



**Board of Directors**

August 7, 2024

Charles Clusen  
**Chair**

Keith Carrow  
NYS DEC Region 5  
Division of Lands & Forests  
P.O. Box 296  
1115 State Route 86  
Ray Brook, NY 12977

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Michael Wilson  
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**RE: Adirondack Rail Trail Construction - Phase 3  
ENB Notice 7/24/2024**

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Dear Mr. Carrow:

Protect the Adirondacks (PROTECT) has reviewed the proposed Work Plan prepared by the Department of Environmental Conservation ("DEC") for Phase 3 of the Adirondack Rail Trail that was noticed in the July 24, 2024 Environmental Notice Bulletin. Phase 3 involves the extension of the 10-foot-wide Adirondack Rail Trail from Floodwood Road in the Town of Santa Clara to the end of the new parking lot in Tupper Lake. DEC proposes cutting 5,903 trees on Forest Preserve lands as part of the Phase 3 extension, which is 8.1 miles long. The proposed work also involves re-surfacing the existing stone rail-bed with crushed stone and stone dust, and proposes an unspecified number of trail sections that will entail considerable terrain alterations.

Article 14 Compliance

**Staff**

Peter Bauer  
**Executive Director**

Claudia K. Braymer, Esq.  
**Deputy Director**

Christopher Amato, Esq.  
**Conservation Director  
and Counsel**

PROTECT supports the Adirondack Rail Trail's role in providing multi-use public access to this Forest Preserve resource (a railroad converted to a public recreation trail). Nonetheless, because the Adirondack Rail Trail is located on Forest Preserve lands, development and maintenance of the trail must comply with Article 14 of the New York State Constitution. The Work Plan for the Phase 3 extension does not demonstrate that DEC has "fully consider[ed] [the relevant Constitutional] questions" as required by Commissioner's Policy 78 ("CP-78"), Forest Preserve Work Plan Policy. CP-78 at p. 4. DEC must include in the Work Plan its analysis demonstrating compliance with Article 14. Such an analysis is a cornerstone of the Forest Preserve Work Plan Policy. We urge DEC to revise the Work Plan to address this critical issue as required by CP-78. Currently, the Work Plan for Phase 3 of the Adirondack Rail Trail fails to adequately demonstrate compliance with Article 14 in several respects.

**Protect the Adirondacks**

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## **Tree cutting**

First, the amount of tree-cutting proposed by DEC for Phase 3 of the trail appears excessive and may not be compliant with Article 14. The Work Plan states that 5,903 trees will be cut for Phase 3 over a distance of approximately 8 miles, which is an average of 737 trees cut per mile.<sup>1</sup>

Our field inspection of the Phase 3 corridor revealed that much of the existing railbed already has a flat, treeless surface that is 10 to 20 feet wide, or wider. We have enclosed photographs of the existing railbed for your reference. If the trail is sited through the middle of the existing treeless railbed, then very little tree cutting will be required. CP-78 states that DEC must ensure that the “removal of trees and other vegetation will be minimized to the extent possible” and that DEC must provide “a description and justification for why tree cutting is required.” CP-78 at p. 7. The amount of tree cutting proposed for Phase 3 is arguably an unconstitutional level of cutting. DEC should provide more detail in the Work Plan about the proposed tree cutting, where it is proposed to take place, and the reasons that tree cutting cannot be further reduced, all of which is required to be included in the Work Plan by CP-78. DEC needs to make every effort to reduce the proposed tree cutting on the Forest Preserve to ensure that the Adirondack Rail Trail satisfies the Constitution.

## **Terrain Alteration**

Second, the Work Plan (pp. 2-3) states that “some sections of the existing railbed may be lowered, while others may be built up;” that fill “will be used to stabilize side slopes;” and that these newly graded disturbed areas will be planted with native grasses that will be mowed annually. However, the Work Plan does not identify where these disturbed sections will be located or how many of them there will be. In addition, the Work Plan fails to explain why these terrain alterations are necessary, given that the existing railbed is already 10 to 20 feet wide. In light of these deficiencies, it is unclear how the Work Plan complies with CP-78’s mandate that “significant terrain modifications such as earth work and soil disturbance will be minimized to the extent possible”. CP-78 at 7.

## **Forever Wild**

Third, it is not clear that the Work Plan for Phase 3 preserves the “wild forest” setting and character of the Forest Preserve and maintains the natural aesthetics of this remote section of the Adirondack Rail Trail. Consideration of the proposed action’s compatibility with the wild forest nature of the Forest Preserve must be analyzed in Work Plans (CP-78 at page 4). There is no analysis of this consideration in the Work Plan for Phase 3. The beauty and wild forest character of the Adirondack Rail Trail where Phase 3 is located will be compromised by the current Work Plan.

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<sup>1</sup> We appreciate that trees were counted down to 1” DBH, as required by the *Protect the Adirondacks* Article 14 court decision (2021), and that the tree tally information in the Work Plan for Phase 3 shows all of the trees 1” DBH and larger.

In summary, the Work Plan for Phase 3 is constitutionally questionable. We urge DEC to re-examine the proposed level of tree cutting, terrain alterations, and other actions that may be incompatible with the wild forest nature of the area prior to finalizing the Work Plan and beginning work on Phase 3. We also urge DEC to amend the Work Plan to include the information and analyses required by CP-78, which are all essential criteria to ensure compliance with Article 14 and that the proposed project can pass constitutional muster before the Work Plan is finalized and construction begins on Phase 3.

#### Measures to Avoid, Mitigate and Minimize Impacts

The section of the Work Plan entitled “Description of Measures Taken to Avoid, Mitigate and Minimize Impacts to Natural Resources” lacks any description of concrete measures to be taken by DEC to avoid, mitigate and minimize impacts. For example, the Work Plan fails to evaluate the possibility of siting the trail tread in the middle of existing open areas of the railbed to maximize the use of already cleared/flat areas and to minimize tree cutting and disturbance of the natural terrain and vegetation. The Work Plan also fails to include measures to ensure that the width of the constructed trail tread will be no more than 10 feet wide (with shoulders that are 2.5 feet in width), and lacks limitations to guide trail crews during construction so that tree cutting and terrain alteration is avoided or minimized. Notably, the width of the stone dust trail tread for Phase 2 where it intersects with Floodwood Road measures more than 10 feet wide, and is approximately 12 feet wide, which is wider than is authorized by the Unit Management Plan.

#### Conclusion

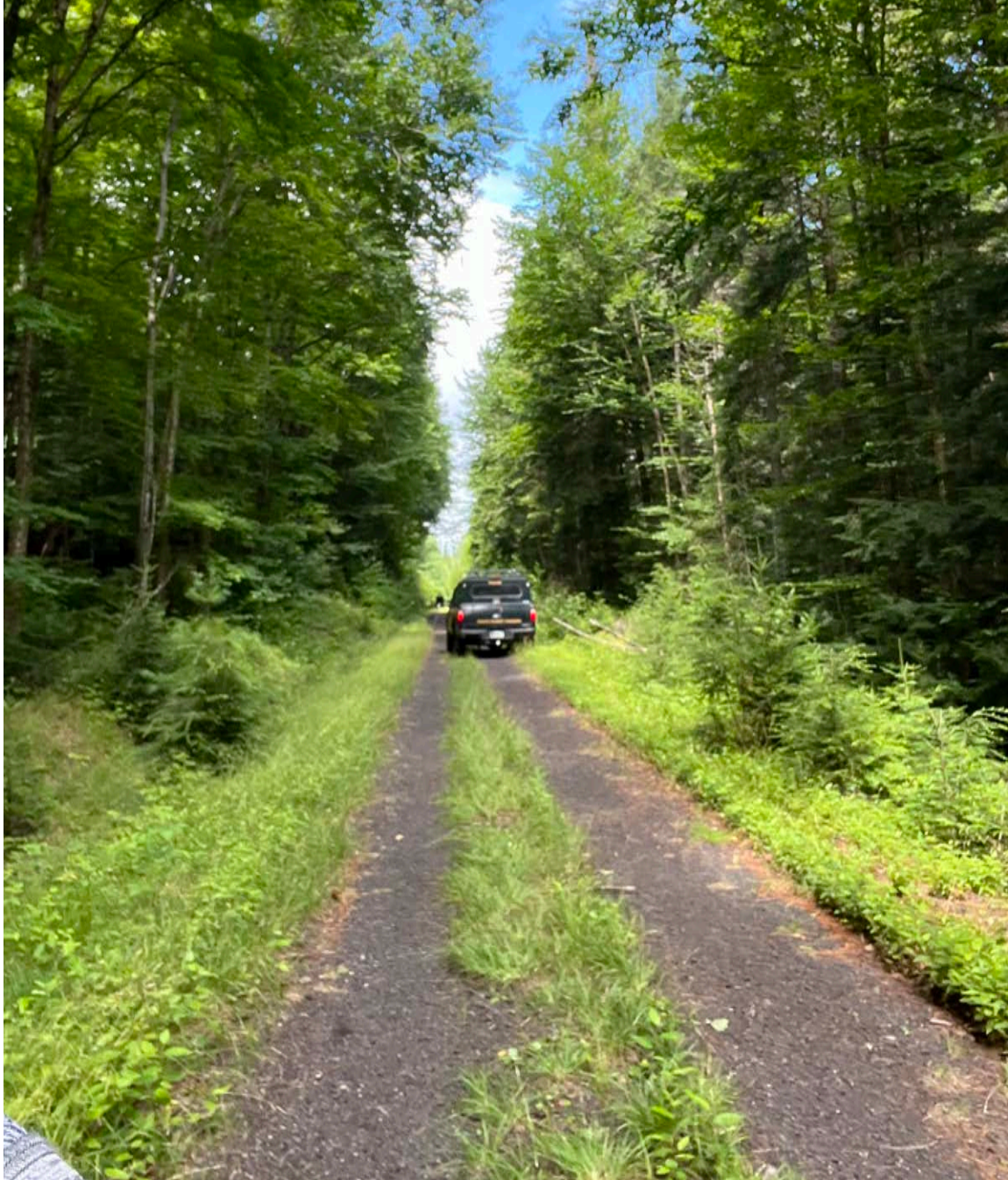
On behalf of the Board of Directors of the Protect the Adirondacks, please let me express our gratitude for the opportunity to submit these public comments.

Sincerely,

A handwritten signature in black ink that reads "Claudia K. Braymer". The signature is written in a cursive, flowing style.

Claudia Braymer,  
Deputy Director

enc.



This photograph was taken on Phase 3 of the Adirondack Rail Trail to the west of Rollins Pond. It shows that the existing railbed is approximately 10 feet wide or more and is wide enough for travel by a State pickup truck with clearance on both sides.



This photograph was taken on Phase 3 of the Adirondack Rail Trail to the west of Rollins Pond at the intersection with Floodwood Reservation Road. It shows that the existing railbed is approximately 10 feet wide or more and there is plenty of cleared space on both sides of the railbed. The bollards and signage are already in place.



This photograph was taken on Phase 3 of the Adirondack Rail Trail to the west of Rollins Pond. It shows that the existing railbed is approximately 10 feet wide or more, there is cleared space on both sides of the railbed, and there is plenty of width for two bicyclists to travel side by side.



This photograph was taken on Phase 3 of the Adirondack Rail Trail to the west of Rollins Pond. It shows that the existing railbed already has a stone surface that is approximately 10 feet wide or more, and that there is cleared space on both sides of the trail.



This photograph was taken on Phase 3 of the Adirondack Rail Trail to the west of Rollins Pond. It shows that the existing railbed is approximately 10 feet wide or more and there is plenty of cleared space on both sides of the railbed. The total width of the cleared area was more than 20'.





This photograph was taken on Phase 3 of the Adirondack Rail Trail to the west of Rollins Pond. It shows that the existing railbed is approximately 10 feet wide or more and that it is wide enough for motor vehicles to travel down the middle with clearance on both sides.



This photograph was taken on Phase 3 of the Adirondack Rail Trail where the trail comes close to, but does not intersect with, Lead Pond Road. It shows that the existing railbed is approximately 10 feet wide and there is plenty of cleared space on both sides of the railbed.



These two photographs were taken on Phase 3 of the Adirondack Rail Trail and are representative of the entire length of trail, which has an existing railbed that is approximately 10 feet wide.



This photograph was taken on Phase 3 of the Adirondack Rail Trail at the intersection with Lead Pond Road. It shows that the existing railbed is approximately 10 feet wide or more and there is plenty of cleared space on both sides of the railbed. The bollards and signage are already in place.