



14 March 2017

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Conservation

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Education

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Recreation

Since 1922

RE: Scoping Debar Mountain Wild Forest UMP

Dear Robert,

The Adirondack Mountain Club (ADK) appreciates the opportunity to comment during the scoping stage of the Debar Mountain Wild Forest UMP.

### Acquisition Priority

The state should prioritize acquisition of the *Northern Flow River Corridors*<sup>1</sup> as described in the 2016 New York State Open Space Conservation Plan,

“Preserve the open space character and enhance public use of important northern flow river corridors and adjacent lands. The following corridors have been chosen at this time: the Deer, St. Regis, Grasse, Oswegatchie, Raquette and Little Rivers within the Adirondack Park, all of which contain significant stretches of high-quality recreational water particularly suited for canoeing and angling. Progress has been made in Region 6 with the recent addition of 30 acres of fee lands on the Raquette River.”<sup>2</sup>

### ATVs

Increasingly DEC is under pressure to allow ATV access on Forest Preserve land in conjunction with local road openings for connections between legal riding areas as defined in NYS Vehicle and Traffic Law 2405. ADK does not support the use of ATVs on the Forest Preserve. Opening trails to ATV use in the Forest Preserve is not lawful and violates 6 NYCRR 196.1 (b). ADK supports the prohibition of public use of all-terrain vehicles within the forest preserve, and an increase penalties for violations of all-terrain vehicle laws in such sensitive areas. The state has opened Adirondack Park roads in Wild Forest Areas in the past, as well as trail systems on state forests, but has subsequently closed the roads and trails because of environmental damage and inconsistency with state law. The use of ATVs on public roads in the Adirondack Park and Catskill Park is governed by Title 11,

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Article 48C, Section 2405 of the New York State Vehicle and Traffic Law. In the early 2000s DEC opened 54 roads to ATV use in Wild Forest Areas of the western Adirondack Park. DEC was forced to shut these systems down because they did not comply with Section 2405. Adirondack conservation groups also documented the significant damage to the Forest Preserve connected with this ATV access.<sup>3</sup> For example, the Wildlife Conservation Society (WCS) published a paper on ATV use in the Adirondack Park in 2003, *All-Terrain Vehicles in the Adirondack Park*.<sup>4</sup> The paper explains how ecological damage from ATVs is long-term and difficult to remediate, especially in sensitive habitats.

In fact, every pilot ATV program on NY state lands has been shut down because of environmental damage caused by ATVs. For example, the *Strategic Plan for State Forest Management* outlines several case studies in which ATV trail systems were implemented on State Forest Lands, including New Michigan State Forest, Anderson Hill State Forest, Brasher State Forest, Morgan Hill and Taylor Valley State Forests. All of these trail systems were all closed due to the environmental impacts by ATVs on these state forest lands.<sup>5</sup> In NYS there has been a significant increase in pressure on the state legislature to pass bills, which would increase the current allowable weight of all-terrain-vehicles (ATVs), from 1,000 lbs to 1500 lbs. There is also pressure to allow ATV riding on roads throughout the state that have been opened by local law in violation of New York State Vehicle and Traffic Law, and contrary to NYS Attorney General Opinion 2005-21<sup>2</sup> and NYS Department of Environmental Conservation (DEC) legal opinion.<sup>3</sup> ATV manufacturers expressly define that their vehicles are not designed for road or highway use.<sup>4</sup> Documentation by the U.S Consumer Product Safety Commission and the National Highway Transportation Safety Administration's (NHTSA) Fatality Analysis Reporting System (FARS) that a majority of ATV deaths take place on roads.<sup>5</sup>

### **Snowmobile Use**

ADK does not support the creation of any additional snowmobile trails or motorized use within the Debar Mountain Wild Forest.

### **Invasive Species**

Invasive species are spreading at rapid rate, reducing water quality, property values, and recreational opportunities along the way. New York State has enacted numerous regulations and laws that will prove vital to stopping the spread of aquatic and terrestrial invasive species, but public education, spread prevention, and mitigation are needed before the impacts become insurmountable. The UMP must include an inventory of existing known invasives (such as is available on the Adirondack Park Invasive Plant Program web site <http://adkinvasives.com/Invasive-Web-Map/index.html>), a consideration of likely threats from invasives, such as Hemlock Woolly Adelgid (see below), and include or reference early detection and rapid response and spread prevention plans, and best management practices. The UMP should explain how the waterbodies in the unit fit into **Adirondack Park-wide AIS spread prevention plans, and the successful program of watercraft decontamination, management and control activities across the Adirondack Park.**

**The Adirondack Park's economy is particularly vulnerable to invasive species.** A study commissioned by Adirondack Park Invasive Plant Program conservatively estimated the potential impact from just 8 invasive species to be between \$468 to \$893 million loss to the Adirondack's economy. Prevention efforts are of paramount importance and are critical to the economy, ecology and quality of life in the Adirondack Park.

Since 2000, AIS spread prevention, watercraft inspection, and education efforts have been successfully implemented by Paul Smith's College, the Lake Champlain Basin Program, and active lake associations at many, but not all, critical boat launches across the Adirondack Park. While these programs are effective at detecting and removing the majority of visible plant fragments, they cannot provide adequate decontamination of small-bodied organisms such as zebra mussels, Asian clam or spiny waterflea. Compared with spread prevention, the costs of directly managing infestations are high and often exceed the capacities of state action, local governments, and non-profits. Across the Adirondacks we need to **continue to build an effective AIS spread prevention and decontamination network** comprised of coordinated inspection locations and strategically located decontamination facilities.

### **Hemlock Woolly Adelgid**

**Moving forward additional funding will be needed to continue to combat invasive species.** Aquatic Invasive Species are not the only threat New York faces. New York faces **potential decimation of eastern hemlock (*Tsuga canadensis*) from a forest pest, hemlock woolly adelgid (*Adelges tsugae*) (HWA),<sup>6</sup>** which has not yet entered the Adirondack Park, but has already caused significant decline in the Catskill Park, and has been identified in Letchworth State Park, and Zoar Valley, and Allegany State Park (where our members helped identify HWA under a *citizen science* project run by OPRHP).

Hemlocks are a foundation species.<sup>7</sup> Foundation species are critical species in the habitats they help create.<sup>8</sup> In the case of hemlocks they moderate stream water temperatures for trout and other animals, provide a buffer for nutrient inputs to maintain water quality, stabilize shallow soils especially in steep gorges, provide shelter for animals and plants which is especially important in winter, provide critical habitat for migrating neo-tropical birds, and provide acidic substrate for lichens.

In the Adirondack Park hemlock is very dense especially in the south and in areas like Lake George, Keene Valley, and in much of the Lake Champlain Basin (including its far edge in the Saranac Lakes Wild Forest and the St Regis Canoe Area).<sup>9</sup> Imagine the impact to the Adirondack landscape from a severe decline of hemlock—a highly likely scenario without a significant increase in early detection efforts (like those our members are engaged in as citizen scientists), treatment and development of bio-controls, such as the predatory beetle (*Laricobius nigrinus*).<sup>10</sup> We only need look to places such as the Great Smoky Mountains for an example of the devastation in store for the Adirondacks.<sup>11</sup> Closer to home, decline of hemlocks is already well underway in the Catskills.<sup>12</sup> HWA has been advancing quickly through New York State,<sup>13</sup> and now is at the doorstep of the Adirondack Park (and likely is already present). Anyone who has hiked, paddled, or driven through the Adirondack Park should realize what we will lose. If we do not act quickly, we may lose the species.<sup>14</sup>

**We applaud the Governor's foresight in addressing the hemlock woolly adelgid (HWA) threat with \$500,000 line item in the EPF** for staffing at Cornell University and support for combating this pest through the work of the eight

regional New York State PRISMs (Partnerships for Regional Invasive Species Management),<sup>15</sup> as well as an additional \$575,000 for establishing a lab at Cornell University to grow the predator beetle (*Laricobius nigrinus*) as a bio-control for HWA.

### **Glamping in Hut to Hut and Closed Cabin Facilities on Forest Preserve**



In the next **one to three years**, the New York State Department of Environmental Conservation (DEC) and Adirondack Park Agency (APA) under the direction of Governor Andrew Cuomo are likely to attempt to implement the *Conceptual Plan for a Hut-to-Hut Destination Trail System for the Five Towns*<sup>16</sup> which calls for **Lodging and Dining Facilities on the Adirondack Forest Preserve**. The first project with funding identified in the 2017-2018 Budget will be **at Boreas Ponds** with a facility that is likely to **house and feed up to 36 people**. This action is contrary to NYS law and regulations.

Numerous times since the Adirondack Park was created in 1892, different interests have advocated for allowing lodging facilities on the “Forever Wild” Forest Preserve lands so that hikers could travel between facilities without the need to carry tents, cooking equipment, and supplies. These multiple efforts to open up the Adirondack Park’s Forest Preserve to development of lodging and dining facilities have resulted in a history of opinions and decisions which have ensured the protection of the Forest Preserve by blocking attempts to weaken law and regulations.

Recently, pressure from local governments and development interests in the Adirondack Park convinced Governor Cuomo to support the use of forest preserve lands for lodging proposed in the *Conceptual Plan for a Hut-to-Hut Destination Trail System for the Five Towns* (Here after the *Conceptual Plan*).<sup>17</sup> Despite the long history of opinions and decisions against such development, the *Conceptual Plan* presents a plan for lodging and dining facilities at numerous locations on Adirondack Forest Preserve lands. The *Conceptual Plan* qualifies proposed lodging facility locations as follows,

“The highest preference is utilizing existing, or creating new, lodging on private land. Second is creating new lodging on conservation easement parcels when such development is consistent with the terms of the conservation easement. Third is using existing buildings or temporary lodging (platform tents, yurts, or something similar) on state land classified as Intensive Use. Fourth is using existing buildings or temporary lodging (platform tents, yurts, or something similar) on state land classified as Historic. Fifth, and least desirable, will be temporary lodging (platform tents, yurts, or something similar) on other parcels of state land.”<sup>18</sup>

Unfortunately, only the first two lodging preferences listed above do not violate existing law and regulations. Using existing buildings or structures such as tent platforms (as suggested in the paragraph above) on Forest Preserve lands violates the Adirondack Park State Land Master Plan and the ‘Forever Wild’ clause of the State Constitution.

A 1934 Attorney General Opinion by John J. Bennet, Jr., clearly states that **such facilities are "inadvisable" on the Forest Preserve.**

“**The right of the State Conservation Department to build shelters and furnish food for the cost of operation in remote sections of the forest preserve is of doubtful constitutionality** because of the prohibition of Article VII, Section 7 of the State Constitution.”<sup>19</sup>

**ADK has opposed lodging and dining facilities on public land and the Forest Preserve since the 1930s** when ADK worked with the Association for the Protection of the Adirondacks (APADK), to organize state wide opposition to the Porter Amendment, also known as the 1932 Closed Cabin Amendment,<sup>20</sup> which was an attempt to build lodging on the Forest Preserve. This Amendment was defeated.

The guidance and definition provided in the Adirondack Park State Land Master Plan (APSLMP), originally drafted in 1972 and most recently updated in 2016, does not support lodging and dining facilities on the Forest Preserve. Page 16 of the APSLMP states “**Insofar as forest preserve lands are concerned, no structures, improvements or uses not now established on the forest reserve are permitted by these guidelines and in many cases more restrictive management is provided**

**for.”**<sup>21</sup> This guidance clearly would prohibit structures such as tent platforms, yurts, huts, or structures designed for the lodging dining experience envisioned by the *Conceptual Plan*.

DEC may attempt to use an "Intensive Use" Area Classification on the Boreas Ponds Tract for a lodging and dining facilities, however the Adirondack Park State Land Master Plan (APSLMP) guidance and definition of an Intensive Use Areas does not support such facilities.

The APSLMP recognizes the potential for an Intensive Use Area to compete with private development and rightly advises caution in using this classification type. The APSMP states,

"The siting of new state intensive use areas and the expansion of existing areas also must take into full account the existence of similar and possibly competing private recreational facilities and should not be competitive with such private facilities."<sup>22</sup>

“Under Acquisition Policy Recommendations "3. Save for (i) the two existing alpine skiing centers at Whiteface and Gore mountains and the Mt. Van Hoevenberg area; (ii) rustic state campsites, a long accepted intensive use of the forest preserve; (iii) memorial highways, beaches and boat launching sites; and (iv) historic areas (guidelines for which are provided elsewhere in this master plan), the state should rely on private enterprise to develop intensive recreational facilities on private lands within the Park, to the extent that the character of these lands permits this type of development, and should not acquire lands for these purposes.”<sup>23</sup>

The APSLMP also describes **Intensive Use Areas** as places that **are not remote** (or that do not have a sense of remoteness, or that are not in the Backcountry), but that are close to highways and areas with motorized use. The APSLMP states under *Classification Guidelines*,

**“All intensive use facilities should be located, designed and managed so as to blend with the Adirondack environment** and to have the minimum adverse impact possible on surrounding state lands and nearby private holdings. They will **not be situated where they will aggravate problems on lands already subject to or threatened by overuse**, such as the eastern portion of the High Peaks

Wilderness, the Pharaoh Lake Wilderness or the St. Regis Canoe Area **or where they will have a negative impact on competing private facilities. Such facilities will be adjacent to or serviceable from *existing* public road systems** or water bodies open to motorboat use within the Park.”<sup>24</sup> [emphasis added]

Unfortunately, Governor Cuomo has identified the Boreas Ponds Tract as the first Forest Preserve parcel that will be considered for dining and lodging development as outlined in the *Conceptual Plan*. The 2017 State of the State Briefing Book explains that Governor Cuomo will invest in NY Works to,

“Launch *Adventure NY*, a multi-year outdoor recreation campaign, and invest \$50 million, including \$30 million in new funding, to connect more New York families and visitors to the great outdoors. In the first three years of the Adventure NY campaign, DEC and local partners will design and construct more than 75 projects on state lands, including rehabilitating campgrounds; upgrading visitor centers, education centers, and youth camps; improving and building miles of trails; constructing duck blinds, boat launches, and wildlife viewing platforms; and making resources universally accessible so all can enjoy. Specifically, DEC will construct infrastructure at Boreas Ponds in the Adirondacks and build trails as part of the “Hut-to-Hut” system that links State lands to community amenities.”<sup>25</sup>

Although the *Conceptual Plan*<sup>26</sup> does not include a plan for the Debar Mountain Wild Forest, it is reasonable to conclude, given what is currently being proposed for the Five Towns area and for Boreas Ponds specifically, that DEC may propose such a system in the Debar Mountain Wild Forest UMP. However, **DEC must not consider dining and lodging facilities as they are described in the model *Conceptual Plan for a Hut-to-Hut Destination Trail System for the Five Towns*.<sup>27</sup> in the Debar Mountain Wild Forest UMP. To do so would invite litigation.**

Thank you for considering the above comments. We look forward reviewing the Draft UMP.

Sincerely,

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- <sup>2</sup> [http://www.dec.ny.gov/docs/lands\\_forests\\_pdf/osp2016final1.pdf](http://www.dec.ny.gov/docs/lands_forests_pdf/osp2016final1.pdf) (p.132)
- <sup>3</sup> <http://www.protectadks.org/2013/03/protect-urges-governor-cuomo-and-dec-to-ban-atv-use-on-the-forest-preserve/>
- <sup>4</sup> [wcsadironacks.org](http://wcsadironacks.org)
- <sup>5</sup> <http://www.dec.ny.gov/lands/64567.html>
- <sup>6</sup> [http://www.dec.ny.gov/docs/lands\\_forests\\_pdf/spsfmfinal.pdf](http://www.dec.ny.gov/docs/lands_forests_pdf/spsfmfinal.pdf) (p. 215-218)
- <sup>7</sup> <http://www.lternet.edu/research/keyfindings/foundation-species-matter>
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- <sup>11</sup> <http://www.lakeplacidnews.com/page/content.detail/id/523715/Flies-could-avert-hemlock-threat-in-New-York.html?nav=5005>
- <sup>12</sup> [https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=12&ved=0CFoQFjALahUKEwiqprXP5rLHAhVIXB4KHsSmDG0&url=http%3A%2F%2Fwww.na.fs.fed.us%2Fnews%2Fstories%2FHWA-Study-FINAL-012915.pdf&ei=tzvTVepuyLh5pM2y6AY&usg=AFQjCNFRO6h3W\\_R1J2EKupOn32xQBBQLpQ&](https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=12&ved=0CFoQFjALahUKEwiqprXP5rLHAhVIXB4KHsSmDG0&url=http%3A%2F%2Fwww.na.fs.fed.us%2Fnews%2Fstories%2FHWA-Study-FINAL-012915.pdf&ei=tzvTVepuyLh5pM2y6AY&usg=AFQjCNFRO6h3W_R1J2EKupOn32xQBBQLpQ&)
- <sup>13</sup> <http://www.dec.ny.gov/animals/95656.html>
- <sup>14</sup> <http://www.lakeplacidnews.com/page/content.detail/id/523185/A-threat-to-hemlocks.html?nav=5005>
- <sup>15</sup> <http://www.dec.ny.gov/animals/47433.html>
- <sup>16</sup> [http://www.dec.ny.gov/docs/lands\\_forests\\_pdf/huttohut.pdf](http://www.dec.ny.gov/docs/lands_forests_pdf/huttohut.pdf)
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- <sup>18</sup> [http://www.dec.ny.gov/docs/lands\\_forests\\_pdf/huttohut.pdf](http://www.dec.ny.gov/docs/lands_forests_pdf/huttohut.pdf) (p.7)
- <sup>19</sup> Opinions of the Attorney General, p.279
- <sup>20</sup> 1978 Graham, Frank, The Adirondack Park: A Political History
- <sup>21</sup> [https://www.apa.ny.gov/Documents/Laws\\_Regs/APSLMP.pdf](https://www.apa.ny.gov/Documents/Laws_Regs/APSLMP.pdf) (p.16)
- <sup>22</sup> [https://www.apa.ny.gov/Documents/Laws\\_Regs/APSLMP.pdf](https://www.apa.ny.gov/Documents/Laws_Regs/APSLMP.pdf) (p.9)

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<sup>23</sup> [https://www.apa.ny.gov/Documents/Laws\\_Regs/APSLMP.pdf](https://www.apa.ny.gov/Documents/Laws_Regs/APSLMP.pdf) (p.13)

<sup>24</sup> [https://www.apa.ny.gov/Documents/Laws\\_Regs/APSLMP.pdf](https://www.apa.ny.gov/Documents/Laws_Regs/APSLMP.pdf) (p.42)

<sup>25</sup> <https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/2017StateoftheStateBook.pdf> (p.271)

<sup>26</sup> [http://www.dec.ny.gov/docs/lands\\_forests\\_pdf/huttohut.pdf](http://www.dec.ny.gov/docs/lands_forests_pdf/huttohut.pdf)

<sup>27</sup> [http://www.dec.ny.gov/docs/lands\\_forests\\_pdf/huttohut.pdf](http://www.dec.ny.gov/docs/lands_forests_pdf/huttohut.pdf)