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MEMO

Subject: State Land Master Plan Classifications Of Large-Acreage Forest Preserve Acquisitions Where Special Resource Values Exist and Potential Classification of The Boreas Ponds Tract

To: NYS Adirondack Park Agency Members, Adirondack Park Agency Staff, And Other Interested Parties

From: Richard S. Booth, member of the Agency and chair of its State Land Committee

Date: June 29, 2016

This memo addresses what the Adirondack Park State Land Master Plan (hereafter the SLMP or the Master Plan) requires regarding NYS Adirondack Park Agency (hereafter Agency) decisions to classify large tracts of land added to the Forest Preserve in cases where those lands contain special resource values. It also addresses the Agency's eventual decision regarding classification pursuant to the SLMP of the 20,000 acres plus Boreas Ponds Tract recently added to the Forest Preserve.

I. PRELIMINARY POINTS

1. All specific references made to the SLMP in this document are tied to the SLMP's various sections, and all page references reflect the Agency's February 2014 hard copy publication of the Master Plan.

2. I generally intend the term "**land(s)**" to include both "lands" and "waters."

3. This memo uses the term "**large-acreage Forest Preserve**"

acquisition(s)." While there is not an absolute minimum figure for this type of acquisition, in my opinion a 5,000 acre threshold is appropriate. In terms of the logic of using this figure, certainly any Forest Preserve acquisition of 5,000 acres or more is significant; 5,000 acres is 50% of the SLMP's general minimum for the establishment of a Wilderness Area; and the federal Wilderness Act uses the 5,000 acre figure as its general minimum for the designation of federal Wilderness Areas (although a number of those federal areas contain smaller numbers of acres). I recommend that the Agency use the 5,000 acre figure as a guideline and not as a definite standard.

This memo also uses the term **"special resource values."** All pieces of the Forest Preserve contain important resource values. Resource values include natural resources values and social values. (All references in this memo to "social values" encompass the SLMP's focus on **"intangible considerations,"** including those that are **"social or psychological."**) (SLMP, Section II, pages 13-14 and Section I, page 1; underlining and emphasis added) By using the term **"special resource values,"** I intend to convey the idea that a large tract of Forest Preserve land contains particularly significant natural resource values and social resource values when considered in light of the values that exist within the Park's Forest Preserve lands.

4. Given what item #3 above says re a 5,000 acre threshold, it is important to note that I understand, support, and foresee the possibility/desirability of creating new acquired Primitive Areas that are less than 5,000 acres. Nothing in this memo suggests anything to the contrary.

5. This memo's central argument regarding what the SLMP requires when the Agency is classifying large-acreage Forest Preserve acquisitions on which special resource values exist reflects in significant part the argument I made to Agency members in the fall of 2013 regarding the eventual classification of what are now the Essex Chain Lakes and Pine Lake Primitive Areas (plus some additional lands). In its fullest form I made that argument in an October 2013 memo that I gave Agency members. The Agency refused to release that document to the public pursuant to one or more New York State Freedom of Information Law (FOIL) requests, a decision with which I strongly disagreed.

6. This memo focuses on the SLMP's Wilderness, Primitive, Canoe, and Wild Forest classifications because they make up the vast majority of

the Forest Preserve. It does not address the remaining types of classifications created by the Master Plan: i.e., Intensive Use; Historic; State Administrative; Wild, Scenic and Recreational Rivers; and Travel Corridors.

7. Given the provisions of the SLMP and the NYS Adirondack Park Agency Act, clearly the Agency may at any point choose to reconsider the SLMP's existing land area classifications. I want to be absolutely clear that in writing this memo I am not in any way urging that a reclassification analysis be undertaken re any existing classification.

8. This memo makes several references to the Agency's 1979 Final Programmatic Environmental Impact Statement (hereafter FPEIS) that dealt with guidelines for amending the SLMP. The FPEIS is one of the most important documents the Agency has every created regarding the SLMP. Significantly, that document strongly supports the conclusions I state here.

9. An important caveat merits attention. In recent decisions the Agency has decided (not unanimously) to permit the public's use of bicycles on miles of bicycle trails in the Essex Chain Lakes Primitive Area and the Pine Lake Primitive Area **and** to permit the NYS Department of Environmental Conservation (hereafter DEC) to maintain those trails with motor vehicles. **Those decisions reflect the Agency's willingness (as well as willingness on the part of the DEC and the Governor) to ignore what the SLMP requires --- and in particular, to ignore the Master Plan's existing language that defines Primitive Areas as "essentially wilderness in character" and its very clear intention that Primitive Areas should be managed as closely as possible to the ways in which Wilderness Areas are required to be managed.** (SLMP, Section II, pages 25-28) At a minimum those decisions cast doubt on how two very important Primitive Areas will be managed in the future. They also cast doubt on how all areas of the Forest Preserve classified pursuant to the SLMP will be managed because those decisions flow from choices consciously made by state officials to ignore the Master Plan's purposes and mandates. **In writing this memo, I have assumed that those recent Agency decisions were clearly in error and that at some time in the future those errors may be corrected.**

10. **This memo reflects my thoughts/conclusions as one member of the Adirondack Park Agency. It does not state any positions on behalf**

of the Agency. My tenure on the Agency will end June 30, 2016. I am sending this memo (in both electronic and hard copy form) while I am still a member of the Agency. (In addition, I am likely to send additional copies of this memo after June 30.)

II. THE SLMP's MANDATES APPLICABLE TO CLASSIFICATION OF LARGE, NEWLY ACQUIRED FOREST PRESERVE TRACTS WITH SPECIAL RESOURCE VALUES

1. Primary Conclusions

The SLMP creates a very strong presumption in favor of a Wilderness, Primitive, or Canoe classification for any new, large-acreage Forest Preserve acquisition that contains special resource values. That presumption is especially strong for large newly acquired tracts that contain significant water resources. In other words, when the Agency is classifying any major new Forest Preserve acquisition that exhibits very important natural resource values and social values, the SLMP's various mandates considerably narrow the range of choices the Agency may properly make. **Furthermore, in such a case the Agency should not permit this presumption to be overturned unless there is a very clear showing that designating that particular tract as Wilderness, Primitive, or Canoe would be inconsistent with the purposes of the Master Plan (as more fully discussed below).**

2. The SLMP's Stated Purpose

While not a statute, the SLMP is binding as a matter of state law, and its central mandate is clear: **"If there is a unifying theme to the master plan, it is that the protection and preservation of the natural resources of the state lands within the Park must be paramount. Human use and enjoyment of those lands should be permitted and encouraged, so long as the resources in their physical and biological context as well as their social or psychological aspects are not degraded.** This theme is drawn not only from the Adirondack Park Agency Act ... and its legislative history, but also from a century of the public's demonstrated attitude toward the forest preserve and the Adirondack Park." (SLMP, Section I, page 1; underlining and emphasis added).

Any and all decisions under the SLMP, including in particular classification decisions, must be measured against their compliance with this

central mandate. In that regard it is critical to note that this mandate emphasizes protection of physical and biological resources and protection of the social/psychological benefits that can be derived from state lands left in as natural a state as possible.

3. The SLMP's Land Classification Mandate

As noted by the SLMP, the Adirondack Park Agency Act (APA Act) establishes a clear and specific mandate regarding the Agency's state land classification decisions: "The Act requires the Agency to classify the state lands in the Park according to **'their characteristics and capacity to withstand use.'**" (SLMP, Section II, page 13; underlining and emphasis added; see also Section 807 of the APA Act as initially adopted in 1971, language from which was incorporated into the SLMP in 1972 when it was initially adopted.)

4. The SLMP's Classification Determinants

The SLMP identifies **four determinants** for classifying state lands (including newly acquired state lands) and provides some guidance regarding the application of these determinants. They are as follows:

A) "A fundamental determinant of land classification is the **physical characteristics** of the land or water which have a direct bearing upon the capacity of the land to accept human use. Soil, slope, elevation and water are the primary elements of these physical characteristics and they are found in widely varied associations. For example, the fertility, erosiveness and depth of soil, the severity of slopes, the elevational characteristics reflected in microclimates, the temperature, chemistry, volume and turnover rate of streams or lakes, all affect the carrying capacity of the land or water both from the standpoint of the construction of facilities and the amount of human use the land or water itself can absorb. **By and large, these factors highlight the essential fragility of significant portions of the state lands within the Park. These fragile areas include most lands above 2,500 feet in altitude, particularly the boreal (spruce-fir), sub-alpine and alpine zones, as well as low lying areas such as swamps, marshes and other wetlands. In addition, rivers, streams, lakes and ponds and their environs often present special physical problems.**" (SLMP, Section II, page 13; underlining and emphasis added)

B) "**Biological considerations** also play an important role in the structuring of the classification system. Many of these are associated with

the physical limitations just described; for instance many plants of the boreal, subalpine and alpine zones are less able to withstand trampling than species associated with lower elevation life zones. **Wetland ecosystems frequently are finely balanced and incapable of absorbing material changes resulting from construction or intensive human use. In addition, wildlife values and wildlife habitats are relevant to the characteristics of the land and sometimes determine whether a particular kind of human use should be encouraged or prohibited,** for example the impact of snowmobiles on deer wintering yards, the effect of numbers or hikers or campers near the nesting habitat of rare, threatened or endangered species like the bald eagle or spruce grouse, or the problems associated with motorized access to bodies of water with wild strains of native trout.” (SLMP, Section II, page 13; underlining and emphasis added)

C) “In addition, another significant determinant of land classification involves **certain intangible considerations** that have an inevitable impact on the character of land. Some of these are **social or psychological** -- such as **the sense of remoteness and degree of wildness available to users of a particular area, which may result from the size of an area, the type and density of its forest cover, the ruggedness of the terrain or merely the views over other areas of the Park obtainable from some vantage point.** Without these elements an area should not be classified as wilderness, even though the physical and biological factors would dictate that the limitations of wilderness management are essential.

In such cases, as will be seen, a primitive designation would be required. Other classification determinants are more concrete, for example **the suitability of a given system of lakes and ponds for canoeing or guideboating,** the ability of larger bodies of water to provide for adequately distributed motorboat use, or the accessibility of a tract of land to a public highway, and its attractiveness, permitting the development of a campground or other intensive use facility.”

(SLMP, Section II, pages 13-14; underlining and emphasis added)

D) “Finally, the classification system takes into account the **established facilities on the land, the uses now being made by the public and the policies followed by the various administering agencies.** Many of these factors are self-evident: the presence of a highway determines the classification of a travel corridor; the presence of an existing campground or

ski area requires the classification of intensive use. The extent of existing facilities and uses which might make it impractical to attempt to recreate a wilderness or wild forest atmosphere is also a consideration. ...” (SLMP, Section II, page 14; underlining and emphasis added)

Applying these four determinants is admittedly not precise, and in doing so, the Agency must make a number of judgment calls. In recognition of this point, the SLMP states: **“The above described factors are obviously complex and their application is, in certain instances, subjective, since the value of resource quality or character cannot be precisely evaluated or measured. Nonetheless, the Agency believes that the classification system described below reflects the character and capacity to withstand use of all state lands within the Adirondack Park in conformity with the provisions of the Act. ... Insofar as forest preserve lands are concerned, no structures, improvements or uses not now established on the forest preserve are permitted by these guidelines and in many cases more restrictive management is provided for.”** (SLMP, Section II, page 14; underlining and emphasis added)

5. The SLMP’s Classification Hierarchy

A) Designed to protect the resources of the Park’s Forest Preserve lands, the SLMP creates a three-part hierarchy for nearly all of those lands. **Specifically, it places Wilderness Areas at the top of that hierarchy, and it places Primitive Areas and Canoe Areas on a very close second rung. The third rung of this hierarchy is Wild Forest Areas.** The primary differences between the first and second rungs of the hierarchy on the one hand and the third rung on the other are two-fold, and they are central to the purpose and meaning of the SLMP’s land area classification system: **first**, in general lands in Wilderness, Primitive, and Canoe Areas have resource values that require greater degrees of protection than lands in Wild Forest Areas; and **second**, in large part because of these differences in resource values, mechanized uses (e.g., bicycles), motorized uses (including but not limited to use of motors for recreation purposes), and motorized access within an area are severely limited in Wilderness, Primitive, and Canoe Areas compared to what is permissible in Wild Forest Areas.

B) The centrality of this three-part hierarchy to the SLMP’s overall purpose and structure is made clear by a substantial number of statements in the Master Plan. For example, the SLMP’s basic guidelines for managing Primitive Areas and Canoe Areas make clear that those areas

are to be managed in a condition as close as possible to wilderness. (SLMP, Section II, **Primitive**, page 25 – **“Essentially wilderness ... require wilderness management.”** (underlining and emphasis added); and Section II, **Canoe**, page 28 – **“in an essentially wilderness setting”** (underlining and emphasis added)) Moreover, in a number of places the SLMP specifies permissible structures/improvements/uses in Primitive Areas, Canoe Areas, and Wild Forest Areas by first stating that what is permissible in Wilderness Areas is permissible in the other classifications. (SLMP, Section II, **Primitive** at pages 25-28; Section II, **Canoe** at pages 28-31; and Section II **Wild Forest** at pages 31-36)

In addition, the SLMP’s policy recommendations regarding state land acquisitions make clear that protection of Wilderness, Primitive, and Canoe Area protection is given greater priority than protection of Wild Forest Areas: i.e., **“4. Highest priority should be given to acquiring fee title to, fee title subject to a term of life tenancy, or conservation easements providing public use or value or rights of first refusal over, (i) key parcels of private land, the use or development of which could adversely affect the integrity of vital tracts of state land, particularly wilderness, primitive and canoe areas and (ii) key parcels which would permit the upgrading of primitive areas to wilderness areas.”** (SLMP, Section I, page 7; underlining and emphasis added)

C) The existence and importance of the SLMP’s classification hierarchy are clearly and very strongly underscored by Section 810 of the Adirondack Park Agency Act. That section defines the scope of the Agency’s regional project review authority. With regard to all of the Park’s Moderate Intensity Use Areas, Low Intensity Use Areas, Rural Use Areas, and Resource Management Areas, Section 810 designates as **“critical environmental areas”** (among others) all lands **“within one-eighth mile”** of any Forest Preserve lands that the SLMP classifies **“now or hereafter”** as Wilderness, Primitive or Canoe. By way of explanation, the Adirondack Park Agency Act, among other things, establishes Moderate Intensity Use ... Resource Management land use designations, and they cover the vast majority of all non-state lands in the Adirondack Park. The Act grants the Agency substantially greater regional project review authority in areas designated as **“critical environmental areas”** than it does it in areas not so designated. Significantly, the statute does not designate as **“critical environmental areas”** lands that lie within one-eighth of a mile of Wild Forest Areas. (Section 810, Adirondack Park Agency Act, NYS Executive

Law, underlining and emphasis added)

D) The existence and importance of the SLMP's classification hierarchy are also clearly and strongly underscored by a number of statements in the 1979 FPEIS previously mentioned. See the FPEIS, for example, at:

“ Particularly remote or fragile tracts of land that require Wilderness management but do not meet the 10,000 acre size criterion for Wilderness designation and do not lie adjacent to existing Wilderness should be classified as Primitive. Also, lands which otherwise would receive a Wilderness classification but contain significant non-conforming uses, the removal of which cannot be scheduled, or lands which contain or lie contiguous to private lands that are of a size and influence to prevent Wilderness designation, will be classified as Primitive.” (FPEIS, Reclassification Guidelines, page 25; underlining and emphasis added)

AND again at: **“4. Only in exceptional circumstances should lands presently classified as Wilderness, Primitive or Canoe be reclassified to Wild Forest. This should occur only after it has been demonstrated that a highly unusual condition exists, such as the identification of a mapping error, or the existence of a previously unrecognized non-conforming use of a permanent nature.**

5. Wilderness should be reclassified to Primitive only under the most exceptional circumstances such as the identification of a mapping error or the existence of a previously unrecognized non-conforming use of a permanent nature.”

(FPEIS, Reclassification Guidelines, page 26; underlining and emphasis added)

AND again at: **“8. The reclassification from Wild Forest to Wilderness, Primitive or Canoe would result in added protection of natural resources. This reclassification could also result in the elimination of existing motorized access or aircraft landings on lakes. Wild Forest areas which lie adjacent to existing Wilderness, Primitive or Canoe should be reclassified to the above land classifications: a) if substantial management problems are created by the Wild Forest classification; b) if only limited facilities such as open roads or snowmobile trails exist within**

the Wild Forest area; c) if the level of use of existing facilities is unusually slight; d) **if the Wild Forest area has unusual natural resource or open space characteristics which require the protection offered by the Wilderness, Primitive or Canoe classification**; or e) the reclassification from Wild Forest is required **to protect the resources or character of existing, adjacent or nearby designated Wilderness, Primitive or Canoe areas.** (FPEIS, Reclassification Guidelines, pages 27-28; underlining provided in FPEIS; emphasis added)

AND again at: **“The classification of land by the State Land Master Plan as Wilderness, Primitive or Canoe prohibits motorized access and, except in cases of actual and ongoing emergencies such as fire, flood, search and rescue or large scale contamination of streams, provides large acreages of habitat undisturbed by man essential to the reintroduction of certain extirpated species. This opportunity is unavailable elsewhere in New York State and would be protected by the proposed guidelines.”** (FPEIS, Impact of Proposed Guidelines on Area Character and Landscape Quality; page 34; underlining and emphasis added)

AND again at: **“Wilderness is vital to the survival of many species of wildlife with highly specialized habitat needs, and it provides both a natural laboratory and basic standards for the assessment of main effects on non-wilderness ecosystems. The proposed guidelines should protect existing Wilderness and enable the creation of additional Wilderness areas.”** (FPEIS, Impact of Proposed Guidelines on Area Character and Landscape Quality; page 34; underlining and emphasis added)

AND again at: **“The Wilderness, Primitive and Canoe classifications generally prohibit the use of motor vehicles, motorized equipment and aircraft. Any amendment to the Plan which would sanction such uses in these areas would severely diminish the Primitive character of those lands and should not be proposed. Noise intrusion is only one component of an area’s character. The mere knowledge that motorized access is permissible diminishes an area’s sense of remoteness.”** (FPEIS, Impact of Proposed Guidelines on Area Character and Landscape Quality; page 35; underlining and emphasis added)

AND again at: **“Amendments to the Master Plan which diminish the size or deteriorate the character of areas designated as Wilderness, Primitive or Canoe are extremely significant and should not be**

proposed.” (FPEIS, Impact of Proposed Guidelines on Area Character and Landscape Quality; page 36; underlining and emphasis added)

AND again at: **“Any amendment to the State Land Master Plan which would diminish the area or resource quality of lands classified as Wilderness, Primitive or Canoe would significantly diminish the educational and research opportunities which those areas now offer. These effects would be particularly acute due to the scarcity of designated wilderness in the northeastern United States.”** (FPEIS, Impact of Proposed Guidelines on Area Character and Landscape Quality; page 38; underlining and emphasis added)

E) The SLMP does not state explicitly how this three-part hierarchy is to be used regarding the classification of newly acquired state lands. Nevertheless, the general purposes of the Master Plan, its specific mandates regarding the different land classifications, the clear meaning of its terminology, and the Plan’s overall organization suggest strongly what the Agency should generally do when large acreages of newly acquired Forest Preserve lands are classified: **i.e., wherever possible those lands with special resources values should be classified as Wilderness; AND when that is not possible, those lands should be classified as Primitive or Canoe; AND only when that is clearly shown not to be possible, should those lands be classified as Wild Forest.**

F) An additional note regarding the SLMP’s classification hierarchy is critically important. Stating that Wild Forest lands are on the third rung of this hierarchy in no way suggests that protection of the resources on those lands is unimportant. Indeed, **“Substantially all ...”** of the lands administered by the DEC in the Park, which obviously include very large acreages of Wild Forest lands, **“are protected by the “forever wild clause” of Article XIV, Section 1 of the State Constitution.”** (SLMP, Section I, page 2; emphasis and underlining added) The history of the Park, SLMP’s initial adoption in 1972, and the Master Plan’s implementation over the past four plus decades make clear that it is the underlying **“forever wild”** protection of the vast majority of the Park’s state lands (including Wild Forest Areas) that makes the Master Plan’s land classification system both possible and important. The SLMP was designed to insure that large portions of the Park’s Forest Preserve would be managed in ways that were significantly more resource protective than the base line of Article XIV protection DEC had determined over many years applies to all Forest Preserve lands.

6. History And Interpretation Of The SLMP

The history of Forest Preserve management in the Park before 1972 led directly to the SLMP's creation/adoption and the establishment of its three-part hierarchy, as discussed above in item #5. While this point often goes unstated due to the sensitivity of relations between the Agency and the DEC, any reasonable review of the Park's Forest Preserve history makes clear that this hierarchy came into existence because in 1971 the state's leaders decided it was necessary to alter, substantially and fundamentally, the manner in which much of the Forest Preserve had been managed up to that point.

In 1971 the State Legislature created the Adirondack Park Agency and required it (among other things) to prepare what is now the SLMP. By that time the state's leaders had become dissatisfied with the overall character of Forest Preserve management by the long existing NYS Conservation Department and (its successor) the very young NYS Department of Environmental Conservation (both agencies referred to collectively as CON/DEC hereafter in this item #6): i.e., they were unhappy that over many years CON/DEC officials had chosen to allow much of the Forest Preserve to become less and less wild. Most critically, those officials had made numerous choices to permit ever increasing amounts of infrastructure to be constructed/installed on the Park's Forest Preserve lands, ever increasing amounts of motorized recreation on those lands, and ever increasing amounts of motorized access within those lands.

The primary motivation of the state's leaders in requiring the SLMP's creation and then approving its classification system flowed directly from their determination that large parts of the Forest Preserve should be managed so that they would be significantly wilder than what the CON/DEC had determined was permissible under the State Constitution's Article XIV "Forever Wild" mandate. As a result, the concept of strongly protecting wilderness values in areas classified as Wilderness and in almost-wilderness areas classified as Primitive and Canoe became the SLMP's central focus. This focus was very consistent with, and in large part inspired by, the approach taken in the federal Wilderness Act adopted by Congress and signed by the President just eight years before the SLMP was created. It is no coincidence, but rather a matter of specific and meaningful intention, that the Master Plan's definition of "**wilderness**" so closely parallels the definition of the same term in the federal statute.

(SLMP at Section II, definition of “**Wilderness**” at page 19; and see 16 U.S.C. sections 1131-1136, at section 1131(c)).

In summary, review of the Park’s Forest Preserve history illuminates the purpose and significance of the three-part classification hierarchy contained in the SLMP. What the Master Plan now permits in Wild Forest Areas in large part reflects what the CON/DEC had allowed on much of the Park’s Forest Preserve prior to 1972. The SLMP’s Wilderness, Primitive, and Canoe Area classifications were designed to protect wilderness values in very large areas of the Forest Preserve far more completely than what had been permitted before the SLMP came into existence.

7. A Presumption

Therefore, the SLMP’s various mandates regarding classification of newly acquired Forest Preserve lands, when considered together as an integrated whole, **create a very strong presumption in favor of Wilderness, Primitive, or Canoe classifications where special resource values exist on new large land acquisitions, and that presumption should be set aside only where there is a clear showing that such a classification in a particular case would be contrary to the purposes of the Master Plan:**

A) For any large-acreage land acquisition where special resource values exist, that presumption suggests a Wilderness classification. The presumption is especially strong where the newly acquired lands contain significant acreage covered by lakes or ponds.

B) Notwithstanding this presumption in favor of Wilderness classifications, there are some circumstances in which it is proper under the SLMP, and sometimes necessary, for the Agency not to adopt a Wilderness classification regarding a large land acquisition where special resource values exist: i.e.,

---- **where** the area acquired is less than 10,000 acres (the SLMP’s general minimum threshold for Wilderness Areas) and does not adjoin an existing Wilderness Area or Primitive Area; or **where** there is some significant, existing infrastructure on the acquired land that it is important to maintain, which infrastructure prevents a Wilderness classification (e.g., two large dams and an access road at Lows Lake, which are included in the Eastern Five Ponds Access Primitive Area); or **where** there are special

circumstances on newly acquired land that currently prevent a Wilderness classification (e.g., the anticipated long-term presence of float plane use in the vicinity of the Essex Chain Lakes constituted circumstances that properly prevented the Agency from classifying as Wilderness the now-existing Essex Chain Lakes and Pine Lake Primitive Areas); **in these several circumstances that presumption strongly suggests a Primitive classification;** and

---- **where** a large newly acquired tract involves an exceptional abundance of interconnecting lakes, ponds, and/or streams, **that presumption strongly favors a Canoe classification** (or a Wilderness classification).

III. THE AGENCY'S EVENTUAL CLASSIFICATION OF THE BOREAS PONDS TRACT

1. Preliminary Points

A) As of this date Agency members have not received from the Agency's staff any summary re the resource values inherent in the Boreas Ponds Tract (hereafter TRACT). However, I have received and reviewed various pieces of information regarding the TRACT. This section of this memo reflects what I have derived from that information.

B) My comments here focus on the broad question of what should be the appropriate classification for the largest portion(s) of the TRACT pursuant to the SLMP. Nothing in this memo addresses where any classification line should be drawn on the TRACT between different state land classifications.

C) Because my term on the Agency expires on June 30, as previously noted, I will not still be on the Agency when it eventually acts to classify the TRACT pursuant to the SLMP.

2. Primary Conclusions

As the previous discussion explains, the SLMP's various mandates create a very strong presumption in favor of a Wilderness classification that covers the great majority of the Boreas Ponds Tract . This conclusion pertains most critically to the TRACT's ponds and considerable amounts of lands around those water bodies. Furthermore,

this presumption should be set aside only if there is a very clear showing that a Wilderness designation for most of the TRACT would be inconsistent with the purposes of the Master Plan.

3. A Large Forest Preserve Acquisition That Contains Exceptional Resource Values

A) By any reasonable definition the TRACT constitutes a major addition to the Forest Preserve. Containing more than 20,000 acres, it is larger than several of the Park's existing Wilderness Areas: **Hurricane Mountain** (13,948 acres), **Jay Mountain** (7,896 acres), **Little Moose** (12,258 acres), **Round Lake** (10,356 acres), and **William C. Whitney** (13,678 acres). In addition, it is nearly as large as several other Wilderness Areas in the Park: **Ha-De-Ron-Dah** (25,272 acres), **Hudson Gorge** (23,494 acres), **Pepperbox** (23,816 acres), and **Sentinel Range** (24,017 acres).

B) While my assessment of the TRACT's resources is admittedly preliminary, it is abundantly clear that any detailed and balanced analysis of those resources must conclude that in the context of the Park's Forest Preserve (and the Park more generally) the natural resources values and social resource values present on the TRACT are of exceptionally high order. The materials I have reviewed to date make clear that these special resource values include (but are by no means limited to):

---- fragile soils over considerable areas, including extensive areas with soils with severe potential for erosion;

---- significant areas over 2500 feet elevation;

---- an extensive network of streams, including a significant river segment;

---- extensive areas covered by ponds;

---- extensive wetland habitat, including more than 1,000 acres of peatlands;

---- an abundance of plant and animal species, including a number of boreal species, and a number of rare, threatened or endangered species;

---- stunning vistas from the TRACT into lands already classified as Wilderness;

----- superior location re the protection of wilderness values (the TRACT adjoins the High Peaks Wilderness Area; if the TRACT is eventually classified as Wilderness and added to the High Peaks Wilderness Area, it will constitute a remarkable addition to the Park's largest and most famous Wilderness Area);

---- its remoteness and its capacity to provide extensive opportunities for solitude (These characteristics of the TRACT merit special emphasis. By any reasonable definition, large portions of the TRACT are remote, and the TRACT provides multiple opportunities for people to find solitude, to experience nature's wildness over a large landscape containing widely varying resources, and to traverse this landscape in as non-intrusive ways as possible. The importance of these qualities will be greatly enhanced if the TRACT is added to the High Peaks Wilderness Area.)

4. The TRACT's Prior Use By The Forest Products Industry

The forested lands in the TRACT have been the subject of intensive timber management practices over an extended period (involving among other things the development of an extensive road network to permit truck transportation of logs). Due to that fact, some are arguing that the TRACT's resource values do not justify a Wilderness classification under the SLMP. That argument should be rejected.

If permitted to do so, nature can and will over time renew lands very heavily impacted by human activities. The previous existence of significant logging operations and the road networks built as part of those operations do not prevent regeneration of forested lands and reestablishment of those lands as truly wild lands. This reality is clearly demonstrated in a number of the Park's Wilderness Areas where substantial timber harvesting once occurred (e.g., **Blue Ridge, Ha-De-Ron-Dah, McKenzie Mountain, Round Lake, Siamese Ponds, and William C. Whitney**). The Park's existing inventory of wilderness would be far less substantial than it now is had the Agency in previous years allowed evidence of past logging activities to prevent designation of qualifying lands as Wilderness Areas. Similarly, pursuant to the federal Wilderness Act, Congress has designated numerous Wilderness Areas since 1964 that had previously been substantially affected by human

activity; this has been particularly true regarding federal Wilderness Area designations in the eastern United States. Nothing relating to past forest management activities on the TRACT in any way prevents its being classified as Wilderness under the SLMP.

5. Application Of The SLMP's Fourth Classification Determinant To The TRACT

As discussed previously, the SLMP's fourth classification determinant requires consideration of "**... established facilities on the land, the uses now being made by the public and the policies followed by the various administering agencies.**" (SLMP, Section II, p. 14) This determinant lends no weight to any potential suggestion that the great majority of the TRACT should be classified as something other than Wilderness. Because the TRACT has been in private hands until very recently, there are no established facilities used by the public that could arguably prevent the great bulk of these lands from being classified as Wilderness. In determining how the TRACT should be treated under the SLMP, the Agency will be "writing on an essentially clean slate" with respect to this fourth determinant.

6. Other Potential Classifications For Large Portions Of The TRACT

A) I know of no circumstances that indicate any large portion of the TRACT should be classified as Primitive. However, it is possible that a small portion(s) of the TRACT could properly be classified as Primitive.

B) While the TRACT contains an abundance of stream and pond resources, I do not think the degree of the water-based recreation opportunities it offers would merit its being classified as a Canoe Area.

C) I know of no circumstances that suggest that anything approaching a majority of the TRACT acreage should be classified as Wild Forest. Reasonable assessment and application of the SLMP's land classification determinants would prevent such a classification in this case. The TRACT's resources place this acquisition in the high echelons of any reasonable listing of valuable resource areas existing anywhere within the Forest Preserve. While careful review may result in an appropriate determination that some portion of the TRACT should be classified as Wild Forest, that classification cannot be reasonably assigned to the great majority of the TRACT's lands.

D) The SLMP cannot be accurately or logically read to permit a Wild Forest classification of the TRACT with an overlay treating it (or large portions of it) as a Special Management Area. The essential purpose of the Special Management Area concept in the SLMP is to allow special treatment (i.e., more restrictive management) of relatively small areas inside of a larger land area. Nothing in the Master Plan contemplates the notion that the Agency may properly reduce the level of classification for a large area to a lesser level of protection than should be assigned given the resource values of that area and then use the Special Management Area mechanism to modify the impacts that would be generated by utilizing that lesser level of protection. In other words, the SLMP does not permit designating as Wild Forest an area whose resources merit a Wilderness Area classification (or a Primitive Area or Canoe Area classification) and then using Special Management Area guidelines to offset the negative impacts that will be caused by classifying the area as Wild Forest. (SLMP, Section II, pp. 49-50)

(NOTE: the potential Special Management Area treatment of all (or most) of what are now the Essex Chain Lakes Primitive Area and the Pine Lakes Primitive Area was suggested by DEC in 2013. Fortunately the Agency rejected that approach then, and it should similarly reject any suggestion favoring this approach with regard to the TRACT.)

IV. CLOSING THOUGHTS

The present mixture of Wilderness, Primitive, and Canoe Areas in the Adirondack Park is a remarkable reality in the second decade of the 21st Century. That reality exists because in establishing the SLMP in 1972 the Adirondack Park Agency looked past short-term considerations and decided that the broadest interests of the people of New York State (including those who live in the Park) will be best served by very strong protection of those state lands that contain wilderness resource values. As a result, the SLMP requires that the wildest parts of the Park's Forest Preserve be protected as Wilderness, Primitive, and Canoe Areas. Many decisions by the Agency since 1972 have reflected these central, critical mandates of the Master Plan.

This memo has urged close attention to the letter of the SLMP. **In closing, I urge that the Adirondack Park Agency pay very careful attention to its spirit as well.** The Master Plan forcefully favors the

protection of large, wild, remote, high resource value tracts of the Adirondack Park's Forest Preserve lands from intensive human use, including motorized uses and motorized access. The SLMP does so because it is vitally important that people have meaningful and extensive opportunities to experience nature in its unbridled form without many of the intrusions of the modern world. Protecting those opportunities today is increasingly important and difficult because the world in 2016 is so much more crowded and busier a place than it was in 1972. Protecting and enhancing those opportunities will become ever more significant and ever more challenging as the decades proceed, as new generations arrive, and as technology wears away at more and more of the world's natural fabric. **The members of the Agency, now and far into the future, bear and will bear the responsibility --- and must bear the responsibility --- of making certain that the Master Plan's spirit lives and thrives.**

This memo is long. Indeed!!! I appreciate the time you have devoted to reading it, and I hope you find it useful. Thank you.