



**Board of Directors**

December 21, 2023

Charles Clusen  
**Chair**

Michael Callan (Michael.callan@dec.ny.gov)  
NYS DEC – Region 3 Office  
Division of Lands and Forests  
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James McMartin Long  
Michael Wilson  
**Vice-Chairs**

Barbara Rottier  
**Secretary**

David Quinn  
**Treasurer**

**Re: Draft Work Plan for Long Path Re-route in Sundown Wild Forest**

Dear Michael,

Nancy Bernstein  
John Caffry  
Andy Coney  
Dean Cook  
James C. Dawson  
Lorraine Duvall  
Robert Glennon  
Roger Gray  
Evelyn Greene  
Sidney Harring  
Dale Jeffers  
Patricia Morrison  
John Nemjo  
Peter O'Shea  
Philip Terrie  
Chris Walsh

Protect the Adirondacks has reviewed the draft Work Plan prepared by the NYS Department of Environmental Conservation (DEC) for the proposed Long Path Re-route, which was noticed in the December 13, 2023 Environmental Notice Bulletin. We appreciate the opportunity to review and comment on this draft Work Plan that provides details about the work proposed on Forest Preserve lands in the Sundown Wild Forest. We generally do not comment on Forest Preserve issues in the Catskills, but in light of potential Article 14 compliance problems with the proposed work, we offer the following comments for your consideration prior to finalizing the Work Plan. We urge the DEC to reconsider the project and to revise the Work Plan.

Article 14 Compliance

**Staff**

Peter Bauer  
**Executive Director**

Claudia K. Braymer, Esq.  
**Deputy Director**

Christopher Amato, Esq.  
**Conservation Director  
and Counsel**

As we stated in our April 20, 2023 letter to Ian Dunn regarding the draft Sundown Wild Forest Unit Management Plan amendment, we were encouraged that DEC had abandoned plans to allow snowmobile use on the Long Path Re-route. We had hoped that a “new narrow trail for hiking and mountainbiking, if constructed with little to no tree cutting, rock removal and terrain alteration” would be a positive, and constitutionally permissible improvement for the Sundown Wild Forest.

However, the draft Work Plan for the new trail proposes to cut 1,430 trees over 8 miles, or 178 trees per mile. A large portion of the trees to be cut (226 trees) are 12” DBH or greater. While we appreciate that the Work Plan “Description of Desired Condition(s) for Project” states (at page 1) that it endeavors to create a foot trail that is “planned to preserve the wild forest setting and character” of the Forest Preserve, and that it would be “sinuous,

and traverse through the landscape in a natural fashion that blends in and follows the curvature of the landscape”, we are concerned that the amount of tree cutting proposed does not adequately reflect the Work Plan’s desired condition. The level of large tree cutting is nearly one tree every 200 feet, which is a lot for a hiking trail.

We ask that the DEC take a closer look at the proposed route to ensure that it truly does “avoid cutting of large trees” and keeps tree cutting “to the minimum necessary” as stated in the Work Plan (at page 1). Notably, the new DEC Commissioner’s Forest Preserve Work Plan Policy (CP-78) states that DEC must ensure that the “removal of trees and other vegetation will be minimized to the extent possible”, that DEC must provide “a description and justification for why tree cutting is required”, and that DEC must ensure that “significant terrain modifications such as earth work and soil disturbance will be minimized to the extent possible”.

The new CP-78 policy establishes for the first time a clear process by which DEC is required to evaluate constitutional compliance, and to “document the detailed, site-specific assessments conducted by Regional Land and Facility Managers when siting a particular project to ensure that an analysis of the relevant constitutional, statutory, and regulatory factors have been considered.” CP-78 page 5. The draft Work Plan does not “document” the analysis used by DEC staff to ensure that the constitutional provisions have been considered, and more importantly, have been satisfied. This Work Plan should be updated so that it contains the necessary Article 14 findings to allow the public to be fully informed about DEC’s constitutional analysis of this project.

This Work Plan must more clearly address the critical questions that CP-78 (pages 3-4) requires DEC to answer:

1. Is the proposed cutting, removal, or destruction of timber “material or substantial”?

As discussed above, DEC proposes to cut 1,430 trees over 8 miles, or 178 trees per mile. This amount of tree cutting for a project is constitutionally questionable and borders on an unconstitutional level of cutting. DEC should provide more detail in the Work Plan about the proposed tree cutting and the reasons that tree cutting cannot be further reduced.

We appreciate that trees were counted down to 1” DBH, as required by the *Protect the Adirondacks* Article 14 court decision (2021), and that the tree tally information in the Work Plan shows all of the trees 1” DBH and up.

2. Is the degree of alteration of the existing Forest Preserve terrain permissible?

The Work Plan (at pages 2 and 4) mentions keeping terrain alteration to a minimum, but it also states that the terrain will be altered to provide sufficient gradient along sidehills, to install water control devices, to add trail benching, crowning of the trail, and to remove “protruding roots and rocks which pose a hazard to users of the trail” (page 2). There should be more detail in the Work Plan about the locations of such terrain alteration, and it should include limitations that will guide trail crews during construction so that the

extent of terrain alteration is restricted. Given that this trail is meant to “offer a sense of solitude, remoteness, and self-reliance” (UMP Amendment page 3), there should be very little need for the removal of roots and rocks for users of the trail and this should be limited as much as possible.

3. Are the impacts of the proposed project on the existing wild state of the Forest Preserve permissible?

We applaud DEC for stating in the Work Plan (at page 1) that the route has “been carefully planned to preserve the wild forest setting and character” of the Forest Preserve. The wild forest nature of the Forest Preserve is an important aspect of the new Work Plan policy that must be analyzed in Work Plans.

The proposed Work Plan is constitutionally questionable; DEC needs to revisit the proposed tree cutting and terrain alteration plans to ensure that the proposed project can pass constitutional muster before the Work Plan is finalized and construction begins.

On behalf of the Board of Directors of Protect the Adirondacks, please accept our gratitude for the opportunity to share our comments on this draft Work Plan.

Sincerely,



Claudia Braymer,  
Deputy Director