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**Executive Director**

October 10, 2019

William Marsh

NYS DEC Region 6 Lowville Suboffice

Division of Lands and Forests

7327 State Route 812

Lowville, NY 13367

william.marsh@dec.ny.gov

**RE: The Proposed Tree Cutting at the Cranberry Lake  
Campground Exceeds Constitutionally Allowable Levels**

Dear Mr. Marsh:

Protect the Adirondacks has reviewed the Environmental Notice Bulletin (ENB) notice published on October 2, 2019 titled "Tree Cutting Notice for Cranberry Lake Campground Water System Improvements." This project calls for "the cutting and removal of 43 trees 3 inches or larger diameter at breast height (DBH) and an estimated 523 trees less than 3 inches DBH as part of the Water System Improvement project" by the Department of Environmental Conservation (DEC).

It is our understanding that this project is based on the need to replace/upgrade water lines in the campground for the shower and bathroom buildings. The new 2" waterline will be placed at a depth of two feet and will be routed along the roadsides and shoulders of the campground roads, creating a 4-foot wide disturbed area. While no official information was available on the total length of this project, we estimate it at 8,000 feet, approximately 1.65 miles.

**Protect the Adirondacks**

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Tree cutting on the public Forest Preserve is strictly limited by Article 14, Section 1, of the NYS Constitution. Article 14 reads: “The lands of the state, now owned or hereafter acquired, constituting the forest preserve as now fixed by law, shall be forever kept as wild forest lands. They shall not be leased, sold or exchanged, or be taken by any corporation, public or private, nor shall the timber thereon be sold, removed or destroyed.” This wording has not changed since its adoption by the Constitutional Convention of 1894.

Historically, limited tree cutting on the Forest Preserve has been undertaken by state agencies to facilitate various public recreational programs. Court cases from 1930 and 1993 have ruled that tree cutting is allowable on the Forest Preserve for management activities so long as it does not exceed a “material degree” or occur to a “substantial extent.”

We note that for this project, DEC has counted trees <3” DBH, as is required by the recent decision of the Appellate Division, Third Department in *Protect the Adirondacks V. DEC*. We appreciate DEC adhering to Constitution on that issue. However, the number of trees proposed to be cut for this project is both unconstitutional and unnecessary.

In 1993, the *Balsam Lake Anglers Club v DEC* case involved tree cutting by the DEC of large diameter (> 3” DBH) and small diameter trees (<3” DBH ) to build a cross-country ski trail in the Catskill Forest Preserve. In that case a fishing club in the Catskills protested the widening of a foot trail by the DEC to accommodate cross-country skiing. In the *Balsam Lake* case, the court record shows that approximately 350 trees of 1” DBH or more were cut, or marked to be cut, for the construction of two trail sections totaling approximately 2.3 miles. This cutting was approximately 152 trees of that size per mile.

The total tree count proposed for cutting at the Cranberry Lake Campground is 566 trees on approximately 1.65 miles of roadside, for an average of 343 trees per mile. This is well above the tree count in the *Balsam Lake* case. In 1930, in *The Association for the Protection of the Adirondacks v MacDonald*, the courts found the state’s plans to cut 2,500 trees on 4.5 acres of the Forest Preserve to violate Article 14, Section 1. The proposed cutting of trees for the Cranberry Lake Campground water line is estimated at over 750 trees per acre (566 trees/.75 acres), far above the *Association* decision limits.

DEC staff have raised the issue that the replacement of the water line at the Cranberry Lake Campground is an emergency, which supposedly somehow exempts this project from the forever wild clause. Protect the Adirondacks rejects this notion. First, there is no such exemption in the Constitution. Second, this water line was allowed to degrade over time and is now in disrepair. That condition does not constitute an emergency. Third, there have been other genuine emergencies that necessitated changes to the Forest Preserve, such as the Raquette Lake water supply, Piseco Airport, Route 56 power transmission line, and the recent creation of the Health and Safety Land Account, which were all subject to constitutional amendments, showing that emergency situations are not exempt from Article 14.

Protect the Adirondacks urges the DEC to examine the viable alternative of placing the water line under the campground roads, which would not require any trees to be destroyed. The Constitution protects trees on the Forest Preserve, but not asphalt. Preserving the trees in this manner should resolve any constitutional questions for this project.

On behalf of the Board of Directors of Protect the Adirondacks, please accept my gratitude for the opportunity to present our concerns on this important matter.

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

CC D. Bryk, Executive Chamber  
A. Lefton, Executive Chamber  
M. Phillips, Executive Chamber  
E. Preminger, Executive Chamber  
B. Seggos, NYSDEC  
S. Mahar, NYSDEC  
J. Drabicki, NYSDEC  
M. Naughton, NYSDEC  
T. Berkman, NYSDEC  
R. Davies, NYSDEC  
K. Richards, NYSDEC  
P. Frank, NYSDEC  
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D. Smith, NYSDEC