

Adirondack Explorer  
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## Essex Chain lawsuit

*Environmental groups claim DEC's management plan for new state lands violates State Land Master Plan and other regulations.*

**By Phil Brown**



**Critics contend that incorporating the Polaris Bridge over the Hudson into a snowmobile route would be illegal.**

**Photo by Nancie Battaglia**

Two of the Adirondack Park's major environmental groups are suing the state over the management plan for the Essex Chain Lakes region—a large tract of forest, ponds, and streams that the state acquired from the Nature Conservancy as part of the blockbuster Finch, Pruyn deal.

Protect the Adirondacks and Adirondack Wild: Friends of the Forest Preserve filed a lawsuit in State Supreme Court in Albany contending that the management plan violates the Adirondack Park State Land Master Plan, the state Wild, Scenic, and Recreational Rivers System Act, and state snowmobile-trail policy.

Named as defendants are the state Department of Environmental Conservation, which drafted the management plan, and the Adirondack Park Agency, which approved it. The state is expected to reply to the suit in March. Meantime, both agencies are refusing to comment.

Christopher Amato, a former assistant commissioner at DEC, told the *Explorer* that the Essex Chain plan is “blatantly illegal.” Amato is now an attorney at Earthjustice, a nonprofit organization that is representing Protect and Adirondack Wild.

Earthjustice wants the agencies to withdraw the management plan and draft a new one “that complies with all applicable laws, rules, and guidance.” It is asking the court to prohibit the agencies from implementing the existing plan.

The Adirondack Council and Adirondack Mountain Club (ADK) declined to join the suit, but they also have raised legal questions. “We are hoping to resolve these issues without going to court,” said Willie Janeway, executive director of the Adirondack Council.

Neil Woodworth, ADK’s executive director, said the two groups might yet sue, but they are holding fire until DEC provides its legal justification for its actions. In some cases, he said, DEC may take additional steps to satisfy the law.

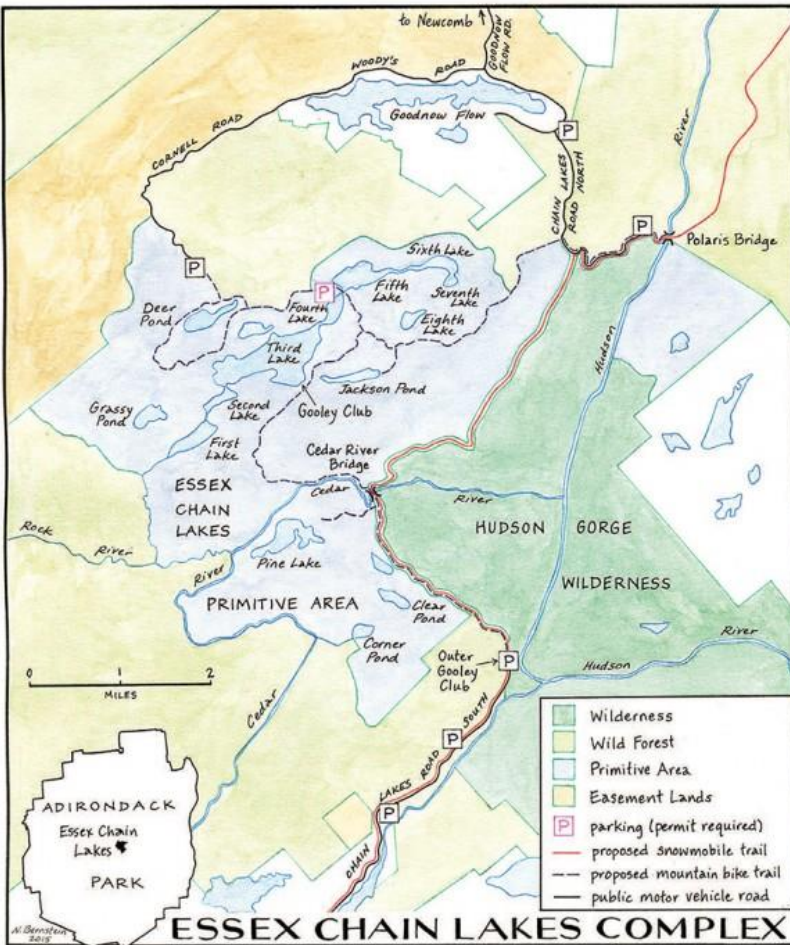
“ADK and the council have retained our own attorneys, and we have a different way of looking at the whole situation,” he said. “It’s just a different approach.”

At its November meeting, the APA voted 8-2 to approve the unit management plan (UMP). The document governs recreational use in the 19,600-acre Essex Chain Lakes Complex, which includes the Essex Chain Lakes Primitive Area, the Pine Lake Primitive Area, and portions of the Blue Mountain Lake Wild Forest.

The two dissenters on the APA board, Dick Booth and Art Lussi, argued that the UMP fails to comply with the State Land Master Plan. But DEC Regional Director Robert Stegemann, who also sits on the board, defended the plan.

“We’ve had this looked at by both agencies extensively. I appreciate your concerns, but I just don’t think they stand up,” he told Booth and Lussi at the November meeting.

The lawsuit, filed in January, contains five causes of action. Four pertain to a proposed snowmobile trail. The fifth challenges a provision that would allow mountain biking in the two Primitive Areas.



## Essex Chain Lakes Complex Map by Nancy Bernstein

The Essex Chain Lakes Complex is crisscrossed by fifty-three miles of former logging and woods roads. Most of these roads are closed to the general public. However, members of the Gooley Club, which leased land from Finch, Pruyn, drive on some of the otherwise-closed roads to reach their camps and will be allowed to do so until 2018, when their leases expire.

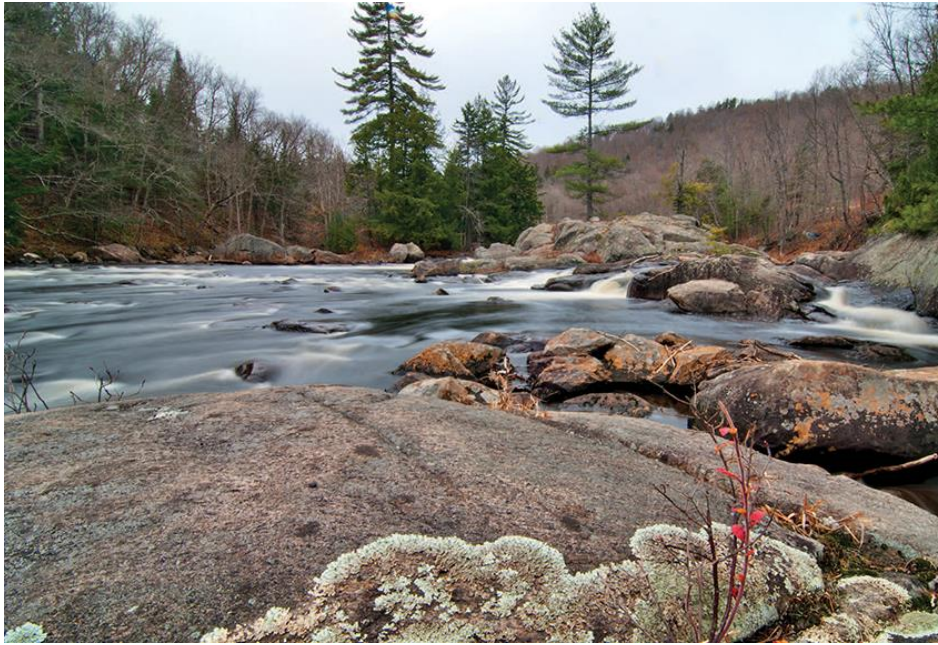
DEC intends to use three of the roads—Chain Lakes South Road, Camp Six Road, and Drakes Mill Road—as part of a snowmobile route linking the hamlets of Indian Lake and Newcomb. The trail then would cross the Hudson River (leaving the Essex Chain Lakes Complex) and continue north through the Vanderhack Mountain Wild Forest. Eventually, DEC wants to extend the trail east to Minerva. Local-government leaders lobbied for such a trail after the Nature Conservancy bought the Finch, Pruyn land.

The Adirondack Council and Adirondack Mountain Club acquiesced to a snowmobile trail as the price for keeping the Essex Chain Lakes motor-free. However, the groups favored a route that didn't cross the Hudson.



In another controversial decision, DEC last summer adopted an interim stewardship plan that opened about nine miles of roads in the Essex Chain Lakes and Pine Lake Primitive Areas to mountain biking. The UMP continues this practice.

Following are details of the five causes of action in the Earthjustice suit.



**The Cedar River runs through the Essex Chain Lakes Complex.  
Photo by Carl Heilman II**

### **Cedar River bridge**

The UMP calls for building a 150-foot bridge over the Cedar that would be used by snowmobilers, skiers, horseback riders, mountain bikers, and hikers. In the past, bridges had crossed the Cedar in the vicinity of the proposed site of the new span. The last one collapsed in 1978.

Earthjustice contends that the new bridge would violate the Wild, Scenic, and Recreational Rivers System Act. The stretch of the Cedar in question is designated a Scenic River. Regulations state that bridges are allowed over a Scenic River “for public roads or for *non-motorized* open space recreational uses [our emphasis].” Thus, Earthjustice argues that a bridge for snowmobiling is not allowed.

DEC contends that the bridge is permissible in that it would continue a use that predated the rivers act. In the past, it says, the road leading to the river was a town highway. Even after the bridge collapsed, snowmobilers would cross the frozen river at the site, according to the UMP.

Nevertheless, the department says it will need to issue itself a permit under the rivers act to build the bridge. And because the snowmobile trail would exceed four feet in width—the maximum width allowed under the act—the department may also need to issue itself a variance.

Earthjustice claims such a permit would be illegal “for the simple reason that DEC cannot lawfully issue itself a permit and variance allowing a use that is prohibited.”

Because of the length of the bridge, DEC wants to use non-natural materials, which would require an amendment to the State Land Master Plan. The use of non-natural materials, however, is not part of the lawsuit.

### **Polaris Bridge**

In 1992, Finch, Pruyn built an iron bridge over the Hudson to access timberlands on the east side of the river. It replaced an earlier bridge that evidently washed out in the 1950s. Members of the Polaris Mountain Club drive across the iron bridge to reach their camps. Before the bridge was built, they crossed the water at a low point in the river.

This stretch of the Hudson is classified as Scenic. Earthjustice says the Polaris Bridge was never open to the public for snowmobiling, so opening it up now would violate the rivers act.

Robert Davies, director of DEC’s Division of Lands and Forests, told the *Explorer* last fall that even though the Polaris Bridge was not open to the general public, the motorized history of the crossing still qualifies as a pre-existing use that may be continued. “The law doesn’t talk about public or private uses,” he said. “It talks about existing uses.”

All four of the environmental groups warn that this grandfathering of private uses sets a precedent that could be used to justify a variety of motorized use when land is acquired for the Forest Preserve.

“The grandfathering concept is a sham, and the agency ought not to permit it,” Booth said at the APA meeting in November. “It will come back to haunt us.”

Even if snowmobiling were a pre-existing use, Earthjustice contends that opening the Polaris Bridge to public snowmobiling would constitute “an impermissible expansion of a use not permitted under the Scenic classification.”

### **Wild River corridor**

Starting a few miles south of the Polaris Bridge, the Hudson is classified as a Wild River, the most-protective designation in the rivers act. Generally, no motorized use is permitted within a half-mile of a Wild River. Yet part of Chain Lakes Road South falls within this corridor and, under the UMP, would be used by snowmobiles in winter and by automobiles in other seasons.

Earthjustice contends that this motorized use would violate the rivers act and the State Land Master Plan. The SLMP states that Wild River corridors “will be managed in accordance with guidelines for wilderness areas.” Motorized use is prohibited in Wilderness Areas.

DEC contends that Chain Lakes Road South has a long history of motorized use that justifies its continued use by snowmobiles and other motor vehicles.

### **New snowmobile trail**

Apart from the objections above, Earthjustice argues that the new snowmobile trail would duplicate an existing trail (located several miles west) that connects Indian Lake and Newcomb and thus would violate a document approved by DEC and the APA in 2009 titled “Management Guidance: Snowmobile Trail Siting, Construction and Maintenance on Forest Preserve Lands in the Adirondack Park.”

The proposed trail is an example of a “community connector”—a wide, smooth trail that links hamlets. The snowmobile guidance declares that community connectors “are not duplicated or paralleled by other snowmobile trails.”

The existing snowmobile trail runs along the western border of the Essex Chain Lakes Complex. DEC acknowledges that snowmobilers would be able to use this trail to travel from Indian Lake to Newcomb and eventually to Minerva. However, the department asserts in the UMP that relying on the older trail would result in “a more circuitous route ... and would therefore increase the travel time between Indian Lake and Minerva.”



**Under the management plan, mountain biking would be allowed on dirt roads in Primitive Areas.**

**BigStockPhoto.com**

### **Mountain biking**

The UMP seeks to designate as mountain-biking trails seven miles of roads in the Wild Forest portion of the complex and nine miles of roads in the Essex Chain Lakes and Pine Lake Primitive Areas.

Under the State Land Master Plan, biking is permitted in Wild Forest Areas, but biking is banned in Primitive Areas except on DEC administrative roads (truck trails) and on “existing roads legally open to the public.”

Gooley Club members are allowed to drive on roads in the Primitive Area until their leases expire in 2018. DEC considers this a form of public use and so has opened these roads to bicycling. After 2018, the department plans to continue to allow bicycling. In the UMP, the department says bicycling would take place on “a subset of administrative roads.” These would be roads that DEC wants to maintain for horseback riding and other uses.

Earthjustice notes that the UMP now identifies only 0.65 miles of roads as administrative roads. It also contends that the Gooley Club use is not public use. “These roads are therefore not ‘legally open to the public’ within the meaning of the SLMP,” the lawsuit says. As a result, Earthjustice says bicycling in the Primitive Areas is illegal.

The APA is considering amending the State Land Master Plan to allow bicycling in the two Primitive Areas. But Amato said he couldn’t speculate on what the APA might do. “As the law stands today, that plan is definitely in violation of the law,” he said.



Fred Monroe, executive director of the Adirondack Park Local Government Review Board, accused Protect and Adirondack Wild of trying to sabotage a document that balances environmental and economic concerns.

“Mainstream environmental groups, local governments, the APA, and DEC worked diligently on a plan for the Essex Chain Complex which recognizes community needs as well as environmental protection,” Monroe said. “Protect and Wild failed to constructively participate in the process.”

Monroe, a member of the Polaris Mountain Club, corroborated DEC’s claim that Chain Lakes Road South was used by snowmobilers before the adoption of the Wild, Scenic, and Recreational Rivers System Act. He said they crossed the Cedar on ice after the last bridge washed out. Likewise, he added, before the Polaris Bridge existed, snowmobilers used to ride across the Hudson on ice at the site.

The new snowmobile trail, he said, “would provide a much more direct and much more attractive route to the towns of Newcomb and Minerva. This is especially important to Minerva, which has lacked viable snowmobile-trail connections to the wider region.”

The Adirondack Nature Conservancy bought 161,000 acres from Finch, Pruyn & Company in 2007. The state agreed to buy sixty-five thousand acres for the Forest Preserve in stages over five years, with nearly all of the rest protected by conservation easements.

In the final phase, the state plans this year to buy the 21,500-acre Boreas Ponds Tract on the edge of the High Peaks Wilderness. The classification and management of those lands also promises to be controversial. Environmentalists disagree with local officials over how much of the tract should be classified as motor-free Wilderness.

### ***Primitive Areas to be combined***

The Essex Chain Lakes Complex now contains two adjacent Primitive Areas, but the state intends to combine them.

At the moment, the Essex Chain Lakes Primitive Area (seven thousand acres) and the Pine Lake Primitive Area (2,800 acres) are separated only by a narrow strip of Forest Preserve that does not fall into any of the state-land classifications.

When the Adirondack Park Agency created the two Primitive Areas in 2013, it left the corridor unclassified while the state Department of Environmental Conservation investigated its suitability as a snowmobile route.

If the corridor became a snowmobile trail, the corridor would have been classified as Wild Forest and the two Primitive Areas would have remained as they are. However, DEC has rejected that snowmobile route in favor of another. As a result, the APA is expected to combine the two Primitive Areas and the corridor. The new tract will be called the Essex Chain Lakes Primitive Area.

Under the Adirondack Park State Land Master Plan, a Primitive Area is managed essentially as a Wilderness Area. Motorized recreation is forbidden in Wilderness Areas. One reason the Essex Chain Lakes and Pine Lake tracts are classified as Primitive rather than Wilderness is that floatplanes have deeded rights to land on First Lake in the Essex Chain and on Pine Lake.