Issue Number 1

- *Is the natural resource protection (including visual, **forest resource, habitat** and other natural resource considerations) implicit in Resource Management land use area adequately protected [805(3)(g)(2)]; are the proposed Great Camp lots "substantial acreage...on carefully and well designed sites? Are there alternatives and, if so, what are the relative impacts on these resources? The scope of Issue #1 includes potential stormwater impacts and consideration of using Read Road as an alternative.*

- Witnesses:
  - Jeff Anthony, Project Sponsor (April 27, 2011)
  - Kevin Franke, Project Sponsor (April 27, 2011)
  - Mark E. Sengenberger, APA (April 26, 2011)
  - Joel Russell, Adirondack Council (April 26, 2011)
  - Dr. Michael Klemens, Adirondack Wild! Friends of the Forest Preserve (April 27, 2011)
  - Daniel M. Spada, APA (June 23, 2011)
  - Dr. Michale J. Glennon, Adirondack Council (June 24, 2011)
  - Dr. Heidi E. Kretser, Adirondack Council (June 24, 2011)
  - Dr. Phyllis Thompson, Party by Right (June 24, 2011)

Issue Number 1
Forest Resources

- Resource Management (RM) Land
  - 4,805± acres
  - Primary uses in RM include: open space recreational use, agricultural uses, forest management, hunting and fishing cabins, etc. (§809 (3) (g) (4))
- Forest Cover
  - Forest resources on Type 1, Type 2 and Type 4 lands
  - Forest resources on the property were assessed by Foresters from LandVest's Tupper Lake office (Exhibit 35, pp 77-83)
  - Deciduous trees dominant forest cover-Red maple, Sugar maple, American beech, Yellow birch, Black cherry (Exhibit 35, pg 81)
  - Timber harvesting dating back to 1920's
    - 3 separate cutting cycles
- Forest Management Plan
    - "Project Sponsor has proposed the development of a forest management plan for Great Camp Lots A-H." (Exhibit 83) (APA Closing Statement, pg 22)
    - FMP will apply to 2608± acres depicted as Type 1 open space
    - FMP is important to help maintain local forestry jobs

Issue Number 1
Forest Resources

- Other Parties
  - Some witnesses provided testimony that the forest management plan is not enough to sustain a working forest or would not be effective.
    - Russell
      - "The 8 large estate lots east of Lake Simond are of sizes that could conceivably be managed for forestry use by their owners, but they are laid out in a manner that will discourage such activity." (April 26, 2011 Testimony, Attachment C, Page 29)

Issue Number 1
Habitat

*Is the natural resource protection (including visual, forest resource, **habitat** and other natural resource considerations) implicit in Resource Management land use area adequately protected [805(3)(g)(2)]*

- **Does the project design avoid or minimize impacts to wildlife and existing habitat?**

- **Biological/wildlife survey**

- **Habitat fragmentation**

- **Impacts to wildlife (functional assessment study)**
  - **What species could be impacted?**

Issue Number 1
Habitat

- **Project Design**
  - **Project Sponsor**
    - Project designed to avoid and/or minimize impacts to existing habitat:
      - Permanent protection of 4,739.5 acres of RM lands (APA Staff Reply, pg 10)
      - No endangered or threatened wildlife species present (Exhibit 50, pg 12)
      - Deer wintering yard will not be disturbed A (Exhibit 11 , Figure 3-3)
      - Limited clearing within 3 acre building envelope (Exhibit 82, Property Design, Architectural and Maintenance Standards)
        - » Limit clearing at 25 feet from foundation of residential buildings
        - » Cutting of trees to create panoramic views prohibited
        - » No forestry management tree cutting allowed within 200 feet of Great Camp lots
      - Avoids most wetlands on RM
      - Provides for 100-foot buffer between wetlands and development
      - No development along 3± miles of frontage on Raquette River
      - No sub-alpine forest impacted

Issue Number 1
Habitat

- **Project Design**
  - **Agency Hearing Staff:**
    - "Project sponsor has reasonably avoided most of these sensitive resource constraints in the siting of the proposed great camp building envelopes and proposed single family dwellings located in Resource Management lands." (Sengenberger-April 26, 2011 Testimony, Attachment A , pg 7)
      - "there is no development proposed in flood plains, on severe slopes, or at elevations over twenty-five hundred feet."
      - "Wetland impacts are minimized and wetland mitigation plans were developed."
      - "Critical wildlife habitats or habitats of rare or endangered plant and animal species were not identified in the application materials or by Agency staff who visited the site."
    - "the proposed project satisfactorily avoids most wetlands on RM lands and, for the most part , provides a 100-foot buffer between wetlands and development." (Staff Closing Statement, pg 24)
    - Q. "Are you concerned about the level of impact associated with the proposed Great Camp Lots"? A. "Overall, no, so long as all or the majority of the RM lands retained by the Project Sponsor remain undeveloped…." (Spada-June 23, 2011 Testimony, Attachment C , pg 11)

Issue Number 1
Habitat

- Project Design
  - Other Parties
    - Several expert witnesses testified that the project was poorly designed and habitat may be impacted. (See June 24, 2011 Testimony, Attachment A (Glennon and Kretser), April 27, 2011 Testimony, Attachment A (Klemens))
      - "The information is too scant and fragmentary to engage in any meaningful discussion of natural resources values or any ecologically-informed site planning that would protect the delicate balance of natural resources on the site." (April 27, 2011 Testimony, Attachment A, pg 7 (Klemens))

Issue Number 1
Habitat

- **Biological Survey**
  - Project Sponsor
    - Provided "Letters of Record" from NYSDEC and USFWS confirming that no known endangered or threatened species are on the project site (Exhibit 12, Vol. 2, Appendix 3, see also APA Closing Statement, pg 25)
    - "provided a list of terrestrial wildlife observed on and around the project site compiled by Biologists conducting field work." (Exhibit 35, pg 84)
    - "No rare plant communities were identified on the project site by the LA Group…during site visits."
  - APA Hearing Staff
    - "Testimony was provided at the hearing that more could and should have been done by the project sponsor to identify wildlife species and assess habitat impacts…" (APA Closing Statement, pg 24)
    - "The wildlife functional assessment failed to provide a detailed species inventory…" (Exhibit 50, pg 9)

Issue Number 1
Habitat

- **Biological Survey**
  - Other Parties
    - Several witnesses testified that a comprehensive biological inventory and/or wildlife habitat assessment were not conducted (See June 24, 2011 Testimony, Attachment A (Glennon and Kretser), April 27, 2011 Testimony, Attachment A (Klemens) and June 24, 2011 Testimony, Attachment B (Thompson) for additional information)
    - Dr. Klemens "recorded eleven species of amphibians in the course of 8.5 hours of day and night field work. This is more than two thirds of the species anticipated to occur on the property." (Exhibit 168)
      - No amphibian species were recorded or reported by the project sponsor in any of the application materials submitted to the Agency

Issue Number 1
Habitat

- **Habitat Fragmentation**
  - **Project Sponsor**
    - Project site already fragmented due to existing conditions
      - Forest management for 90 years
      - 275 acres of clearing
        - » Existing Lake Simond Road and logging roads- "10.27 miles in length and represents an existing clearing of nearly 7.0 acres." (Exhibit 11, pg. XV)
        - » "Area west of Read Rd accounts for an additional 9.83 miles of logging road that together are 76.32 acres or existing clearing ." (Exhibit 11, pg. XV)
        - » "Additional clearing associated with the ski area." (Exhibit 11, pg. XV)
      - 3 hunting camps
    - "Fragmentation is not a defined term in any of the statutes or regulations administered by the APA."(Exhibit 81, pg 40)

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Issue Number 1
Habitat

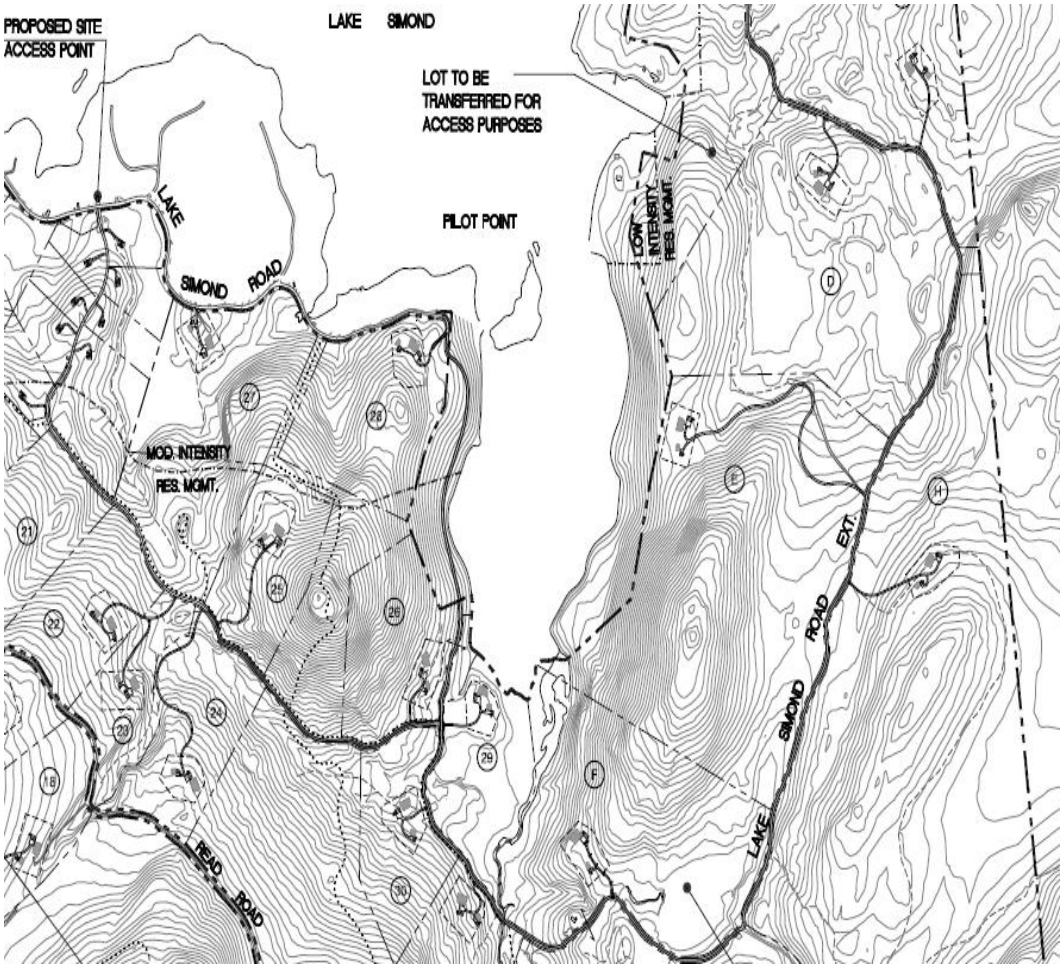
- **Habitat Fragmentation**
  - **Agency Hearing Staff**
    - "Disagreed with Project Sponsor's assertion that the property is highly fragmented by existing and continuing logging activity and that the proposed project will actually decrease fragmentation." (Staff Closing Statement, pg 24)
    - Staff Testimony (Spada):
      - Q. "…on page three of your testimony…it seems to indicate that there will be greater fragmentation of this property as a consequence of the design plan. Is that accurate"?
      - A: "I'm not sure I would classify the eight Great Camp lots in the development proposal …as fragmentation. Penetration, No question. Fragmentation? I'm not so sure, simply because they're so spread apart. The building envelopes are so small on such large pieces that they are fairly porous…to wildlife." (June 23, 2011 Testimony, pg 4096, lines 2-10)

Issue Number 1
Habitat

- **Habitat Fragmentation**

Agency Hearing Staff (Spada)

– "I have particular concerns about the impacts associated with Great Camp Lot E. This lot is an anomaly among the proposed Great Camps A-H. Unlike the other larger Great Camp Lots it does not occupy a position close to the Lake Simon Road Extension, it has an extremely long access driveway, sewage is being pumped an extremely long distance, the access road impacts wetlands and traverses relatively steep slopes." (June 23, 2011 Testimony, Attachment C , pp 13-14)



Issue Number 1
Habitat

- **Habitat Fragmentation**
  - Other Parties
    - Several expert witnesses testified that proposed development will permanently fragment forested areas and disrupt wildlife (See and April 27, 2011 Testimony, Attachment A, (Klemens) and June 24, 2011 Testimony, Attachment A (Glennon/Kretser) for additional information)
      - "once roads and impervious surfaces are laid upon the land, it is altered (i.e. fragmented) in a permanent manner that is not comparable to the cycles of harvest and regeneration of agricultural and forestry lands." (Klemens, pg 9)
      - "The division of once continuous natural habitat into one or more smaller fragments results in a human created edge where the natural habitat ends…" "These edges are associated with a variety of biological and physical changes which impact wildlife species in the associated habitats." (Glennon pg 13)

Issue Number 1
Habitat

- **Impacts to Wildlife (Functional Assessment Study)**
  - Project Sponsor
    - Provided reports from NY Natural Heritage Program, U.S. Fish and Wildlife and NYS DEC that no rare, threatened or endangered wildlife species are known to be present (Exhibit 12, Vol.2, Appendix 3)
    - Provided list of species directly or indirectly detected on project site (see Exhibit 35, pp 83-90 and Exhibit 39, pp 15-26)
    - Provided details of "Functional Assessment"
      - » See Exhibits 21 (Tab 31), 35 and 39

Issue Number 1
Habitat

- **Impacts to Wildlife (Functional Assessment)**
  - APA Hearing Staff
    - "Staff agree that more could have been done to assess impacts to wildlife and habitat as part of the project design." (APA Closing Statement, pg 27)
      - » Functional assessment never fully completed
      - » Functional assessment study is not usually requested from an applicant as part of a review
    - "Two key wildlife protection issues stand out from the hearing and the closing statements." (APA Reply, pg 8)
      - » "Can Amphibians be satisfactorily protected in the RM portion of the West Face Expansion neighborhood"?
      - » "Can wildlife be satisfactorily protected on the remainder of the RM portion of the project site"?
        - "the project sponsor has designed the proposed project to avoid and/or minimize <u>many</u> of the potential impacts to wildlife on RM land." (APA Closing Statement, pg 25)
        - "Permanent protection of ….RM as open space is the most effective way to provide broad habitat protection to mitigate the impacts of the project." (APA Closing Statement, pg 27)

Issue Number 1
Habitat

- **Impacts to Wildlife (Functional Assessment)**
  - Other Parties
    - Extensive testimony was provided by Klemens, Glennon and Kretser that the Project Sponsor did not do an adequate job in identifying potential impacts to wildlife, especially amphibians. (See and April 27, 2011 Testimony, Attachment A, (Klemens) and June 24, 2011 Testimony, Attachment A (Glennon/Kretser) for additional information)

Issue Number 1
Habitat

- Potential Impact to Wildlife (Amphibians)
  - Project Sponsor
    - No amphibian species were identified or potential impacts to amphibian habitat evaluated.
  - APA Hearing Staff
    - "Agency permits have historically focused on protection of wetlands and a 100-foot buffer around wetlands." (APA Reply pg 10)
    - "By designing the project to avoid foot-printing directly in wetlands and maintaining a 100-foot buffer zone around the wetlands, the Project sponsor has done what APA hearing staff normally require to protect wetland wildlife habitat. However, the project design did not take into account the upland habitat for amphibians (a 750-foot buffer from wetlands) that was the subject of testimony…"(APA Closing Statement, pg 89)
      - "West Face Expansion neighborhood is proposed to be built entirely within an area comprising such habitat. Portions of the development in this neighborhood will likely impact amphibian migration patterns and human/ amphibian interactions will result in amphibian mortality." Exhibit 244 (APA Closing Statement, pg 26)

Issue Number 1
Habitat

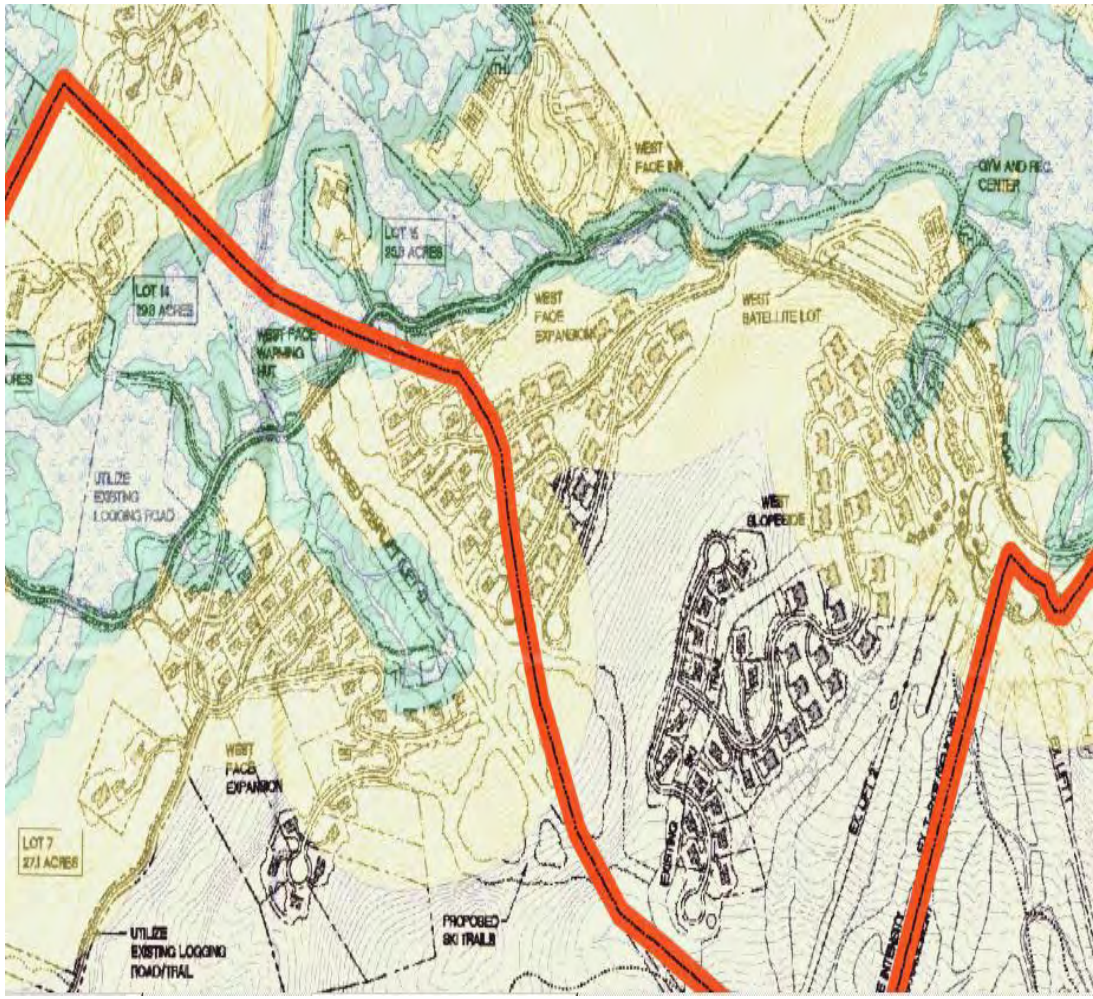
- Potential Impact to Wildlife (Amphibians)
  - Other Parties
    - Klemens (April 27, 2011, Attachment A, pg 11)
      - "…expect that impacts to amphibians would be greater than reptiles because of their sheer abundance, critical biomass component to the ecosystem…"
      - "Fragmentation would sever the amphibians' habitat into two or more parcels, separating the natal wetland from the upland habitat they use."
      - "Each time they would need to travel across a road between an upland and a wetland they would be exposed to elevated levels of predation, desiccation, and road mortality."
      - "Curbs and catch basins would further impede their movements…"

Issue Number 1
Habitat

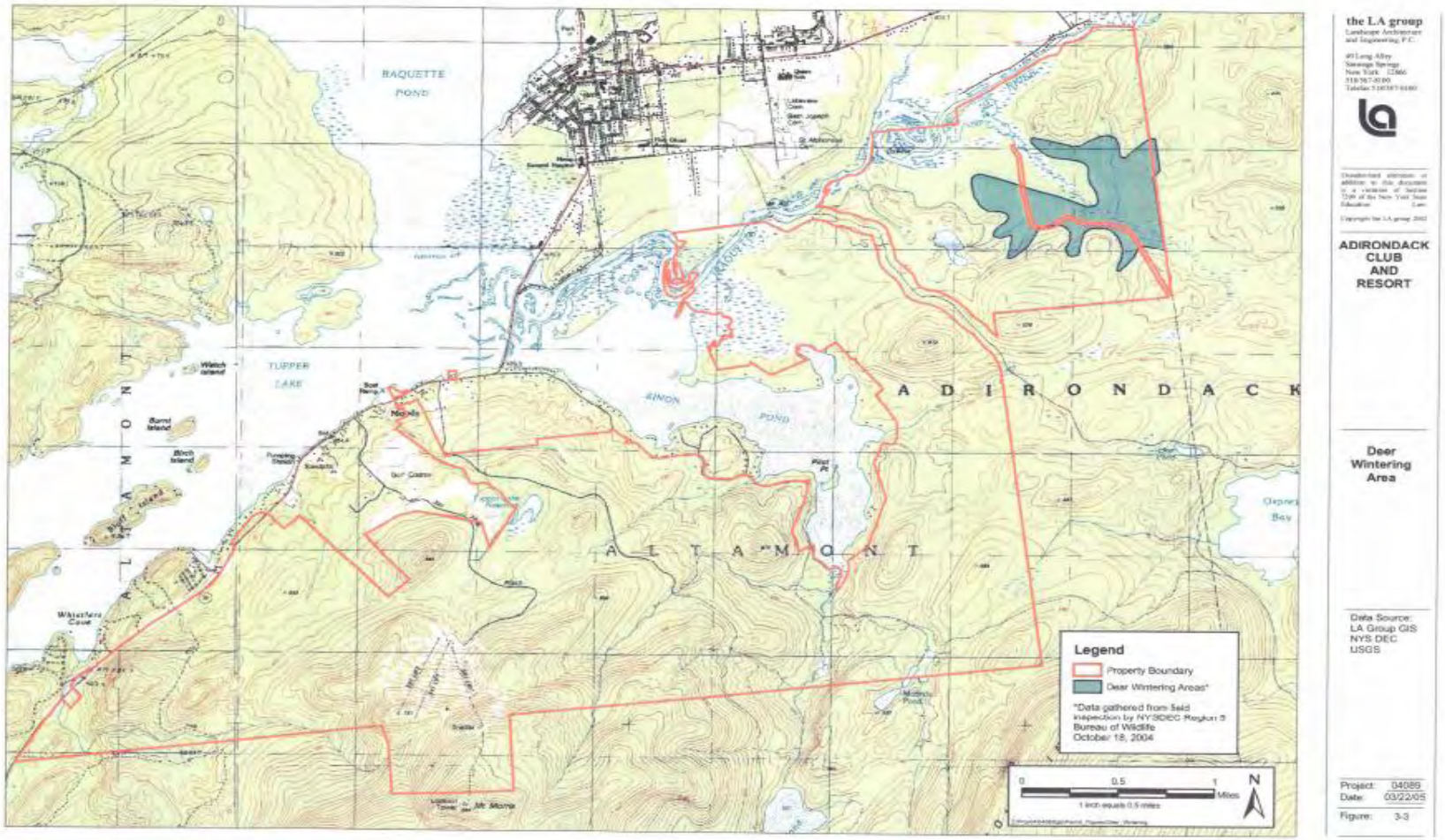
West Face Expansion

- 46 lots for single family dwellings and quadplexes (44 RM and 2 MIU)
- Phase 4 implementation (13-15 years)

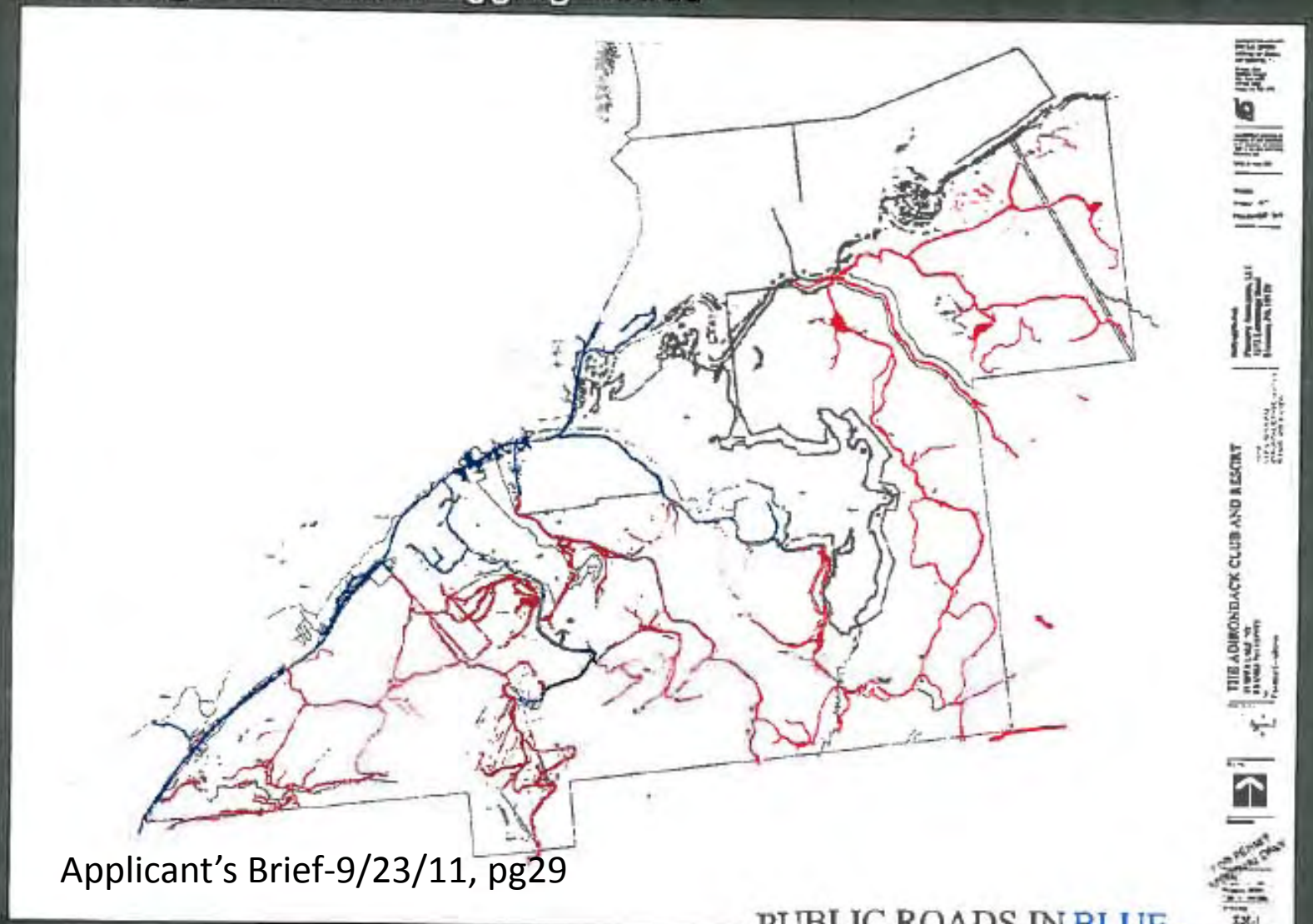
- Agency Hearing Staff
  - » "…90 % of amphibian lifecycle within 750 feet of wetlands." (APA Closing Statement pg 26)
  - » "staff do not believe it is necessary to deny the entire project or even to eliminate the West Face Expansion neighborhood from the project in order to achieve substantial mitigation of potential impacts."(APA Reply, pg 9)



Deer Wintering Yard



Existing Roads and Logging Roads



- Country Club Rd.
- Read Rd.
- Lake Simond Rd.
- Lake Simond Rd. Extension

Applicant's Brief-9/23/11, pg29

PUBLIC ROADS IN BLUE
LOGGING IN RED

Amphibian Habitat

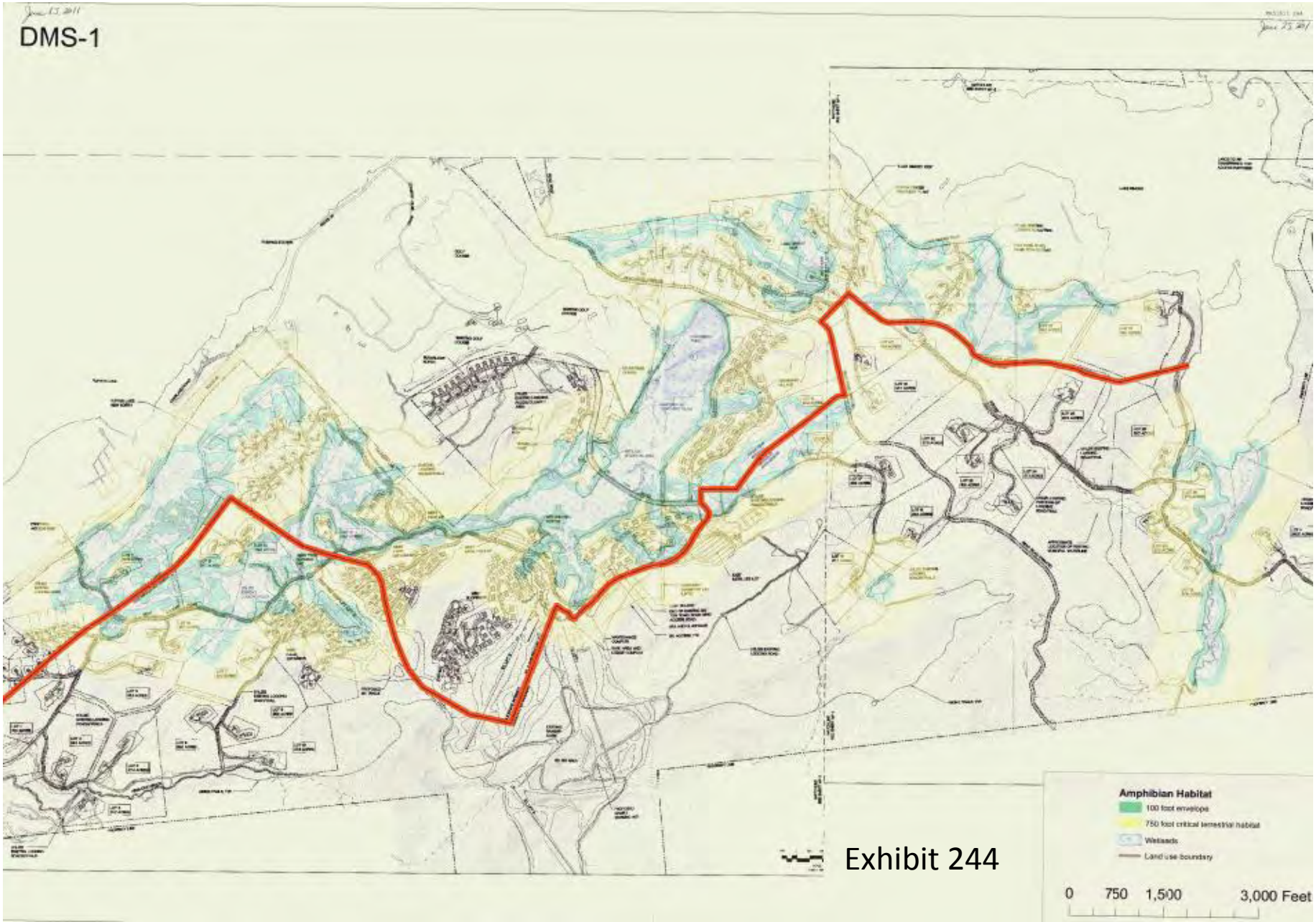
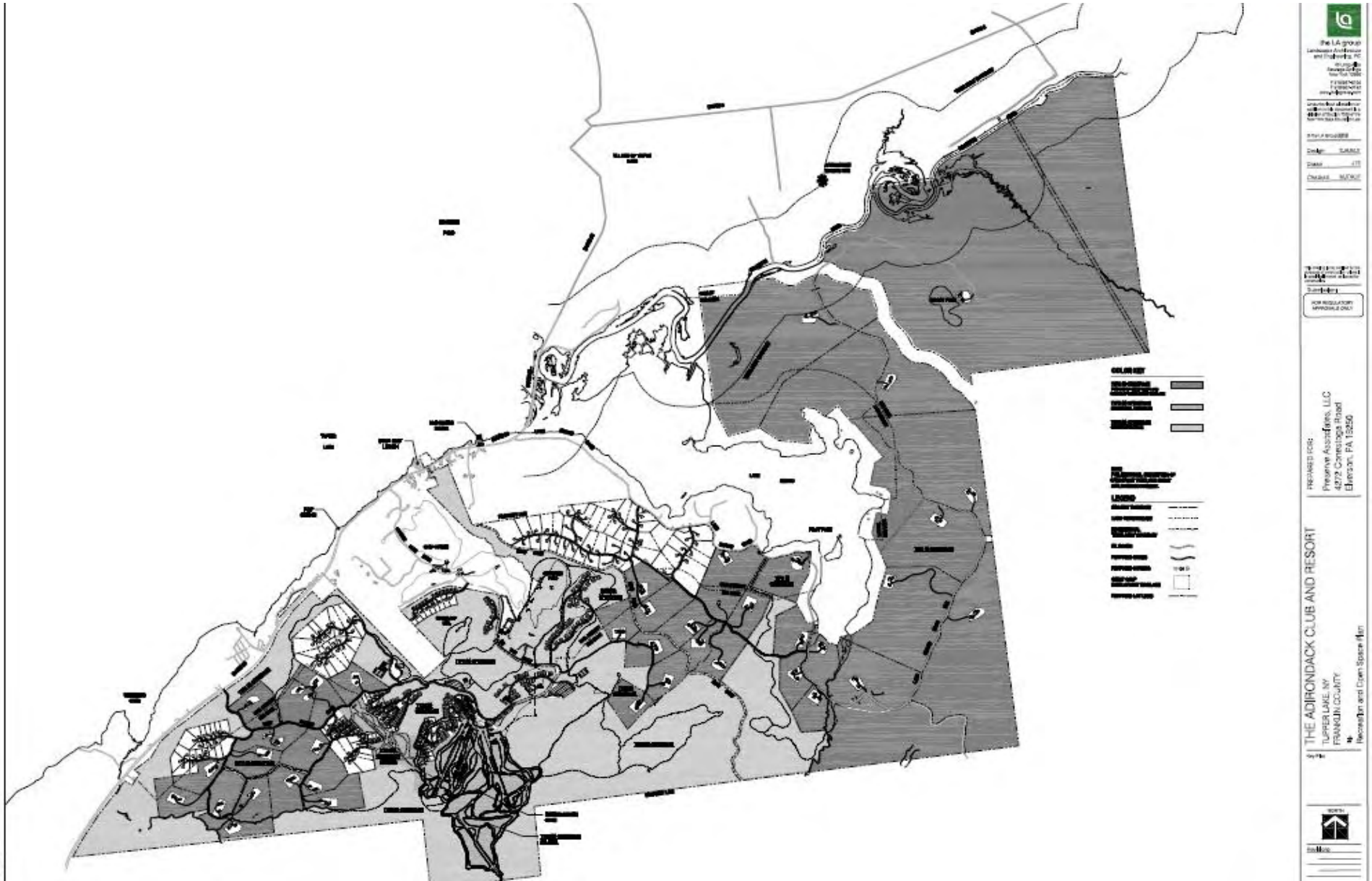


Exhibit 244

Open Space Exhibit 83 R-1