



Board of Directors

April 10, 2024

Charles Clusen
Chair

Mitchell Krah (mitchell.krah@dec.ny.gov)
NYS DEC – Region 5 Office
Division of Operations
1115 Route 86
Ray Brook NY 12977

James McMartin Long
Michael Wilson
Vice-Chairs

Barbara Rottier
Secretary

Re: Draft Work Plan for Golden Beach Campground Utility Upgrades

David Quinn
Treasurer

Dear Mitchell,

Nancy Bernstein
John Caffry
Andy Coney
Dean Cook
James C. Dawson
Lorraine Duvall
Robert Glennon
Roger Gray
Evelyn Greene
Sidney Harring
Sheila Hutt
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 utility upgrades to the Golden Beach Campground, which was noticed in the March 27, 2024 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 Golden Beach Campground. This campground is one of the most popular and beautiful in the state and this work must be done in a way that maintains the scenic qualities long enjoyed by families at this campground. We understand that there is a need to upgrade the utilities in the campground, but we are concerned about the potential Article 14 compliance problems with the proposed work. We urge DEC to revise the Work Plan to reduce the amount of tree cutting currently proposed.

Intensive Use Areas

Staff

The Golden Beach Campground is an Intensive Use area pursuant to the Adirondack Park State Land Master Plan (APSLM). This classification requires that all management practices “limit vegetative clearing” and “preserve the scenic, natural and open space resources of the intensive use area.” (p. 42). Under the “Campgrounds” section, the following guidance is provided:

Peter Bauer
Executive Director

Claudia K. Braymer, Esq.
Deputy Director

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

All campgrounds will be of a rustic nature without utility hookups and other elaborate facilities customarily provided by private campgrounds....All facilities and appurtenances are to be constructed of natural materials to the fullest extent possible so as to blend with the natural environment. (p. 42)

Protect the Adirondacks

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We believe that the APSLMP requires that there be greater consideration by DEC for reducing the physical alterations to this facility resulting from the trenching and tree cutting. We urge DEC to evaluate the option of undergrounding these utilities within the roadway in the campground, which would limit the disturbance to the scenic beauty of the campground and blend in with the natural environment.

Article 14 Compliance

The draft Work Plan for the utility upgrades proposes to cut 438 trees over a distance of 12,000 linear feet, or 192 trees per mile. A large number of the trees to be cut (70 trees) are 12" DBH or greater. The Work Plan "Description of Desired Condition(s) for Project" states (at page 1) that it endeavors "to upgrade all existing water and electric utilities throughout the campground." However, there is nothing in the Work Plan that recognizes the need to preserve the "wild forest" setting and character of the Forest Preserve, and maintaining the natural aesthetics that should be associated with a campground in the Forest Preserve. We are concerned that the amount of tree cutting proposed does not adequately ensure that the Forest Preserve is protected and respected. The level of large tree cutting is approximately 3 to 5 trees every 100 feet throughout many portions of the campground, which has the potential to significantly alter the aesthetics of the campground.

We ask that DEC reduce the width of the utility trenches, and/or relocate the proposed utility trenches under the roadways, to minimize tree cutting and disturbance of the natural terrain and vegetation. Notably, the 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 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 438 trees over a distance of 12,000 linear feet, or 192 trees per mile. In 1993, in the *Balsam Lake* decision, the Appellate Division found that the State's plans to cut 350 big and small trees (the State counted trees down to 1"

DBH in its court documents), or approximately 152 trees per mile, to extend a cross-country ski trail by 2.3-miles did not violate Article 14. The amount of tree cutting proposed for this project is well over the amount in the *Balsam Lake* decision and is arguably 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. DEC should make every effort to reduce tree cutting to a level below the *Balsam Lake* standard. The current Work Plan does not satisfy this criterion.

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 larger.

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

The Work Plan (at page 2) mentions some efforts to minimize trenches and trench widths, but the proposal states that it will involve 12,000 linear feet of new trenching that will be 5 to 7 feet in width, throughout the campground, as shown on the site plan. The width of this trenching seems excessive for a state campground where maintenance of the scenic beauty is of paramount concern. There should be more detail in the Work Plan requiring combined trenching for water and electric utilities where there are existing trenches for water, locating new trenches under roadways and paths in the campground, and only disturbing the terrain for new underground trenches where absolutely necessary. There should be clear limitations that will guide trail crews during construction so that the extent of terrain alteration is restricted. We do not believe that the DEC has satisfied this criterion.

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

Consideration of 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 (see CP-78 at page 4). There is no analysis of this consideration in the draft Work Plan. The beauty and wild forest character of the Golden Beach Campground will be compromised by the current Work Plan. We do not believe that the DEC has satisfied this criterion.

The proposed Work Plan is constitutionally questionable. The plan does not comply with the APSLMP. DEC needs to revisit the proposed level of tree cutting, terrain alterations, and actions that undermine the wild forest nature of the area, which are all essential criteria to ensure compliance with Article 14 and that the proposed project can pass constitutional muster before the Work Plan is finalized and construction begins. DEC must share its analysis with written descriptions about how it is upholding Article 14.

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,

A handwritten signature in black ink that reads "Claudia K. Braymer". The script is fluid and cursive, with the first letters of each word being capitalized and prominent.

Claudia K. Braymer
Deputy Director