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**RE:** Draft New York State Forest Action Plan

Dear Sara,

Thank you for the opportunity to comment on the draft New York State Forest Action Plan (FAP).

Thank you for compiling such a thoughtful and well researched plan for the forests of New York State. We are very pleased with many aspects of this draft including the attention paid to Indigenous Nations, the recognition that oil and gas development is an incompatible use of forest lands, and that valuing forest lands for carbon sequestration is essential in efforts to mitigate climate change and implement the 2019 New York Climate Leadership and Community Protection Act (CLCPA).

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

**FAP Goals 1-4**

**Indigenous Nations**

We are very pleased to see the attention paid to Indigenous Nations in the draft FAP and the importance of honoring treaties such as the 1794 Treaty of Canandaigua,<sup>1</sup> recognizing rights to “lands, territories and resources which [indigenous nations] have traditionally owned, occupied, or otherwise used or acquired,”<sup>2</sup> and protecting sites of special cultural, ecological, economic or religious significance.<sup>3</sup> We are also very pleased to see the consultation that took place in the development of the plan, but urge the Department of Conservation (DEC), if they have not already done so, to consult with other New York Indigenous Nations on this plan, including the Seneca Nation of Indians.

**Protect Forest Ecosystems: Prohibit Drilling and Mining**

We are very pleased to see that the draft FAP considers the development of oil and gas resources a competing and incompatible use of forest lands.<sup>4</sup>

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 result in legal action against the State.

Oil and gas drilling and mineral development creates an unacceptable impact on state lands, as acknowledged by the draft FAP, and should be prohibited. Oil and gas pipeline construction should also be prohibited on state lands. Existing pipelines should be phased out and impacts should be mitigated.

DEC must not provide access through lease or other means to its mineral estate for vertical or horizontal oil and gas drilling. 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.

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

It is essential that DEC protect the forest ecosystems that it stewards and guard against resource extraction that harms natural habitats and human communities.

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

We are very pleased to see that the draft FAP highlights the critical importance of valuing forest lands for carbon sequestration and recognizes that this is essential to mitigating climate change and implementing the 2019 New York Climate Leadership and Community Protection Act (CLCPA). However, the draft FAP ignores the potential positive impact of managing for late stage successional growth and old growth forests. The draft FAP makes the assumption that the primary way to keep forests as forests is through harvest to provide revenue for private land owners (and the state). This may be the current reality, but given that the next 10 years that this plan covers will determine to a large degree what global temperature rise will look like, the plan should focus considerably more on how to maximize carbon sequestration in New

York through maintaining existing forests with minimal harvest, converting additional lands to forest, and by promoting management for late successional forests and the protection of old growth. The plan also should not suggest that wood products store carbon equally to the mature trees and ecosystems that were felled and disrupted to create wood products.

Forests play a large role in mitigating the effects of climate change by naturally storing carbon. 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 in *Nature* shows that the “Rate of tree carbon accumulation increases continuously with tree size.”<sup>5</sup>

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 CO<sub>2</sub> 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.”<sup>6</sup>

New York’s 19 million acres of trees hold a lot of carbon as do forest soils. New York State should manage its state forests with the primary goal of combating climate change and improving its climate resiliency. DEC should also consider management of 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 high-quality setting for outdoor recreation. Managing the state’s forests 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.

The current rate of logging forests in the United States has decreased the carbon storage potential of the U.S. Forests by 42 percent.<sup>7</sup> 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.<sup>8</sup> 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.<sup>9</sup> 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.<sup>10</sup>

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.”<sup>11</sup>

New York State must consider these issues when developing Unit Management Plans for New York State Forests.

#### North Country National Scenic Trail, Finger Lakes Trail

Under Goal #3, *Priority Landscapes: Recreational hotspots and long-distance trails* (p.76), We are pleased to see the long-distance trails listed and described in this section. It is important that DEC add to the description of the North Country National Scenic Trail (NCNST) and the Finger Lakes Trail (FLT) that they are managed as foot trails.

The following paragraph reflects comments submitted by Mary Coffin, an ADK volunteer leader: The NCNST is incorrectly listed as a “multiuse” trail. All National Scenic Trails by definition are non- motorized and primarily foot trails and are rarely shared with bicycles. Although the ~700 miles of the NCNST in NYS are mostly open only to foot travelers (off road sections), about 19 miles of the NCNST between Canastota and Rome are located at this time on Erie Canal Towpath where in winter it is shared with snowmobiles. This is an exception. There are only a very few sections along its 4600+ mile span where bikes are permitted. Please also note that the NCNST now (as of 2019) spans into Vermont to connect with the Appalachian Trail. It no longer terminates at Crown Point State Historic State in NY.

### Recreational Hot Spots, Recreational User Impacts, and Leave No Trace

Recreational Hotspots are not listed under Goal #3, *Priority Landscapes: Recreational hotspots and long-distance trails* (p.76). The numerous recreational hotspots in New York State are not listed or discussed anywhere in the document. DEC should list and map these areas in the document and discuss the management steps that have been implemented so far and what strategies there are for the future. Over-crowding and high use are mentioned in various places in the FAP, specifically under Goal #4, *Strategy: Manage recreational user impacts in New York's state-owned forests* (p.105). Although Leave No Trace is mentioned in this section in relation to backcountry stewards, the section does not discuss the training of DEC managers, foresters, and Forest Rangers. The strategy should mention that some DEC staff are currently trained in Leave No Trace and that there are plans to continue the training of staff and Forest Rangers. Given that the United State Forest Service (USFS), to whom the FAP will be submitted, was a founding agency for Leave No Trace, it would be appropriate to discuss the good work DEC is doing in its Leave No Trace efforts.

### Recreational Education, Messaging, and Outreach

ADK strongly suggests that DEC develop a *Leave No Trace Outdoor 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.<sup>12</sup>

ADK also urges DEC to commit to integrated training of Leave No Trace outdoor skills and ethics on the Trainer or Master Educator Level<sup>13</sup> for DEC staff, Forest Rangers, and Environmental Conservation Officers (ECO).<sup>14</sup> 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 twelve site providers of Master Educator Courses for the Leave No Trace Center, could also assist in developing a plan.

### 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 (VUMF).<sup>15</sup> 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 the VUMF 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."

DEC and the Adirondack Park Agency (APA) are developing a Visitor Use Management Workbook that will be field tested in 2020. This project, as well as the work of the 2020 High Peaks Advisory Group (HPAG), should be noted in the FAP. A Visitor Use Management Framework system should also be employed on public lands, and conservation easement lands.

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

ADK does not support the use of ATVs on New York State public land.

Every pilot ATV program on NY state public 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.<sup>16</sup>

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 Title 11, Article 48C, Section 2405 of the New York State Vehicle and Traffic Law. Throughout the state roads 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>17</sup> and NYS DEC legal opinion.<sup>18</sup> 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) shows that a majority of ATV deaths take place on roads.<sup>19</sup>

### 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."<sup>20</sup> 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.

## **Multi-State Priorities**

### Northern Forest

An essential tool that the FAP does not mention to protect habitat and preserve forests is the use of conservation subdivisions (CSD). Legislation to require conservation subdivisions in the Adirondack Park is being proposed in the current New York State legislative session as A8123-A and S6484. CSDs are designs that protect sensitive areas and open space for ecological integrity, and quality of life for subdivision residents. CSDs are designed according to site-specific ecological preservation and forest stewardship plans which are prepared by qualified experts. Based on a detailed study of a project site, the plans guide site project design. A CSD also conserves, by a deed restriction or restrictive covenant, a significant portion of a tract of land in contiguous and intact open space following the site's ecological preservation and forest stewardship plan. These sensible plans preserve cultural and

natural features to provide, in essence, residential parks for the members of a subdivision community.

The benefits of *Conservation Subdivisions* are many, including water quality and wildlife habitat protection, excellent financial performance, increased quality of life, reduced sprawl, reduced infrastructure construction costs, reduced maintenance costs, reduced demand for publicly funded greenspace, and an additional means for expanding public trails and greenways. Using *Conservation Subdivisions* will serve to help update conservation practice in the Adirondack Park and is essential to fulfilling the intent of the *Adirondack Park Land Use Development Plan* that was drafted 40 years ago.

#### Berkshire-Taconic Landscape

The following comments reflect issues that are especially important to ADK's Albany Chapter and have been submitted by David Pisaneschi in a separate comment letter.

The Berkshire-Taconic Landscape section of the FAP should include reference to the Taconic Crest Trail (TCT).<sup>21</sup> The TCT is a major recreational resource to those who live in the capital region. The TCT runs 37 miles along the New York, Massachusetts, and Vermont border. ADK works closely with the Taconic Hiking Club (THC),<sup>22</sup> which sponsors a biennial End to End Hiking Challenge on the TCT. ADK and THC members also spend many hours maintaining the TCT. Issues that should be noted in the FAP include the pervasive illegal use of ATVs on the TCT and on trails leading to it. ADK and THC have been working with DEC and reporting the illegal use. Unfortunately, the illegal use of ATVs is causing serious impacts on some sections of the trails.

Mattison Hollow is a pristine area in the Berlin State Forest with high recreational, historical and ecological values. It contains a scenic access trail to the TCT, which provides a wilderness quality hiking experience within a 45-minute drive from Albany. Mattison Hollow and the Mattison Hollow trail should be protected from logging. The TCT is in need of recreational infrastructure such as a parking area at the Mattison Hollow Trailhead and improvements and repairs to the access road.

The Caleb Carr tract, encompassing 1,300 acres in the adjacent George Allen Hollow, is currently for sale. These pristine acres protect Misery Mountain, springs, old growth forest and wildlife. The New York State Open Space Plan identifies the Rensselaer Plateau as a priority



open space conservation area. This area of Rensselaer County includes the fifth-largest un-fragmented forest in the State. DEC should acquire the Caleb Carr tract.

### **Miscellaneous**

There is a typo on page 113:

“Invasive **plant** species in forested areas, such as Hemlock Woolly Adelgid in Lake George forests or the Emerald Ash Borer, weaken forest health and undermine water quality in the watershed.”

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,

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### **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.

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<sup>1</sup> <https://ganondagan.org/Learning/Canandaigua-Treaty>

<sup>2</sup> Draft NYS Forest Action Plan, p. 28

<sup>3</sup> Draft NYS Forest Action Plan, p. 80

<sup>4</sup> Draft NYS Forest Action Plan, p. 7, 132

<sup>5</sup> <https://www.nature.com/nature/journal/v507/n7490/full/nature12914.html>

<sup>6</sup> <https://www.werc.usgs.gov/outreach.aspx?Tag=Australia&RecordID=199>

<sup>7</sup> <https://cbmjournals.biomedcentral.com/articles/10.1186/s13021-016-0066-5>

<https://theconversation.com/to-curb-climate-change-we-need-to-protect-and-expand-us-forests-76380>

<sup>8</sup> <https://cbmjournals.springeropen.com/articles/10.1186/s13021-016-0066-5>

<https://theconversation.com/to-curb-climate-change-we-need-to-protect-and-expand-us-forests-76380>

<sup>9</sup> [https://www.ipcc.ch/pdf/assessment-report/ar5/wg3/ipcc\\_wg3\\_ar5\\_chapter11.pdf](https://www.ipcc.ch/pdf/assessment-report/ar5/wg3/ipcc_wg3_ar5_chapter11.pdf)

<sup>10</sup> [www.pfpi.net/wp-content/uploads/2011/04/PFPI-biomass-carbon-accounting-overview\\_April.pdf](http://www.pfpi.net/wp-content/uploads/2011/04/PFPI-biomass-carbon-accounting-overview_April.pdf)

<https://theconversation.com/to-curb-climate-change-we-need-to-protect-and-expand-us-forests-76380>

<sup>11</sup> <https://theconversation.com/to-curb-climate-change-we-need-to-protect-and-expand-us-forests-76380>

<https://theconversation.com/profiles/william-moomaw-259771>

<sup>12</sup> <https://Int.org/>

<sup>13</sup> <https://Int.org/learn/training-structure>

<sup>14</sup> <https://Int.org/blog/authority-resource-technique-action>

[carhart.wilderness.net/docs/manuals/waappg.pdf](http://carhart.wilderness.net/docs/manuals/waappg.pdf)

<sup>15</sup> <https://visitorusemanagement.nps.gov/VUM/Framework>

<sup>16</sup> <http://www.dec.ny.gov/lands/64567.html>

<sup>17</sup> <https://ag.ny.gov/sites/default/files/opinion/T%202005-21%20pw.pdf>

<sup>18</sup> <http://www.dec.ny.gov/lands/64567.html>

[http://www.dec.ny.gov/docs/lands\\_forests\\_pdf/spsfmfinal.pdf](http://www.dec.ny.gov/docs/lands_forests_pdf/spsfmfinal.pdf) (p. 215-222)

<sup>19</sup> 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/](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/)

<sup>20</sup> <http://www.dec.ny.gov/outdoor/2574.html>

<sup>21</sup> <https://www.dec.ny.gov/lands/72874.html>

<sup>22</sup> <https://taconichikingclub.org/about>