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November 29, 2022

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**RE: Adirondack Park State Land Master Plan
Interpretation of Wild Forest Basic Guideline No. 4**

Dear Chairman Ernst and Ms. Rice:

Protect the Adirondacks (“PROTECT”) submits this letter to request that the Adirondack Park Agency (“APA” or “Agency”) include, as part of its ongoing consideration of Wild Forest Basic Guideline No. 4 in the Adirondack Park State Land Master Plan (“APSLMP”), an evaluation of the greenhouse gas (“GHG”) emissions associated with any potential increase in Wild Forest road mileage. As discussed in detail below, the Climate Leadership and Community Protection Act (“CLCPA”) requires all state agencies, “[i]n considering and issuing permits, licenses, *and other administrative approvals and decisions,*” to determine whether such action “will be inconsistent with or will interfere with the attainment of the statewide [GHG] emission limits” established in Article 75 of the Environmental Conservation Law (“ECL”). Climate Leadership and Community Protection Act, Ch. 106, Laws of 2019, § 7(2) (emphasis added).

It is respectfully submitted that the Agency has a legal obligation under the CLCPA to consider the GHG emissions from increased motor vehicle use associated with any potential increase in Wild Forest road mileage. It is

Peter Bauer
Executive Director

Christopher Amato
**Conservation Director
and Counsel**

further submitted that the Agency currently lacks fundamental data crucial to fulfilling its climate change obligations under the CLCPA, including current and projected levels of motor vehicle use on Wild Forest roads and the GHG emissions resulting from such use.

Background

In May 2022, APA staff requested permission to solicit public comment regarding the interpretation of Wild Forest Basic Guideline No. 4 (“Basic Guideline No. 4”) in the APSLMP. Basic Guideline No. 4 states:

Public use of motor vehicles will not be encouraged and there will not be any material increase in the mileage of roads and snowmobile trails open to motorized use by the public in wild forest areas that conformed to the master plan at the time of its original adoption in 1972.

As framed by APA staff, the Agency sought public input on three questions related to Basic Guideline No. 4:

1. What was the existing road mileage on lands classified as Wild Forest in 1972? What is the existing road mileage on lands classified as Wild Forest today?
2. What constitutes a material increase in road mileage?
3. Does the Department of Environmental Conservation Commissioner’s Policy 3 mileage¹ meet the definition of a road in the SLMP and therefore require inclusion in the total Wild Forest road mileage calculation?

Memorandum from Megan Phillips, Deputy Director, Planning, to Ken Lynch, State Land Committee Chair (May 4, 2022). The APA Board approved staff’s request and opened a 60-day public comment period on the three questions set forth in the APA staff memo.

By letter dated July 12, 2022, PROTECT submitted comments on Basic Guideline No. 4 stating, among other things, that the Guideline mandates that “public motor vehicle use will not be encouraged;” that estimates of 1972 and current Wild Forest road mileage prepared by APA and the Department of Environmental Conservation (“DEC”) are inaccurate; that roads on other Forest Preserve lands not classified as Wild Forest and on private lands where the State owns conservation easements allowing motorized recreation should be included in the analysis; and that motor vehicles are a source of air pollutants inconsistent with preserving the “wild forest atmosphere” required by the APSLMP.

¹ DEC’s Commissioner Policy 3 (“CP-3”) allows DEC to issue permits to qualifying people with disabilities for motor vehicle access on certain specified State lands under DEC’s jurisdiction.

APA's Obligations Under the CLCPA

Section 7(2) of the CLCPA imposes a mandatory duty on all State agencies to consider the GHG emissions associated with administrative approvals or decisions:

In considering and issuing permits, licenses, and other administrative approvals and decisions . . . all state agencies, offices, authorities and divisions shall consider whether such decisions are inconsistent with or will interfere with the attainment of the statewide [GHG] emissions limits established in [ECL Article 75]. Where such decisions are deemed to be inconsistent with or will interfere with the attainment of the statewide [GHG] emissions limits, each agency, office, authority or division shall provide a detailed statement of justification as to why such limits/criteria may not be met, and identify alternatives or [GHG] mitigation measures to be required where such project is located.

Ch. 106, Laws of 2019, § 7(2).

The Climate Action Council's Draft Scoping Plan concludes that the transportation sector accounts for 28 percent of statewide GHG emissions. New York Climate Action Council, Draft Scoping Plan, Fig. 2 (Dec. 30, 2021). Of these, 59 percent are from on-road vehicle use. *Id.* at 25. According to the U.S. Environmental Protection Agency, a typical passenger vehicle emits about 4.6 metric tons of carbon dioxide per year. This assumes the average gasoline vehicle on the road today has a fuel economy of about 22.0 miles per gallon and drives around 11,500 miles per year. Every gallon of gasoline burned creates about 8,887 grams of carbon dioxide. GHG emissions from medium- and heavy-duty vehicles—the types of vehicles most likely to utilize roads on Wild Forest lands—are even higher. U.S. Environmental Protection Agency, Greenhouse Gas Emissions from a Typical Passenger Vehicle (March 2018), available at <https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=P100U8YT.pdf>

As stated by APA staff, “[t]he interpretation of Basic Guideline No. 4 will establish a baseline for road mileage on Wild Forest classified lands.” Memorandum from Megan Phillips, Deputy Director, Planning, to Kenneth Lynch, State Land Committee Chair (May 4, 2022). In addition, all three alternative interpretations of the “no material increase” provision presented by Agency staff to the APA Board will result in an increase in road mileage on Wild Forest lands when compared to the 1972 mileage. *Id.* Because the purpose of roads on Wild Forest lands is to facilitate use of motor vehicles and motor vehicles are a source of GHG emissions, interpretation by the Agency of Basic Guideline No. 4 is an administrative decision that must comply with the CLCPA's mandate to consider the GHG emissions associated with that decision.

The Agency Lacks Critical Information Needed to Inform its GHG Analysis

As noted above, all three administrative interpretations of Basic Guideline No. 4 currently being considered by the Agency will result in additional road mileage over 1972 levels. The Agency cannot fulfill its obligation under the CLCPA to evaluate the GHG emissions resulting from its administrative interpretation in the absence of crucial information

concerning the number and types of motor vehicles utilizing Wild Forest roads, the projected levels of use under the three alternatives being considered, and the GHG emissions resulting from such use. Moreover, given the CLCPA's GHG emissions reduction mandate, the Agency must consider the alternative of capping Wild Forest road mileage at 1972 levels so that there will be no increase in GHG emissions from motor vehicle use on Wild Forest roads. This alternative is also consistent with the directive in Basic Guideline No. 4 that "[p]ublic use of motor vehicles will not be encouraged." In keeping with this directive and the GHG emissions reduction mandate of the CLCPA, the Agency should evaluate a "no mileage increase" alternative.

Consequently, PROTECT requests that the Agency (i) suspend its administrative interpretation of Basic Guideline No. 4 until fundamental information is made available concerning the number and types of motor vehicle use on Wild Forest roads, the projected motor vehicle use levels for each alternative, and a GHG emissions analysis for each alternative; and (ii) include a "no mileage increase" alternative.

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 "Chris Amato". The signature is fluid and cursive, with the first name "Chris" and last name "Amato" clearly distinguishable.

Christopher Amato
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Cc: APA Board Members
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