



October 10, 2019

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Richard Weber, Deputy Director for Planning
NYS Adirondack Park Agency
P.O. Box 99
Ray Brook, NY 12977
Email: SLMP_UMP_Comments@apa.ny.gov

RE: Public Comment on Final Sentinel Range Wilderness Area Unit Management Plan

Dear Mr. Weber,

Protect the Adirondacks has reviewed the final Sentinel Range Wilderness Unit Management Plan (SRWUMP) for conformance with the Adirondack Park State Land Master Plan. This UMP was prepared by the Department of Environmental Conservation (DEC) and is now under final review by the Adirondack Park Agency (APA). Our comments are below. Thank you for the opportunity to submit these public comments.

Article 14 Compliance

The recent decision in July of the Appellate Division, Third Department, finding that the DEC-APA failed to uphold Article 14, Section 1, of the NYS Constitution, the famed “forever wild” clause, in the tree cutting authorized and approved by both agencies to build over 30 miles of Class II Community Connector Snowmobile Trails raises many serious questions about the state’s management of the Forest Preserve. The APSLMP famously frames its authority as somehow independent of questions of fidelity to Article 14 during management of the Forest Preserve. The APSLMP states first and foremost:

THIS DOCUMENT SETS FORTH the master plan for all state lands within the Adirondack Park. The classification system and guidelines set forth in Chapter II and the attached map are designed to guide the preservation, management and use of these lands by all interested state agencies in the future. Insofar as forest

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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. The guidelines set forth in Chapter II allow certain structures, improvements and uses in some land classifications and prohibit certain of them in other classifications. (p 7)

It appears that we have reached a point in the management of the Adirondack Forest Preserve where the primacy of Article 14 needs to be restored to the management of the Forest Preserve. The APSLMP needs to be amended to require compliance with Article 14 of proposed facilities, improvements and structures by state agencies. There must be greater review and public disclosure of state management with regards to compliance with Article 14 to ensure accountability by state agencies.

Unit Management Plans, work plans, state policies, the APA-DEC Memorandum of Understanding, and regulations governing Forest Preserve management must all be reviewed and revised to insure the centrality of compliance with Article 14.

The Sentinel Range Wilderness UMP proposes a series of actions for trail construction, campsite construction, and parking lot construction that will require tree cutting on the Forest Preserve. The constitutionality of these actions, which according to long-established precedent be immaterial and insubstantial, must be reviewed as part of the APA's review. These actions should be reviewed for the entire unit and not piecemeal.

Management and Policy

There needs to be a statement in the Management and Policy section of the SRWUMP (pp. 69-78) that all management actions that involve tree cutting on the Forest Preserve must be done without violating Article 14, Section 1 of the Constitution. DEC must conform to longstanding legal precedent, and the recent decision in Protect the Adirondacks v. DEC, which require that tree cutting on the Forest Preserve be immaterial and insubstantial. In assessing this, DEC must count all trees of 1" DBH and greater in its tree counts and work plans.

In order to ensure that these trails can be built without violating the Constitution, tree counts should be performed before the SRWUMP is approved. If these counts show that the trail projects would violate Article 14, they should not be approved and should be redesigned to bring them in line with the Constitution.

The SRWUMP should also include a directive that all management actions involving tree cutting require consultation between the APA and DEC, including APA approvals of all work plans. All proposed actions that propose tree cutting should be listed in the

Environmental Notice Bulletin, which must include the opportunity for the public to comment in an official public hearing.

UMP Development and Review Process

The SRWUMP marks to new direction for the DEC with regards to UMP planning. This plan is the first that we've seen that takes seriously key requirements of the APSLMP with regard to required analyses, assessments, and inventories that are important for sound long-term natural resource planning and management. The APSLMP enumerates the requirements for the development of a UMP on pages 10-12. The APA is required to review a final UMPs for conformance with the APSLMP. A review of these requirements shows that the DEC has generally complied with this section.

First, the APSLMP requires "an inventory, at a level of detail appropriate to the area, of the natural, scenic, cultural, fish and wildlife (including game and non-game species) and other appropriate resources of the area and an analysis of the area's ecosystems" (p 10). The DEC has satisfied this requirement in the draft SRWUMP.

Second, the APSLMP requires "an inventory of all existing facilities for public or administrative use" (p 11). The DEC has satisfied this requirement in the draft SRWUMP.

Third, the APSLMP requires "an inventory of the types and extent of actual and projected public use of the area" (p 11). The public use discussion in the SRWUMP on pages 48-52 is more detailed than most UMPs. Trailhead data has been organized and analyzed and the 2014 Beier/SUNY-ESF study provided detailed public use information. The DEC has satisfied this requirement in the draft SRWUMP.

On projected future use the SRWUMP states:

Projecting future use of the SRWA is difficult. There are many variables that will influence amount and types of use in the SRWA. This underscores the importance of monitoring the use and impacts so that action may be taken. (p 52)

Fourth, the APSLMP requires "an assessment of the impact of actual and projected public use on the resources, ecosystems and public enjoyment of the area with particular attention to portions of the area threatened by overuse." (p. 11) Proposed actions to close and re-route trails due to longstanding damage from overuse and lack of maintenance shows that the DEC has satisfied this requirement.

Fifth, the APSLMP requires "an assessment of the physical, biological and social carrying capacity of the area with particular attention to portions of the area threatened by overuse in light of its resource limitations and its classification under the master plan" (p 11). The DEC has attempted to develop and implement a carrying capacity analysis program. On page 56 the DEC states:

The SRWA cannot withstand ever-increasing and unlimited visitor use without suffering the eventual loss of its essential natural and wild character. However, the underlying question of how much use and of what type the whole area - or

any site or area within it - can withstand before the impacts of such use cause degradation of the very resource or experience, remains. Such understanding and determinations are a wildland manager's most important and challenging responsibility. Our primary goal throughout this UMP is to strike and maintain a proper balance of making sure a natural area's "carrying capacity" is not exceeded while concurrently providing for visitor use and enjoyment. (p 56)

Though it appears to be underfunded and based on undefined and heavily subjective indicators, it satisfies this requirement in the APSLMP.

Sixth, the APSLMP requires "Each unit management plan will also set forth a statement of the management objectives for the protection and rehabilitation of the area's resources and ecosystems and for public use of the area consistent with its carrying capacity" (p. 11) The DEC has satisfied this requirement in the draft SRWUMP.

The SRWUMP enumerates the monitoring planning that is being pioneered in the High Peaks Wilderness and Vanderwhacker Mountain Wild Forest areas. This is ambitious planning. The 5-year schedule does not appear to allocate adequate staff time or funding for contractors to complete this work.

Seventh, the APSLMP requires "These management objectives will address, on a site-specific basis as may be pertinent to the area, such issues as ..."

- "Actions to minimize adverse impacts on the resources of the area." (p 11)

The DEC has satisfied this requirement.

- "The rehabilitation of such portions of the area as may suffer from overuse or resource degradation." (p 11)

The DEC has satisfied this requirement.

- "The regulation or limitation of public use such that the carrying capacity of the area is not exceeded and the types of measures necessary to achieve that objective." (p 11)

The DEC has satisfied this requirement.

- "The preservation of aquatic and terrestrial habitats of the area." (p 11)

The DEC has satisfied this requirement.

- "The preservation and management of the fish and wildlife resources (including game and non-game species) of the area." (p 11)

The DEC has satisfied this requirement.

–“The preservation and management of the lakes, ponds, rivers and streams of the area, with particular attention to all proposed or designated wild, scenic and recreational rivers.” (p 11)

The DEC has satisfied this requirement.

–“The preservation and management of special interest areas such as the habitats of rare, threatened or endangered species and areas with the potential for the reintroduction of extirpated species, unique geological areas and historic areas or structures.” (p 11)

The DEC has satisfied this requirement in the draft SRWUMP, though we note in general that the DEC has failed to even consider or assess the feasibility for the restoration of extirpated species in the Adirondack Forest Preserve such as wolves and mountain lions.

–“The identification of needed additions or improvements to, and plans for providing for further appropriate public use of, the area consistent with its carrying capacity.” (p 11)

The DEC has satisfied this requirement.

–“The removal of such non-conforming uses as may remain.” (p 11)

The DEC has satisfied this requirement.

–“The identification, in intensive use, historic and appropriate portions of wild forest areas accessible by motor vehicles, of measures that can be taken to improve access to and enjoyment of these lands, and associated structures and improvements, by persons with disabilities.” (p 11)

The DEC has satisfied this requirement.

Eighth, the APSLMP requires “the Unit management plans will also address the administrative actions and the minimum facilities necessary on a site-specific basis, as may be pertinent to the area to attain the stated management objectives of such area.” (p 11) The DEC has satisfied this requirement in the draft SRWUMP.

Ninth, the APSLMP requires “Schedules for achievement of such objectives will be included in each unit management plan. The land characteristics and the recommended objectives for each area will be related to and integrated with the characteristics and management objectives for adjacent public and private land areas. General recommendations for future acquisition will be included as appropriate.” (p 12) The DEC has satisfied this requirement in the draft SRWUMP.

Tenth, the APSLMP requires “An initial draft of the unit management plan for each state land area including alternative management objectives, where appropriate, will be

submitted to the Agency for review and comment, prior to the preparation of the final draft plan for public review.” (p 12) The DEC has satisfied this requirement.

Eleventh, the APSLMP requires “Opportunity will be made for review and comment on the draft unit management plans by the public and other interested parties, and a public meeting or meetings will be convened as appropriate for that purpose.” (p 12) The DEC has satisfied this requirement.

Twelfth, the APSLMP requires “Final unit management plans will be prepared by the Department of Environmental Conservation after due consideration of all comments and recommendations made on the public review draft. The Commissioner of the Department of Environmental Conservation will adopt each final unit management plan which will then be filed with the Agency. The Department of Environmental Conservation will report annually to the Agency on progress made toward the implementation of each adopted unit management plan.” (p 12). The DEC has satisfied this requirement, though PROTECT cannot recall an APA meeting, or some form of public report, where the DEC reported “annually to the Agency on progress made toward the implementation of each adopted unit management plan.”

Proposed Management Actions

The following comments are in response to the proposed management actions detailed in the SRWUMP.

Jackrabbit Trail Construction/Reroutes: In the SRWUMP DEC proposes to build about 0.5 miles of new ski trail to reroute the Jackrabbit Trail off of Mountain Lane in North Elba, reroute around flooded areas along Old Mountain Road, and build a new 2-mile trail along the base of Scotts Cobble. PROTECT would support these actions if they can be done without violating Article 14, Section 1 of the Constitution. DEC must conform to longstanding legal precedent, and the recent decision in Protect the Adirondacks v. DEC, which require that tree cutting on the Forest Preserve be immaterial and insubstantial. In assessing this, DEC must count all trees of 1” DBH and greater in its tree counts and work plans.

We urge the APA to include a statement in this UMP that all work plans involving changes to the Jackrabbit Trail will require consultation between the APA and DEC, including APA approvals of all work plans. All proposed work on the Jackrabbit Trail should be listed in the Environmental Notice Bulletin.

Copperas Pond Trail Reroute: The trail to Copperas Pond will be rerouted. Most of the current trail is heavily eroded and is too steep. PROTECT supports DEC’s plans to reroute this trail and close the existing trail. While PROTECT supports this proposal, please note our concerns about tree cutting and APA-DEC consultation on the Forest Preserve above.

Pitchoff Mountain Trail Reroute: The DEC proposes to relocate the entire western portion of the Pitchoff Mountain Trail, and its trailhead, to the same location as the proposed Pitchoff East Trailhead. The distance from the new trailhead to Balanced Rocks

Overlook would be about 1.8 miles, an increase of 0.4 miles from the existing trail. This alternative would result in a 5.1-mile-long loop trail. PROTECT notes that this project is scheduled to cost \$375,000 in UMP implementation schedule. While PROTECT supports this proposal, please note our concerns about tree cutting and APA-DEC consultation on the Forest Preserve above.

Proposed Parking Lot on Mountain Lane in North Elba: This will be part of an 11-car parking area/trailhead for the Jackrabbit Trail which is also located on the south side of Mountain Lane, in the Saranac Lakes Wild Forest. While PROTECT supports this proposal, please note our concerns about tree cutting and APA-DEC consultation on the Forest Preserve above.

Proposed Parking Lot for the Pitchoff Mountain Trail: PROTECT supports the DEC's objective of creating one official parking area for those hiking Pitchoff Mountain. The parking area will initially be built for 15 cars, but could be expanded to 30 vehicles. While PROTECT supports this proposal, please note our concerns about tree cutting and APA-DEC consultation on the Forest Preserve above.

New Trails: PROTECT supports improved access trails to the Barkeater Cliffs, Notch Mountain, and Pitchoff-Chimney Cliff. While PROTECT supports this proposal, please note our concerns about tree cutting and APA-DEC consultation on the Forest Preserve above.

Rockclimbing Issues: PROTECT supports efforts on Route 73 to maintain adequate parking for climbers. Further, PROTECT supports efforts by the DEC to convene a focus group, "including Department and Agency staff, members of the climbing community, environmental organizations and other interested parties, to develop a Park-wide policy on the management of fixed anchors on Forest Preserve lands." This type of effort is long overdue and we hope that this is an effort that we can join.

New Campsites: PROTECT supports closing and building new campsites in the unit. While PROTECT supports this proposal, please note our concerns about tree cutting and APA-DEC consultation on the Forest Preserve above.

Trailless Area: The DEC proposes that the northern "area of the SRWA will be managed as an area without developed trails. The purpose for this is to facilitate recreation opportunities of an undeveloped nature and to preserve an area that has comparatively lower levels of human impacts." PROTECT supports this trailless area.

Phases for Implementation

The DEC lays out an ambitious plan on pages 123-126 for a 5-year implementation of major actions detailed in this UMP. It would appear that some of the total costs of \$514,000 is low. We encourage the APA to include a directive in the Management and Policy section that requires a report at 2 years and 5 years about the progress made on implementation and the actual costs incurred.

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 the first name "Peter" being more prominent than the last name "Bauer".

Peter Bauer,
Executive Director

CC: B. Seggos
S. Mahar
J. Drabicki
R. Davies
K. Richards
P. Frank
J. Clague
K. Alberga
T. Connor