



4 November 2019

NYSDEC,
7291 Coon Rd
Bath, NY 14810

Email: r8.ump@dec.ny.gov

RE: Canandaigua Highlands Unit Management Plan (UMP)

Thank you for the opportunity to comment on the Canandaigua Highlands Unit Management Plan (UMP), including High Tor Wildlife Management Area and Italy Hill State Forest in Yates and Ontario Counties.

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.

Bristol Hills Trail and Finger Lakes Trail

DEC must create a Special Management Zone (SMZ) around trails in the Unit. We are especially concerned about the Bristol Hills Trail which is also a segment of the Finger Lakes Trail. This trail should be protected from logging activities on the Unit.

DEC Should Ban ATVs on All State Forest and Wildlife Management Lands

ADK does not support the use of ATVs on New York State Land. **We are very pleased to see that Off-Road Vehicle Use is not supported in this Unit.**

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 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) 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.

Protect Forest Ecosystems: Prohibit Drilling and Mining.

We are very pleased to learn from the draft UMP that there are no mining contracts, permits, or operations on this Unit (p. 122).

Article XIV section 3 of the New York State Constitution 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 of any State Forest land anywhere in New York could 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.

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 and Wildlife Management Areas. 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 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 state forests in this Unit 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.

DEC should have as an objective for this management Unit to “Enhance carbon storage in existing stands.” However, DEC should revisit the data and sources used in this and other draft UMPs that led DEC to conclude that logging forest stands for forest products enhances carbon storage.¹⁸ The current rate of logging forests in the United States has decreased the Carbon Storage potential of the U.S. Forests by 42 percent.¹⁹ Although logging and promoting forest products may ultimately keep a specific landscape forested, it is not the most effective way to enhance carbon storage. In fact, more carbon dioxide is released annually from timber harvesting in the U.S. than from the combined fossil fuel emissions of the U.S. commercial and residential sectors.²⁰ Although forest bioenergy has been considered a renewable resource, it is not a low-carbon energy source and produces about the same amount of carbon as coal per unit of heat released.²¹ **Wood-pellets produced in the United States are being shipped to Europe to generate electricity. Using wood in this way to generate power is 50% more carbon intensive than coal-fired generation per unit of electricity.²²**

William Moomaw of Tufts University explains, “...under climate accounting rules, emissions from burning wood for energy are counted as coming from land use change — that is, harvesting trees. **This means that the United Kingdom is outsourcing carbon emissions from its wood-fired power plants to the United States. And the U.S. forest products industry and U.K. power companies are profiting from activities that have serious harmful impacts on Earth’s climate.**”²³

New York State must consider these issues when developing UMPs for New York State Forests.

Early Detection and Rapid Response Plans for Invasive Species.

Thank you for recognizing the threat of invasive species to this State Forest Unit. Please consider developing 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

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. We are pleased to see that DEC is working with the Finger Lakes Hemlock Initiative task force on this issue in this Unit. DEC should identify and protect old growth stands, and should work with the Regional PRISMs,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.

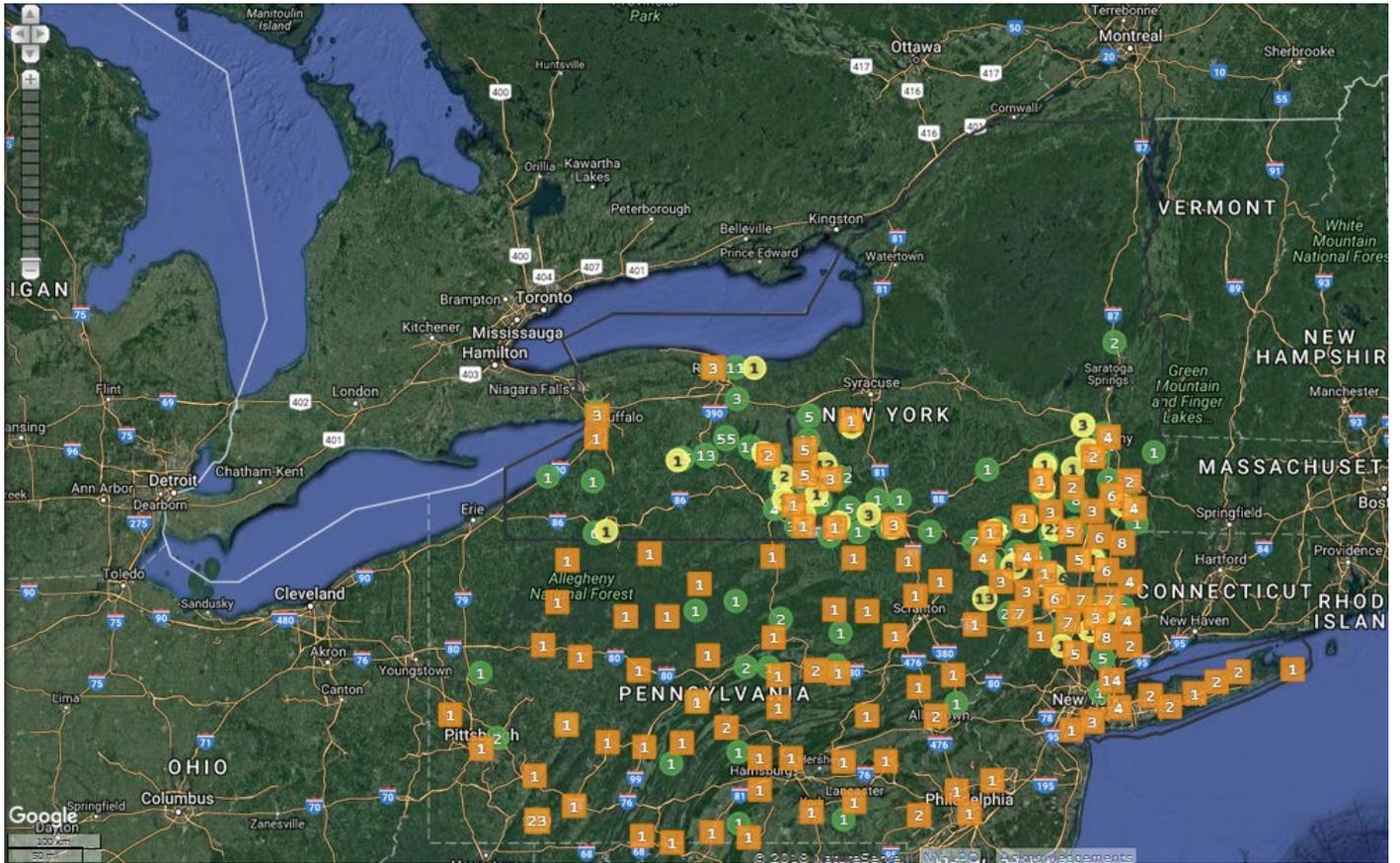


Figure 1 Distribution of HWA in New York State

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 features in this forest Unit.

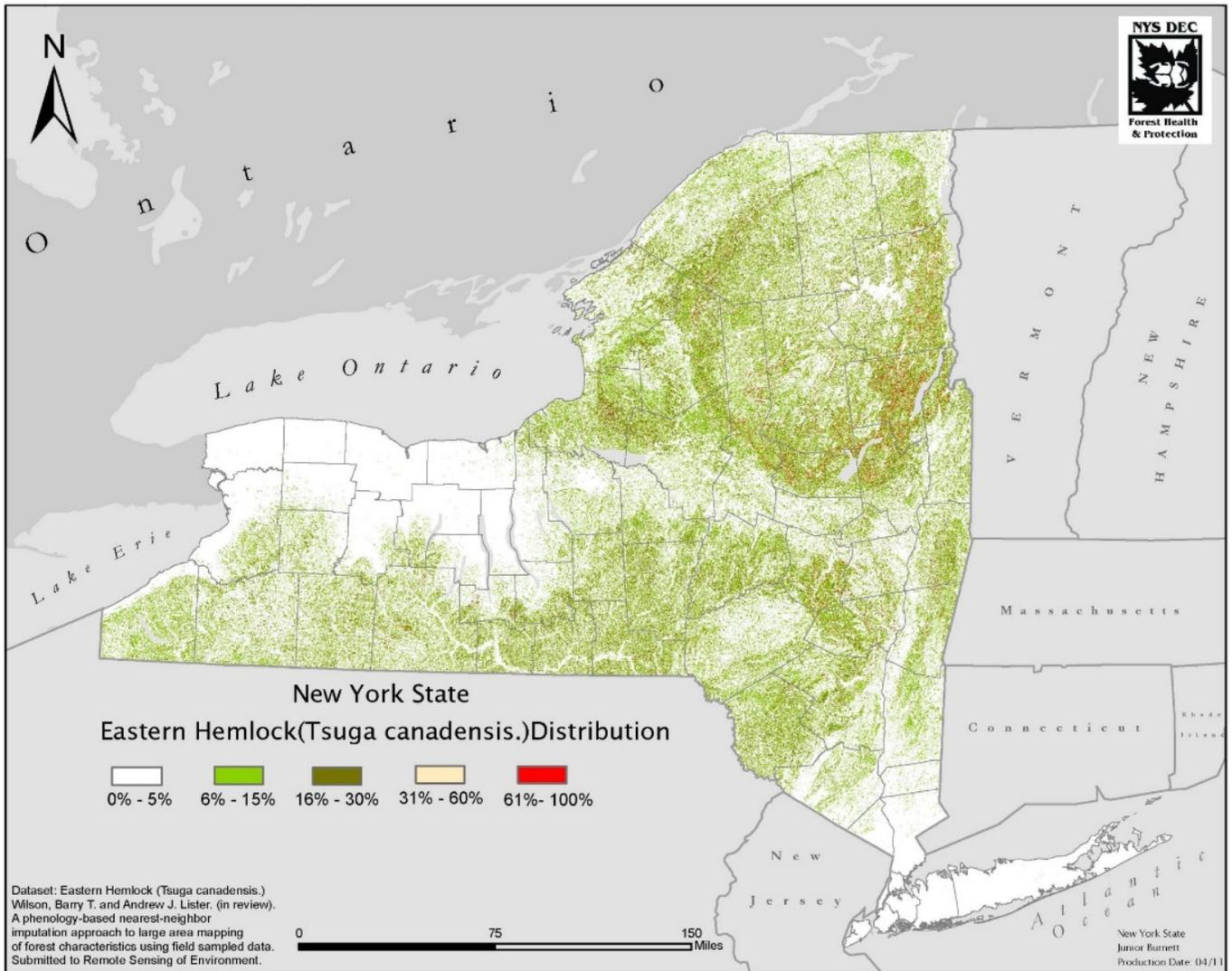


Figure 2 Distribution of Hemlock in New York State

Imagine the impact to the landscape in this Unit 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 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 from oil and gas drilling on all roads that are on State land.

Historic and Archaeological Site Protection

We greatly appreciate the statement in the preface of the UMP regarding Commissioner's Policy 42 (CP-42) which formally recognizes that relations between the Department and Indian Nations will be conducted on a government-to-government basis; identifies the protocols to be followed; and endorses the development of cooperative agreements between the Department and Indian Nations to address environmental and cultural resource issues of mutual concern.

We also greatly appreciate the inclusion of the section by Peter Jemison and the history of the Seneca Nation. The section appears to be from the 2005 draft. **DEC should ask Peter Jemison if he would like to review and provide updates to the section.**

Any archaeological research must be in consultation with the appropriate Tribal Historic Preservation Office (THPO), that is, with the Saint Regis Mohawk THPO, and the Seneca Nation of Indians THPO.¹⁷ The UMP for this Unit must reflect this important mandated consultation.

OPRHP Policy Directive HP-POL-005 (11/01/2016) states,

Historic preservation carried out by federal and state agencies is a collaborative process that encourages communities to be involved in decisions affecting their history. The New York State Office of Parks, Recreation and Historic Preservation and its State Historic Preservation Office (collectively in this document referred to as SHPO) have developed this Policy for incorporating the knowledge and concerns of Indian Nations and Tribes (collectively in this document referred to as Indian Nations) into reviews of projects affecting their historic properties.¹⁸

The policy directive also states,

This Policy clarifies SHPO's process when reviewing projects that directly or indirectly involve interested Indian Nations; it cannot substitute for the obligations of other State and federal agencies regarding consultation with Indian Nations.¹⁹

DEC must be proactive in this regard and not assume that approval by OPRHP, or the New York State Museum alleviates the DEC's responsibility of consulting with Native Nations through their THPOs.

Recreational Education, Messaging, and Outreach

DEC should consider Leave No Trace Outdoor Skills and Ethics educational programming and messaging throughout this Unit and on all NYS Public Lands. ADK strongly suggests that DEC develop a *Leave No Trace Skills and Ethics Integration and Outreach Plan*. This plan should cover messaging on the DEC web pages, at trailheads, on literature, and in programming. The development of the plan should be coordinated with other state agencies and offices to ensure that promotional efforts for tourism that use state funding incorporate Leave No Trace messaging.²⁰

ADK also urges DEC to commit to integrated training of Leave No Trace Skills and Ethics on the Trainer or Master Educator Level²¹ for DEC staff, Forest Rangers, and Environmental Conservation Officers (ECO).²² The Master Educator level of training would be especially important for Forest Ranger and ECO staff who have significant one-on-one interaction with visitors. DEC is a formal partner with the Leave No Trace Center for Outdoor Ethics and already has Master Educators on staff. Both the Center and the DEC Master Educators could help develop a plan for the agency and provide educational support, tools, and materials. ADK, which is one of ten site providers of Master Educator Courses for the Leave No Trace Center, could also assist in developing a plan.

An important consideration in Leave No Trace outreach involves explaining to visitors why they need to change their behavior in order to conform to land management rules and regulations. For visitors to public lands this makes a connection between their behavior and impacts to the places that they enjoy. Messaging should also include an alternative that complies with the regulations and emphasizes how following the suggested behavior or action will protect the resource and make the visitor's experience more enjoyable.

DEC should also work with the New York Department of State (DOS) and their new ArcGIS Information Gateway²³ to disseminate rules, regulations, and educational information specific to locations, and land units.

Capacity to Withstand Use

Recently, the Interagency Visitor Use Management Council, a planning entity composed of federal public land agencies (including the U.S. Forest Service and the National Park Service), posted its Visitor Use Management Framework.²⁴ This framework could provide additional insight to DEC's long-term planning process which currently involves (1) the goal-achievement process; (2) the Limits of Acceptable Change (LAC) model employed by the U.S. Forest Service; and (3) the Visitor Experience and Resource Protection (VERP) model employed by the National Park Service. One key component of this framework is the use of a sliding scale for all components of the process, to ensure that efforts match the size and scope of the project as well as the resources available.

ADK urges DEC to include indicators and thresholds as described by the Visitor Use Management Framework in its planning to define monitoring objectives, a monitoring schedule, and management actions to be taken should resource conditions deteriorate. According to the VUMF, "Indicators are defined as specific resource or experiential attributes that can be measured to track changes in conditions so that progress towards maintaining desired conditions can be assessed. Thresholds are defined as minimally acceptable conditions associated with each indicator....Thresholds serve a critical role to alert when conditions are close to becoming unacceptable."

Minimum Maintenance Roads

ADK is very concerned about Minimum Maintenance Road Legislation (A3724/S2910) proposed in the New York State Senate and Assembly in 2019. This bill has great potential to preclude access to DEC trailheads for hikers, hunters, fisherman, mountain bikers, and other recreationists on low volume or seasonal roads. The bill would authorize towns to pass local ordinances enabling them to lower the level of road maintenance, stop plowing roads or even abandon roads leading to state trailheads. ADK strongly opposes this legislation, arguing that state taxpayers pay considerable taxes on Forest Preserve lands, state forests, and other state public lands served by these Low Volume Roads (LVR).

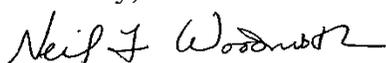
In 1885-1886, a legislative compromise was made to allow for the creation of the Forest Preserve which was the passage of a law in 1886 that provided for all lands then or thereafter included in the Forest Preserve to be “assessed and taxed at a like valuation and at a like rate as those at which similar lands of individuals within such counties are assessed and taxed.” Since 1886, the RPTL has authorized the State to pay taxes on its Forest Preserve as if it were privately owned. Since all NYS residents benefit enormously from these "forever wild" state forests, it was thought then, as now, that all NYS taxpayers ought to share in full taxes to the hundreds of affected small towns and school districts in the Adirondack and Catskill Mountains. Although the practice of taxing state land began with legislation in 1886 that permitted taxation of the Adirondack and Catskill Forest Preserve, since that time taxability has been extended to reforestation lands, some institutional properties, and parks including Letchworth State Park (1914), the Palisades, Bear Mountain, and Harriman State Parks (1916), the Allegany State Park (1924, 1928), the Saratoga State Park (1930), and the Hudson Highlands and Baird State Parks (1941-42).²⁵ In 1932 reforestation lands were made taxable, including the beautiful lands of our state forest system, and unique areas such as Zoar Valley. Additionally, wildlife management areas, canal lands, and lands acquired for flood control have also been made taxable over the years. On privately held conservation easement lands across the state, the rights held by the state are also taxable.²⁶

New York State must protect the right to access state lands and has the right to demand that local roads be maintained given that New York State is paying taxes on state lands as do private citizens.

Thank you for the great work you do protecting and stewarding our New York State Public Lands.

Thank you for considering the above comments.

Sincerely,



Neil F. Woodworth
Executive Director and Counsel
Adirondack Mountain Club
neilwoody@gmail.com
518-449-3870 Albany office

518-669-0128 Cell
518-668-4447 x-13 or 25 Lake George office

Cathy Pedler
Director of Government Relations and Conservation
Adirondack Mountain Club
cathy@adk.org
cathypedler.adk@gmail.com
518-449-3870 x1001 Albany office

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)

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>

¹⁷ <http://nathpo.org/wp/thpos/find-a-thpo/#ny>

¹⁸ <https://parks.ny.gov/inside-our-agency/documents/GuidancePolicies/ConsultationofIndianNationsTribes.pdf>

¹⁹ <https://parks.ny.gov/inside-our-agency/documents/GuidancePolicies/ConsultationofIndianNationsTribes.pdf>

²⁰ <https://Int.org/>

²¹ <https://Int.org/learn/training-structure>

²² <https://Int.org/blog/authority-resource-technique-action>

carhart.wilderness.net/docs/manuals/waappg.pdf

²³ <http://opdgig.dos.ny.gov/#/home>

Contact Jeff Herter at DOS for more information: jeff.herter@dos.ny.gov

²⁴ <https://visitorusemanagement.nps.gov/VUM/Framework>

²⁵ <https://www.tax.ny.gov/research/property/reports/landcomp/section2.htm#4>

²⁶ <https://www.tax.ny.gov/research/property/reports/landcomp/section2.htm#4>