

**Summary and Response to Public Comments Received on Wild Forest Basic Guideline #4 –
No Material Increase Alternative #4,
Presented at the March 2023 APA Board Meeting
(Comment Period March 16-April 17, 2023)**

I. NMI Alternative 4:

1. Comment: The APA board must reject No Material Increase (NMI) Alternative 4 because it does not include CP-3 mileage, which clearly meets the definition of a road per the State Land Master Plan. Because the alternative does not include CP-3 mileage, it incorrectly states that current road mileage on wild forest lands is 206.6 miles and erroneously concludes that this total does not constitute a material increase over the 211.6 miles of roads existing in 1972.

Response: The Department of Environmental Conservation (DEC) and the Adirondack Park Agency (APA) appreciate the feedback in response to no material increase alternative #4. The board has been asked to interpret the definition of a road as a separate but related consideration, and that interpretation does not preclude an interpretation of No Material Increase that could include Alternative #4.

2. Comment: NMI Alternative 4 assumes that CP-3 mileage is not subject to WFBG4, and the Agency has not provided any rationale to support that conclusion.

Response: NMI Alternative 4 was generated at the request of the APA board. It was not one of the original alternatives presented, and therefore had not undergone the same analysis as the alternatives that were originally presented. Staff updated the management implications matrix at the request of the board to describe the impact of the alternative in a more comprehensive way.

3. Comment: Support for NMI Alt 4.

Response: The DEC and APA appreciate the feedback in support of no material increase alternative #4.

4. Comment: Choosing NMI Alt 4 negates the need to make a formal interpretation of what mileage existed in 1972.

Response: NMI Alternative 4 explicitly states that the mileage of roads on lands classified as Wild Forest in 1972 is estimated to be 211.6. For alternative #4 to be considered, the board would also need to make a finding regarding the 1972 mileage consistent with this alternative.

5. Comment: NMI Alternative 4 is the only NMI alternative that references CP-3; all of the alternatives should be amended to acknowledge the role of CP-3, otherwise it is unclear to the public how NMI Alternatives 1-3 relate to CP-3.

*Response: NMI Alternative 4 was clarified in the memo from staff to State Land Committee Chair Ken Lynch dated March 8, 2023 to specifically note that the estimated present day road mileage of 206.6 does not include mileage associated with CP-3 opportunities. The memo can be accessed here:
https://www.apa.ny.gov/Mailing/2023/03/StateLand/NM_%20Memo_and_Matrix_March_2023.pdf*

While all four NMI alternatives could be considered regardless of which road definition alternative is chosen,

alternative #4 is the only alternative that references specific mileages, so it was important to clarify that the mileage referenced in alternative #4 does not include CP-3.

6. Comment: NMI Alternative 4 should include CP-3 routes and be amended to read that “the current estimated mileage of roads on lands classified as Wild Forest, including CP-3 routes, is 244.9. This constitutes a 15.7% increase over the 1972 mileage of 211.6. All future roads not yet approved that are to be open to the public, including CP-3 permit holders, on wild forest lands are subject to approval or closure with a revegetation recommendation by the APA board.”

Response: The Department of Environmental Conservation (DEC) and the Adirondack Park Agency (APA) appreciate the feedback in response to no material increase alternative #4. Including CP-3 mileage would constitute a new alternative, which the board could consider. The formal opening or closing of roads as a result of any board resolutions would occur through the UMP process.

7. Comment: NMI Alternative 4 should not be considered to mean that any amount of mileage over the 1972 level is material. If the authors of the SLMP intended that there should be no more mileage added, then WFBG4 would have stated there would be no increase; not that there would be “no material increase.”

Response: The Department of Environmental Conservation (DEC) and the Adirondack Park Agency (APA) appreciate the feedback in response to no material increase alternative #4.

8. Comment: Alternative 4 rejects and bans all public use of motor vehicles on the Adirondack Forest Preserve. All roads that have been approved in UMPs will be shut down.

Response: None of the alternatives presented to the APA board concerning the interpretation of Wild Forest Basic Guideline #4 ban public use of motor vehicles on lands classified as Wild Forest, nor require the closure of all roads. Making an interpretation of this guideline will not result in any immediate road closures, however through the visitor use management framework it is possible that existing roads that do not adhere to the desired conditions may either require maintenance or closure. This analysis will occur through the unit management planning process, which has a public engagement component.

II. CP-3 Mileage:

1. Comment: All CP-3 mileage, including routes described in the Galusha settlement, must be counted under the SLMP definition of a road.

Response: APA and DEC appreciate this feedback regarding the inclusion of CP-3 mileage in the State Land Master Plan definition of a road.

2. Comment: Part 5 of the [CP-3 policy's definition of a road](#) outlines that CP-3 roads must be consistent with the SLMP. It reads, “Pursuant to the Adirondack Park State Land Master Plan and Catskill Park State Land Master Plan, the Department may further restrict the use of motor vehicles where in its judgment the character of the natural resources in a particular area or other factors make such restrictions desirable.”

Response: APA and DEC appreciate this feedback regarding CP-3 mileage and the State Land Master Plan. The Board's interpretation of the APSLMP on this important matter will inform the consideration of future CP-3 mileage in conformance with the APSLMP. Note, all present CP-3 mileage approved through the UMP process exists on Administrative roads. Administrative roads are defined and treated separately from “roads” in the SLMP.

3. Comment: CP-3 roads meet the definition of a road under both parts (i) and (iii) of the definition written in the SLMP. They are open to the public on a discretionary basis. The opening of CP-3 routes is discretionary because users must apply for a permit and meet certain criteria. DEC has discretion to grant or deny the permit and to close CP-3 roads under certain conditions. CP-3 permit holders are members of the public. ‘

Response: APA and DEC appreciate this feedback regarding the inclusion of CP-3 mileage in the State Land Master Plan definition of a road.

4. Comment: Jim Pinheiro and Mary O’Dell gave a presentation discussing the ecological impacts of roads, and those impacts persist whether it is a CP-3 route or a road open to all users. Therefore we must include CP-3 roads in the definition to ensure that those impacts are recognized and kept in check.

Response: Thank you for recognizing the presentation entitled “Natural Resource Impacts of Roads,” given by APA staff at the February 2023 Agency meeting. The presentation is available here: <https://www.apa.ny.gov/Mailing/2023/02/Ecology/RoadImpacts20230206jmp.pdf>. APA and DEC appreciate the feedback regarding the inclusion of CP-3 mileage in the State Land Master Plan definition of a road.

5. Comment: APA’s 2001 annual report (page 26), following the Galusha settlement, affirms that CP-3 routes are roads considered and counted toward “no material increase.”

Response: The language that is being referenced from the APA 2001 annual report (located here: https://www.apa.ny.gov/Documents/Reports/2001AR_loRES.pdf) reads as follows: “... a landmark settlement of the Galusha lawsuit was achieved – with Agency participation – that has cleared the way for implementation of the Americans with Disabilities Act within the Forest Preserve. This positive turn of events in Park history creates significant new opportunities for the disabled while preserving the management of our public land in a manner consistent with the New York State Constitution and the Adirondack Park State Land Master Plan.”

At the time of that statement, the APA Board had not yet addressed the issue of No Material Increase.

6. Comment: With respect to the Galusha settlement, it is clear that the expansion of routes open for CP-3 permittees were agreed by the parties to be consistent with the Master Plan, in that “DEC will propose, and DEC and APA will support through the UMP amendment process, motor vehicle access for persons with disabilities holding permits under Policy CP-3, subject to closure for seasonal conditions in the discretion of DEC as land manager for the Forest Preserve, including reasonable closure for environmental and/or public safety reasons...” (Galusha Consent Order, 2001).

Response: All CP-3 routes that are either open or have been approved and are not yet open for use by permit holders were planned for and approved through the unit management plan process.

To the extent that the comment calls for or attempts interpretation of the meaning of the settlement or the positions of the parties entering the settlement, APA and DEC staff are not in a position to interpret the positions of the parties or the meaning of the settlement beyond the clear provisions agreed to in the settlement. Nor would this kind of interpretation be appropriate in a response to comments document.

7. Comment: The Galusha Consent Decree makes clear that roads opened pursuant to the settlement are not excluded or exempt from any provisions or requirements of the SLMP or Article XIV of the New York State Constitution.

Response: APA and DEC appreciate this feedback. To the extent that the comment calls for or attempts interpretation of the meaning of the settlement or the positions of the parties entering the settlement, APA and DEC staff are not in a position to interpret the positions of the parties or the meaning of the settlement beyond the clear provisions agreed to in the settlement. Nor would this kind of interpretation be appropriate in a response to comments document.

8. Comment: The Consent Decree did not deprive DEC of its discretion to open or close roads identified in the settlement for CP-3 use; the settlement expressly preserved DEC's discretion with respect to those roads and required that they undergo the UMP review process before they could be opened.

Response: APA and DEC appreciate this feedback. To the extent that the comment calls for or attempts interpretation of the meaning of the settlement or the positions of the parties entering the settlement, APA and DEC staff are not in a position to interpret the positions of the parties or the meaning of the settlement beyond the clear provisions agreed to in the settlement. Nor would this kind of interpretation be appropriate in a response to comments document.

9. Comment: Having gone through the UMP review process, the roads opened for CP-3 motorized use as a result of the Galusha settlement are no different from any other Forest Preserve roads opened for such use, and have no special legal status or exclusion from the legal constraints of the SLMP, including WFBG4.

Response: APA and DEC appreciate this feedback.

10. Comment: Excluding CP-3 routes from WFBG4 would mean that there is no limit whatsoever on the mileage of wild forest roads that can be opened to CP-3 motorized use, thereby creating a loophole.

Response: The commenter is correct that Road Definition Alternative 2 (CP-3 Not Included) would mean that there is theoretically no limit on CP-3 mileage on lands classified as Wild Forest. See slide 30 of the May 2022 staff presentation to the board, which details each alternative and the associated implications: <https://www.apa.ny.gov/Mailing/2022/05/StateLand/NoMaterialIncreaseAlternativesPresentation.pdf>. However, as previously noted, any new CP-3 routes would be required to be approved through the UMP process.

11. Comment: CP-3 roads were selected specifically because they were deemed existing roads in accordance with the SLMP's Wild Forest guidelines and were never regarded as a "super-category" existing beyond the jurisdiction of the SLMP guidelines. They were not manufactured by DEC, nor were they discovered in a post 1972 process. Rather, the CP-3 routes were selected from an inventory of known roads, and had therefore already been counted toward the "no material increase" mileage cap.

Response: To date, there has been no approved inventory of roads pursuant to Wild Forest Basic Guideline #4, and no mileage cap has been established. Additionally, the CP-3 mileage thus far approved through the unit management plan process has been designated on routes defined as "Administrative Roads" pursuant to the APSLMP.

12. Comment: Only about a thousand individuals are CP-3 permit holders, which does not equal the general public. Therefore, CP-3 routes cannot be counted as roads for the purpose of the NMI calculation.

Response: The commenter is correct that there are roughly 1,000 CP-3 permit holders across the state which provides access for qualifying individuals to routes statewide. The APA and DEC appreciate the feedback regarding whether to include CP-3 mileage in the State Land Master Plan definition of a road.

13. Comment: CP-3 routes require the same culverts, bridges, surfacing, and tree cutting that other Wild Forest roads do, and they should be counted as public roads.

Response: The CP-3 routes that have been opened and/or approved on lands classified as Wild Forest occur on administrative roads, which have comparable infrastructure and maintenance requirements as the roads that are open to all members of the public. Administrative roads are defined and treated separately from "roads" in the SLMP.

14. Comment: The Agency in 1996 made a determination regarding whether newly opened CP-3 routes would "count" toward the mileage "cap" in Wild Forest Basic Guideline No. 4. The memo from Chuck Scrafford dated December 5, 1996 was a final determination that was conveyed to DEC. Under the MOU between the APA and the DEC, DEC could have challenged that determination with an appeal to the APA board, but they did not. Therefore this determination still stands.

Response: The Agency does have an inter-agency memo on file dated December 5, 1996 entitled "Roads Proposed to be Opened for Use by People with Disabilities." This memo does not contain a final determination regarding whether those CP-3 routes would be accounted for under Wild Forest Basic Guideline No. 4. To quell any confusion on this topic, at the direction of the APA board chair, staff are releasing the memo and appending it to this response to comments document.

III. Support for Other NMI and Road Definition Alternatives:

1. Comment: Support for a combination of NMI Alternative 2 (increase >15%) and Road Definition Alternative 2 (CP-3 not included).

Response: APA and DEC appreciate this feedback in support of NMI Alternative 2 and Road Definition Alternative

2. Comment: A 15% increase in road mileage is statistically significant. All alternatives that would permit any increase in road mileage over the 1972 levels are unacceptable.

Response: APA and DEC appreciate this feedback in response to the no material increase alternatives that have been presented.

3. Comment: Future road mileage increases should be permitted in accordance with the addition of Wild Forest acreage. Additionally, Wild Forest acreage has grown since 1972 and there should be a corresponding increase in road mileage that is allowable.

Response: Please see previously provided response from the September 2022 response document. The Master Plan currently provides that "established roads or snowmobile trails in newly acquired state lands classified as Wild Forest may be kept open to the public subject to Basic Guideline 4 set forth above and in the case of snowmobile trails to the special guidelines for such trails set forth below, at the discretion of the Department of Environmental Conservation, provided such use is compatible with the wild forest character of the area." See page 38. Staff understand this to mean that the Master Plan does contemplate new acquisitions, but requires that the road mileage associated with those acquisitions be subject to accounting

under Wild Forest Basic Guideline #4 -- “no material increase”-- which does not offer a provision for enabling road mileage on Wild Forest lands to increase in tandem with the addition of new acreage to the Forest Preserve. Any changes to the definition of “road” or Wild Forest Basic Guideline #4 would require an amendment to the Master Plan.

4. Comment: Support for NMI Alternative 1 (increase of 15%).

Response: APA and DEC appreciate this feedback in response to NMI Alternative 1.

5. Comment: Support for Road Definition Alternative 2 (CP-3 not included).

Response: APA and DEC appreciate this feedback in response to Road Definition Alternative 2.

6. Comment: Support for Road Definition Alternative 1 (CP-3 included).

Response: APA and DEC appreciate this feedback in response to Road Definition Alternative 1.

IV. Concept of Remoteness:

1. Comment(s): Various commenters weighed in with feedback related to the concept of remoteness, including the following:

Less than 3% of the Park is more than three miles from a road and more than two miles from a lake that allows motorboat usage. The APA should define remoteness and work to avoid erosion of that concept as a rare resource.

The debate over road mileage ignores the fact that while road mileage remains a fundamental consideration, it is a poor measure of remoteness, since distance from a road depends upon its location, not its length.

Given that remoteness is a criterion for Forest Preserve land classification, the importance of remoteness in Wilderness and Wild Forest character, and that remoteness is a rare resource in the Park, the APA should adopt a policy that defines remoteness and how to measure it, so that it can be more effectively protected.

Response: The DEC and APA acknowledge that remoteness is an important component of wild forest character. Remoteness, in addition to recreational opportunity, is considered when deciding which roads to keep open for public use during the unit management planning process. However, the questions presented for ASLMP interpretation today are limited to NMI.

V. Closure of Roads:

1. Comment: When the APA finds the net mileage of Wild Forest roads has increased materially beyond 1972 levels, it is obligated to insist on the full closure of an equal number of road miles elsewhere.

Response: Several of the combinations of No Material Increase and Road Definition interpretations would require closure of existing roads. Road closures will be contemplated through the unit management planning process if they are needed based on the APA board’s final determinations.

2. Comment: The NMI standard is a matter of resource protection, not one of access. If more CP-3 routes are needed to accommodate access for CP-3 permit holders, it is preferable to close non-CP-3 roads to maintain the road mileage cap.

Response: APA and DEC appreciate this feedback.

3. Comment: APA should issue a policy that guides DEC in the closure of an appropriate amount of roads. The policy might prioritize roads for closure that meet one or more of the following conditions:
 - Roads with limited public value and/or low public usage
 - Roads with no deeded private access rights
 - Roads with limited administrative value and/or usage
 - Roads with significant maintenance costs
 - Roads that have degraded due to non-use and are no longer suitable for automobile use
 - Roads that extend 3 or more miles from the nearest public highway
 - Roads for which there has been significant public opposition

Response: APA and DEC have agreed to utilize visitor use management concepts to plan for and manage Wild Forest roads in the future. The first step in doing this work will be to establish desired conditions for Wild Forest roads and establish indicators and thresholds to determine when desired conditions are not being met and management actions must be undertaken (such as maintenance, temporary closure, permanent closure). This evaluation and subsequent management actions would be carried out through the unit management planning process, which includes a process for public input.

4. Comment: Closed roads need to undergo an active decommissioning process, including the undoing of grading and removal of culverts. The US Forest Service has several levels of road decommissioning, including: 1) blocking the entrance; 2) Revegetating and adding water bars; 3) Removing fill and culverts; 4) Establishing drainageways and removing unstable road shoulders; 5) Fully obliterating, recontouring and restoring natural slopes. APA and DEC should adopt similar guidelines.

Response: Thank you for your comments. Road decommissioning is outside the scope of the Master Plan interpretations currently under APA consideration.

5. Comment: Road closures should be considered on a case-by-case basis through the UMP process after consideration of environmental and potential recreational factors specific to the site. Roads currently open to motor vehicle use should not be closed because of an arbitrary cap based on a pre-existing threshold.

Response: Please refer to the response provided to question #3 in this section.

VI. Visitor Use Management:

1. Comment: It is a misuse of the visitor use management framework concept to use it to determine whether wild forest roads comply with SLMP guidelines on a case by case or unit by unit basis.

Response: DEC is charged with the duty to prepare, in consultation with the Agency, individual unit management plans for the units of lands classified in the master plan. Unit management plans are regarded as the mechanism to apply the guidelines and criteria of the Master Plan to specific conditions on the ground. The unit management plans may incorporate the visitor use management framework to guide visitor management.

The visitor use management framework is applicable across a wide spectrum of situations that vary in spatial extent and complexity, from site specific decisions to large scale comprehensive management plans. (Visitor Use Management Framework: A Guide to Providing Sustainable Outdoor Recreation, Chapter 1 – Page 2).

2. Comment: There is precedent for closing wild forest roads where natural resource damage was occurring. DEC has closed ~60 miles of non CP-3 routes almost 20 years ago for this reason.

Response: DEC and APA appreciate this feedback. The majority of wild forest road closures since 1972 were done through the unit management planning process. Future wild forest UMPs will continue to evaluate roads, utilizing a visitor use management approach (see previous responses), to ensure that roads remaining open continue to meet desired conditions for wild forest roads.

3. Comment: DEC and APA should agree to undertake a Park-wide VUM to establish desired conditions for the Adirondack Park, including for roads and CP-3 access. Until this work is completed, the agencies can institute a protective cap of 5% over the 1972 mileage.

Response: DEC and APA appreciate this feedback. Please refer to response to comment #1 in this section.

4. Comment: Because CP-3 access does provide limited motorized access that could impact natural resources, CP-3 mileage should be included in the NMI calculation until the Park-wide VUM project is completed. CP-3 routes agreed to through the Galusha settlement should not be included until the VUM work is completed and the impact of these routes can be determined.

Response: Thank you for your comment. See answer #3 above.

VII. Accessibility:

1. Comment: There may be implicit bias in the public comments received on this topic and the commenter(s) request caution in limiting CP-3 miles now and in future planning.

Response: APA and DEC appreciate this feedback.

2. Comment: Any reduction in accessible places has a negative impact and perpetuates the devaluing of individuals with disabilities.

Response: APA and DEC appreciate this feedback.

3. Comment: Developing spaces and trails utilizing the principles and designs of accessibility create opportunities for all, they don't need to have a measure of miles attached to them.

Response: Thank you for your comment. The decision presently before the board is limited to interpretations of No Material Increase, as such this comment is outside the scope. However, the State is continually seeking to improve and expand opportunities for people with disabilities.

4. Comment: Technology, improved designs, products, and materials are opening doors for individuals with disabilities to access outdoor recreation. When changes are proposed for the Park, the state must stay true to the intention of the Americans with Disabilities Act.

Response: Thank you for your comment. The decision presently before the board is limited to interpretations of No Material Increase, as such this comment is outside the scope. However, the State is continually seeking to improve and expand opportunities for people with disabilities.

5. Comment: Provide more user data and plan for future accessible use in making the WFBG4 determinations.

Response: Thank you for your comment. Presently, there is not a mechanism to collect such data, as CP3-permits are provided to qualified individuals with disabilities and the policy does not require individuals to record or log their use of Forest Preserve lands.

6. Comment: There should be a ratable increase in CP-3 mileage as the state purchases additional land.

Response: APA and DEC appreciate this feedback. The Master Plan currently provides that "established roads or snowmobile trails in newly acquired state lands classified as Wild Forest may be kept open to the public subject to Basic Guideline 4 set forth above and in the case of snowmobile trails to the special guidelines for such trails set forth below, at the discretion of the Department of Environmental Conservation, provided such use is compatible with the wild forest character of the area." See page 38. Staff understand this to mean that the Master Plan does contemplate new acquisitions, but requires that the road mileage associated with those acquisitions be subject to accounting under Wild Forest Basic Guideline #4 -- "no material increase"-- which does not offer a provision for enabling road mileage on Wild Forest lands to increase in tandem with the addition of new acreage to the Forest Preserve. Any changes to the definition of "road" or Wild Forest Basic Guideline #4 would require an amendment to the Master Plan.

7. Comment: An Agency decision to include CP-3 routes in the mileage calculation poses a litigation risk, and although the decision not to include CP-3 mileage might also be challenged legally, such a challenge would be less likely to succeed.

Response: APA and DEC appreciate this feedback.

8. Comment: The inclusion of CP-3 routes in the overall mileage calculation will only work to limit continued improvement and increases in access for those with disabilities.

Response: APA and DEC appreciate this feedback.

9. Comment: While equitable opportunities should and must be provided for people with disabilities, the preservation of natural resources is paramount, and because of this, access will be afforded when and where the SLMP deems it appropriate.

Response: APA and DEC appreciate this feedback.

10. Comment: The APA board does not face a false choice between promoting accessibility for people with disabilities and protecting the precious natural resources of the Park. We can promote equitable access and fulfill the mandates of the SLMP at the same time.

Response: APA and DEC appreciate this feedback.

11. Comment: Page 11 of the SLMP reads that "the identification, in intensive use, historic and appropriate portions of wild forest areas accessible by motor vehicles, of measures that can be taken to improve access to and enjoyment of these lands, and associated structures and improvements, by persons with disabilities."

There was no inherent conflict between this new language that was added in 1986/87 and the existing guidelines and criteria of the SLMP that concern public motor vehicle use.

Response: APA and DEC appreciate this feedback.

VIII. Other Considerations/Topics:

1. Comment: The SLMP requires that opportunities on private lands factor into planning (reference SLMP page 3), and now miles of private, former industrial roads as well as trails on conservation easements are open to some form of negotiated public motorized recreation.

Response: The State Land Master Plan acknowledges that public and private lands within the Park “intermingle” or influence one another (page 3). Conservation easement lands are private lands and are therefore not subject to the state land classification system and guidelines per the State Land Master Plan. The State does own various rights on these lands, and the DEC and APA cooperatively plan for appropriate recreational use and administer permits as needed. The provisions of the Master Plan that are before the APA board presently for interpretation do not address road mileage on conservation easement lands or any land classification described in the Adirondack Park State Land Master Plan other than Wild Forest.

2. Comment: The UMP process is a sound tool to determine whether a road under consideration meets the social and environmental requirements set forth in the SLMP.

Response: Thank you for your feedback. The UMP process will continue to play an important role in the evaluation of roads as a possible means of providing access to the Forest Preserve consistent with the guidelines and criteria of the Master Plan, Article XIV of the New York State Constitution, and applicable federal laws.

3. Comment: The NMI provision of the SLMP only refers to lands owned by the State in 1972.

Response: Wild Forest Basic Guideline #4 reads “Public use of motor vehicles will not be encouraged and there will not be any material increase in the mileage of roads and snowmobile trails open to motorized use by the public in wild forest areas that conformed to the Master Plan at the time of its original adoption in 1972.” In order to determine what constitutes a material increase over the mileage that existed in 1972, it is necessary to also make a determination of what road mileage exists on lands classified as wild forest today.

4. Comment: Pause making a determination for NMI until the road definition interpretation has been made.

Response: These interpretations of the Master Plan are interrelated and the decisions that are before the board have varying management implications depending on the options chosen. Staff have included a matrix of how the various NMI interpretations relate to the Road Definition interpretations on page 6 of the memo dated March 8, 2023. The memo can be accessed here:

[https://www.apa.ny.gov/Mailing/2023/03/StateLand/NM %20Memo and Matrix March 2023.pdf](https://www.apa.ny.gov/Mailing/2023/03/StateLand/NM%20Memo%20and%20Matrix%20March%202023.pdf)

5. Comment: Consider the cumulative impacts of roads in all land use classifications when interpreting WFBG#4 (specifically the ongoing illegal motorized use of the Crane Pond Road in the Pharaoh Lake Wilderness).

Response: Because Wild Forest Basic Guideline #4 does not pertain to land classifications other than Wild Forest, roads of any type on other land classifications are not included in the inventory provided in May 2022 and are not addressed in the interpretation of this guideline.

6. Comment: Some road mileage should be selected for ground truthing and calibration. There is a likelihood that some roads closed in law by DEC are utilized in fact as roads and are not revegetated when closed.

Response: The inventory of wild forest roads open for motorized use by the public today was compiled using geographic information systems and in consultation with land managers across the Park. DEC has various strategies to prevent use of roads not legally open to motorized vehicles, including gates and placement of boulders to prevent access.

7. Comment: CP-3 routes are not shown on the road mileage maps provided in May 2022, which creates partiality toward the question of whether CP-3 routes should be counted.

Response: Maps of CP-3 routes are available at https://www.dec.ny.gov/docs/lands_forests_pdf/mappwdroutes.pdf. For a holistic view of CP-3 mileage and other accessible features within the Park, please refer to slide 2 from the "Accessible Features" presentation given at the September 2022 APA board meeting: <https://www.apa.ny.gov/Mailing/2022/09/StateLand/AccessibleFeaturesPresentation.pdf>.

8. Comment: Only a SLMP amendment would allow the APA to adjust the Wild Forest mileage cap or specify how certain types of road should be counted differently based on usage.

Response: To date, the APA board has not made a formal interpretation to determine what amount of road mileage over the 1972 total would constitute a material increase. For that reason, there is no "mileage cap" to adjust. The board is being asked to determine whether CP-3 mileage meets the Master Plan definition of a road, which is defined separately from administrative road on pages 17 and 20 of the SLMP.

9. Comment: Allow UMPs that are currently held up by the WFBG4 interpretation to move forward without additional roads or CP-3 access.

Response: The SLMP details what must be contained in a unit management plan (see section beginning on page 10). That list includes but is not limited to the following: an inventory of all existing facilities for public or administrative use; an inventory of the types and extent of actual and projected public use of that area; the identification of needed addition or improvements to, and plans for providing for further appropriate public use of, the area consistent with its carrying capacity; etc. It would be inconsistent with the Master Plan to embark on a planning effort that does not address all of the relevant components of a unit management plan.

10. Comment: Concern for policy decisions that may impact snowmobiling and other forms of recreation on the Forest Preserve.

Response: While the APA and DEC appreciate this feedback, it is beyond the scope of the determinations that are currently before the board.

11. Comment: The State needs to look at what mileage of roads it can actually maintain, many roads in the Park are in bad shape.

Response: Through the establishment of desired conditions for wild forest roads, the State will work through the unit management planning process to bring existing and future road mileage into compliance with standards that address the physical, biological, and social aspects of the recreational experience.

12. Comment: Concern about the width of roads and associated environmental impacts.

Response: See response to question #11 above.

13. Comment: Please explain how the illegal one-mile extension of the Lens Lake Road into the Wilcox Lake Wild Forest is accounted for in your inventory.

Response: Based on DEC's review of available records, the road in question is a public road where it crosses Forest Preserve lands classified as part of the Wilcox Lake Wild Forest. DEC has determined this road pre-dated the State's acquisition of these lands for inclusion in the Forest Preserve and, as a result, the road is deemed a road by use. The Adirondack Park State Land Master Plan permits maintenance of existing roads through lands classified as wild forest.

14. Comment: Wild forest character is what makes the Adirondacks unique in the Eastern United States, and roads degrade the wild forest character.

Response: APA and DEC appreciate this feedback.

15. Comment: Will the roads in the Moose River Plains area be maintained and kept open as they are now? Will they be affected by this policy interpretation?

Response: The majority of road mileage subject to reclassification in the Moose River Plains Wild Forest (22.5 miles) remains open to public use under the Intensive Use classification but is no longer subject to Wild Forest Basic Guideline #4.

16. Comment: WFBG4 not only limits the increase of road mileage, but also dictates that the use of motor vehicles will not be encouraged. This requirement cannot be ignored and must be a part of any interpretation of this guideline.

Response: APA and DEC appreciate this feedback.

17. Comment: There are key reasons for discouraging roads on the Forest Preserve, specifically stated in the SLMP, with reference to the APA Act.

Response: APA and DEC appreciate this feedback.

18. Comment: WFBG4 applies only to roads that are open to *all* members of the public.

Response: APA and DEC appreciate this feedback.

19. Comment: There should be a provision in the SLMP to replace any road mileage lost due to reclassification. To date, there are 19.1 miles of roads that have been closed as a result of reclassification of land.

Response: A total of 23.6 miles have been removed from the tally due to reclassification. Of that total, 1.1 miles were closed due to reclassification to wilderness. The remainder of road mileage subject to reclassification, 22.5 miles in the Moose River Plains Wild Forest, was not closed. Instead, it remains open to public use under the Intensive Use classification but is no longer subject to Wild Forest Basic Guideline #4.

20. Comment: Mileage is a poor metric for determining wild forest character. Land managers should also consider road density data and frequency of use when making decisions about public access and impacts from recreational use.

Response: Determination of wild forest character, and decisions regarding public access and impacts from recreational use, occur during the unit management planning process.

Summary and Response to Public Comments Received on Wild Forest Basic Guideline #4
Presented at the May 2022 APA Board Meeting
(Comment Period May 10-July 11, 2022)

I. No Material Increase Interpretation (NMI) Alternatives & Definition of a Road Alternatives:

A. Support for NMI Alternative #1: 15% Increase in Road Mileage

1. Comment: NMI Alternative #1, coupled with either definition of a road alternative #2 or #3, would be the simplest choice. It keeps with the 15% threshold for materiality that was established in the 2008 snowmobile trail no material increase interpretation of the Adirondack Park State Land Master Plan (Master Plan).

Response: The Department of Environmental Conservation (DEC) and the Adirondack Park Agency (APA) appreciate the feedback in general support of no material increase alternative #1.

B. Support for NMI Alternative #2: >15% Increase in Road Mileage

1. Comment: Commenter opposes any limits on roads in Wild Forest. Environmental impacts are not a concern because there are only a few hundred miles of roads.

Response: The Department of Environmental Conservation (DEC) and the Adirondack Park Agency (APA) appreciate the feedback in general support of no material increase alternative #2.

The fact that the Master Plan provides DEC the authority to restrict motorized uses to protect the natural resources and character of the area, and that Wild Forest Basic Guideline #4 dictates that the public use of motor vehicles will not be encouraged and mileage of roads not increased in a material way signals that there are recognized impacts associated with motorized uses, both to the land itself and the visitor experience.

2. Comment: Commenter advocates for an increase of more than 15%, and believes that such increase should be linked to new state land acquisitions since 1972.

Response: The DEC and APA appreciate the feedback in general support of no material increase alternative #2. From 1973 to 2018, there has been a 137,278-acre increase in wild forest lands, which represents a 11.6% increase.

C. Support for NMI Alternative #3: <15% Increase in Road Mileage

1. Comment: The determination in the 2008 snowmobile guidance that mileage increases up to 14.7% do not constitute a material increase is mathematically indefensible. There is no statistically valid interpretation by which 15% would not be considered a material numeric increase. This percent must not be used as a basis for considering increases in Wild Forest roads. NMI alternative #3 is the only option that is consistent with the terms of the Master Plan.

Response: The APA board found that a 14.7% increase in park-wide snowmobile trail mileage since 1972 did not constitute a material increase, as documented in the 2008 resolution. The NMI alternative #1 (15% increase in road mileage) was offered as one alternative, given the precedent of the 2008 interpretation by the Agency board of the same SLMP provision.

2. Comment: While a snowmobile trail may be designated on a road, its design characteristics are different than a road. Roads are larger, can be used by bigger, heavier motorized machinery, require more maintenance, and have larger ecological impacts. While the 2008 Snowmobile Guidance's 15% no material increase standard was cited by APA staff at the May Agency meeting as a guiding standard, it is an apples to oranges comparison given the variation in design standards. This commenter advocated for a no material increase standard of 1%.

Response: See response to comment #1 in this section. NMI alternative #1 is just one option, offered to the APA board based on its precedent in the 2008 snowmobile mileage interpretation of the same SLMP provision.

3. Comment: Several commenters suggested that a 2-3% increase is appropriate as the threshold for materiality. Another commenter suggested that a 5% increase should be the threshold for materiality.

Response: DEC and APA appreciate the feedback in general support of no material increase alternative #3, and the suggested percent increases that should be allowed.

4. Comment: Wild Forest Basic Guideline #4 should be interpreted to serve as a cap on roads.

Response: DEC and APA are seeking an interpretation from the APA board to determine what mileage constitutes a material increase within the meaning of the Master Plan, and subsequently a total allowable mileage of roads that can exist on lands classified as Wild Forest without exceeding that yet to be determined threshold. That determination will enable APA to implement accounting of road mileage under Wild Forest Basic Guideline #4 during the unit management planning process.

D. Support for Road Definition Alternative #1: CP-3 Mileage Included

1. Comment: Several commenters offered the opinion that a fair reading of the Master Plan requires that the total universe of roads in Wild Forest areas, including CP-3 roads, be included in an assessment of Wild Forest Basic Guideline #4. Commenters expressed the sentiment, "If it looks like a road, is used by motor vehicles under any circumstance as a road, and is maintained like road, then it's a road." These routes are open to the public, though a permit is required, "on a discretionary basis," -- therefore they meet the Master Plan definition of a road.

Response: The DEC and APA appreciate this feedback in support of road definition alternative #1.

2. Comment: Any “ways” used by the public for the purpose of motorized access are by Master Plan definition roads, regardless of type of vehicle or use and should be counted in any metrics, because the Master Plan does not permit motorized access on any other facility. This is consistent with the Master Plan, which explicitly describes the public use of roads. Because motor vehicle access is impermissible on trails, all CP-3 routes must by definition be existing roads and therefore be included in “no material increase” calculations. All other options are expressly prohibited by the Master Plan.

Response: The DEC and APA appreciate this feedback in support of road definition alternative #1.

E. Support for Road Definition Alternative #2: CP-3 Mileage Not Included

1. Comment: CP-3 routes are available for use by individuals with disabilities by securing a Temporary Revocable Permit (TRP) from the DEC. There are roughly 1,000 individuals who hold these permits across the State, constituting a minute fraction of New York’s population. Therefore, one commenter suggests that there is no rational or legal support to include the CP-3 mileage in the overall no material increase calculation.

Response: The DEC and APA appreciate this feedback in support of road definition alternative #2.

2. Comment: DEC does not have discretion over whether to close CP-3 routes, so these routes do not meet the definition of a road laid out in the Master Plan. Although the roads may be owned, operated, and/or maintained by DEC, allowing access for people with disabilities is legally required per the Americans with Disabilities Act and also the Galusha settlement.

Response: The DEC and APA appreciate this feedback in support of road definition alternative #2.

3. Galusha and additional CP-3 mileage should be excluded from the mileage cap. Including this mileage would be a discriminatory action, and is not what the court envisioned during the Galusha case.

Response: The DEC and APA appreciate this feedback in support of road definition alternative #2.

4. Comment: One commenter wrote that since the 2001 Galusha settlement, the State has purchased additional land containing road networks. They believe that mileage should increase in proportion to this expansion of state land ownership to equitably provide access to individuals in the disabled community. Definition of a road alternative #2 allows for the necessary and appropriate access for people with disabilities.

Response: The DEC and APA appreciate this feedback in support of road definition alternative #2.

5. Comment: Several commenters responded that the State should increase recreational opportunities for people with disabilities.

Response: DEC and the APA appreciate the feedback and general support of road definition alternative #2. The CP-3 program is only one way that DEC provides access to public lands and recreational opportunities for people with disabilities. For a complete list of accessible recreation opportunities (in the Park and across the state as a whole), please visit: <https://www.dec.ny.gov/outdoor/34038.html>.

It is important to note that the interpretations of the Master Plan that are presently before the APA board do not include whether or not to offer increased recreational opportunities for people with disabilities.

F. Support for Road Definition Alternative #3: Non Galusha CP-3 Mileage Included

1. Comment: One commenter expressed a preference for utilizing the federal Visitor Use Management Framework rather than setting hard and fast limits on mileage for CP-3 routes. However, since a VUM process for this type of management would take some time to develop, the commenter acknowledges that in the absence of such a process, road definition alternative #3 is a path forward that is more protective than allowing potentially unlimited CP-3 mileage under road definition alternative #2.

Response: The DEC and APA appreciate this feedback in support of road definition alternative #3.

II. Wild Forest Basic Guideline #4 in the Context of the State Land Master Plan:

The following comments and responses are reflective of the broader feedback that Wild Forest Basic Guideline #4 must be examined in relationship to the other relevant provisions of the Master Plan that pertain to roads and motorized uses.

1. Comment: Wild Forest Basic Guideline #3 on “roads” and “administrative roads” on page 38 reads – “established roads or snowmobile trails in newly-acquired state lands classified as Wild Forest may be kept open to the public, subject to Basic Guideline #4 set forth above and in the case of snowmobile trails to the special guidelines for such trails set forth below, at the discretion of the Department of Environmental Conservation, provided such use is compatible with the wild forest character of the area.” This guideline is not meant to force road closures whenever Wild Forest lands with road networks are added to the Forest Preserve. Wild Forest Basic Guideline #4 is silent on future acquisitions.

Response: While it is true that the language of Wild Forest Basic Guideline #4 (WFBG4) does not explicitly mention future acquisitions, Wild Forest Roads and Administrative Roads Guideline #3 makes a salient connection between WFBG4 accounting and new state land purchases, allowing roads on newly acquired state lands to remain open to the public at the discretion of DEC if their mileage does not exceed the WFBG4 threshold for materiality and if compatible with the wild forest character of the area. To date, the State has not encountered a situation where acquisition of new lands with road networks forced closures of road mileage elsewhere in the Park – because the APA board has not yet made a determination as to what constitutes “materiality.”

2. Comment: Wild Forest Basic Guideline #1 on page 35 reads - “The primary Wild Forest management guideline will be to protect the natural wild forest setting and to provide those types of outdoor recreation that will afford public enjoyment without impairing the wild forest atmosphere.”

Response: The APA and DEC strive to uphold this critical Wild Forest Basic Guideline in our planning and management efforts. It is a reiteration and reflection of the unifying theme of the Master Plan – “that the protection and preservation of the natural resources of the state lands within the Park must be paramount. Human use and enjoyment of those lands should be permitted and encouraged, so long as the resources in their physical and biological context as well as their social or psychological aspects are not degraded” (page 1).

3. Comment: Wild Forest guidelines on structures and improvements on pages 36-37 read as follows --
“The maintenance and rehabilitation of the following structures and improvements will be allowed to the extent essential to the administration and/or protection of state lands or to reasonable public use thereof but new construction will not be encouraged...roads, and administrative roads as set forth below; snowmobile trails as set forth below...”

Response: DEC generally does not undertake the construction of new roads or administrative roads in a Wild Forest setting except in extraordinary circumstances. Maintenance and rehabilitation of existing road networks, whether open to public use or reserved for administrative purposes, is allowable per the above guideline in the Master Plan.

4. Comment: The 1979 Programmatic EIS governs the amendment process for the Master Plan. This document should be consulted when the APA makes a formal interpretation of the Master Plan.

Response: The programmatic environmental impact statement is designed to describe and further define guidelines for amending the State Land Master Plan. The programmatic EIS is not intended for and the Agency is not required to utilize the programmatic EIS in making interpretations of the Master Plan as it is currently written.

5. Comment: The Wild Forest definition on page 34 describes this land classification as follows: “an area that frequently lacks the sense of remoteness of wilderness, primitive or canoe areas and that permits a wide variety of outdoor recreation.” By this definition, the social and psychological aspects of these lands would not be degraded by motor vehicle use on already established roads. Wild Forest lands are categorically less fragile than more restrictive land classifications and therefore able to withstand a higher degree of use.

Response: Although a wider variety of outdoor recreation is allowed in Wild Forest, such recreation must still be provided consistently with the Master Plan as a whole and the guidelines specific to Wild Forest. The unifying theme of the Master Plan, articulated on page 1, is that the protection and preservation of the natural resources of the state lands within the Park must be paramount. Human use and enjoyment of those lands should be permitted and encouraged, so long as the resources are not degraded. While “[a] wild forest area is an area where the resources permit a somewhat higher degree of human use than in wilderness, primitive or canoe areas, while retaining an essentially wild character,” the first Basic Guideline for Wild Forest notes that the “primary Wild Forest management guideline will be to protect the natural wild forest setting and to provide those types of outdoor recreation that will afford public enjoyment without impairing the wild forest atmosphere.” The fact that the Master Plan provides DEC the authority to restrict motorized uses to protect the natural resources and character of the area, and that Wild Forest Basic Guideline #4 dictates that the public use of motor vehicles will not be encouraged and mileage of roads not increased in a material way signals that there are impacts associated with motorized uses, both to the land itself and the visitor experience.

III. Additional Alternatives and Interpretations of Wild Forest Basic Guideline #4:

1. Comment: APA should revisit the Master Plan to address large scale shifts in land ownership and policy over the past 50 years.

Response: The DEC and APA appreciate this feedback on the Master Plan as a whole. While the suggestion is beyond the scope of the alternatives currently before the APA board, revisions to the

Master Plan may be requested by state agencies, local government, and other parties. Any revisions to the Master Plan are at the discretion of the APA board and require approval by the Governor.

2. Comment: Commenter expressed the opinion that none of the interpretation alternatives presented to the board can be ethically adopted; we must change the Master Plan through a transparent process to bring clarity to the issue.

Response: The alternatives for interpretation of the definition of a road and interpretation of what constitutes a material increase that were presented to the Agency board in May were alternatives that would not require a Master Plan amendment. If the board deems none of these alternatives to be suitable, they may entertain additional alternatives and direct staff to open a subsequent public comment period.

3. Comment: Amend the Master Plan to add a new definition for CP-3 roads.

Response: Typically, DEC policies (including Commissioner's Policy 3) are not defined or referenced directly in the Master Plan, however amendments to the Master Plan are within the discretion of the APA Board. See response to the comment immediately above.

4. Comment: Road mileage should increase as the State adds new acreage to the Forest Preserve through state land acquisitions.

Response: The Master Plan currently provides that "established roads or snowmobile trails in newly acquired state lands classified as Wild Forest may be kept open to the public subject to Basic Guideline 4 set forth above and in the case of snowmobile trails to the special guidelines for such trails set forth below, at the discretion of the Department of Environmental Conservation, provided such use is compatible with the wild forest character of the area." See page 38. Staff understand this to mean that the Master Plan does contemplate new acquisitions, but requires that the road mileage associated with those acquisitions be subject to accounting under Wild Forest Basic Guideline #4 -- "no material increase"-- which does not offer a provision for enabling road mileage on Wild Forest lands to increase in tandem with the addition of new acreage to the Forest Preserve. Any changes to the definition of "road" or Wild Forest Basic Guideline #4 would require an amendment to the Master Plan.

As noted above, from 1973 to 2018, there has been a 137,278-acre increase in wild forest lands, which represents an approximately 11.6% increase.

5. Comment: Several commenters raised Constitutional questions and/or comments or offered insights related to existing case law (i.e., whether the State has jurisdiction to close roads on state lands). Constitutional issues included concerns that providing access to roads for the purpose of motorized transit is not keeping with the intent of the "forever wild" provision of the New York State Constitution, and how the Protect the Adirondacks! vs. DEC and APA court decision impacts future trail construction.

Response: DEC and APA appreciate the feedback provided, however these comments are beyond the scope of the interpretations of the Master Plan that are presently before the APA board.

6. Comment: The State does not lack jurisdiction to close roads on state lands under Section 212 of Highway Law and the Kelly vs. Jorling decision.

Response: DEC and APA appreciate the feedback provided, however these comments are beyond the scope of the interpretations of the Master Plan that are presently before the APA board.

7. Comment: Various commenters weighed in on the concept of mileage as a proxy for motorized usage. Feedback included comments that capping mileage does not necessarily discourage use, and motorized use has increased on Wild Forest lands in the past 50 years. Commenters felt that this use should be quantified, and that road mileage is a poor proxy for gauging motorized use levels. Using miles as the determining factor assumes that the impact from each road is the same, what matters more is how the roads are sited and built. Rather than setting a mileage threshold, land should be planned for based on performance (which requires us to consider a different metric).

*Response: While there are other means to quantify or approximate usage, the Master Plan instructs us to utilize mileage – on page 35 the plan reads “...there will not be any material increase in the **mileage** of roads and snowmobile trails...”*

Further, there is no realistic way for the Department to gauge the level of use that was occurring on Wild Forest roads in 1972, so no comparison can be made to present day use.

8. Comment: The ceiling of no material increase is not just about mileage, but also about motorized use and its effect on wild forest character. APA should interpret the meaning of wild forest character and develop metrics to measure it.

Response: See previous responses related to mileage as a proxy for motorized use (comment #7 in this section). Developing desired conditions, standards, and thresholds associated with wild forest character is part of the ongoing discussion that is being led by the DEC and APA related to trail guidance.

9. Comment: The State should take a unit-by-unit approach to quantifying mileage and subsequently, material increase.

Response: Wild Forest Basic Guideline #4 requires a Park-wide analysis of public road mileage, and no provision currently exists for unit-by-unit determinations of “material increase.” Any changes to the language of Wild Forest Basic Guideline #4 would require an amendment to the Master Plan.

Comment: “No material increase” has already been exceeded and the State must close some roads.

Response: The APA board is being asked to make a determination as to what constitutes “no material increase” as it pertains to Wild Forest Basic Guideline #4. To date, the Board has not made this determination for public road mileage. Whether or not roads must be closed cannot be addressed until the board makes the pertinent interpretations of the Master Plan.

10. Comment: Commenter offered that material increase could be defined in a way that more adequately reflects the non-linear relationship between road mileage and acreage. For example, material increase could be defined relative to the square root of the area of each mgmt. unit – so if we are thinking about a 15% increase, and a unit is 100 square miles, the total allowable new mileage would be 1.5 miles. According to the measurements presented in May, the increase above 1972 road mileage already far exceeds 15% for 12 out of the 27 Wild Forest units in the Park; and when accounting for existing and proposed CP-3 routes, this number rises to 13 out of 27. When considering increase in road mileage as a proportion of the square root of each Wild Forest unit area (in square miles), 10 out of 27 Wild Forest units now exceed a 15% increase (11 out of 27 when considering existing and proposed CP-3 routes).

This reinforces the point that a single benchmark for material increase in road mileage for all Wild Forest lands in the Park combined is inadequate -- especially when set at 15% above total road mileage in 1972 -- and that many Wild Forest areas are already individually at or near material increase in road mileage by any reasonable metric.

Response: Wild Forest Basic Guideline #4 does not identify a relationship between the acreage of Wild Forest and the mileage of public motor vehicle roads. Additionally, the guideline requires a Park-wide analysis of public road mileage, and no provision currently exists for unit-by-unit determinations of "material increase." Any changes to the language of Wild Forest Basic Guideline #4 would require an amendment to the Master Plan.

11. Comment: The Master Plan speaks directly to the issue of appropriate locations for motorized use, with preference to travel corridors and borders of Wilderness and Wild Forest areas, which preserves remoteness by keeping motorized uses out of the heart of these larger areas. This suggests that remoteness is a useful metric, and that remoteness, rather than a simple measure of trail and road mileage, is a fundamental component of wild forest character.

Response: Commenter is correct that Page 39 of the Master Plan contains the following excerpt - "Snowmobile trails should be designed and located in a manner that will not adversely affect adjoining private landowners or the Wild Forest environment and in particular....appropriate opportunities to improve the snowmobile trail system may be pursued subject to Basic Guideline 4 set forth above, where the impact on the Wild Forest environment will be minimized, such as (l) provision for snowmobile trails adjacent to but screened from certain public highways within the Park..."

Additionally, page 27 contains the following excerpt - "Where a wilderness boundary abuts a public highway, the Department of Environmental Conservation will be permitted, in conformity with a duly adopted unit management plan, to locate within 500 feet from a public highway right-of-way, on a site-specific basis, trailheads, parking areas, fishing and waterway access sites, picnic areas, ranger stations or other facilities for peripheral control of public use, and, in limited instances, snowmobile trails."

The Master Plan explicitly prohibits the construction of new roads within in Wild Forest areas nor will new administrative roads be constructed unless such construction is absolutely essential to the protection or administration of an area, no feasible alternative exists, and no deterioration of the wild forest character or natural resource quality of the area will result" See page 38.

*The guideline being interpreted instructs us to utilize mileage in establishing a threshold for what constitutes no material increase. On page 35 the Master Plan reads "...there will not be any material increase in the **mileage** of roads and snowmobile trails..."*

The DEC and APA acknowledge that remoteness is an important component of wild forest character. Remoteness, in addition to recreational opportunity, is considered when deciding which roads to keep open for public use during the unit management planning process.

12. Comment: Although the Master Plan does not promote motor vehicle use as a primary recreational activity, it need not actively discourage it where such use is compatible with the objectives of the Master Plan and purpose of the APA Act.

Response: The following excerpts from the Master Plan support the comment above. On Page 35 Wild Forest Basic Guideline #4 reads that "public use of motor vehicles will not be encouraged." Pages 36 and

37 note that new construction of roads, administrative roads, and snowmobile trails will not be encouraged. The guideline pertaining to roads and administrative roads in Wild Forest (#2) on page 38 reads “existing roads or snowmobile trails, now open to and used by the public for motor vehicle use in Wild Forest areas, may continue to be so used at the discretion of the Department of Environmental Conservation, provided such use is compatible with the wild forest character of an area.”

13. Comment: The State should use the visitor use management framework to establish social, biological, and physical thresholds for CP-3 routes and monitor their usage; employ an adaptive management approach to address any issues that arise.

Response: The DEC and APA appreciate this comment in support of the visitor use management framework as an effective tool to aid in management of the Forest Preserve and its various recreational assets.

Wild Forest Basic Guideline #4 does not provide for the use of the federal Visitor Use Management Framework (VUMF) as a mechanism for making a determination of “no material increase.” However, the guideline does not preclude the use of the VUMF to evaluate the carrying capacity of a given area and to adjust the management of roads in response to that evaluation.

14. Comment: The State should consider opportunities for motorized recreation on conservation easement lands and other private lands.

Response: The State Land Master Plan acknowledges that public and private lands within the Park “intermingle” or influence one another (page 3). Conservation easement lands are private lands and are therefore not subject to the state land classification system and guidelines per the State Land Master Plan. The State does own various rights on these lands, and the DEC and APA cooperatively plan for appropriate recreational use and administer permits as needed. The provisions of the Master Plan that are before the APA board presently for interpretation do not address road mileage on conservation easement lands or any land classification described in the Adirondack Park State Land Master Plan other than Wild Forest.

IV. Accessibility to State Lands for People with Disabilities:

1. Comment: Technology has evolved, more other power-driven mobility devices are now on the market including track chairs, four-wheel drive wheelchairs, etc. These advancements are not adequately reflected in the State’s current programs to provide access to State lands for people with disabilities.

Response: DEC and APA appreciate the feedback provided by the commenters. However, changes to DEC accessibility policies are outside the scope of interpretations currently before the APA board. It is important to note that the CP-3 program is only one component of how the State provides access to public lands for people with disabilities. For additional information on accessible recreation on DEC managed lands, please visit <https://www.dec.ny.gov/outdoor/34035.html>.

2. Comment: Several commenters wrote that the State should be re-thinking the CP-3 program. This is the program that people with disabilities rely on to access hard-to-reach points, but it puts requirements on individuals to obtain permits and then poses logistical challenges for certain individuals who cannot operate the gates independently. Not including CP-3 mileage in the definition of a road on its face permits the greatest flexibility for access, but relies on the CP-3 program as the means, which has flaws.

Response: DEC and APA appreciate the feedback. However, changes to DEC's CP-3 policy are outside the scope of interpretations currently before the APA board.

3. Comment: Some of the options for interpretations of the Master Plan are calling for a choice between more miles for all and a few more miles for disabled people to reach places they otherwise could not. A cap on what can be made more accessible via a road is counter to the purpose of the ADA; a ceiling on access is not acceptable.

Response: The DEC and APA appreciate this feedback in support of road definition alternative #2.

4. Comment: Several commenters expressed that people with disabilities are seeking a spectrum of access opportunities (motorized and non-motorized). The spirit of the Americans with Disabilities Act is to provide equal access to public lands. Commenters encouraged DEC and APA to discuss alternatives for how to best meet the diverse needs of people with mobility limitations, including whether it would serve the community to substitute portions of CP-3 routes with accessible trails and routes for other power-driven mobility devices.

Response: DEC and APA appreciate the feedback and are continuously working to identify areas where improvements can be made to provide access to State lands and facilities consistent with the Americans with Disabilities Act. However, as noted above, changes to DEC accessibility policies are outside the scope of interpretations currently before the APA board.

5. Comment: There are ongoing service interruptions in providing wagon access to Great Camp Santanoni, which was a requirement of the Galusha settlement.

Response: DEC and APA appreciate the feedback. DEC is aware of these challenges and has been engaging partners to identify a long-term solution. However, this comment is outside the scope of the interpretations that are currently before the APA board.

6. Comment: Several commenters expressed that the APA and DEC should solicit input directly from the APA/DEC Accessibility Advisory Committee on the Wild Forest Basic Guideline #4 interpretations that are pending before the APA board.

Response: DEC and APA appreciate the public comments, both written and oral, provided by the Accessibility Advisory Committee during this public comment period. Additionally, APA and DEC have worked cooperatively with DEC's Accessibility Coordinator to ensure the Advisory Committee has the full opportunity to provide feedback during this process and will continue to do so as the process continues.

V. Technical and/or Site-Specific Corrections and Feedback on Methodology for Mileage Tallies:

1. Comment: The primary road through the Moose River Plains intensive use area was counted in the 1972 tally but not current day tally, and the accounting of road mileage in this area should be consistent.

Response: In 2011 the 2,398-acre Moose River Plains Intensive Use Camping Area was created by reclassifying land that was originally part of the Moose River Plains Wild Forest. As part of the same classification package, 12,269 acres were also reclassified from the Moose River Plains Wild Forest to become the Little Moose Wilderness. The creation of this new wilderness area was seen as a balance to

the creation of a new intensive use area and its associated implications, including the removal of road mileage subject to Wild Forest Basic Guideline #4.

Also, the majority of the Otter Brook Road is open to public motor vehicle use and lies within lands classified as Wild Forest. Therefore, this mileage is subject to Wild Forest Basic Guideline #4. A short section of the Otter Brook Road, as well as other short spur roads, fall within the Moose River Plains Intensive Use Camping Area and are therefore no longer subject to Wild Forest Basic Guideline #4 because the land is no longer classified as Wild Forest.

2. Comment: The Essex Chain Lakes primitive recreational trail was not counted toward the road mileage total and should be.

Response: The recreational trails within the Essex Chain Lakes Primitive Area are not open to public motor vehicle use. Additionally, these trails are on lands classified as Primitive and not Wild Forest. Any motor vehicle use allowed on these trails is administrative only, and is characterized by the Master Plan "...periodic, but not usual or routine..." and "...for specific major maintenance, rehabilitation, or construction purposes..." For these three reasons, the trails in the Essex Chain Lakes Primitive Area are not subject Wild Forest Basic Guideline #4. On the adjacent Blue Mountain Wild Forest, several public motor vehicle routes exist and have been included in the Wild Forest Basic Guideline #4 inventory.

3. Comment: One commenter expressed concern over perceived discrepancies in road mileage tallies and criteria for inclusion in those tallies. Examples include:

- a. Debar Mountain Wild Forest – a section of the Four Mile Road and all of Pinnacle and Vanderwalker Roads, which form a boundary between private lands and Wild Forest lands.

Response: Thank you for pointing out this discrepancy. A clarification to the Road Mileage Tally Criteria has been made stating the inventory does not include roads that form the boundary between Wild Forest and private land, except where DEC has sole jurisdiction of the roads.

- b. Independence River Wild Forest – Francis Road is shown on private land, listed as open in 1972 and not in 2022.

Response: Thank you for pointing out this error. There is a narrow strip of land under the former road that is owned by the state, so DEC did have jurisdiction of the road. The land in question, however, was acquired by the State after 1972 so it should not have been shown as "open" in 1972. The maps and spreadsheets have been changed to reflect this correction.

- c. Saranac Lakes Wild Forest – Floodwood Mountain Road is a boundary between state and private lands.

Response: Thank you for pointing out this discrepancy. A clarification to the Road Mileage Tally Criteria has been made stating the inventory does not include roads that form the boundary between Wild Forest and private land, except where DEC has sole jurisdiction of the roads. (Underlined section added).

4. Comment: Certain roads were omitted from the road mileage tallies provided. Roads in other land classifications, including canoe, intensive use, etc. were not included in the tallies and should have been. Administrative roads and private reserved rights were also not reflected in the mileage tallies. A list of

administrative road mileage tallies by unit was requested, as well as the GIS .shp files used to create the maps provided to the board and public in advance of the May 2022 Agency meeting. CP-3 mileage and Galusha settlement mileage should also have been included in the tallies. Lastly, roads maintained by public entities such as counties, towns, and villages and state highways were not inventoried and tallied.

Response: Because Wild Forest Basic Guideline #4 does not pertain to land classifications other than Wild Forest, roads of any type on other land classifications are not included in the inventory.

Because Wild Forest Basic Guideline #4 pertains to “public use of motor vehicles,” DEC administrative roads and private reserved rights were not included in the tallies since they are not open to the general public for motorized uses.

The CP-3 mileage has not been added to the public road mileage tallies because the APA has not made the determination that that CP-3 mileage constitutes “public” use. CP-3 mileage has been tallied separately to facilitate an understanding of how it relates to the public road mileage tallies.

State highways are classified as travel corridor per the Master Plan. Travel corridor classifications are essentially corridor overlays to the basic land classification(s) through which the corridor passes. On pages 50-51, the Master Plan defines a travel corridor as “those lands within the Adirondack Park constituting either a highway corridor or a railroad corridor and those state lands immediately adjacent to and visible from these corridors. A highway corridor is the roadway, roadbed, surface, and lands owned in fee, easement or by right-of-way for the maintenance and use of state and interstate highways.” Because these roads have their own classification in the Master Plan, this mileage was not included in the tallies presented to the APA board.

5. Comment: The APA should not accept its 2008 Master Plan interpretation of the materiality in the growth of snowmobile trails because the NYS Court of Appeals ruled that 27 miles of Class II trails were unconstitutional.

Response: Wild Forest Basic Guideline #4 and the 2008 APA resolution interpreting the guideline as it pertains to snowmobile trails do not distinguish between Class II trails and other snowmobile trails. Any closure of snowmobile trails, including Class II trails, would result in a decrease of mileage in the inventory. Any modification of a Class II trail to a different maintenance standard would not result in a change to the inventory as long as that trail remained open to snowmobiling.

6. Comment: A commenter offered the feedback related to the total allowable snowmobile trail mileage on the Forest Preserve. Their first point was that the methodology used to arrive at 1972 snowmobile trail mileage was flawed. The total allowable snowmobile mileage should be increased to account for new state land acquisitions. There was also some concern that snowmobile trails situated on easement lands may one day count toward the “cap” of total mileage if they come into state ownership. The Adirondack Snowmobile Plan requires that trails are sited to avoid wetlands, steep slopes, and ecologically sensitive areas; the commenter expressed concern that routing trails to avoid these landscape features would add mileage. Where snowmobile routes occur on roads, that mileage should be not be counted toward the overall mileage total.

Response: The 2008 APA resolution regarding Master Plan Wild Forest Basic Guideline #4, as it pertains to snowmobile trail mileage, does not provide for increased allowable mileage based on land acquisitions or other increases in the total Park-wide acreage of lands classified as Wild Forest.

Wild Forest Basic Guideline #4, as with the entire Master Plan, does not pertain to conservation easement lands because they are privately owned. Instead, these lands are subject to the guidelines found in APA's Private Land Use and Development Plan which does not contain any Park-wide limitations on snowmobile trail mileage.

Currently the estimated mileage of snowmobile trails on Wild Forest lands is 783.31 miles, which is 65.57 miles under the total allowable mileage of 848.88 miles. It is not anticipated that utilizing the above-mentioned best management practices for siting snowmobile trails will lead to DEC surpassing the total allowable mileage.

The 2008 APA resolution regarding Wild Forest Basic Guideline #4, as it pertains to snowmobile trail mileage, established the current tabulation methodology whereby road segments under DEC jurisdiction, both public and administrative, that are open to public snowmobiling are included in the snowmobile trail inventory.

VI. Related Topics and Issues (Not Pertinent to the Interpretations at Hand):

1. Comment: The State must consider the long-term viability of snowmobiling in the face of climate change impacts.

Response: DEC and APA appreciate the feedback provided. However, this comment is beyond the scope of the interpretations of the Master Plan presently before the APA board.

2. Comment: The State should not be expanding motorized access in light of the CLCPA mandates to reduce emissions.

Response: Once the draft scoping plan put forth by the Climate Action Council is finalized and adopted, all State agencies and authorities will examine strategies and recommendations outlined in the plan and ensure that their policies and programs come into compliance, to enable the State to meet its ambitious climate goals. Any changes to the language of the Master Plan to address the CLCPA would require an amendment to the Master Plan.

3. Comment: We need intact lands available as a carbon sink to mitigate impacts of climate change.

Response: New York State's Forest Preserve is Constitutionally protected as "forever wild." The draft scoping plan released by the Climate Action Council in December 2021 highlights the importance of land use decisions (such as keeping forests as forests) on page 272: "Land use and management decisions that seek to maximize carbon sequestration in our natural and working lands is a key component to realizing the Climate Act goal of net zero emissions across all sectors of the economy. Not only are natural and working lands critical for carbon sequestration, avoiding conversion of such lands eliminates the prospect of additional GHG release." The interpretation(s) currently before the APA board are being considered within the context of Forest Preserve management, and no conversion of land use is currently under consideration as part of that interpretation.

4. Comment: Various commenters expressed concern about no longer having access to roads that were previously open for motor vehicle use. There was also concern about losing access to existing roads that are used to reach trail heads for hiking.

Response: Through the UMP process, and occasionally at other times, DEC measures the benefits of keeping roads open against the maintenance obligations of these roads. If maintenance requirements become too frequent or expensive, or if opportunities afforded by a road are found to be redundant with similar nearby opportunities, DEC may make the decision to close such roads to public use.

To date, DEC has not closed road mileage in any one unit to accommodate new mileage being opened elsewhere in the Park. Because the APA board has not made an interpretation of what constitutes a material increase per Wild Forest Basic Guideline #4, there has not been an upper threshold for materiality for the APA and DEC to refer to in the unit management planning process.

5. Comment: One commenter wrote that new roads should be constructed only when absolutely essential and a corresponding length of existing road should be decommissioned from Wild Forest elsewhere in the Park. Roads in “very wild” areas should be abandoned. Some commenters noted that the State should not construct any new roads or snowmobile trails on the Forest Preserve and expressed a preference that no new areas should be opened to motorized uses.

Response: The Master Plan explicitly prohibits the construction of new roads within in Wild Forest areas nor will new administrative roads be constructed unless such construction is absolutely essential to the protection or administration of an area, no feasible alternative exists, and no deterioration of the wild forest character or natural resource quality of the area will result. See page 38.

In considering new state land acquisitions, the Master Plan has a provision that reads “established roads or snowmobile trails in newly acquired state lands classified as Wild Forest may be kept open to the public subject to Basic Guideline 4 set forth above and in the case of snowmobile trails to the special guidelines for such trails set forth below, at the discretion of the Department of Environmental Conservation, provided such use is compatible with the Wild forest character of the area” (page 38). Depending upon how the board chooses to interpret Wild Forest Basic Guideline #4, road closures may be required in order for the total Park-wide mileage to remain under the materiality threshold (essentially a cap) if roads in new acquisitions are kept open.

Existing or previously active roads on new parcels that come into state ownership are evaluated according to several factors to determine if their continued maintenance is in the public interest. Such factors often include but are not limited to: the road’s potential for providing access to recreational opportunities; the prevalence (or scarcity) of that recreational opportunity within the region; the road’s long-term maintenance requirements; the road’s proximity to other existing public roads; and the road’s potential for negatively impacting the adjacent Forest Preserve or the experience of those using it. At this time, there has been no determination that the designation of any new public road requires an equivalent closure of another road.

Additionally, remote areas of the Forest Preserve are generally avoided by DEC when considering the location of motorized access unless there are unusual constraints or rare opportunities that make continued maintenance of such a road preferable.

Existing roads and snowmobile trails, managed in compliance with Article XIV and the Master Plan, continue to be public recreational facilities maintained by DEC.

6. Comment: The ecological impacts of roads, including the following, should be considered in making these interpretations: the importance and rarity of roadless tracts, unintended edge effects, negative impacts to animal and plant life, wildlife and vehicle collisions, concern over illegal poaching, concern for disruption of contiguous ecological systems, stream sedimentation, negative impacts to biodiversity of an area, invasive species concerns, etc. The State should assess impacts of current roads and close roads where environmental damage is occurring.

Response: Page 38 of the Master Plan reads “the Department of Conservation may restrict, under existing law and pursuant to authority provided in this Master Plan, the use of motor vehicles, motorized equipment and aircraft by the public or administrative personnel where in its judgment the character of the natural resources in a particular area or other factors make such restrictions desirable.” If Department staff or other agents of the Department observe unacceptable negative ecological impacts associated with roads, necessary management actions may be taken to improve or restore the condition of the amenity or the road may be closed entirely, per the previous Master Plan provision.

Also, it is understood that the importance of both aquatic and terrestrial connectivity will only become more prominent as species’ ranges are impacted by a changing climate. The evaluation of DEC’s roads occurs on an ongoing basis, as well as through the UMP process. When road conditions are found to be unsafe or damaging to the adjacent environment due to extreme weather events, inappropriate or excessive use, or other circumstances, DEC may close individual roads to the public until the appropriate maintenance can be undertaken to restore the road to the desired condition.

7. Comment: Some roads enable access to historic resources, like the road to Great Camp Sagamore through the Moose River Plains Wild Forest. That should be taken into consideration.

Response: The majority of the road to Great Camp Sagamore is under town jurisdiction and cannot be closed by DEC. When historic resources come into state ownership, the nature of public access to these facilities is evaluated based on several factors, including the land classification, the presence of existing road and trail infrastructure, the sensitivity of the historic resource, and the ability of the surrounding lands to withstand different types of uses, including motor vehicle use.

8. Comment: Several commenters discussed the economic impacts associated with the attributes of the Forest Preserve, including the following: There is an important positive economic impact associated with sporting activities such as hunting, trapping, and fishing – roads are used to access sites for these activities. The outdoor recreation economy (as well as businesses and communities) rely on an intact landscape for their livelihoods to be able to provide authentic wilderness experiences. NOLS has utilized Wild Forest areas for trips, totaling more than 3,350 student user days in 2021. Growing a robust Adirondack economy will depend on creating a more inclusive and more accessible Forest Preserve that provides more points of entry and allows for a wider variety of uses than just the daunting High Peaks hikes the region is best known for. Wild Forest lands with pre-existing woods roads can help provide those alternative opportunities.

Response: The DEC and APA appreciate these comments and perspectives, and recognize the unique opportunities for wildlands recreation and education, as well as hunting, trapping and fishing that are afforded by the Forest Preserve, and will continue to provide for these opportunities on state lands.

There are nearly 2.6 million acres of public land in the Adirondack Park, and these lands offer a wide array of recreational opportunities, including but not limited to: camping at developed campgrounds or in the backcountry, hiking on nearly 2,000 miles of trails, paddling, fishing, hunting, climbing, skiing, and

snowmobiling. The state seeks to provide equal access to recreational amenities wherever practicable and will continue to upgrade and improve opportunities for people of all abilities and backgrounds to experience public lands.

9. Comment: One commenter expressed interest in eliminating all motorized uses from Forest Preserve lands.

Response: This comment is not relevant to the interpretations that are currently before the APA board. Any changes to the language of the Master Plan to eliminate all motorized uses would require an amendment to the Master Plan.

10. Comment: Some commenters expressed an interest in riding ATVs/UTVs on Forest Preserve land, as well as having access to “Jeep style” trails.

Response: This comment is beyond the scope of the interpretations currently before the APA board.

11. Comment: Several commenters expressed concerns related to the visitor experience and user safety, such as advocating for additional forest rangers, dedicated funding for maintenance of Wild Forest roads, partnerships with local communities for road maintenance, etc.

Response: The comments are beyond the scope of the interpretations currently before the APA board.

12. Comment: Some commenters noted potentially illegal access roads or private rights-of-way across Forest Preserve Lands.

Response: The comments are beyond the scope of the interpretations currently before the APA board.

Chuck

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| Date | 12/13/96 | # of pages | 7 |
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M E M O R A N D U M

TO: James Beil

FROM: Chuck Scrafford *CS*

DATE: December 5, 1996

SUBJECT: Roads Proposed to be Opened For Use by People With Disabilities

Before I review the material accompanying Ray Davis' Memorandum to Karyn Richards dated November 12, 1996 (received November 13, 1996), I believe it would be helpful to review the Adirondack Park State Land Master Plan criteria for the public use of motor vehicles in areas designated Wild Forest. They are:

- Basic Guideline 4. Public use of motor vehicles will not be encouraged and there will not be any material increase in the mileage of roads and snowmobile trails open to motorized use by the public in wild forest areas that conform to the master plan at the time of its original adoption in 1972.
- Guideline 2 (b) [under Motor vehicles, motorized equipment and aircraft]: by the general public, subject to basic guideline 4 set forth above, but only on:
 - existing public roads;
 - Department of Environmental Conservation roads now open or hereafter designated as open by for public use by motor vehicles by the Department of Environmental Conservation [new designations must be through a unit management plan (UMP) process, see the discussion of Guideline 7 below]; and
 - on rivers, lakes and ponds now or hereafter designated by the Department of Environmental Conservation as suitable for such motorized uses
- Guideline 2(c) - by snowmobiles on snowmobile trails now or hereafter designated by the Department of Environmental Conservation in accordance with basic guideline 4 set forth above and with the special guidelines for such trails specified below.
- Guideline 2(d) - by all terrain vehicles but only on existing public roads or Department of Environmental Conservation roads open to such vehicles as specified in (b) above.

Memorandum to James Beil

December 5, 1996

Page 2

The above guidelines say that motor vehicle use by the public will not be encouraged but it is allowed on those roads open to public use as of 1972 and roads designated by the Department, so long as the total mileage of the roads open to the public does not exceed that which existed in 1972. They also specifically limit ATV use to roads. ATVs are not to be used on trails, or snowmobile trails or in other off-road travel. The use of snowmobiles is limited to designated snowmobile trails.

The SLMP goes on to provide guidelines on roads, jeep trails and truck trails.

- Guideline 2. Existing roads or snowmobile trails now open to and used by the public for motor vehicle use in wild forest areas may continue to be so used at the discretion of the Department of Environmental Conservation, provided such use is compatible with the wild forest character of an area.
- Guideline 3. Established roads or snowmobile trails in newly-acquired state lands classified as wild forest may be kept open to the public, subject to basic guideline 4 set forth above and in the case of snowmobile trails to the special guidelines for such trails set forth below, at the discretion of the Department of Environmental Conservation, provided such use is compatible with the wild forest character of the area.

These guidelines say that roads open in 1972 and roads in new acquisitions (post 1972) may remain open at the discretion of the Department, so long as the roads are compatible with the wild forest character of the area and the total miles of roads open in wild forest does not materially increase over that which existed in 1972. The guidelines also would require the Department to close roads if they do not comply with the mileage limit, or if they adversely affect the wild forest character of the area.

Although there is a limit as explained above, we do not have a number associated with this limit or "mileage cap." If one is to be set, it should be done using the same process used to set the snowmobile mileage cap in the 1980's. The Department developed an inventory of trail mileage and reviewed it with the Agency. Both Agency's then agreed on a number.

Basic guideline 7 provides that "no new structure or improvements in wild forest areas will be constructed except in conformity with a finally adopted unit management plan. This guideline does not prevent ordinary maintenance, rehabilitation...."

The term "improvement" is defined in the SLMP as "any change in or addition to land which materially affects the existing use, condition or appearance of the land or any vegetation thereon, including but not limited to foot and horse trails, roads, jeep trails, state truck trails, snowmobile trails,...."

In our opinion, guideline 7 precludes the Department from reopening closed roads without a UMP in that it would constitute a new improvement requiring a unit management plan. You will remember that the use of bicycles on existing trails in wild forest required UMPs for the same reason. A road closed for a short time for repairs or a road closed seasonally could, of course, be reopened if it met the SLMP criteria. I would use five years as the break point. One could argue for a shorter period, but five years is commonly used in zoning as a cut off for abandonment of a use and is used in the Park Agency's regulations for that purpose.

This would mean a road closed more than five years would require a UMP to be reopened, and a road closed less than five years might be reopened under the MOU depending on the facts of the situation. The UMP analysis would document why the road had been closed and determine if the reopening of the road would be consistent with the wild forest character of the area and the mileage limit. It would also provide opportunity for public discussion. Roads and motor vehicles in the Forest Preserve have been a big deal for over 40 years and road opening should be done in an open public process. Reopening roads also has SEQR implications which are best resolved in the UMP process.

TABLES 2 AND 3

I did not spend much time reviewing tables 2 and 3, as by the Department's own assessment they are trails and not roads. As discussed above, motor vehicles including ATV's can only be used on roads. I have, however, commented on those trails I am familiar with. In table 2, #13 in the Hammond Pond Wild Forest, is listed as open to the public with a question mark. The UMP for Hammond Pond Wild Forest identifies this trail as an unmarked path. Numbers 43, 44 and 45 are listed as "may be open to the public." Are they open or not? Are they snowmobile trails or are they roads? What are the facts?

Number 57 in the Debar Wild Forest is listed as 2.5 miles open for hunting. My files indicate that all but 0.5 miles of this road have been posted as closed to motor vehicles since at least 1975. DEC's own listing of roads open to the public (prepared sometime between 1985 and 1990) listed only 0.5 miles of this road as open.

Number 61 in the Black Mountain Section of the Lake George Wild Forest is listed as a horse trail and snowmobile trail in the UMP for the unit. The table also says it may not be suitable for the proposed use.

Number 67 is in the Independence River Wild Forest. The UMP for this unit was completed within the last year. The Department should consult the UMP and if its not a designated road, designation would require an amendment of the UMP.

The "roads" listed in Table 3 have, for the most part, been closed since prior to 1972 or at least since they were purchased. Number 21, the road to Camp Santanoni is listed as "closure date unknown." This road has been closed to the public since its acquisition in 1971 as was the intent of the seller as communicated to the Department at the time of sale.

Numbers 53 and 54 are listed as roads open to the public and to the best of my knowledge this is accurate. Why are they on this list? What are the facts? Number 35 is part of the Northville-Lake Placid trail. It has been gated since the tract was acquired (prior to 1972). It is adjacent to the Cedar River Flow which is open to motorboats which provide access to the same area.

Number 38 from Perkins Clearing to Indian Lake was a snowmobile trail. That portion of this trail east of Route 28 was not even a trail until 1987 when we allowed the Department to cut trees and relocate a snowmobile trail to this route. Prior to this there was nothing. In 1994 this trail was formally abandoned in favor the original route along route 28 due to dangerous ice conditions on Indian Lake.

Number 65, the road to Lows Upper Dam, is classified Primitive not Wild Forest. The Governor approved the classification of this area and the creation of the Hitchins Pond Primitive Area in 1988. The unit description approved by the Governor limits use of the road to the inholders and the Department for administrative purposes primarily related to the dam. This information is in the Department's files.

TABLE 1

Table 1 includes 20 "roads" totaling over 34 miles. As noted below the information presented on the "roads" is either incomplete or too sketchy to answer SLMP questions. Also it is essential to define the roads that are currently open and to reach agreement on the approximate number of miles of road that were open in wild forest in 1972. Until this task is accomplished, it is not possible to determine if the mileage limit established by the SLMP is being complied with. The following are my comments and observations on each of the "roads" listed in Table 1:

- #7, Wilson Ridge Road: The table fails to indicate that this road has been closed to the public since the acquisition of the tract in 1988.

- #8, Log roads in the vicinity of G Lake: No information is provided concerning the current use or status of the roads, or their use since they were acquired in the early 70's. G Lake was an inholding when it was acquired. What is the access to this area? The map provided did not show the roads involved. It was just a dot.
- #10 and 11, Clinton State Forest: The table indicates they are both open to the public. If so, why are they on the list? Were they once closed? Were they acquired or constructed after 1972?
- #12, Split Rock Mt: This area is classified wild forest. What does it mean that it is open but not advertised? According to Department Regulations, unless there is a sign saying a road is open to motor vehicle use, it is closed even if it is not barricaded. If it's not designated and is being used, then that use is illegal even if the Department has not issued tickets. I have visited this area and this is a trail and provides trail access to Lake Champlain and is so characterized in correspondence from the Department in 1992. ATVs do use this trail, but in my opinion the use is not only inconsistent with the SLMP, it is contrary to the Department's own regulations concerning the use of ATVs.
- #14, Spectacle Pond: Access to this road is across private land and there is no indication that the public has a right of access across this land. Also, the UMP for the Black Mountain Section of the Lake George Wild Forest does not identify this as a road or even as a trail. If this is a road and the Department wants to open it, the proper procedure would be to amend the UMP.
- #15, Jabe Pond: When was the last 500 feet of the road closed and why? Does the reason for closure still exist? I thought Dick Cipperly said it was closed to protect the shore of the pond. If this is the case, why does it meet criteria #5, "was not closed for environmental reasons?"
- #16, Long Pond: This road is listed as open to the public. If so, why is it on the list? Was it once closed? Was it acquired after 1972 and subject to the mileage cap?
- #18, Gay Pond: Same as 15 and 16.

- #19, Palmer Pond: The table does not indicate when the road was closed. There is evidence that the road has been closed since the early 1960's when it was acquired. The gate may have been put in place after the Pond's first reclamation in 1964. The DOT quad shows the gate existing in 1968. We do know it was in place in 1989 when staff reviewed an application to reclaim the Pond again.
- #20, Wilcox Lake: When and where was the road closed? The table indicates 500 feet are currently closed and the map indicated the road is closed from East Stony Creek to the Pond. Also, the map appears to show the road crossing East Stony Creek at the foot/snowmobile bridge and following the trail instead of using the ford and the road to the pond. It is my understanding that the road is open from the ford to the top of the grade above the pond and that it was closed at that point to prevent erosion on the steep slope to the Pond. Does this meet criteria #5?
- #55, Lake Clear Girl Scouts: The table says it was purchased after 1972. In fact, it was purchased in 1986 and the road has been gated since its purchase. The road continues beyond the point shown on the map in both a northerly and southerly direction. Is the Department going to install a second gate to control where the ATVs can go?
- #62, Mountain Camp Haul Road: This road is located on a parcel which is not classified. The road is not currently signed for motor vehicle use and ends at a log landing in the middle of the woods one mile from the road.
- #63, Pine Pond Road: This road has been closed since the purchase of the Otter Brook tract in April 1991. A parallel road has remained open to the public.
- #66, Otter Brook Road: This road has been gated since shortly after its acquisition in April 1991. It connects to a snowmobile trail in the Cranberry Lake Wild Forest and was added to that unit to allow a snowmobile trail connection to the Horse Shoe Lake area.
- #68, Branaugh Road: This road is in the Independence River Wild Forest. The Department should consult its UMP and, if necessary, amend it to designate this a road.

- #69, Deep Cuts Road: This is located in the Watson's East Triangle which is pending classification. The SLMP requires the Department to manage unclassified lands so as not to preclude options for classification. This would include designating roads open to motor vehicle use by the public. The main haul road (Bear Pond Road) and segments of other log roads are being used by the public pending classification. These established uses make classification difficult, but formally designating the roads as open would effectively preclude wilderness options. Which roads will remain open and the extent to which they will remain open will be one of the issues discussed in the classification process. When I visited this area in 1994 this road was passible by ATV only part way to the designated campsite shown as the destination.
- #70, Desert Pond Road: This road is also in the Watson East Triangle. Roads in this tract should not be included until the area is classified.
- #71, Kampnich Road: Same as #70.
- #72, Gregg's Lake Road: Same as #70. I don't understand why they included the roads in Watson's when they did not include the roads in the Lassiter Tract just north of the Middle Branch of the Oswegatchie River. The roads in this area are not going to be a major issue in the classification of the Watson's/ Lassiter tract (23,000 a). There are also roads open to the public on the Lassiter easement lands just west of the fee tract.

I hope the above comments will be helpful to you and your staff.

CWS:hs:csz

cc: Gregory B. Campbell
Daniel T. Fitts
Karyn B. Richards
James M. Marrin
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