

Adirondack Mountain Club • Adirondack Council • Protect the Adirondacks  
Adirondack Wild: Friends of the Forest Preserve

August 29, 2013

Leilani Ulrich, Chair, and Members  
NYS Adirondack Park Agency  
PO Box 99  
Ray Brook, NY 12977

**RE: Concerns over development of APA recommendation for 2013 Forest Preserve classifications**

Dear Chairwoman Ulrich,

The organizations listed on this letter are very concerned about an expedited action by the Adirondack Park Agency (APA) to make its final decision on the 2013 classification of Forest Preserve lands at its September monthly meeting. Given the sheer volume of essential work that must be completed by the APA staff to comply with SEQRA, the DEC-APA MOU and Adirondack Park State Land Master Plan (SLMP), we urge the APA to take the necessary amount of time to ensure a thorough and deliberative course of action. We do not see how the APA can make a fully informed decision at its September meeting given the volume of work that remains incomplete and has not been presented to either the APA Board or the public.

Here are the main reasons why we believe the APA should take a thorough and deliberative course of action in its development of an official recommendation for the classification and reclassification of new and existing Forest Preserve lands as part of its 2013 classification package.

List of Three Dozens Questions

At the August meeting of the APA, Members enumerated a list of nearly three dozen questions for Counsel Jim Townsend and other APA staff to research and answer. This list includes many significant questions that are important to the APA Board's deliberations and analysis as they develop a formal classification. The answers to these questions need to be part of the formal public record and presented in a manner that provides the APA Board adequate time to process the information presented before it seeks a staff recommendation.

In addition, there are the many questions yet to be asked by the Members, but nonetheless requiring staff investigation and answers pursuant to the APSLMP's classification guidelines (pages 14-15), such as:

1. What are the exact nature of the wetlands fringing the Essex Chain Lakes which "bear on their capacity to withstand human uses?"
2. Relative to other types of wetlands in the park, are they more capable or less capable of "absorbing material changes resulting from intensive human use"?
3. Are there problems here "associated with allowing motorized access to bodies of water with wild strains of native trout"?
4. What are the factors related to a "sense of remoteness and degree of wildness available to users" of the Essex Chain Lakes? The Cedar River? The Indian River? The Upper Hudson? OK Slip Falls?

This is just a short sample of the many questions which flow directly from the APSLMP's classification criteria, and which the Members should be asking and the staff answering prior to a decision.

### Preparation of SEQRA Response Document

The public response to the APA classification public hearing was intense and robust. There are many major issues for which the APA must prepare an official response. In many ways the Response document will furnish the basis for which the APA will make its final classification recommendation to the Governor. The APA should not rush the completion of this document according to an artificial time frame. This document should be drafted by the staff and fully, and publicly, reviewed and discussed by the APA Board in draft form prior to official action.

Major issues of substance that the APA should provide official responses to, and this is only a partial list, include:

- Compliance with State Land Master Plan requirement for “no material increase” in the mileage of roads or snowmobile trails, or in “motorized uses” in newly purchased and classified Forest Preserve land;
- Legal analysis of reserved float plane rights within the Wild, Scenic and Recreational Rivers corridor on Pine Lake;
- Legal analysis for reaching a decision concerning each possible land classification, including Wild Forest Special Management Area;
- Analysis of management options for sensitive lake trout fishery under Wild Forest, Wilderness, Canoe and Primitive classifications;
- Analysis of management options for aquatic invasive species prevention and interdiction under Wild Forest, Wilderness, Canoe and Primitive classifications;
- Analysis of management options for designation of CP-3 campsite near the Essex Chain Lakes with road access under Wild Forest, Wilderness, Canoe and Primitive classifications;
- Analysis of legality of All Terrain Vehicle (ATV) access to Essex Chain Lakes area.
- Analysis of legality of snowmobile trail access to Essex Chain Lakes area.
- Analysis of legality of reconstruction of bridge over the Cedar River under Wild Forest, Wilderness, Canoe and Primitive classifications;

### Adoption of a Final Response Document under SEQRA

The development of a staff recommendation for the 2013 Forest Preserve classifications in advance of a completed Response document under SEQRA is putting the cart in front of the horse. It is our belief that the Response document must be reviewed and approved by the APA Board and is not a matter that can be delegated to staff.

The public release of the Response document is likely to be made on Thursday, September 5<sup>th</sup> as part of the posting of necessary materials for the APA's September meeting. The Response document will be in draft form because the staff has selected the issues of substance that they believe merit responses and have drafted those responses. The APA Board should discuss these responses starting on September 12<sup>th</sup>. It is possible that the Board will amend or edit these responses during this meeting, or that staff will be directed towards additional work prior to the meeting on Friday September 13<sup>th</sup>. It is also possible that the APA Board could delay approval of the Response document until its October meeting pending further work by the staff.

While the “Resolution of the Adirondack Park Agency on Delegating Certain Powers and Responsibilities” authorizes the Executive Director to “to accept final environmental impact statements and to make findings on behalf of the Agency pursuant to the State Environmental Quality Review Act” we do not believe it is appropriate in the current classification process for the Executive Director to unilaterally accept the Response document. For major state land classification decisions, particularly those of the magnitude of the former Finch, Pruyn lands, the job of reviewing and evaluating SEQRA response documents should fall to the APA Board.

#### Compliance with the APA-DEC MOU

The current classification process raises questions about the implementation of the APA-DEC Memorandum of Understanding (2010) with regards to compliance with the agreed upon procedure for state lands classification. This MOU details five actions that must be completed prior to the APA proceeding to a public hearing. These include:

- (1) The AGENCY shall not undertake classification of new State land acquisitions within the Adirondack Park without prior written notice to the Commissioner of Environmental Conservation of the intent to do so.
- (2) The AGENCY shall request the official designation of a representative of the DEPARTMENT to participate with the AGENCY on behalf of the DEPARTMENT in the assignment of classifications to new land acquisitions. The AGENCY shall designate a staff member to serve as the AGENCY's contact person to the DEPARTMENT.
- (3) The AGENCY shall provide the DEPARTMENT with a schedule for the classification of new acquisitions and will promptly advise the DEPARTMENT of any changes to such schedule.
- (4) The AGENCY shall provide the DEPARTMENT with drafts of the proposed classifications prior to the conduct of public hearings and will provide the DEPARTMENT with a minimum of thirty (30) days for review and response to such drafts prior to such hearings.
- (5) The AGENCY shall advise the DEPARTMENT in writing of its acceptance or rejection of the recommendations of the DEPARTMENT with respect to classifications at least fifteen (15) days prior to such hearings.

We are concerned that the APA has not completed all of these steps according to the required schedule. We are unaware of a public statement or presentation of materials that would substantiate that the APA and DEC have complied with the MOU.

#### DEC Pledge to Prepare Official Amendment to Vanderwhacker Mountain Wild Forest Area for Minerva to Newcomb Community Connector Snowmobile Trail Access

At the August meeting, the Department of Environmental Conservation stated that it plans to submit an official amendment to the Vanderwhacker Mountain Wild Forest Unit Management Plan (VMWFUMP). This was stated in response to APA Board discussion of the utility of the various new or potentially reclassified Forest Preserve lands for a community connector snowmobile trail that links Minerva to Newcomb. Specifically, one APA Board member held that the Polaris Bridge should be retained to facilitate a snowmobile trail crossing over the Hudson River.

The existing VMWFUMP lists a number of options for the Minerva-to-Newcomb connection and parts of it have already been completed. An amendment would designate new opportunities developed by the DEC or show which of the existing possible routes has proven to be feasible.

It's important that the DEC provide this information to the APA. It does not appear that any of the new or potentially reclassified Forest Preserve lands are necessitated for the Minerva-to-Newcomb connection, but it would be best to have a statement from the DEC about this matter.

#### Staff Recommendations

It appears to us that the APA Board may want to seek more than one recommendation from the staff. It's important that a full legal analysis be prepared for each recommendation. We fully support State Lands Chairman Richard Booth in his assessment that, "the best schedule I can imagine is all of this coming to us as a recommendation in Sept and a decision in October, maybe even November, but I would hope October..." This sentiment wisely reflects an appreciation not only for the complexity of the issues at hand, but also of the burden that has been placed on the staff to adequately compile and synthesize a vast amount of information and public input in an extremely short time frame.

#### Conclusion

The organizations listed on this letter urge the APA to fully review and discuss relevant materials at its September Board meeting, such as the 35 informational requests enumerated in the "Townsend List" as well as the SEQRA Response document. The APA Board must appropriately and proficiently review and analyze these materials. This work will benefit the APA Board as it assesses the merits of one classification compared with another. This work is vital to the APA Board making its final decision. We do not see how the APA can make a good decision by prematurely rushing the development, analysis and public discussion of these materials prior to a final classification decision.

We thank the APA for opportunity to share our concerns on these important matters.

Sincerely,

Peter Bauer  
Protect the Adirondacks

Neil F. Woodworth  
Adirondack Mountain Club

David Gibson  
Adirondack Wild: Friends of the Forest Preserve

Raul Aguirre  
Adirondack Council