



Division of Lands & Forests

Bog River Complex
Final AMENDMENT/FSEIS

to the

2002 Bog River Complex
Unit Management Plan/EIS

Horseshoe Lake Wild Forest
Hitchins Pond Primitive Area
Lows Lake Primitive Area
Tupper Lake Boat Launch
Conifer Easement Lands

Counties of Franklin, Hamilton and St. Lawrence

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SECTION 1 EXECUTIVE SUMMARY

The 2002 Unit Management Plan (UMP) for the Bog River Complex¹ called for public float plane access to Lows Lake to be eliminated after a five year period.² The decision to eliminate float plane access was based on two factors: (1) the UMP's conclusion that significant user conflicts between float planes and paddlers were occurring; and (2) the desire to fulfill the management goal in the Adirondack Park State Land Master Plan (APSLMP) of establishing a Lows Lake-Bog River-Oswegatchie wilderness canoe route.

The UMP's creation of a five year phase-out of float planes, as opposed to an immediate ban, was in recognition of the economic significance of Lows Lake to the two remaining commercial float plane operators in the Adirondack Park. Furthermore, in order to ease the economic impact on commercial float plane operators, the UMP included a commitment that the Department of Environmental Conservation (Department) would attempt to find a suitable substitute lake for float plane access during the five year phase-out period.

In the past five years, the Department has evaluated 23 lakes and ponds as possible alternatives to Lows Lake. Each of the 23 lakes and ponds was determined to be unsuitable based on either (i) ease of access by other means (road or trail), *i.e.*, not remote enough to be attractive for float plane use; (ii) lack of sufficient surface area to accommodate float plane landing and take-off; (iii) existing regulatory prohibition against motorized aircraft; or (iv) inappropriateness due to natural resource considerations. Thus, the Department's efforts to find a suitable alternative to Lows Lake for float plane access have been unsuccessful.

In 2007, the Department commenced a re-evaluation of float plane access to Lows Lake and the potential impacts of such use on paddlers. As part of that re-evaluation, the Department contracted with the State University of New York, College of Environmental Science and Forestry (CESF) to conduct a Lows Lake Primitive Area Visitor Study. The Lows Lake Visitor Study was completed and a final report issued on April 8, 2008. The results of the study indicate user conflicts between paddlers and float planes are not as frequent or severe as previously assumed in the UMP, and that some paddlers support less restrictive management measures than an immediate ban on float planes.

¹ The UMP for the Bog River Complex includes the Lows Lake Primitive Area.

² Such a ban can only be instituted by the Department's promulgation of a new regulation specifically banning float planes from landing on the lake.

In response to the Lows Lake Visitor Study, the Department evaluated the management alternative of controlling float plane access through a mandatory permit system. A Draft Amendment/DSEIS was submitted to the APA in January, 2009 for consideration. The amendment proposed a revised timeline for phase out of commercial float plane access and, through regulation, imposing restrictions on landing and takeoff areas on Lows Lake, limiting flights per month, annually, and by time of day, specifying a drop off location and prohibiting high speed taxiing.

This Final Amendment/FSEIS provides that float plane access to Lows Lake would be allowed to continue until December 31, 2011 subject to restrictions set forth in an annual permit. The permit restrictions would be tailored to avoid or minimize potential conflicts between paddlers and other users who access Lows Lake by float plane.

After careful review and following consultation with the two remaining commercial float plane operators, advocacy groups representing paddlers who use Lows Lake, and the staff of the Adirondack Park Agency, the Department has determined that taking this action is preferable to the immediate exclusion of float planes called for in the UMP. This determination is based upon several factors, including the continued existence of three private in-holdings on Lows Lake which currently (and will for the foreseeable future) prevent attainment of the Adirondack Park State Land Master Plan (APSLMP) goal of creating a wilderness canoe route through the lake; the continued motorized use by owners of the private in-holdings; the data from the Lows Lake Visitor Study, which (as noted above) indicate that user conflicts between paddlers and float planes are not as frequent or severe as previously thought; the Department's inability to find a suitable substitute lake for float plane operators to use; and the economic consequences to the two remaining commercial float plane operators in the Park should an immediate ban be adopted.

Developed in consultation with APA staff, this Final Amendment/FSEIS includes a revised timeline for phase out of commercial float plane access and will, through regulation, require that commercial operators of float planes landing on Lows Lake obtain an annual permit from the Department. The permit will impose the following restrictions on float plane access:

- All commercial float planes will be required to obtain a permit to land and takeoff on Lows Lake.
- The maximum number of allowed commercial float plane flights into Lows Lake will be limited to 165 flights for the entire flying season (May through November). This will ensure that the total number of allowable

commercial flights into Lows Lake will not exceed the average total commercial flights that were made between 2005 and 2007.

- No more than 35 flights per month will be allowed by all commercial operators combined;
- At the end of each flying season, each float plane operator will provide the Department with copies of flight records to Lows Lake for that season so that compliance with these conditions can be verified.
- Commercial float plane operators will be prohibited from storing canoes or other equipment on Forest Preserve lands at Lows Lake;

The annual permit system will be monitored to determine operator compliance with the permit conditions. Repeated failure by an operator to comply with permit conditions would constitute grounds for permit denial, thereby excluding that operator from Lows Lake.

The annual permit system as outlined in this Final Amendment/FSEIS be maintained until December 31, 2011. All public float plane access to Lows Lake will be prohibited after that date. The Department will immediately proceed to promulgate regulations establishing a permit system for float planes using Lows Lake. In addition to the permit restrictions and conditions recited above, the regulations will include a “sunset” clause providing that the regulations will automatically terminate on December 31, 2011 and that all public float plane access to Lows Lake will be prohibited after that date. This will ensure that no further extensions of float plane access to Lows Lake will occur.

By letter dated March 31, 2009, the two commercial float plane operators, together with local government officials from the towns of Long Lake and Inlet and Hamilton County expressed support for this amendment. Furthermore, the letter expressed the commitment of the two float plane operators to voluntarily abide by the conditions and restrictions set forth in this amendment pending the Department’s final promulgation of permit regulations.

This Final Amendment/FSEIS recommends that DEC and APA continue to work on analyzing float plane opportunities within the Park and to jointly develop a study and report which would evaluate and document existing opportunities and make recommendations for State actions to provide recreational opportunities via float plane. The Study will look at where float planes have historically gone, for what purpose and in what numbers. It will determine how the use and trends have changed over the years

and what may offer the best opportunities for future commercial float plane operation in the Park. In addition, this Study will provide a broader and more comprehensive evaluation of existing and potential lakes for float plane opportunities in the Adirondack Park than was done previously. This evaluation will go beyond simple analysis of lake size, alternative access and recreational pursuits to include lakes that may require administrative, regulatory or SLMP changes in order to provide attractive float plane opportunities and which minimizes impact on other recreational users. Examples of additional analysis to be undertaken includes but is not limited to, evaluation of water bodies on easement lands for possible float plane use, evaluation of potential to limit motorized access other than float planes from specific water bodies, fisheries management options to enhance angling opportunities, and providing specific camping opportunities and regulatory restrictions on floatplane operators use of lean-tos. This effort will require significant input from the two (2) remaining float plane operators. The study will also look at the economic significance of float planes to operators, Adirondack communities, and the Park in general.

The Department is committed to the exclusion of float planes from Lows Lake after December 31, 2011. Until that goal is achieved, the Lows Lake Visitors Study suggests that paddlers and float planes can continue to co-exist on the lake on a temporary basis as called for in this UMP amendment, particularly if potential user conflicts and resource impacts are further reduced through a mandatory permit system.

SECTION 2 BACKGROUND

A. 2002 Bog River UMP/FEIS

Description of UMP/EIS Process

The APSLMP, adopted in 1971, provides guidelines for the preservation, management and use of State-owned lands by State agencies in the Adirondack Park. Unit Management Plans must conform to the guidelines and criteria set forth in the APSLMP. The Adirondack Park Agency Act (Section 816) directs the Department to develop, in consultation with the Adirondack Park Agency (APA), individual UMPs for each unit of land under its jurisdiction classified by the APSLMP. UMPs and UMP amendments are prepared by the Department in consultation with the APA.

2002 Bog River UMP

The 2002 Bog River UMP included a Final Environmental Impact Statement (FEIS) prepared pursuant to the State Environmental Quality Review Act. An initial Draft UMP/DEIS was submitted to APA, followed by release of a Draft UMP/DEIS for public review and comment. The Department revised that document in response to the comments received and prepared a final Draft UMP/FEIS for APA review and determination of compliance with the APSLMP. The FEIS was deemed complete on November 11, 2002 and notice of its publication announced in the January 8, 2003 issue of the Environmental Notice Bulletin (ENB). On January 10, 2003, the APA determined that the Final Draft UMP/FEIS complied with the APSLMP. The Commissioner of DEC then adopted the 2002 UMP/FEIS on January 30, 2003.

Status of the 2002 UMP/FEIS

The 2002 UMP/FEIS continues to govern the Department's management of the state lands covered by that document, including the Lows Lake Primitive Area. This UMP Amendment addresses only one management action (float plane access to Lows Lake) approved in the 2002 UMP/FEIS. Unless otherwise specified in this Amendment, the management actions contained in the 2002 UMP/FEIS remain in effect as approved.

B. 2009 UMP Amendment

A Draft Amendment/DSEIS was submitted to the APA in January, 2009 for consideration. This draft amendment proposed a revised timeline for phase out of commercial float plane access and, through regulation, imposing restrictions on landing

and takeoff areas on Lows Lake; limiting flights per month, annually, and by time of day, specifying a drop off location and prohibiting high speed taxiing.

This Final Amendment/FSEIS amends the 2002 UMP/EIS. As an amendment, this document changes one management action which has previously been approved (exclusion of float planes from Lows Lake). This document also supplements the previous FEIS as required by SEQRA, and discusses and evaluates the potential environmental impacts of the proposed amendment.

C. Applicable APSLMP and 2002 UMP Provisions

The APSLMP classifies Lows Lake as a Primitive Area. *APSLMP at 79.*

A Primitive Area is defined as:

. . . an area of land or water that is either:

1. Essentially wilderness in character, but (a) contains structures, improvements or uses that are inconsistent with wilderness, as defined, and whose removal, though a long-term objective, cannot be provided for by a fixed deadline, and/or (b) contains, or is contiguous to, private lands that are of a size and influence to prevent wilderness designation; or,
2. Of a size and character not meeting wilderness standards, but where the fragility of the resource or other factors require wilderness management. *APSLMP at 26.*

The APSLMP identifies the Lows Lake Primitive Area as “an integral part of the Lows Lake-Bog River-Oswegatchie wilderness canoe route, and continues water access to the western portion of the Five Ponds Wilderness Area which begins in the Hitchins Pond Primitive Area immediately downstream . . . Preservation of the wild character of this canoe route without motorboat or airplane usage . . . is the primary management goal for this primitive area.” *APSLMP at 79.*

The APSLMP recognizes that the Lows Lake area is classified as primitive in part because of its relatively small size “but especially due to the impact of a large in-holding of private land on the north shore, which separates the area from the Five Ponds Wilderness.” *APSLMP at 79.* A road providing deeded access to this in-holding also runs through this primitive area. The APSLMP provides that if this in-holding is acquired by the State, the road will be closed, the intervening area will be classified as

wilderness, and the Lows Lake primitive area will then become part of an expanded Five Ponds Wilderness Area. *Id.*

The APSLMP also recognizes that another, smaller (five-acre) in-holding exists on the north shore of Lows Lake, and provides that State acquisition of this parcel “should be given the highest priority” so that the entire area can be added to the Five Ponds Wilderness Area. *APSLMP at 79.*

As noted above, the Lows Lake Primitive Area is managed pursuant to the Bog River UMP. The UMP characterized float plane use on Lows Lake as follows:

Public floatplane use on Lows Lake, primarily by commercial operators, peaks at the beginning of bass season, approximately June 20 each year. Floatplane operators also bring other recreationists to this area that may not have the time to enter and return through Hitchins Pond, or don't want to put the effort into getting to Lows Lake. *UMP at 28.*

The UMP stated that at least one of the private inholders has used a floatplane to access the lake. *Id.* The UMP also recognized that the two private inholders use motorboats on the lake. *Id.* According to the UMP, “[m]otorboat and floatplane use have increased dramatically on Lows Lake since the lake was opened to the public in 1986, causing significant conflicts with users expecting a wilderness experience generally undisturbed by motor vehicles.” *UMP at 37.*

The UMP characterized conflicts between float planes and paddlers as follows:

A large portion of Lows Lake is bounded by Forest Preserve lands classified Wilderness or Primitive. The entire lake is also fairly remote. This situation has led to a public expectation of a “wilderness experience” when paddling the Bog River Flow. Paddlers who encounter motorboats and floatplanes on Lows Lake are often frustrated and disappointed that their trip has not met their expectations. Questions have been raised as to whether wildlife populations may be impacted by motorboat and floatplane use. In addition to public expectations, the Master Plan establishes that both the Lows Lake and Hitchins Pond Primitive Areas are critical connections in the Lows Lake-Bog River-Oswegatchie wilderness canoe route. Further, the Master Plan established that the “preservation of the wild character of this canoe route without motorboat or airplane usage is the primary management goal for these Primitive Areas. *UMP at 38.*

The UMP evaluated five management alternatives for float plane access on Lows Lake: (1) eliminating (by regulation) public float plane use on Lows Lake within five years (Alternative A); (2) developing voluntary guidelines limiting timing, frequency and location of float plane access (Alternative B); (3) establishing (by regulation) zones on the lake where float plane use would be prohibited, while allowing other areas to continue to be used (Alternative C); (4) purchasing all in-holdings and then prohibiting float plane access (Alternative D); and (5) allowing the status quo to continue (Alternative E). *UMP at 43-45.* Although the preferred alternative (A) briefly discussed the option of controlling the time, frequency and location of float plane use on Lows Lake during the five-year phase out period, the UMP did not evaluate institution of a mandatory permit system regulating the timing, frequency, and location of float plane access to the lake.

The Department selected Alternative A as the preferred alternative:

DEC will . . . eliminate the public use of floatplanes on the lake within five years of the date of plan adoption. During the five year time period, the DEC will identify additional, appropriate lakes where motorized access may be limited to floatplanes only, through the current Unit Management Planning Initiative. The number and location of additional floatplane opportunities identified through the Initiative will affect whether or not the Department decides to control the time, frequency, and location of allowable floatplane use on Lows Lake through the end of the five year period. Riparian owners and their guests will be allowed to continue to use . . . floatplanes for personal use on the lake, and the level of such use will be monitored by the Department. *UMP at 58.*

SECTION 3 PROPOSED MANAGEMENT ACTIONS

The Department is amending the 2002 Bog River Unit Management Plan and Environmental Impact Statement (UMP/EIS) to allow for continued public float plane access to Lows Lake, in the Town of Colton , St. Lawrence County, New York, for a limited period of time and subject to a mandatory permit system that will be established through regulation. Permit restrictions are designed to minimize user conflicts and resource impacts.

The Final Amendment/FSEIS establishes that an annual permit system be maintained until December 31, 2011. After that date all public float plane access to Lows Lake will be prohibited. The Department will immediately proceed to promulgate regulations establishing a permit system for float planes using Lows Lake incorporating the restrictions and conditions recited above, and which includes a “sunset” clause providing that the regulations will automatically terminate on December 31, 2011 and that all public float plane access to Lows Lake will end on that date.

By letter dated March 31, 2009, the two commercial float plane operators, together with local government officials from the towns of Long Lake and Inlet and Hamilton County expressed support for this amendment. Furthermore, the letter expressed the commitment of the two float plane operators to voluntarily abide by the conditions and restrictions set forth in this amendment pending the Department’s final promulgation of permit regulations.

A. Current Situation

Since adoption of the UMP, unregulated float plane use by both commercial and recreational operators has continued at Lows Lake. Further, as noted above, the Department has been unable to identify an appropriate substitute lake where motorized access may be limited to float planes only (a detailed discussion of alternative lakes evaluated by the Department is set forth in Section 4, below). The Department has not promulgated regulations to prohibit public float plane use on Lows Lake, and instead, has conducted a re-evaluation of such use on the lake and potential user conflicts. Use of motorboats by the public has been prohibited as promulgated in 6 NYCRR Section 196.4 (4/19/06).

The use of motorboats by the private landowners on the lake has continued. There are two private landowners located on the north shore of Lows Lake and one located on the south shore. The private landowner on the south shore has a deeded retained right for motorboat use. This right is limited to no more than (3) motorboats of 15 hp or less and

not more than 15 feet in length. This retained right expires in 50 years and does not run with the land; it is automatically extinguished upon conveyance of the land in fee. The private landowners on the north shore have the riparian right to access the lake for personal use.

The frequency of motorboat use by these landowners has not been studied. However, reports from DEC forest rangers and other users indicate that the heaviest motorboat use on Lows Lake is associated with the Hiawatha Council of Boy Scouts, which owns the largest private in-holding on the north shore of the lake.

Due to the presence of visible non-conforming structures and motorboat and occasional float plane use by the private landowners, paddling on Lows Lake does not occur in a full wilderness setting. A complete wilderness paddling experience (and the APSLMP management goal of a wilderness canoe route) will not be realized until such time as the State acquires the private in-holdings and eliminates all non-conforming structures and motorized uses on the lake, or as proposed in this amendment, when the State takes additional regulatory steps to reduce motorized use on Lows Lake.

B. Lows Lake Visitor Use Study

At the Department's request (and as part of the re-evaluation of float plane use), SUNY CESF conducted a study of people who visited Lows Lake during May-October 2007 (a copy of the Lows Lake Primitive Area Visitor Study is annexed as Appendix C to this Amendment). One purpose of the study was to "understand how the public visitors who paddle into the Lows Lake area were affected by motorized access during their experiences." *Lows Lake Primitive Area Visitor Study at 2*. For this reason, the study surveyed users who entered the area at the trailhead registers and did not include visitors arriving by commercial float plane or owners (and their guests) of private in-holdings. *Id.*

The results of that study pertinent to float planes on Lows Lake were as follows:

- Nearly two-thirds (63.2%) of the users of Lows Lake were experienced paddlers who had made prior trips into Lows Lake.
- Less than half (42.1%) of the Lows Lake paddlers saw or heard float planes during their trip.
- Of paddlers who did see or hear float planes on the lake, approximately three-quarters (72.4%) considered them to be a slight to serious problem.

- The vast majority of paddlers (85.5%) responded that seeing or hearing float planes landing on Lows Lake would detract from their experience.
- Approximately two-thirds of paddlers (68%) believe that float planes are inappropriate on Lows Lake.³
- When asked which of five potential float plane management scenarios they favored (ranging from continuing the status quo to an immediate ban), about one-third (38.5%) of respondents favored an immediate ban. Half (50%) of the respondents favored institution (either immediately or at some time in the future) of a permit system regulating the timing, frequency and location of float plane access. The remainder (11.5%) favored either continuing the status quo or enacting voluntary guidelines for continued float plane access.

Lows Lake Primitive Area Study at 7-8, 17-18.

These results indicate that some conclusions in the UMP, though possibly true at the time of the plan's adoption,⁴ may not accurately reflect the current situation at Lows Lake. For example, the survey shows that more than two-thirds of the paddlers on Lows Lake had made prior trips to the lake. These repeat visitors were presumably aware of the existence of non-conforming structures (which are readily visible from the water), and the presence of motorboats and float planes on the lake, all of which are normally considered incompatible with a wilderness experience. This calls into question the UMP's assumption that paddlers arrive at Lows Lake "expecting a wilderness experience generally undisturbed by motor vehicles." *UMP at 37.*

The survey results are also arguably inconsistent with the UMP's conclusion that "paddlers who encounter motorboats and floatplanes on Lows Lake are often frustrated and disappointed that their trip has not met their expectations." Returning visitors to the lake (comprising more than two-thirds of the users) presumably know from prior experience that they may encounter motorboats and float planes on the lake, and it is therefore questionable whether the presence of motorboats or float planes on return

³ As noted above, persons who used float planes to access Lows Lake were not included in the survey. Those individuals would presumably feel that such use is appropriate.

⁴ It should be noted that the conclusions in the original UMP were not based on any systematic survey of Lows Lake user groups, but were premised on anecdotal reports from users and advocacy groups.

visits causes them to be frustrated and disappointed because the trip does not meet their expectations.

The survey results further suggest that conflicts between paddlers and float planes may not be as significant as previously assumed. For example, it is clear that the opportunity for conflicts with float planes does not arise for the majority (57.9%) of paddlers because they do not encounter float planes during their trip. In fact, eleven other detracting situations ranked above float planes in terms of the numbers of paddlers who experienced such situations. *Lows Lake Primitive Area Study at 8*. Thus, the UMP may be mistaken in its conclusion that float planes are “causing significant conflicts with users expecting a wilderness experience generally undisturbed by motor vehicles.” *UMP at 37*.

The Study indicates that the majority of paddlers do not believe that the situation at Lows Lake warrants the immediate elimination of float planes from the lake. While 38.5% of respondents supported an immediate ban on float planes, 61.5% favored a less restrictive management response with 1.9% favorable to management restriction of float planes and 9.6% supportive of voluntary guidelines. In addition, 50% of respondents supported institution of a mandatory permit system either now or in the future. *Lows Lake Primitive Area Study at 17*.

C. Information From Float Plane Operators

Two commercial float plane operators currently fly customers into Lows Lake: Helms Aero Service (Helms) based in Long Lake, and Payne Air Service (Payne) based in Inlet. These are the last two commercial float plane operators in the Adirondack Park (at one time there were seven commercial float plane businesses in the Park).

At the Department’s request, Helms and Payne provided information concerning the economic value of Lows Lake flights to their businesses, as well as flight data detailing the number of trips (by date) that Helms and Payne made into Lows Lake during a three year period (2005-2007).

By way of background, Helms and Payne noted that prior to adoption of the APSLMP, approximately 50 remote lakes were available for float plane access. In 1972, Helms made 625 trips to 23 lakes, all of which were subsequently closed to float plane access following adoption of the APSLMP. Helms and Payne state that approximately 15 remote lakes are used by their services today, of which 7 or 8 receive the bulk of activity. Helms states that the number of woods trips (flying to remote lakes) has declined approximately 40% from the 1972 level.

Today, woods trips constitute approximately 35-40% of gross revenues for Helms. Trips to Lows Lake comprise approximately 20% of woods trips, but due to rate schedules contribute about 30% of woods trip revenues. Moreover, due to other considerations affecting efficiency, Helms estimates that Lows Lake flights constitute over 40% of woods trips profits after hard expenses (e.g., gas, maintenance, etc.). Payne makes less woods trips overall than Helms, and trips to Lows Lake therefore comprise a larger proportion of Payne's wood trips. Helms and Payne state that "Lows Lake is, by a large margin, the most important lake to our economic health . . . and it is irreplaceable because of its quality as a bass fishery and its suitability for float plane operation."

Based on the flight data provided by Helms and Payne, it is clear that the busiest season for float planes going to Lows Lake coincides with peak paddling season (July 1 through September 30). The data for trips by Helms and Payne to Lows Lake for the three year period 2005-2007 can be summarized as follows:

MONTH	AVG. TRIPS FLOWN	AVG. DAYS FLOWN
May	7	4
June	21	9
July	40	13
August	45	14
September	40	13
October	17	5
November	2	1

A more detailed year-by-year breakdown of the flight data provided by Helms and Payne is annexed to this Amendment as Appendix A.

D. Mandatory Permit System

As noted above, the UMP/FEIS did not include a mandatory permit system controlling float plane access among the management alternatives evaluated. This Final Amendment/FSEIS involves promulgating new regulations requiring that any commercial float plane operator wishing to access Lows Lake would have to apply, on an annual basis, for a Department permit. The permit system will establish the following restrictions on float plane access:

- All commercial float planes will be required to obtain a permit to land and takeoff on Lows Lake.
- Commercial float plane flights into Lows Lake will be limited to 165 flights for each flying season (May through November). This will ensure that the total number of allowable commercial flights into Lows Lake will not exceed the average total commercial flights that were made between 2005 and 2007.
- No more than 35 flights per month will be allowed by all commercial operators combined;
- At the end of each flying season, each float plane operator will provide the Department with copies of flight records to Lows Lake for that season so that compliance with these conditions can be verified.
- Commercial float plane operators will be prohibited from storing canoes or other equipment on Forest Preserve lands at Lows Lake;

As noted above, the annual permit system will be maintained until December 31, 2011. After that date, all public float plane access to Lows Lake will be prohibited. Upon approval of this UMP Amendment, the Department will immediately proceed to promulgate regulations establishing a permit system for float planes using Lows Lake incorporating the restrictions and conditions recited above, and which includes a “sunset” clause providing that the regulations will automatically terminate on December 31, 2011 and that float plane access to Lows Lake will end on that date.

By letter dated March 31, 2009, the two commercial float plane operators, together with local government officials from the towns of Long Lake and Inlet and Hamilton County expressed support for this amendment. Furthermore, the letter expressed the commitment of the two float plane operators to voluntarily abide by the conditions and restrictions set forth in this amendment pending the Department’s final promulgation of permit regulations.

E. Monitoring the Permit System

The Department will periodically evaluate operator compliance with the permit conditions. Compliance assessments will be based on flight records submitted annually by the float plane operators and reports from forest rangers and other DEC personnel concerning operator compliance with permit conditions. Repeated failure by an operator to comply with permit conditions will constitute grounds for permit denial, thereby excluding that operator from Lows Lake.

SECTION 4 DISCUSSION OF ALTERNATIVES

Bog River Complex UMP/FEIS

The Bog River UMP/FEIS evaluated five management alternatives for float plane access on Lows Lake: (1) elimination (by regulation) of public float plane use on Lows Lake within five years (Alternative A); (2) developing voluntary guidelines limiting timing, frequency and location of float plane access (Alternative B); (3) establishing (by regulation) zones on the lake where float plane use would be prohibited, while allowing other areas to continue to be used (Alternative C); (4) purchasing all in-holdings and then prohibiting float plane access (Alternative D); and (5) allowing the status quo to continue (Alternative E). *UMP at 43-45.* However, as previously explained, the Department did not consider the alternative proposed in this Amendment of allowing float plane use to continue for a limited period subject to a mandatory permit system. This proposed Amendment adopts the discussion of Alternatives B, C, D, and E as set forth in the Bog River UMP/FEIS. A discussion of Alternative A and the new alternative proposed in this Amendment follows.

A. Alternative A: Elimination of Float Plane Access

Alternative A, which was selected as the preferred alternative in the Bog River UMP/FEIS, requires the Department to promulgate regulations prohibiting public float plane access to Lows Lake within five years from the date the UMP was adopted. This alternative also requires the Department to attempt to identify appropriate lakes where float plane only access may be provided as a substitute for Lows Lake.

As stated in the UMP/FEIS:

The advantage of this alternative is that public floatplane and motorboat use on the lake will, over time, be totally eliminated, thereby providing a more wilderness type of recreational experience on the Lake and greatly reducing user group conflicts. Although this option could adversely impact commercial floatplane operators, such impacts are expected to be

minimized because of the five year phase out period, during which time alternative locations for such activity can be identified. *UMP at 44.*

The Department no longer considers Alternative A to be preferable for several reasons. First, the UMP/FEIS did not fully consider as a separate alternative the management option of a mandatory permit system to avoid user conflicts and resource impacts. Such a permit system is a far less disruptive means of reducing potential user conflicts between paddlers and float plane customers and protecting resources than an immediate and complete ban on float plane access.

Second, although elimination of float planes from Lows Lake at this time will not transform the lake into a complete wilderness canoeing experience, this proposed amendment provides a date certain (December 31, 2011) after which all public float plane access to Lows Lake will be eliminated. This date will not be subject to further extension or amendment. Therefore, this proposal is a significant step toward achieving the APSLMP's goal of establishing a wilderness canoe route through the Lows Lake Primitive Area. The Department will continue to seek opportunities for acquisition of the remaining private in-holdings should they be offered for sale by the landowners, so that remaining non-conforming structures and uses can be eliminated.

Third, the Department has been unable to find a suitable substitute for Lows Lake. In 2003 regional DEC planners and supervisors identified 23 Forest Preserve lakes existing in Wild Forest Areas for potential float plane access. During the past five years, the Department has evaluated these alternative lakes according to the following criteria:

- Whether the lake is large enough to accommodate float plane landing and takeoff
- Remoteness of the lake, *i.e.* not easily accessible by other means
- Attractiveness for fishing and hunting
- Pre-existing accessibility to float planes
- Appropriateness for float plane access based on natural resource considerations

The following alternatives were considered and determined to be inappropriate for such access:

Blue Mountain Wild Forest

Tirrel Pond – Already accessible by floatplane operators

Pine Lake – Already accessible by floatplane operators

First Lake – Already accessible by floatplane operators

Rock Lake – Already accessible by floatplane operators

Cedarlands Conservation Easement

McRorie Lake – Not remote; within ¼ mile of public road

Debar Mountain Wild Forest

Debar Pond – Not remote; has road access

Moose Pond – Not remote; has road access

Dear River Flow – Not remote; within ¼ mile of public road

Osgood Pond – Not remote; within ¼ mile of public road

Jones Pond – Not remote; within ¼ mile of public road

Lake Kushaqua – Not remote; has road access and is adjacent to intensive use campground

Meacham lake – Not remote; has road access and is adjacent to intensive use campground

Independence River Wild Forest

Big Otter Lake – Already accessible by floatplane operators

Jessup River Wild Forest

Fawn Lake – Too small for landing and takeoff

Lake George Wild Forest

Long Pond – Too small for landing and takeoff

Jabe Pond – Not remote; has road access

Moose River Plains Wild Forest

Little Moose Lake – inappropriate due to natural resource considerations

Saranac Lakes Wild Forest

Deer Pond – Already accessible by floatplane operators

Sargent Ponds Wild Forest

Lower Sargent Pond – Already accessible by floatplane operators

Taylor Pond Wild Forest

Silver Lake – Not remote; has private road access

Taylor Pond – Not remote; public road access and adjacent to intensive use campground

Vanderwhacker Mountain Wild Forest

Newcomb Lake – Operation of mechanically propelled aircraft prohibited pursuant to (NYCRR), §196.4.

Wilcox Lake Wild Forest

Wilcox Lake – Considered to be too small for landing and takeoff

Fourth, as discussed above, the results of the Lows Lake Visitor Study indicate that user conflicts between paddlers and float planes are not as frequent or severe as previously assumed in the UMP, and that most paddlers support less restrictive management measures than an immediate ban on float planes.

Fifth, float planes provide an important means of access to Lows Lake for those who by reason of age or physical infirmity are unable to paddle into the lake.

Sixth, as recognized in the UMP, elimination of float plane access from Lows Lake without providing a suitable alternative will likely have negative economic consequences for the two remaining float plane operations in the Park. This conclusion is supported by the information provided by the float plane operators demonstrating the importance of Lows Lake to their economic vitality. For this reason, the Department and the Adirondack Park Agency will continue to evaluate the current use of water bodies by commercial float plane operators within the Park and to develop recommendations on potential opportunities which can be provided by administrative, regulatory or SLMP changes in order to provide attractive float plane opportunities and which minimizes impact on other recreational users. Examples of additional analysis to be undertaken includes but is not limited to, evaluation of water bodies on easement lands for possible float plane use, evaluation of potential to limit motorized access other than float planes from specific water bodies, fisheries management options to enhance angling opportunities, and providing specific camping opportunities and regulatory restrictions on floatplane operators use of lean-tos. This effort will require significant input from the two (2) remaining float plane operators. The study will also look at the economic significance of float planes to operators, Adirondack communities, and the Park in general.

Consequently, for the reasons stated above, the Department no longer considers Alternative A from the 2002 Unit Management Plan to be the preferred alternative at this time and will defer complete elimination of commercial float plane operations until December 31, 2011.

2009 Draft Amendment to the Bog River Complex UMP/DSEIS

A Draft Amendment/DSEIS was submitted to the APA in January, 2009 for consideration. The amendment proposed a revised timeline for phase out of commercial float plane access and, through regulation, imposing restrictions on landing and takeoff areas on Lows Lake, limiting flights per month, annually, and by time of day, specifying a drop off location and prohibiting high speed taxiing.

After careful review of public comment and following consultation with the two remaining commercial float plane operators, advocacy groups representing paddlers who use Lows Lake, and the staff of the Adirondack Park Agency, the Department has

determined the Final Amendment/FSEIS is the preferred alternative. This determination is based upon several factors, including the continued existence of three private in-holdings on Lows Lake which currently (and will for the foreseeable future) prevent attainment of the Adirondack Park State Land Master Plan (APSLMP) goal of creating a wilderness canoe route through the lake; the continued motorized use by owners of the private in-holdings; the data from the Lows Lake Visitor Study, which (as noted above) indicate that user conflicts between paddlers and float planes are not as frequent or severe as previously thought; the Department's inability to find a suitable substitute lake for float plane operators to use; and the economic consequences to the two remaining commercial float plane operators in the Park should an immediate ban be adopted.

B. The Preferred Alternative: Mandatory Permit System

As discussed above, the Final Amendment/FSEIS will allow float plane access to Lows Lake to continue until December 31, 2011 subject to a mandatory permit system.

The mandatory permit system will avoid or eliminate potential user conflicts between paddlers and float planes by restricting on a monthly and annual basis the number of float plane trips that can be made to Lows Lake.

As set forth in the Lows Lake Visitor Study, less than half the paddlers in Lows Lake saw or heard float planes during their trip. It is expected that the permit conditions set forth above will further reduce the number of paddlers who see or hear float planes and that, for those who do, the experience will not significantly diminish their enjoyment of Lows Lake. At the same time, allowing continued float plane access to Lows Lake, albeit under restricted conditions, will ensure that this important means of access is temporarily preserved for those unable to paddle into the lake and will avoid immediate economic consequences to float plane operators referenced in the UMP/FEIS and in this Amendment.

The Department will also consider posting information at trail registers, on the DEC website, and on paddlers' maps identifying lakes and ponds (including Lows Lake) where paddlers may encounter float planes. This information would be provided so that paddlers can plan their trips with full knowledge of the conditions they may encounter on their paddle.

The Department considers institution of a mandatory permit system to be a reasonable means to avoid or minimize impacts of float planes on other users. However, the Department also recognizes that open-ended float plane access is inconsistent with the APSLMP's ultimate goal of establishing a wilderness canoe route through Lows Lake. Consequently, the Department is proposing that the annual permit system be

maintained only until December 31, 2011 and that the regulations to be adopted specifically provide that all public float plane access will end on that date.

Initiation of these regulatory actions will be undertaken immediately upon approval of this UMP Amendment. It is expected that the commercial float plane operators will take advantage of this additional period of access to Lows Lake to make whatever preparations or adjustments may be necessary in order to adapt to eventual closure of the lake to float planes. As noted above, the Department and the Agency are committed to working with float plane operators to evaluate current and potential opportunities to provide a unique recreational experience where appropriate.

In summary, the Department considers this new alternative to be preferable to Alternative A because it (i) is a less disruptive means of avoiding potential conflicts between paddlers and float planes than an immediate and complete ban on float planes; (ii) recognizes the continued existence of motorized use on Lows Lake by riparian landowners but commits to additional regulations for control of public and administrative use of motor boats and aircraft on Lows Lake (iii) will allow an important means of access for elderly and physically challenged individuals to continue for an additional period of time; and (iv) will avoid immediate economic consequences to float plane operators associated with an immediate and complete ban. In addition, the Department considers this alternative to comply with the APSLMP because it would establish by regulation a date certain by which all float plane access to Lows Lake will be eliminated.

SECTION 5 POTENTIAL IMPACTS TO RESOURCES

Use: As discussed in Section II-F of the Bog River UMP/FEIS, use levels in the area (including use associated with access by float plane) at the time the FEIS was prepared were not at levels that significantly impacted the capacity of the resource to withstand use. There is no indication that use levels at Lows Lake have significantly changed since preparation of the FEIS, and therefore considers the conclusion in the UMP/FEIS regarding resource impacts to remain valid.

Vegetation and Soils: The preferred alternative will likely result in higher use levels than would have been the case under Alternative A due to the continued ability of some users who are unable to paddle into Lows Lake to access the lake by float plane. However, because these use levels will essentially remain the same or decrease (due to increased restrictions on float plane access) compared to levels previously found in the UMP/FEIS to have no significant impact, the continued access by users arriving by float plane is not expected to significantly change the overall impacts to resources. Furthermore, the somewhat higher use levels associated with continued float plane

access will be temporary in nature, and are therefore not expected to have any additional significant impacts on vegetation and soils.

Wildlife: At the time of the adoption of the UMP/FEIS, the quality of the wildlife resources in the Bog River Unit appeared to be excellent. Continued hunting was not expected to and has not impacted overall numbers of any species populations. Common loon, common merganser and bald eagle populations on Lows Lake were and remain stable (see table below). Common loon in particular was noted in the Bog River UMP as being sensitive to potential impacts from a variety of both natural and anthropogenic factors, including but not limited to float plane activity. Impacts on loons include the temporary movement of birds away from active float plane landing and take off areas, the temporary movement of birds in response to the presence of canoes and motor boats, and predation of young loons by bald eagles. With the possible exception of predation by bald eagles, these impacts are not considered to be significant. The preferred alternative will continue to result in occasional temporary movement of birds away from active float plane landing and take-off areas. However, this impact will be mitigated by limiting the number of take offs and landings on a monthly and annual basis through the permit system. The Department has no evidence that float plane use of Lows Lake has had an impact on bald eagles on or near Lows Lake.

LOWS LAKE LOON CENSUS	2001	2002	2003	2004	2005	2006	2007
# Adult Loons	19	16	14	18	20	19	19
# Loon Chicks	5	2	4	2	2	0	3
# Immature Loons	0	1	0	2	0	0	0
Total # Loons Observed	24	19	18	20	22	19	22

Fish: Statewide angling regulations and baitfish regulations continue to be considered adequate to protect area fish populations from over harvest and introduction of “new” species. Water resources were then, as today, not thought to be over fished beyond their capacity to withstand use. The preferred alternative is not expected to change this situation.

Noise and Visual Impacts: The preferred alternative will result in continuing noise and visual impacts that would have been eliminated under Alternative A.

Float Planes make their greatest noise impact during take-off, the point at which a large amount of thrust is required to become airborne. Take-off timing varies in duration based on details of flight. Normal float plane take-off at full power from the start of the take-off run until breaking the water is 20 to 30 seconds. If the temperatures are cool with a breeze and the load is light, the run on water is 8 to 9 seconds. A full load on a hot day may require 40 to 45 seconds. There are two types of noise during take-off, a throaty roar of the engine and a shock wave produced by the tips of the propeller blades. The shorter radius of the 3 bladed propellers used by commercial float plane operators in the Adirondacks does not create as strong a wave of shock as the more traditional 2 blade propeller plane. The shock wave noise passes briefly to a person standing abreast of the plane and produces a passing 2 second "short blat." The throaty engine noise will be at its peak prior to the plane breaking the water anywhere from 9 to 40 seconds, typically 22-30 seconds.

Once the plane has landed, float plane noise levels at low throttle settings are not evidenced any significance distance from airplane. Noticeable noise varies depending on natural background noise such as waves, wind and other weather conditions. Overflights will only be necessary to position the float plane for landing based primarily on wind patterns and, in limited instances, fast approaching weather. This additional airtime typically adds a limited, few seconds of flight prior to landing.

Thus, although continued access by float planes will result in noise impacts, those impacts are predicted to be of short duration, mainly associated with powering up for take-off.

Visual impacts from float planes are also associated with landing and take-off, but also occur when the plane is taxiing on the water or moored to land during loading or unloading passengers and gear. Some users may find the visual presence of a float plane on Lows Lake to be objectionable. However, presence of a float plane on the lake itself will be limited to the time it takes to land, taxi to the designated drop-off/pick-up point, disembark or embark passengers and equipment, and then taxi for take-off.

Both noise and visual impacts will be minimized through imposition of permit conditions limiting the frequency of float plane access. In addition, noise and visual impacts will be minimized because most landings and take-offs will occur in the western portion of Lows Lake, where there are fewer paddlers, campers and other recreational users.

As previously stated, the Department will periodically evaluate operator compliance with the permit conditions. Compliance assessments will be based on annual flight records submitted to the Department by float plane operators, as well as reports from forest rangers and other DEC personnel concerning operator compliance with permit conditions. Repeated failure by an operator to comply with permit conditions would constitute grounds for permit denial, thereby excluding that operator from Lows Lake.

The Department will also continue to monitor natural resources on Lows Lake. In the event that natural resources are determined to be experiencing significant adverse impacts associated with float plane access to the lake, the Department will modify the permit conditions as necessary to protect the affected resource.

SECTION 6 UNAVOIDABLE ADVERSE ENVIRONMENTAL IMPACTS

Under the preferred alternative, the noise and visual impacts associated with continued float plane access to Lows Lake cannot be avoided. However, as discussed previously, the permit conditions limiting the frequency of float plane access will significantly mitigate those impacts. Moreover, the impacts associated with float plane access are temporary in nature and will occur in a part of the lake where there are fewer paddlers, campers and other recreational users. The preferred alternative provides that float plane access will be prohibited after December 31, 2011.

SECTION 7 STATE ENVIRONMENTAL QUALITY REVIEW (SEQR)

Notice of the Acceptance of the Final Amendment/FSEIS was included in the April 8, 2009 Environmental Notice Bulletin.

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APPENDICES

APPENDIX A

COMMERCIAL FLOAT PLANE USE ON LOWS LAKE
Flight Record Data Provided to NYSDEC, May 2008

2007	May	June	July	Aug	Sept	Oct	Nov	TOTALS
Days Flown (Season = 1 st to last day)	5	8	14	13	14	5	2	61/179
Flights	9	17	31	39	45	26	2	169
Campers	10	11	23	32	21	4	2	103
Day Trippers	-	4	6	10	32	28	-	80
2006	May	June	July	Aug	Sept	Oct	Nov	TOTALS
Days Flown	-	8	8	16	9	5	1	47/152
Flights	-	22	28	52	38	10	2	152
Campers	-	19	10	35	6	7	-	77
Day Trippers	-	4	18	17	46	5	-	90
2005	May	June	July	Aug	Sept	Oct	Nov	TOTALS
Days Flown	2	10	16	14	16	5	1	64/162
Flights	4	23	60	43	37	11	2	180
Campers	4	13	30	44	24	8	-	123
Day Trippers	-	15	39	3	24	6	-	87

APPENDIX B

**Response to Public Comment to the
January 2009 Proposed Bog River Complex UMP Amendment**

RESPONSE TO PUBLIC COMMENT
ON THE
PROPOSED BOG RIVER COMPLEX UMP AMENDMENT

Prepared by the Department of Environmental Conservation

April, 2009

COMMENT:

Float planes are incompatible with the wilderness character of Lows Lake and adjoining forest preserve lands.

RESPONSE:

Lows Lake is not currently classified or managed as a wilderness area under the Adirondack Park State Land Master Plan (APSLMP). Due to the presence of visible non-conforming structures as well as motorboat and occasional float plane use by the private landowners, paddling on Lows Lake does not occur in a full wilderness setting. Elimination of float planes now will not transform Lows Lake into a wilderness, quiet water experience overnight. The final amendment moves closer to attaining the SLMP goal of creating a wilderness canoe route consistent with the direction of the SLMP. A complete wilderness setting will not be realized until such time as the State acquires the remaining private inholdings and eliminates all non-conforming motorized uses on the lake. This is specifically recognized in the APSLMP, which states that acquisition of the inholdings “should be given the highest priority.”

In addition, the permit restrictions are designed to minimize potential conflicts between paddlers and float planes through imposition of permit conditions limiting the frequency and actions of float plane access. Issuance of permits for use of campsites in accordance with normal DEC permitting procedures will also minimize conflicts.

COMMENT:

The waters, bed and uplands of Lows Lake are owned by New York State and are legally part of the Five Ponds Wilderness Area. The Agency has already classified the water and bed of Lows Lake in 1987 as part of the Five Ponds Wilderness in 1987 and this classification was approved by Governor Cuomo in 1988. Accordingly, any amendment of the Bog River Complex UMP to authorize floatplane use of Lows Lake until December 31, 2012 would be illegal as inconsistent with the Wilderness guidelines and criteria of the Adirondack Park State Land Master Plan.

RESPONSE:

The Agency has not classified lakes, ponds and water bodies which only become added to Wilderness areas when they are completely surrounded by Forest Preserve lands. In addition, the APSLMP specifically notes that the Department of Environmental Conservation has the authority to regulate uses of water independent of the Master Plan. This is especially relevant to water bodies with a mixture of public and private ownership. Commenters are mis-reading the Agency classification records which listed the acreage of the land and water on and around Lows Lake which was purchased by the State and part of the classification record in 1987. The APSLMP does not include Lows Lake in the Five Ponds Wilderness Area. Under the APSLMP, public use of Lows Lake is managed through the proposals contained in this Unit Management Plan for the Lows Lake Primitive Area and the promulgation and implementation of DEC regulations.

COMMENT:

The proposed amendment fails to address the Five Ponds Wilderness UMP which also regulates public use of Lows Lake and thus is inconsistent with APSLMP. The proposed amendment does not comply with the APA October 2008 resolution and SEQRA Findings adopted on October 10, 2008.

RESPONSE:

APA staff comments, and subsequent Agency resolution, regarding the management proposals in the Five Ponds Wilderness UMP were focused on the need to resolve the proposals for continued float plane use on Lows Lake within the wilderness canoe zone and management area established for Lows Lake, Grass Pond and the Oswegatchie River. The Five Ponds Wilderness Area UMP, which was approved by the Agency and adopted by the Department in 1994, did not establish any regulations for the restriction of public motorized use on Lows Lake or the Bog River. Department staff feel the final amendment to the Bog River Complex UMP continues progress toward the APSLMP goal of creating a Bog River-Lows Lake -Oswegatchie River wilderness canoe route. This Amendment is in keeping with the Five Ponds Wilderness UMP management objectives. As called for in the final amendment, commercial float plane operations will be eliminated in three years.

COMMENT:

Lows Lake is not a wilderness because it is a man-made body of water created by two dams, and that there are roads, a railroad and other non-wilderness structures and uses in the area.

RESPONSE:

The two dams (upper and lower) which impound the Bog River are considered to be permanent non-conforming structures under the APSLMP downstream from the Lows Lake Primitive Area and within the Hitchins Pond Primitive Area. The two dams are considered to be structures which should be maintained to preserve the canoe route and essential wetlands habitat. The Lows Lake Primitive Area does not surround the shores of Lows Lake which is adjacent to the Five Ponds Wilderness Area.

COMMENT:

Float planes play an important role in the history, culture and tradition of the Adirondacks, are part of the Adirondack wilderness experience, and therefore should not be excluded from Lows Lake.

RESPONSE:

The Department agrees that float planes play an important role in the history, culture and tradition of the Adirondacks. However, the APSLMP requires float planes be eventually excluded from Lows Lake in order to achieve the goal of establishing a wilderness canoe route through the lake. The Department considers the final amendment an appropriate compromise that will allow controlled access by float planes for a limited period of time. DEC and APA staff will continue to work with float plane operators and other constituent groups to identify other opportunities to improve float plane access in other areas of the Adirondack Park, consistent with the APSLMP.

COMMENT:

The two remaining float plane operations in the Adirondack Park are important to the local economy.

RESPONSE:

Financial information submitted by the two remaining Adirondack commercial float plane businesses and included in the proposed amendment shows flights into Lows Lake comprise an important part of their business. The Department agrees these two businesses are important to the local economy. DEC and APA staff will continue to work with float plane operators and other constituent groups to identify other opportunities to improve float plane access in other areas of the Adirondack Park, consistent with the APSLMP.

COMMENT:

Float planes provide access to Lows Lake for both the able bodied and those with physical infirmities.

RESPONSE:

The Department believes its land management responsibility includes providing access where such access does not alter the fundamental nature of the lands being offered to all members of the public. Individuals, both physically disabled and able-bodied, must assess their own abilities to use public recreational areas.

COMMENT:

Several comments opposing the proposed amendment challenged the economic importance of Lows Lake to float plane operators.

RESPONSE:

The Department agrees these two businesses are important to the local economy. DEC and APA staff will continue to work with float plane operators and other constituent groups to identify other opportunities to improve float plane access in other areas of the Adirondack Park, consistent with the APSLMP.

COMMENT:

Do not believe there is significant economic importance of Lows Lake to float plane operators.

RESPONSE:

Financial information submitted by the two remaining Adirondack commercial float plane businesses and included in the final amendment shows flights into Lows Lake comprise an important part of their business. The Department agrees these two businesses are important to the local economy. DEC and APA staff will continue to work with float plane operators and other constituent groups to identify other opportunities to improve float plane access in other areas of the Adirondack Park, consistent with the APSLMP.

COMMENT:

Economic impact to float plane operators of closing Lows Lake to float planes would be offset by the economic opportunities for more canoe, kayak and hiking guides and outfitters.

RESPONSE:

The Department considers the potential economic opportunities for more canoe, kayak and hiking guides and outfitters resulting from closing Lows Lake to float planes to be purely speculative but agrees that additional economic opportunities could arise from wilderness management of Lows Lake. General information on economic impacts to float plane operators has been provided by the commercial operators. According to Helms Aero Service, prior to adoption of the APSLMP, approximately 50 remote lakes were available for float plane access. In 1972, Helms Aero Service made 625 trips to 23 lakes, all of which were subsequently closed to float plane access following adoption of the APSLMP. Helms and Payne state that approximately 15 remote lakes are used by their services today, of which 7 or 8 receive the bulk of activity. Helms states the number of woods trips (flying to remote lakes) has declined approximately 40% from the 1972 level. Today woods trips constitute approximately 35-40% of gross revenues for Helms. He estimates that Lows Lake flights constitute over 40% of woods trips profits after expenses (gas, maintenance, etc.). Payne makes less woods trips overall than Helms, and trips to Lows Lake therefore comprise a larger proportion of Payne's woods trips.

COMMENT:

Float plane companies will not be forced out of business if they are unable to land on Lows Lake.

RESPONSE:

The 2003 UMP/FEIS concluded the two remaining commercial float plane businesses in the Adirondack Park would be adversely affected if excluded from Lows Lake. The Department agrees these two businesses are important to the local economy. DEC and APA staff will continue to work with float plane operators and other constituent groups to identify other opportunities to improve float plane access in other areas of the Adirondack Park, consistent with the APSLMP.

COMMENT:

Float plane access to Lows Lake will result in greater camping pressure. Float planes sometimes fly in and take campsites to which paddlers are already headed or tie up the best campsites.

RESPONSE:

Permit restrictions will cap the maximum number of monthly flights at 35, with no more than 165 flights allowed per year. Flight data provided by two commercial operators show that the three year average during peak paddling season averaged higher than the maximum of 35 per month allowed under the proposed permit system. As a result, permit conditions will reduce camping pressure by float plane clients. Moreover, the Department does not consider camping pressure on Lows Lake to be at a level that creates resource or experiential problems. Management of campsite permits will also reduce the amount of conflict by recreational users. The Hiawatha Council, BSA has exclusive use of certain islands on Lows Lake during the summer months which help to reduce camping pressure at the remainder of the campsites.

COMMENT:

Some paddlers who have encountered float planes on Lows Lake don't consider them to be a problem.

RESPONSE:

Acknowledged.

COMMENT:

Proposed "no fly" weekends, during peak paddling season, will result in a "Thursday rush" by float plane clients. This will result in campsites in the western part of the lake being fully occupied by Friday.

RESPONSE:

The proposal to eliminate flights on weekends ("no fly" weekends) has been removed from the final amendment.

COMMENT:

Several comments supporting and opposing the proposed amendments made conflicting claims concerning the potential impacts to fish and wildlife of continued float plane access to Lows Lake.

RESPONSE:

The Supplemental Environmental Impact Statement (SEIS) submitted as part of the final amendment discusses in detail the potential impacts to fish and wildlife of continued float plane access to Lows Lake. As noted in the SEIS, the common loon population on Lows Lake is considered by DEC to be stable, and there is no evidence suggesting that float planes have an adverse impact on loons. Loon specialists do note paddlers often unwittingly disturb nesting loons or loons with chicks because of their ability to paddle close to nesting sites. Paddlers do not always understand loon calls/behavior, and so approach the birds when the birds are actually "telling" (by yodels or tremolos) them to move away. Paddlers can definitely cause birds to leave nests, potentially resulting in nest failure, and expend energy defending chicks or their territories. DEC attempts to mitigate such impacts by placing educational signs concerning loons at many of the Adirondack boat launches.

The SEIS also notes there is no evidence float plane use of Lows Lake has had any adverse impact on bald eagles at Lows Lake. DEC endangered species staff have reviewed the amendment and are satisfied.

No impacts to any other fish or wildlife were identified in the SEIS.

COMMENT:

The amendment violates the Bog River Complex Unit Management Plan.

RESPONSE:

The Department is proposing this amendment pursuant to sections 807 and 816 of the Adirondack Park Agency Act which provide that "[i]ndividual management plans shall be reviewed periodically and may be amended from time to time" Thus, the Department is authorized and obligated to amend unit management plans due to changed circumstances in a manner which acknowledges the need for compliance with the SLMP.

COMMENT:

The amendment violates the APSLMP because it fails to prohibit float planes as called for in the APSLMP.

RESPONSE:

The APSLMP identifies the Lows Lake Primitive Area as "an integral part of the Lows Lake-Oswegatchie wilderness canoe route... Preservation of the wild character of this canoe route without motorboat or airplane usage...is the primary management goal for

this primitive area.” (Emphasis added). Significantly, the APSLMP does not specify a time period or deadline for achieving the management goal of this wilderness canoe route. The final amendment, which reduces float plane access from current levels, represents continued progress toward the management goal, and is therefore consistent with the APSLMP. DEC recognizes the open-ended float plane access is inconsistent with the APSLMP’s ultimate goal of establishing a wilderness canoe route. Consequently, DEC is committing to end all commercial float plane access to Lows Lake on December 31, 2011.

COMMENT:

Allowing float plane operators to store canoes on Forest Preserve lands violates Article XIV of the New York State Constitution.

RESPONSE:

The final amendment prohibits the storage of canoes and equipment on Forest Preserve lands.

COMMENT:

The proposed permit system is reasonable and fair, and it represents a reasonable compromise to accommodate multiple uses of the Lows Lake area.

RESPONSE:

Acknowledged.

COMMENT:

Two comments supporting the proposed amendment proposed that the regulations include a provision to allow pilot judgment to override Landing Zone restrictions in emergency or bad weather conditions.

RESPONSE:

The Landing Zone restrictions have been removed to minimize user conflicts.

COMMENT:

The amendment's proposed permit restrictions are too restrictive.

RESPONSE:

The proposed permit restrictions have been modified to better accommodate the float planes and to minimize and avoid potential conflicts between paddlers and float planes while meeting the SLMP objectives of managing Lows Lake as part of a wilderness canoe route.

COMMENT:

The proposed permit restrictions are not enforceable.

RESPONSE:

The Department disagrees. Float plane pilots must adhere to strict FAA recordkeeping requirements and all flight data must be recorded and is accessible. FAA registration numbers are clearly visible on float planes which may be landing or taking off on the Lake. Further, there is a daily presence of DEC Forest Rangers on the Lake who will monitor the situation and respond to complaints.

COMMENT:

Several comments supporting the proposed amendment suggested that a reservation or permit system be instituted for all campsites on Lows Lake in order to further avoid potential user conflicts between paddlers and float planes.

RESPONSE:

The Department believes that such reservation or permit system is unnecessary at this time. The Department anticipates the proposed permit restrictions will avoid or minimize potential user conflicts between paddlers and float planes. However, the Department will monitor the success of permit restrictions on commercial float plane operations and make adjustments as necessary and appropriate. The Department is also considering designating additional sites as "By Permit Only" sites. Currently three sites, Boones Landing, Moose Bay Landing and Virgin Timber Landing in the western part of Lows Lake, are designated as sites which require camping permits from June through August.

COMMENT:

Banning float planes on Lows Lake would constitute a significant addition to “quiet waters” in the Adirondack Park.

RESPONSE:

Banning float planes on Lows Lake would not add the lake to the “quiet waters” in the Park as there are currently three private landowners who continue to hold a variety of rights to use motorboats on the lake, and they may exercise those rights. In addition, at least one of the private landowners has occasionally used a float plane in the past to access their property. The Department will continue to work with private property owners to minimize the size and use patterns of motorized use on Lows Lake.

COMMENT:

The “peak paddling season” should be shortened to end with the commencement of early bear season.

RESPONSE:

The amendment has been revised, and no longer restricts the number flights based on the peak season. Instead permit restrictions will cap the maximum number of monthly flights at 35, with no more than 165 flights allowed per year.

COMMENT:

Float planes should be allowed to taxi directly to campsites in order to accommodate those with disabilities that would make it difficult for them to paddle to a campsite.

RESPONSE:

To accommodate people with disabilities and for the safety of float plane passengers the amendment has been revised to allow float plane operators to drop customers off at campsites.

COMMENT:

The phase out of existing commercial float plane operation should be eliminated, and commercial float plane operators currently flying to Lows Lake should be “grandfathered.”

RESPONSE:

The phase out of commercial float plane operations on Lows Lake has been proposed in order to meet the intent of APSLMP to manage Lows Lake as part of a wilderness canoe route. The Department agrees these two businesses are important to the local economy. DEC and APA staff will continue to work with float plane operators and other constituent groups to identify other opportunities to improve float plane access in other areas of the Adirondack Park, consistent with the APSLMP.

COMMENT:

The Lows Lake Visitor Study was flawed because it did not include float plane customers in the survey.

RESPONSE:

The Lows Lake Visitor Study was designed and conducted by Dr. Chad Dawson of the SUNY College of Environmental Science and Forestry. Dr. Dawson is a nationally renowned expert in wilderness management, who has conducted visitor use studies for the National Park Service and U.S. Forest Service, among others. Dr. Dawson has published numerous peer-reviewed articles on wilderness management, and is the co-author of “Wilderness Management,” the recognized source book for wilderness managers. The Department has full confidence in the study design developed by Dr. Dawson and disagrees with this comment.

COMMENT:

DEC has no discretion to allow float plane access more than three years after adoption of the Bog River Complex UMP/FEIS, and cites to 1988 *Adirondack Council v. APA and DEC* in support of that claim. APA and DEC staff have concluded in the past that Lows Lake was governed by the guidelines and criteria for Primitive Areas under the APSLMP and therefore no further extensions of time for non-conforming motorized uses of Lows Lake can be legally granted by the Adirondack Park Agency

The DEC argument that there is no legally specified time table for the elimination of non-conforming motorized uses because Lows Lake is not classified either as Wilderness or Primitive is not only inconsistent with the plain language of the APSLMP but is expressly contradicted by documentary evidence in the possession of DEC and APA

RESPONSE:

The Department disagrees with this comment. The *Adirondack Council* case involved a lake that was entirely surrounded by Forest Preserve lands classified as wilderness. Lows Lake has significant private inholdings that prevent the surrounding lands from being classified as wilderness and some state lands bordering the Bog River are classified as primitive. Public use of Lows Lake is proposed to be managed through the proposals contained in the UMP for the Lows Lake Primitive Area, and through the subsequent promulgation and implementation of regulations. The requirement for removal of non-conforming uses from wilderness and primitive areas within three years does not apply to this situation. They would only be applicable if Lows Lake were completely surrounded by Forest Preserve without private inholdings.

COMMENT:

In September 2008, APA state land staff analyzed the APSLMP and concluded that any further extension of time for floatplane use of Lows Lake would violate the guidelines and criteria for Wilderness and Primitive Areas.

RESPONSE:

Determinations of APSLMP compliance are made by the Agency members. Agency staff guidance documents will be considered by the members in rendering a decision.

COMMENT:

Lows Lake is an artificial impoundment of water and it is therefore inappropriate to manage it as a wilderness area.

RESPONSE:

The APSLMP recognizes existing impoundments as conforming in Wilderness and Primitive areas. The two dams (upper and lower) are located on the Bog River downstream from the Lows Lake Primitive Area and within the Hitchins Pond Primitive Area. The dams are considered to be permanent non-conforming structures under the APSLMP. These dams make it possible to provide a unique recreational opportunity on Lows Lake which are considered to be critical to the maintenance of lake levels and recreational use of the area.

COMMENT:

In order to manage Lows Lake as a wilderness area, the Department must remove the upper and lower dams.

RESPONSE:

Existing dams are classified by the APSLMP as permanent non-conforming structures in the Hitchins Pond Primitive Area.

COMMENT:

The UMP did not require DEC to find a suitable alternative lake for float plane access before excluding float planes from Lows Lake.

RESPONSE:

DEC and APA are committed to jointly develop a study and report which would evaluate and document the historical and cultural significance float planes have had in the Park and make recommendations for the future of float planes in the Park. The study will look at where float planes have historically gone, for what purpose and in what numbers. It will determine how the use and trends have changed over the years and what may offer the best opportunities for future commercial float plane operation in the Park. In addition, this study would provide a broader and more comprehensive evaluation of existing and potential lakes for float plane opportunities in the Adirondack Park than was done previously. This evaluation will go beyond simple analysis of lake size, alternative access and recreational pursuits to include lakes that may require administrative, regulatory or SLMP changes in order to provide attractive float plane opportunities and which minimizes impact on other recreational users. Examples of additional analysis to be undertaken includes but is not limited to, evaluation of water bodies on easement lands for possible float plane use, evaluation of potential to limit motorized access other than float planes from specific water bodies, fisheries management, additional camping opportunities and regulatory restrictions on floatplane operators use of lean-tos. This effort will require significant input from the two (2) remaining float plane operators. The previous proposal contained in the 2002 Unit Management Plan did not require an alternative nor does this study but rather is a good faith effort to find alternatives. Float Plane operations on Lows Lake will cease as of December 31, 2011.

COMMENT:

The APA's 2002 GIS analysis identified 118 lakes and ponds for potential float plane access, and that DEC has not explained why those lakes were not analyzed.

RESPONSE:

See response above.

COMMENT:

One comment opposing the proposed amendment claimed that it will result in significantly greater camping pressure on Lows Lake.

RESPONSE:

As discussed in the SEIS, the proposed amendment will not result in any significant resource impacts associated with use levels. Similar or lower levels of motorized use are expected to occur under more highly regulated conditions for commercial float plane operations.

COMMENT:

The proposed UMP amendment does not assess the carrying capacity of the Five Ponds Wilderness and Lows Lake Primitive Areas to withstand continued floatplane use, as required by the ALSPMP and the LAC provisions of the 2002 Bog River Complex UMP.

RESPONSE:

The Amendment does not propose an increase in the current use of the area. Under the permit conditions it will result in less use of the area by floatplanes during the peak season. The amendment only allows the continuation of floatplanes for a three year period after which access by float planes will be prohibited to the area.

COMMENT:

Alleged economic harm to a private business is not a legal basis for violating the provisions of the APSLMP requiring the elimination of a non-conforming motorized use. UMP Amendments must conform to the APSLMP.

RESPONSE:

Agree. The Department believes the amendment complies with the provision of the APSLMP. Capping the frequency of flights on a monthly and annual basis and by elimination of flights altogether after three years.

COMMENT:

One comment opposing the proposed amendment claimed that float plane companies often “squat” on campsites for an entire season.

RESPONSE:

The Department was unable to verify this claim. Both DEC forest rangers patrolling Lows Lake and the commercial float plane operators denied this has occurred. All users of campsites for longer than three days are required to obtain DEC permits for use of campsites.

APPENDIX C
Lows Lake Visitor Use Study

Previously Distributed to Agency