lake and Long Lake. Second, DEC has stated it wants the shortest route possible.

The DEC's positions here are baffling. First, snowmobiling is all about the riding experience. We hear that snowmobilers want to be able to ride 40, 50, 60 or more miles per day. It seems that that a trail that is 6 miles or more longer is not in any way a burden on the snowmobiling community.

It should also be pointed that if the trail is longer that is not a burden on snowmobilers because they are riding machines, not actually walking or hiking. This position runs counter to the way that the DEC routes new hiking trails where people are actually expending energy and powering themselves. The new trails up Coney Mountain or the new trail up Moxham Mountain in no way take the shortest or most direct way to the mountain summit. Rather, these trails take long routes that protect natural resources. If hiking trails, where people walk, do not follow the shortest routes possible, it is not a legitimate argument by the DEC that a snowmobile trail, where people drive motor vehicles, need to create the shortest route possible.

Proposed new Minerva-to-Indian Lake Snowmobile Trail through the Vanderhacker Mountain Wild Forest Violates the APA-DEC Snowmobile Trail Management Guidance: The ECCFUMP's plans to retain and utilize the Polaris bridge and build new class II community connector snowmobile trails through the interior of the Vanderhacker Mountain Wild Forest area violates the Snowmobile Trail Management Guidance because it is duplicative and will be cut through a wild, interior area of the Forest Preserve. The chief concepts of the Snowmobile Trail Management Guidance are that trail redundancy must be avoided and that new trails should not be cut through the interior of Forest Preserve units.

The Snowmobile Management Trail Guidance recognizes the major financial investment to build and maintain snowmobile trails in the Forest Preserve as well as the negative ecological impacts of these major trail systems on natural resources. In light of these considerations, it's important the APA Commissioners measure the core principles of the "Guidance" against the proposal for the new class II community connector snowmobile trail through the Vanderwhacker Mountain Wild Forest area. The Snowmobile Management Trail Guidance enumerates three important management principles:

1. Class II snowmobile trails should not be redundant with existing trails.
2. Class II snowmobile trails should be close to travel corridors and "only rarely are any segments of them located further than one miles from the nearest corridor."
3. Class II snowmobile trails should avoid "remote interior areas as defined by these guidelines and the forested corridors connecting such remote interior areas."

PROTECT sees the new class II community connector snowmobile trail through the Vanderwhacker Mountain Wild Forest area as acutely violating these three principles. Alternative 1A is clearly redundant, beyond 1 miles from major travel corridors, and cuts through the a remote interior area of the Forest Preserve.

Vanderwhacker Mountain Wild Forest Snowmobile Trails Violate 2006 NYS Snowmobile Plan: The preferred option for new class II community connector snowmobile trails in the ECCFUMP also runs contrary to the priorities detailed in the 2006 Snowmobile Plan for the Adirondack Park. This plan contained a list of priority trail systems to link communities throughout the Adirondack Park. This plan is the definitive policy to date of vital community connection trails in the Adirondacks. Under "Community Connection Goals" in the "Trail Section" part of the Snowmobile Plan (pages 45-46), there is no mention of a Minerva-to-Indian Lake snowmobile trail. This was not a major goal for New York and was not recognized as a high priority. The Environmental Impact Study associated with the Snowmobile Plan did not evaluate the impacts of a Minerva-to-Indian Lake trail. PROTECT believes that in order for the APA-DEC to approve and build a Minerva-to-Indian Lake trail, the State must revise the 2006 Snowmobile Plan for the Adirondack Park.

The 2006 Snowmobile Plan also articulated preference to route trails on private lands. This is important because the existing snowmobile trail from Indian Lake to Newcomb to Minerva includes great stretches on conservation easement lands.

Failure to Consider Alternative where the Polaris Bridge should be Removed, the Hudson River Restored, and the Blackwell Stillwater made the Heart of a New Paddling and Camping Destination

The Polaris Bridge over the Hudson River should be removed and the location of the bridge restored. The bridge crosses a beautiful flatwater stretch of the Hudson, one of the most picturesque spots in the Adirondack Park. The Polaris Bridge is a bridge to nowhere and keeping it will only lead to widespread natural resource degradation as well as violation of state laws, regulations, and policies. A much better alternative, which unfortunately, the ECCFUMP refuses

to even consider, is to remove the bridge and make the Blackwell Stillwater, where the bridge is located, into a canoe and camping destination.

The Blackwell Stillwater includes several miles of flatwater on the Hudson River and even more on the Goodnow River. A number of beautiful campsites, could be created on both the Goodnow and the Hudson River, in many ways much more attractive and remote than those on the Essex Chain Lakes. The area could be accessed with a Lake Lila style carry from a parking area outside the Scenic River corridor. The Adirondack Park does not have nearly enough motorless and quiet water areas and needs more.

Designation of Administrative Roads and Mountainbiking on Administrative Roads

The ECCFUMP proposes mountainbike use on a series of former logging roads that will be maintained as administrative roads or state truck trails. DEC has been open about the fact that it intends to designate the roads and keep them open in order to allow mountainbiking. The most important issue is that mountainbiking is not allowed in a Primitive Area under the State Land Master Plan (SLMP) and the Adirondack Park Agency (APA) must revise the SLMP in order to allow this activity.

To put aside the poor public process about approving uses in a UMP that require amendments to the SLMP for a moment, PROTECT is dubious that there is a public interest for mountainbike riding on these dirt roads because there is so little mountainbike riding on the dirt roads of other Wild Forest areas in the Forest Preserve. There is not much riding in places like the Moose River Plains Wild Forest, other than race week of the Black Fly Challenge, or places like the Jessup River Wild Forest, Black River Wild Forest, or Ferris Lake Wild Forest. DEC should undertake market studies to determine feasibility, public interest, maintenance costs, and natural resource damage. There is no evidence that mountainbiking is desirable on roads anywhere else in the Forest Preserve. The success of the mountainbike system in the Wilmington Wild Forest also points to the popularity and public preference of specially designed, single-track trails and not dirt roads for mountainbike riding.

A trip to the Essex Chair (Deer Pond Access) on Saturday of Labor Day weekend found two cars at the parking lot. The logbook showed an average of six people a day in July and August. This is a fraction of the use at Little Tupper Lake and Lake Lila, places that by and large have coherent classifications and management. Poor management decisions by the APA and DEC have alienated people from these lands.

PROTECT does not believe that the APA can lawfully approve a UMP that calls for actions and allows for uses that violate the SLMP. A UMP cannot be found in compliance based on a commitment or a nod and a wink or even a formal resolution to amend the SLMP at a later date.

The principal management objective for the Essex Chain Lakes area should be forest restoration and natural resource preservation. Retention of roads for recreational use will undermine these objectives. These roads should be allowed to be reclaimed by the forest over the decades ahead.

CP3 Access to 4th-5th Lakes/Retention of “The Tube”

The proposed Wild Forest corridor to 4th-5th Lakes should be eliminated. This road is an illegal peninsula into the Essex Chain Lakes Primitive area and DEC should abandon plans for motor vehicle access on this corridor. The “tube” (culvert) that allows motor vehicle access across 4th-5th lakes should be removed and that channel ecologically restored. PROTECT supports access for the disabled under the CP3 program to the north shores of 4th-5th lakes with specially designed campsites and access points.

Public motor vehicle access should end at the Deer Pond parking area.

Remove Outer Gooley Club Buildings and Hudson River Access area on Chain Lakes Road

The buildings at the Outer Gooley Club should be removed and the area reforested. The buildings do not possess any significant historic interest or need for preservation. To make such claims undermines historic preservation efforts across the Adirondacks.

The take-out from the Hudson River at this point is exceedingly poorly marked and in a poor location with a challenging array of swift water and large rocks. A better site would be downstream, just above the confluence with the Indian River, though this would necessitate a longer carry to one’s vehicle and the Chain Lakes Road.

Class II Community Connector Snowmobile Trail Construction Violates the Adirondack Park State Land Master Plan

At the June 2015 APA meeting, one APA Commissioner bravely stated that new class II community connector snowmobile trails are not built in the “character of a foot trail.” “That’s not what we’re doing” this Commissioner said. It was refreshing to hear at least one APA Commissioner says that wide road-like trails built with heavy machinery and that require cutting of thousands of big and small trees are far from the “character of a foot trail.”

The State Land Master Plan (SLMP) defines a snowmobile trail as “a marked trail of essentially the same character as a foot trail” and mandates that it be “compatible with the wild forest character of an area.” A snowmobile trail “should be designed and located in a manner than will not adversely affect adjoining private landowners or the wild forest atmosphere....” These road-like class II community connector snowmobile trails simply do not have the character of a foot trail and violates both the wild forest character and the wild forest atmosphere of the area. PROTECT has consistently stated that class II community connector snowmobile trails do not conform to these three standards.

There is no way the new class II community connector snowmobile trails in the Vanderwhacker Mountain Wild Forest area bears any rational resemblance to something having the “character of a foot trail.” A class II community connector snowmobile trails surface has been graded, leveled, and flattened by a multi-ton excavator. Extensive bench cuts are dug into side slopes that parallel the trail for long distances, protruding rocks are removed, extensive tree cutting is done, all understory vegetation is removed, and oversized bridges are built to support multi-ton groomers. In places bedrock may be fractured and chipped or gravel may be used to stabilize the trail surface. Bridges have been outfitted with plastic reflectors for nighttime driving.

A “foot trail” is where people walk single file. They step over roots and rocks. The trail surface is uneven and follows the terrain. There are scarcely any stumps of cut trees. Vegetation on the side often encroaches, and the trail is canopy covered. Steppingstones and split logs are commonly used to pass over streams and wet areas. There are no reflectors.

PROTECT has identified that there are many other areas of the SLMP for Wild Forest areas that are expressly violated by the design and construction of class II community connector snowmobile trails and by grooming with large tracked (motor vehicle) groomers. These include:

- Basic Guideline 2 (Motor Vehicles, Motorized Equipment and Aircraft 6) states that public access accommodations should be “consistent with the wild forest character.”

PROTECT does not believe that the new road-like class II community connector class II snowmobile trails are consistent with the wild forest character. The route’s width, bridges, reflectors, bench cuts, ledge cuts, use of gravel and straw, extensive surface alteration, tree removal, understory removal are all inconsistent with the “wild forest character” of Wild Forest areas.

- Basic Guideline 2 (Motor Vehicles, Motorized Equipment and Aircraft #8) states “All conforming structures and improvements will be designed and located so as to blend with the surrounding environment and require only minimal maintenance.” PROTECT does not believe that the new class II community connector snowmobile trails meet the minimal maintenance test expressed here. DEC and the APA claim that the grooming of this trail is maintenance. PROTECT does not believe that numerous trips per week by a multi-ton tracked groomer on a major snowmobile route meets the “minimal maintenance” test.
- Basic Guideline 2 (Motor Vehicles, Motorized Equipment and Aircraft 9) states “All management and administrative actions and interior facilities in wild forest areas will be designed to emphasize the self-sufficiency of the user to assume a high degree of responsibility for environmentally sound use of such areas for his or her own health, safety and welfare.”

Leaving aside concerns of snowmobile “environmentally sound use” with their mileage rates less than most SUVs, PROTECT questions the “self-sufficiency” of the users of class II community connector snowmobile trails where the principal recreational use of snowmobiling can only be accomplished if the trail has been regularly groomed by a multi-ton tracked groomer.

Class II community connector snowmobile trails widely violate the State Land Master Plan.

Class II Community Connector Snowmobile Trails Violate the State Constitution

It would be much more accurate for the APA to state that new class II community connector snowmobile trails through the Vanderwhacker Mountain Wild Forest area are solely for snowmobiles and drop the pretense that these are multi-use trails. In fact, these trails are designed and built not to facilitate hiking, mountainbiking, horseback riding, or cross-country skiing. These trails are designed and built for snowmobiles to travel 25 miles per hour or higher and be groomed with large tracked groomers. No other recreational use in the Forest Preserve requires 9-11 foot wide trails, specifically designed and constructed to allow regular grooming with large multi-ton motor vehicles and high speed snowmobile travel. Unlike other trails

built by hand, these trails are excavated with heavy machinery, utilize extensive bench cutting, remove thousands of trees over 3 inches diameter at breast height (DBH), remove tens of thousands of trees under 3 inches DBH, remove the entire native understory, often replace the native understory with a grass mix, open the forest canopy, often fracture and chip away bedrock, utilize oversized bridges often equipped with reflectors, and are built to handle operation of motor vehicles. No other recreational activity in the Forest Preserve, outside of Intensive Use Areas, requires such profound terrain alteration and destruction of natural resources. PROTECT believes that this network of class II community connector snowmobile trails violates the SLMP and Article XIV, Section 1 of the NYS Constitution.

On behalf of the Board of Directors of Protect the Adirondacks, please let me express our gratitude for the opportunity to submit these comments.

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