



12 November 2018

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RE: Draft Unit Management Plan for the Sundown Wild Forest and the Vernooy Kill State Forest

Dear Pine,

Thank you for the opportunity to comment on the Draft Unit Management Plan (UMP) for the Sundown Wild Forest and Vernooy Kill State Forest and the proposed construction of a 30 to 40 car parking area near the "Blue Hole"; the construction of a 1,500 foot accessible trail for the purpose of connecting the parking area to the "Blue Hole"; the construction and expansion of additional multiple-use trails and parking areas to facilitate public use of the unit; and the expansion of opportunities for snowmobiling, equestrian, hiking, mountain biking, camping and for people with disabilities throughout the unit.

Adirondack Mountain Club

ADK is dedicated to protecting and advocating for New York State's wild lands and waters while also teaching people how to enjoy natural places responsibly. Since 1922, the organization has offered people opportunities to stay and play in as well as protect, discover, and explore the outdoors. Today, ADK has 30,000 members in 27 chapters statewide and is served by a professional, year-round staff. The organization is recognized as a vital voice in the commitment to environmental stewardship and ethical outdoor recreation in New York State. ADK members hike, camp, snowshoe, cross-country ski, paddle, and cycle the lands and waters of the Adirondack Park and other state lands. Our members are also monitors and maintainers of trails and recreation infrastructure as well as watchdogs of public lands and watersheds to monitor for invasive species or irresponsible and destructive motorized trespass.

We respectfully request that you consider the following concerns and comments outlined below.

Sundown Wild Forest

ADK supports the proposed infrastructure additions to the Peekamoose Blue Hole area that are outlined in the UMP. These proposed projects, specifically the parking area near the "Blue Hole," and the construction of a 1,500 foot accessible trail for the purpose of connecting the parking area to the "Blue Hole," are necessary for the public safety of Blue Hole visitors. Given that the Department of Environmental Conservation (DEC) has implemented a permit system at the Blue Hole, which increases the expectation for a safe public facility experience, DEC must take reasonable steps to provide parking capacity that corresponds to the permits issued and that provides visitors with a safe trail from the parking area to the Blue Hole, as opposed to the current situation which forces visitors to walk on the narrow roadway.

Although ADK does not support intensive development of the Forest Preserve, the Peekamoose Blue Hole presents a unique situation that required immediate and intensive stewardship, educational outreach, law enforcement, and recreational planning. The 2018 summer season showed that the Peekamoose Blue Hole and the surrounding Forest Preserve was protected and was able to recover from resource damage when a no-cost permit system was implemented and combined with educational outreach, stewardship, and a law enforcement presence.

Although the permit system, combined with other measures, proved effective in helping to protect the resource, it needs to be improved to account for permit holders who are no-shows. DEC should also consider allowing permit slots that have not been reserved by 8am on any permitted day to be available on-site for visitors who arrive without a reservation.

Vernooy Kill State Forest

Protect Forest Ecosystems and Comply with the NYS State Constitution By Prohibiting Drilling and Mining.

The Vernooy Kill State Forest is in a Forest Preserve County, which affords these lands protection under Article XIV of the New York State Constitution. The Department of Environmental

Conservation (DEC) must state this clearly in the UMP and explain the protection that this affords this Unit, and remove Objective MR I of Table 21 (page 226).

MR I of Table 21 (page 226) of this draft UMP states that there are currently no proposals for mineral exploration in this unit. However, the table and draft UMP indicate that Objective MR I, “Provide for Mineral Exploration and Development...” is a Permitted Use Objective for this Management Unit. A foundational principle that must inform the management strategies and decisions on any state public land units in Forest Preserve counties (i.e., counties which contain the “blue-line” boundary of the Adirondack or Catskill Parks) is that state public land units in Forest Preserve Counties are afforded constitutional protection as Forest Preserve as outlined in Article XIV, Section 3.1. Consequently, the Vernooy Kill State Forest is afforded this protection.

Article XIV of the New York State Constitution states,

Section 1. The lands of the state, now owned or hereafter acquired, constituting the forest preserve as now fixed by law, shall be forever kept as wild forest lands. They shall not be leased, sold or exchanged, or be taken by any corporation, public or private, nor shall the timber thereon be sold, removed or destroyed.

Section 3. 1. Forest and wild life conservation are hereby declared to be policies of the state. For the purpose of carrying out such policies the legislature may appropriate moneys for the acquisition by the state of land, outside of the Adirondack and Catskill parks as now fixed by law, for the practice of forest or wild life conservation. The prohibitions of section 1 of this article shall not apply to any lands heretofore or hereafter acquired or dedicated for such purposes within the forest preserve counties but outside of the Adirondack and Catskill parks as now fixed by law, except that such lands shall not be leased, sold or exchanged, or be taken by any corporation, public or private.

In the 16 Forest Preserve counties in the Adirondacks and Catskills, the legal issue is very clear. Under Article XIV, section 3 of the New York Constitution, state-owned land within these counties, but outside the borders of the Adirondack and Catskill parks, cannot be leased for mineral extraction.

Outside the Forest Preserve counties, Article XIV section 3 requires that lands acquired for reforestation must forever be used for that purpose. We maintain that subsurface leases of reforestation lands would violate both the spirit and letter of section 3 and related state laws. **Since Article XIV gives every New**

York resident legal standing to sue over any violation of this article, any attempt by the State to lease surface or subsurface rights to any State Forest land anywhere in New York would undoubtedly result in legal action against the State.

DEC should prohibit oil and gas drilling on or under all state forests. Oil and gas drilling and mineral development creates an unacceptable impact on state lands and should be prohibited. Oil and gas pipeline construction should also be prohibited on State Forests. Existing pipelines should be phased out and impacts should be mitigated.

It is essential that DEC protect the forest ecosystems that it stewards and guard against resource extraction that harms natural habitats and human communities. DEC must not provide access through lease or other means to its mineral estate for vertical or horizontal oil and gas drilling.

If there are legacy drilling and active drilling sites in the area, DEC should test water resources for contamination from drilling activity.

In cases where the mineral estate may not be owned by the State of New York, DEC must work to purchase the severed estate or initiate a process to extinguish the mineral access rights, so that the right escheats to the state if ownership is unclear.

Prohibit ATVs. Establish Baseline Data of Illegal Motorized Use.

ADK does not support the use of ATVs on New York State Land. DEC should remove from this UMP Objective ATV II of Table 21 (page 226), which states, “Consider requests for ATV connector routes across the unit” (page 226).

Increasingly DEC is under pressure to allow ATV access on state lands in conjunction with local road openings for connections between legal riding areas as defined in NYS Vehicle and Traffic Law 2405. The use of ATVs on public roads is governed by Title 11, Article 48C, Section 2405 of the New York State Vehicle and Traffic Law.

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 (SPSFM) 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.¹ 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), to 1800 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 2005-21² and NYS Department of Environmental Conservation (DEC) legal opinion.³ ATV manufacturers expressly define that their vehicles are not designed for road or highway use. Documentation by the U.S Consumer Product Safety Commission and the National Highway Transportation Safety Administration's (NHTSA) Fatality Analysis Reporting System (FARS) states that a majority of ATV deaths take place on roads.⁴

Support CP3: Prohibit Motorized Use for Universal Access Sites.

ADK supports the CP3 policy. However, we do not support motorized Universal Access Trails which undermine the CP3 program by providing motorized access to individuals who do not qualify for the CP3 program.

Motorized "Universal Access" for the general public undermines the successful CP3 program by destroying the goal of the program which is uncommon access for people with disabilities who may be seeking "...solitude, connection to nature, undisturbed wildlife habitat, and inclusion with fellow sportspeople."⁵ DEC should create areas and trails that take into consideration the different mobility abilities and accessibility needs of individuals and families, but these should be accomplished through non-motorized means.

Addressing Global Climate Change: Manage for Late Successional Forests and Allow Old Growth Habitat to Develop.

Maximizing carbon sequestration should be a priority in our New York State Forests. The New York State Open Space Conservation Plan highlights the need to address global climate change. In addressing global climate change it is important to protect our coastlines, riparian corridors and wetlands; to maintain an interconnected network of protected lands and waters enabling flora and fauna to adapt to climate change; and to maintain and grow our state's forests. Forests play a large role in mitigating the effects of climate change by naturally storing carbon. Trees are typically about 50% carbon. More than 63% of New York State is forest land, amounting to 19 million acres of land covered by trees.

Approximately 14.4 million acres are privately owned. How these forests are managed can play an important role in carbon sequestration and moderation of the heat and dryness impacts of climate

change. Trees are unique in their ability to store large amounts of carbon in their wood and studies show that trees continue to add carbon as they grow. A study published recently in Nature shows that the “Rate of tree carbon accumulation increases continuously with tree size.”⁶

The USGS, a coauthor in the study further explains, “This continuously increasing growth rate means that on an individual basis, large, old trees are better at absorbing carbon from the atmosphere. Carbon that is absorbed or "sequestered" through natural processes reduces the amount of carbon dioxide in the atmosphere, and can help counter-balance the amount of CO2 people generate. However, [the study is] careful to note that the rapid absorption rate of individual trees does not necessarily translate into a net increase in carbon storage for an entire forest. ‘Old trees, after all, can die and lose carbon back into the atmosphere as they decompose," says Adrian Das, a USGS coauthor. "But our findings do suggest that while they are alive, large old trees play a disproportionately important role within a forest’s carbon dynamics. It is as if the star players on your favorite sports team were a bunch of 90-year-olds.”⁷

New York’s 19 million acres of trees hold a lot of carbon as do forest soils. ADK urges that NYS manage its state forests with the primary goal of combating climate change and improving its climate resiliency. DEC should also consider management of some state forest areas to promote (new) stands of old growth and mature trees to increase forest carbon stocks, help clean our air and water, preserve wildlife habitat, and provide a setting for outdoor recreation.

Managing the Vernoooy Kill State Forest for Late Successional Forests with the goal of (new stands of) old growth habitat would create high quality resilient habitat that would maximize carbon sequestration. We encourage DEC to increase the acreage designated for management as late successional stage forest.

Carbon Sequestration should be considered a forest product with economic benefit for the purposes of management.

The Long Path Must Be Protected

DEC must protect the Long Path, which crosses the Sundown Wild Forest and the Vernoooy Kill State Forest, from motorized use of any type, and impacts from resource extraction activities. DEC should create a buffer around the trail that is protected from logging. The Long Path and a buffer around the trail must be protected by a Special Management Zone (SMZ) of at least 200 feet in width along the length of the trail in areas not otherwise protected from logging.

Early Detection and Rapid Response Plans for Invasive Species.

Thank you for recognizing the threat of invasive species to this Forest Unit and for recognizing the need for early detection and rapid response plans for 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.

Threat of Hemlock Woolly Adelgid. Consider Potential of Bio-Control.

Hemlock Woolly Adelgid (HWA) is identified in the UMP as a threat. DEC should also recognize that eastern hemlock, a foundation species, plays an important role in the Unit. DEC should identify mature trees and stands, coordinate monitoring, and develop a prioritization and treatment regime to protect hemlocks in this forest unit. DEC should identify and protect old growth stands, and should work with the Regional PRISMs (CRISP),⁸ the NY State Hemlock Initiative,⁹ and DEC's Bureau of Invasive Species and Ecosystem Health to mitigate the threat of HWA in this unit. New York faces the potential decimation of eastern hemlock from HWA, which has already caused significant decline in the Catskill Park, and has been identified on other New York State Public Lands including Letchworth State Park, and Allegany State Park.

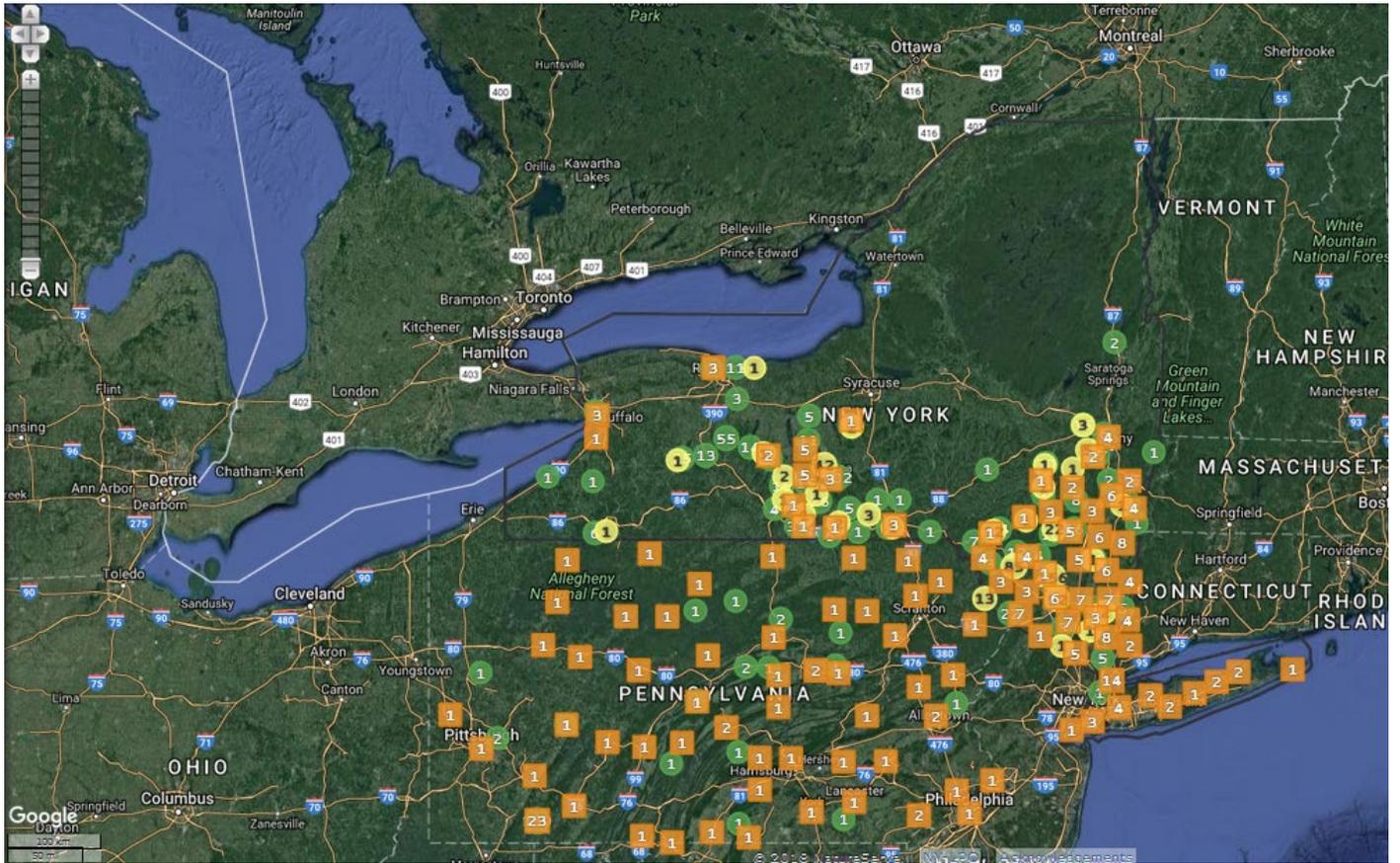


Figure 1 Distribution of HWA in New York State

Hemlocks are a foundation species.¹⁰ Foundation species are critical species in the habitats they help create.¹¹ 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. Hemlock stands are significant feature in this forest unit.

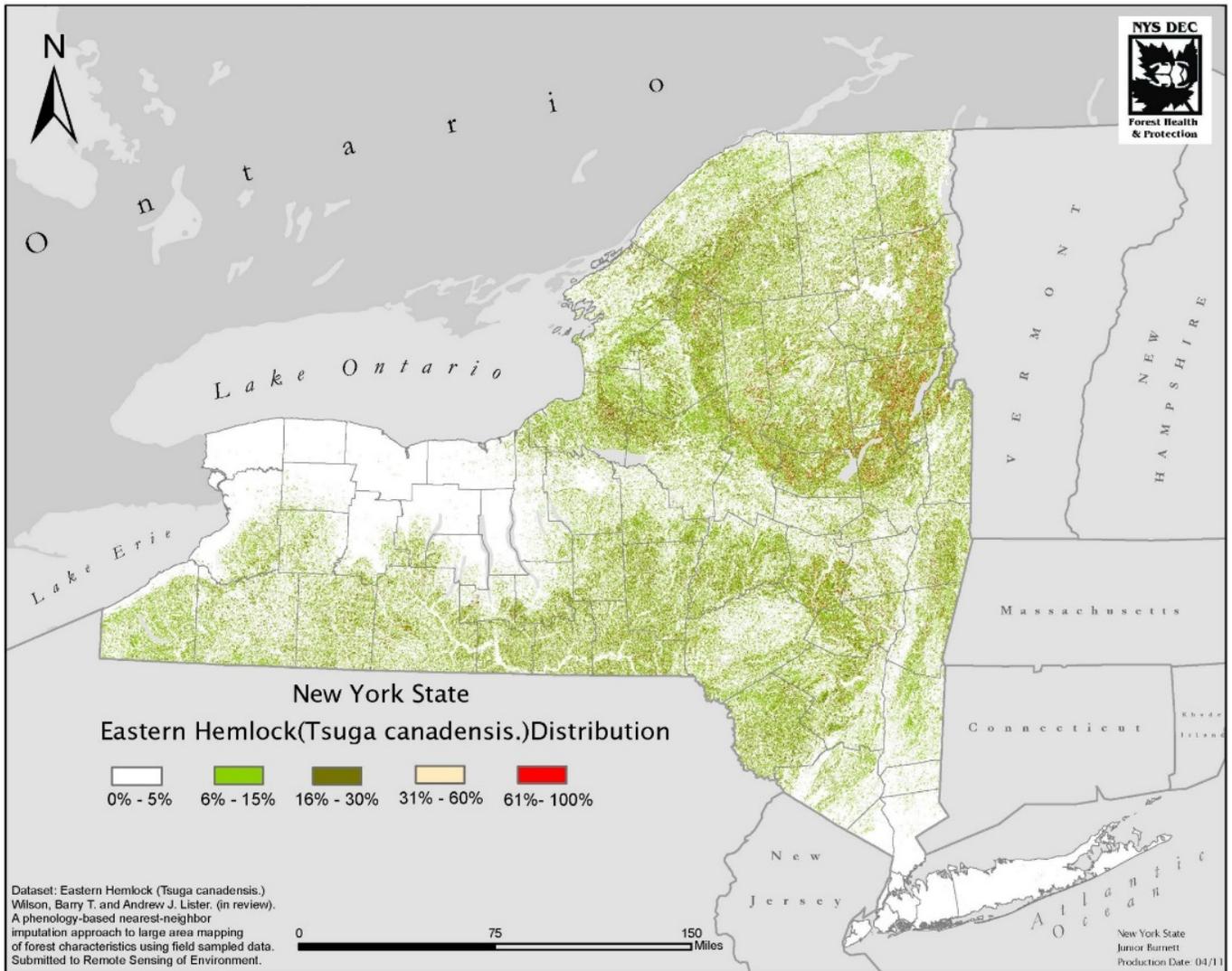


Figure 2 Distribution of Hemlock in New York State

Imagine the impact to the landscape in the Catskills and across the state from a severe decline of hemlock--a highly likely scenario without a significant increase in early detection efforts, treatment, and development of bio-controls, such as the predator beetle (*Laricobius nigrinus*), and silverflies (*Leucopis argenticollis* and *L. piniperda*).¹²

We only need look to places such as the Great Smoky Mountains for an example of the devastation in store for the forests of New York State.¹³ HWA has been advancing quickly through New York State,¹⁴ and now is in the Adirondack Park near Lake George, NY. Decline of hemlocks is already well underway

in the Catskills.¹⁵ Anyone who has hiked, paddled, or driven through New York State's Public Lands should realize what we will lose. If we do not act quickly, we may lose the species.¹⁶ We must stop or slow the advance of HWA in New York State.

Prohibit Brine Application on All Roads in the Unit

DEC should protect the forest and streams in the Unit from impacts associated with brine application to roads. We encourage DEC to prohibit the application of brine on all town roads and Public Forest Access Roads that are on State land.

Thank you for considering the above comments.

Sincerely,



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¹ <http://www.dec.ny.gov/lands/64567.html>

² <https://ag.ny.gov/sites/default/files/opinion/I%202005-21%20pw.pdf>

³ <http://www.dec.ny.gov/lands/64567.html>

http://www.dec.ny.gov/docs/lands_forests_pdf/spsfmfinal.pdf (p. 215-222)

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- ⁴ Consumer Federation of America Report, *ATV on Roadways: A Safety Crisis*; See Press: http://consumerfed.org/press_release/consumer-federation-releases-report-on-atvs-on-roads-states-are-increasingly-allowing-atvs-on-roads-despite-warnings-from-industry-advocates-and-federal-government/
- ⁵ <http://www.dec.ny.gov/outdoor/2574.html>
- ⁶ <https://www.nature.com/nature/journal/v507/n7490/full/nature12914.html>
- ⁷ <https://www.werc.usgs.gov/outreach.aspx?Tag=Australia&RecordID=199>
- ⁸ <https://www.dec.ny.gov/animals/47433.html>
- ⁹ <https://blogs.cornell.edu/nyshemlockinitiative/>
- ¹⁰ <http://www.lternet.edu/research/keyfindings/foundation-species-matter>
- ¹¹ <http://adkinvasives.com/wp-content/uploads/2015/04/WHITMORE-Lk-Placid-28-Mar-15-1.pdf>
- ¹² <https://www.nps.gov/grsm/learn/news/new-hwa-beetle.htm>
<https://blogs.cornell.edu/nyshemlockinitiative/biocontrol-program/>
<http://www.news.cornell.edu/stories/2015/06/cornell-introduces-silver-flies-save-hemlock-forests>
<https://blogs.cornell.edu/nyshemlockinitiative/>
- ¹³ <http://www.lakeplacidnews.com/page/content.detail/id/523715/Flies-could-avert-hemlock-threat-in-New-York.html?nav=5005>
- ¹⁴ <http://www.dec.ny.gov/animals/95656.html>
- ¹⁵ <https://www.na.fs.fed.us/nanews/nastories/HWA-Study-FINAL-012915.pdf>
- ¹⁶ <http://www.lakeplacidnews.com/page/content.detail/id/523185/A-threat-to-hemlocks.html?nav=5005>