DEC’s Essex Chain Double Standards

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DEC Acting Commissioner Basil Seggos signed the Essex Chain of Lakes Primitive Area Unit Management Plan (UMP) in late March, and issued a Findings Statement required by law.

The final UMP and the Findings do not appear to alter the basic management decisions ratified by the Adirondack Park Agency last November as being in compliance with the Adirondack Park State Land Master Plan. Those management decisions include creation of motorized corridors within Wild and Scenic River areas and other matters which the nonprofits Adirondack Wild: Friends of the Forest Preserve and Protect the Adirondacks considered in serious violation of existing law and regulation. Two members of the APA voted against the UMP compliance determination because of the Environmental Conservation Department’s apparent disregard for provisions in the Wild, Scenic and Recreational Rivers Act and regulations. The nonprofit organizations consequently filed a lawsuit in January. The legal matters are pending in court.

DEC has asserted from the beginning and continues to assert that as a matter of law prior uses by the private owner Finch, Pruyn and Company and its private lessees and guests, uses ending when Finch, Pruyn sold the property in 2007, justify continued uses by the public today after the land reverted to
publicly-owned Forest Preserve in 2012. This is one of the several contested issues before the court.

What I found particularly interesting about the DEC Findings Statement signed on March 31 was the following assertion:

"Taking into consideration the unique context of how these structures and improvements will be used in the plan, DEC does not intend to repeat the proposed management actions of this unit elsewhere in the Park. Here, the existing infrastructure historically supports active recreational use of the area. The existing roads and bridges are hardened surfaces improved with gravel and can withstand four season, heavy industrial motor vehicle use. They were historically used not only for the harvesting of timber, but as evidenced by the existence of lease with local clubs, the area was also extensively used for recreational opportunities. Such historical use is unique to this particular Forest Preserve property that is not often seen throughout the remainder of the Park."

From a legal angle, does the DEC get to choose to do things in parts of the Forest Preserve on the basis that it considers those parts unique? Yes it does – if the actions are needed for additional natural resource protection. The Environmental Conservation Law and the State Land Master Plan are full of protective provisions of law such as this in the SLMP pertaining to Wild Forest: “DEC 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 judgement the character of the natural resources in a particular area or other factors make such restrictions desirable.”

So, DEC in its judgement can exceed protective guidelines where the character of the land and its protection demands additional restrictions on human use and development.

The answer to the question I raise is decidedly no, if the DEC actions are permissive of more intensive human use coming at the expense of natural resource protection. To the best of my experience and belief, the law, including the Master Plan, does not allow for that.

The DEC Acting Commissioner is clearly concerned enough about what DEC plans to do at Essex Chain of Lakes to assert it won’t be repeated elsewhere in the Forest Preserve. The infrastructure at Essex Chain Lakes is unique, he states, and not found elsewhere – implying that, not to worry, DEC will never have to compromise on natural resource protection in a Primitive area ever again because the specific conditions demanding such compromise in this area are unrepeatable.

What a lot of self-serving, ahistorical, inaccurate nonsense that official DEC “Finding” is.
Consider this description of another area in the Forest Preserve taken from the SLMP and DEC materials:

"The property contains an extensive network of logging roads...with the newly acquired lands having been significantly impacted by recent timber harvesting ...The planning area includes approximately 18 miles of marked trails, seven miles of old logging roads not marked as trails, 40 miles of shoreline, 13 ponds and lakes....the terrain is comprised of lakes, ponds, wetlands and low forested hills."

Sounds like the Essex Chain of Lakes, doesn’t it?

In 2000, that 20,500-acre area in Long Lake was classified Wilderness by the APA with the DEC’s concurrence and is known as the William C. Whitney Wilderness. Fifteen years later, that area still does not have a final adopted Unit Management Plan. If today’s Findings Statement for the Essex Chain Lakes Primitive area complex were applied to the Wm C. Whitney Wilderness, that wilderness might become a “Wilderness –lite” area with all manner of mechanized uses authorized through the UMP – not because the SLMP Wilderness guidelines and Environmental Conservation Law authorized them, but because this or a future DEC Commissioner considers the former logging roads and other infrastructure in that wilderness “unique” with conditions and recreational opportunities unrepeatable elsewhere. So, not to worry, those of us who are concerned about wilderness by law, it won’t happen again.

All parts of the Forest Preserve differ from each other, environmentally, historically, culturally, and those differences are cause for celebration. But what makes the Essex Chain Lakes area UMP unique are not the presence of former, well-graveled logging roads present across so much former paper company land now in the Forest Preserve, or a former logging bridge over the Hudson River (the former D&H Railroad Bridge is downriver from the Polaris Bridge), or its recreational leases (Whitney Wilderness, and so much more Forest Preserve had that same lease history). The vast majority of Forest Preserve has a long history of a wide variety of human use. Because of the way Wilderness is defined here and nationally, former APA and DEC administrations have never viewed an old logging road system as preventing Wilderness (or Primitive or Canoe) classifications where warranted under SLMP guidelines, or more restrictive management for Wild Forest.

What appears to make the Essex Chain UMP “Findings” unique is its legal flexibility. Trust us, the DEC Findings say in essence. Compromises of the law in the Essex Chain will not need to be repeated elsewhere, DEC asserts, because conditions here are unique. Opposing that state double-standard, which would land any private citizen in legal hot water, and confronting the illegalities and precedent they set for the rest of the Forest Preserve has forced us into court.