

Century from 1988-1990. In that role I authored three Technical Reports for the Commission, including one on the subject of Forest Preserve management (*Non-Forest Preserve: Inconsistent Use*, Technical Reports, Vol. 1, State of New York, April 1990).

3. During my service as Counsel, and during my service as Executive Director thereafter, I was responsible for the legal business of the Agency of every nature. The Agency did not then, and does not now, have any legal role in ensuring that the actions of Defendant Department of Environmental Conservation in managing the Forest Preserve conform to Article 14, § 1 of the State Constitution.

4. My duties in both positions at the Agency required me to be thoroughly familiar with the Master Plan for the management of State lands in the Adirondack Park (Record Exhibit 1), which is discussed in the affidavit of Kathleen D. Regan sworn to on August 17, 2016.

5. I am familiar with the original 1972 Adirondack Park State Land Master Plan and the revisions and updates thereto described in Ms. Regan's affidavit at paragraphs 4(a)-(c) and 10-21. Since leaving State service, I have continued to closely follow the Agency's implementation of the Master Plan and its revisions thereto.

6. The 1979 revision of the Master Plan was the first to refer to any constitutional issue, albeit in three brief parenthetical comments. It continued the guidelines set forth in the original 1972 Plan with regard to when State acquisitions of land in the Adirondack Park might (bureaucratically at least) be considered to be "non-Forest Preserve." Where references appeared to such a notion, it inserted "(assuming such acquisitions to be constitutionally permissible)" in two places, and a very similar phrase in a third place.

7. Following a multi-year process, the Agency submitted a second major revision of the Master Plan to Governor Mario Cuomo in September 1986. He approved it on November 4, 1987.

8. Starting with the 1987 Master Plan, and continuing to the present day, including in a third revision which is currently before Governor Andrew Cuomo for executive action, the Master Plan for the Management of State Lands in the Adirondack Park has expressly proclaimed itself to be "constitutionally neutral," meaning that it does not purport to make decisions as to whether the State may constitutionally acquire "non-Forest Preserve" in Adirondack Forest Preserve counties, nor does it purport to determine whether any particular use of State Forest Preserve lands is constitutional under Article 14, § 1. It retains the three assumptions described in paragraph 6, supra, and additionally provides as follows:

Insofar as forest preserve lands protected by the 'forever wild' provisions of Article XIV, §1 of the Constitution are concerned, the provisions of the master plan are intended to be constitutionally neutral. While obviously no structure, improvement or use held to be unconstitutional is permitted by this master plan, no inference as to the constitutional appropriateness or inappropriateness of any given structure, improvement or use should be drawn from whether it is allowed or prohibited in a particular land classification. This master plan is not intended to make constitutional determinations regarding unresolved issues under Article XIV, which are properly a matter for the Attorney General and ultimately the courts. Record, Exhibit 1, Page 1 ["Introduction"].

9. Thus, the State Land Master Plan explicitly and most definitively abjures playing any role in the determination of the constitutional issue in the instant action.

Dated: September __, 2016

Robert C. Glennon