



**Adirondack
Park Agency**

No Material Increase of Road Mileage on Wild Forest

May 10, 2022

Objective

Interpretation of the Adirondack Park State Land Master Plan by the Agency Board to determine what road mileage constitutes “no material increase.”

Decision Points

1. 1972 Road Mileage Determination
 - What road mileage existed on Wild Forest lands in 1972? What road mileage exists on Wild Forest lands today?

2. No Material Increase Interpretation
 - What mileage increase is allowed without constituting a material increase?

3. Definition of Road Interpretation
 - Does CP-3 mileage meet the definition of road in the APSLMP and therefore require inclusion in the total Wild Forest road mileage calculation?

Adirondack Park State Land Master Plan: No Material Increase of Road Mileage on Wild Forest

No Material Increase of Road Mileage on Wild Forest

Adirondack State Land Master Plan - Introduction:

If there is a unifying theme to the master plan, it is that the protection and preservation of the natural resources of the state lands within the Park must be paramount. Human use and enjoyment of those lands should be permitted and encouraged, so long as the resources in their physical and biological context as well as their social or psychological aspects are not degraded.

Balance of resource protection and human use.

No Material Increase of Road Mileage on Wild Forest

Wild Forest Basic Guideline No. 4:

Public use of motor vehicles will not be encouraged and there will not be any material increase in the mileage of roads and snowmobile trails open to motorized use by the public in wild forest areas that conformed to the master plan at the time of its original adoption in 1972.

Referred to as “no material increase.”

Balance of resource protection and human use.

No Material Increase

Road and Snowmobile Trail Mileage:

- Same no material increase provision
- Snowmobile trail and road provisions generally parallel in APSLMP
 - Except - Snowmobile trails mileage lost in designation of wilderness, primitive, and canoe may be replaced in wild forest
 - No similar provision for road mileage lost

No Material Increase

Roads:

- “Material increase” for roads never formally interpreted by Agency
 - Have not determined 1972 or current miles
 - Have not determined what additional mileage constitutes materiality

No Material Increase

Snowmobile Trails:

- 2008 Agency interpretation of “material increase” for snowmobile trails; resolution dated March 14, 2008
 - Determined miles of snowmobile trails that existed in 1972 (740mi)
 - Determined that >848.88 miles is a material increase
 - Based on trail inventory conducted in the ‘80’s
Represents a 14.7% increase over 1972 mileage
 - Provided interpretation for future allowable snowmobile trail mileage
 - Required UMPs to include table of mileage

Adirondack Park State Land Master Plan: Road Definition

Road

Definition:

an improved or partially improved way designed for travel by automobiles and which may also be used by other types of motor vehicles except snowmobiles, unless the way is a designated snowmobile trail; and is,

(i) **either maintained by a state agency or a local government and open to the general public;**

(ii) maintained by private persons or corporations primarily for private use but which may also be open to the general public for all or a segment thereof; or,

(iii) maintained by the Department of Environmental Conservation or other state agency and open to the public on a discretionary basis.

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Road

Does not include Administrative Roads

- Definition of Administrative Road –
an improved way maintained by the Department of Environmental Conservation for the principal purpose of facilitating administration of state lands or of allowing access for firefighting equipment and not normally open for public use of motorized vehicles. This type of road has been called a State Truck Trail in older editions of this Plan.
- Referred to separately throughout the APSLMP

Road

Motor vehicle use limited to roads:

2. In addition, the use of motor vehicles, snowmobiles, motorized equipment and aircraft will be allowed as follows:

(a) **by administrative personnel where necessary** to [...];

(b) **by the general public, subject to basic guideline 4** set forth above, but only on:

- **existing public roads;**

- **DEC roads now or hereafter designated as open for public use** by motor vehicles by the DEC; and,

- on rivers, lakes and ponds now or hereafter designated by the DEC as suitable for such motorized uses...

Road

Motor vehicle use limited to roads (cont.):

3. The **DEC may restrict**, under existing law and pursuant to authority provided in this master plan, **the use of motor vehicles**, motorized equipment and aircraft **by the public or administrative personnel** where in its judgment the **character of the natural resources in a particular area or other factors make such restrictions desirable.**

CP-3

CP-3

Commissioner's Policy #3: Motorized Access Program for People with Disabilities (MAPPWD)

- DEC-issued temporary revocable permits (TRPs)
 - Provide motor vehicle access to certain State lands under the jurisdiction of the Department
 - For qualified people with disabilities
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- In the Adirondack and Catskill Parks, limited to designated and specifically marked roads on lands classified as Wild Forest and Intensive Use

Galusha Settlement

- Galusha v. NYS Dep't of Env'tl. Conservation et al
US Dist Ct, NDNY, signed July 5, 2001 by Judge Kahn
- Plaintiffs sued under the Americans with Disabilities Act (ADA), seeking motor vehicle access to Forest Preserve
- State affirmed commitment to provide **reasonable access to recreational programs**
- Settlement
 - Capital projects to enhance accessibility, incl. restrooms, campgrounds, trails, boat launches, etc.
 - Open/maintain **listed CP-3 “mileage” or “comparable”**
 - Non-motorized access to Camp Santanoni
 - Training, education, representation

Galusha Settlement - Effect

- The 2001 settlement provided increased access to varied recreational opportunities on Forest Preserve
- The settlement requires DEC to keep listed CP-3 mileage open or, if not approved through UMP process, alternative mileage “comparable, with respect to mileage and program.”
 - Listed CP-3 mileage total 26.04 miles
 - Substitutions have led to a current total of 21.56 miles

CP-3 and Roads

Road as defined by the APSLMP: an **improved or partially improved way designed for travel by automobiles and which may also be used by other types of motor vehicles** except snowmobiles, unless the way is a designated snowmobile trail; and is,

- (i) either maintained by a state agency or a local government and **open to the general public**;
- (ii) maintained by private persons or corporations primarily for private use but which may also be open to the general public for all or a segment thereof; or,
- (iii) maintained by the Department of Environmental Conservation or other state agency and **open to the public on a discretionary basis**.

Agency Interpretation

Determination and Interpretation needed by the Agency Board

1. 1972 Road Mileage Determination
 - What road mileage existed on Wild Forest lands in 1972? What is the existing mileage today?

2. No Material Increase Interpretation
 - What mileage increase is allowed without constituting a material increase?

3. Definition of Road Interpretation
 - Does CP-3 mileage meet the definition of road in the APSLMP and therefore require inclusion in the total Wild Forest road mileage?

Determination and Interpretation- Alternatives

1. 1972 and Present Day Road Mileage Determination
 - Staff have researched and calculated the 1972 mileage and the existing road mileage

2. No Material Increase Limit
 - No material increase alternatives

3. SLMP Road Definition
 - Alternative interpretations of road definition

No Material Increase - Tally

Preliminary mileage tally compiled by DEC and APA staff:

• 1972 road mileage:	211.6 miles
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• 2022 road mileage <u>w/out CP-3</u> :	206.6 miles
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• 2022 CP-3 mileage:	21.6 miles
• CP-3 mileage approved in UMP's but not yet opened:	16.5 miles
• 2022 mileage <u>including total CP-3</u> :	244.7 miles

No Material Increase - Alternatives

- NMI Alternative 1: 15% increase in road mileage
 - Consistent with snowmobile trail NMI interpretation
 - Snowmobile trails and roads treated similarly in APSLMP
- NMI Alternative 2: Increase more than 15%
 - Account for no replacement of mileage closed due to reclassification of wild forest to wilderness, primitive, or canoe
 - Board would have to set percentage or mileage
- NMI Alternative 3: Increase less than 15%
 - Recognize difference in treatment of roads and snowmobile trails in the SLMP
 - Board would have to set percentage or mileage

No Material Increase - Alternatives

Assuming a 15% increase (NMI Alt #1)...

1972 road mileage:	211.6 miles
<u>15% increase:</u>	<u>31.7 miles</u>
Total allowable:	243.3 miles

Alternatives 2 and 3 would result in higher or lower mileages.

Definition of “Road” - Interpretation

- Road Definition Alternative 1 - CP-3 included
- Road Definition Alternative 2 - CP-3 not included
- Road Definition Alternative 3 - Non-Galusha CP-3 included

Definition of “Road” - Alternatives

Road Alternative 1 - CP-3 included:

CP-3 mileage meets the APSLMP definition of a road

- CP-3 holders members of general public
 - Not administrative personnel
- DEC retains discretion over which roads to open under CP-3
- Consistent with the overall goal of the APSLMP to limit roads on Wild Forest
- 15% increase already exceeded
- Today there is more CP-3 mileage than agreed to in Galusha (both actual and approved and not yet open)
 - Access for recreational opportunities can be met

Definition of “Road” - Alternatives

Road Alternative 2 - CP-3 not included:

Not roads under APSLMP definition

- CP-3 holders not general public
- DEC discretion limited by Galusha consent decree
- Provides for accessible recreation opportunities
 - Acquisition of new lands will not create pressure to close CP-3 routes
- Theoretically no limit on CP-3 motor vehicle miles in Wild Forest
- Currently under 15% increase scenario (NMI alternative #1)

Definition of “Road” - Alternatives

Road Alternative 3 - Non-Galusha CP-3 included:

Roads under the APSLMP definition

- CP-3 holders members of public
 - Not administrative personnel
- BUT, DEC may lack discretion to close Galusha roads
- Balances goals of Wild Forest Basic Guideline #4 with aims of ADA
- Maintains at least the CP-3 routes or equivalent recreational activity agreed to in Galusha
- Currently under 15% increase scenario (NMI alternative #1)

Road - Alternatives

Assuming a 15% increase (NMI Alt #1)...

1972 road mileage:	211.6 miles
15% increase:	31.7 miles
Total allowable:	243.3 miles

2022 w/out CP-3 (Road Alt #2): 206.6 miles

- 36.7 miles under allowable mileage

2022 incl. non-Galusha CP-3 (Road Alt #3): 223.1 miles

- 20.2 miles under allowable mileage

2022 incl. total CP-3 (Road Alt #1): 244.7 miles

- 1.4 miles over allowable mileage

Alternatives Scenarios

		Road Definition Alternative		
		#1 - CP-3 included	#2 - CP-3 not included	#3- Non-Galusha CP-3 included
		<i>CP-3 mileage considered roads under SLMP definition</i>	<i>CP-3 mileage not considered roads under SLMP definition</i>	<i>CP-3 mileage generally considered to be roads under SLMP definition, except Galusha routes</i>
NMI Alternative	#1 - 15% increase (Total allowable mileage 243.3 miles)	1.4 miles over allowable mileage; will require closure of some existing roads*; consistent with overall goal of the SLMP to limit roads on wild forest	36.7 miles under allowable mileage; no closure of existing roads needed; encourages more exclusive disability access; acquisition of new lands will not create pressure to close CP-3 routes	20.2 miles under allowable mileage; no closure of existing roads needed; balances goals of wild forest guideline #4 with disability access; maintains at least the CP-3 mileage or equivalent agreed to in Galusha
	#2 - >15% increase (Board must set % or mileage)	May capture existing and future CP-3 mileage; need for closure of existing roads unlikely*; inconsistent with snowmobile mileage interpretation	No closure of existing roads needed; allows additional roads on wild forest in future UMPs; may not retain character of wild forest; inconsistent with snowmobile mileage interpretation	No closure of existing roads needed; allows additional roads on wild forest in future UMPs; may not retain character of wild forest; inconsistent with snowmobile mileage interpretation
	#3 - <15% increase (Board must set % or mileage)	Will require closure of some existing roads*; consistent with overall goal of the SLMP to limit roads on wild forest and different treatment of roads and snowmobile trails in SLMP	No closure of existing roads needed; may be consistent with overall goal of the SLMP to limit roads on wild forest and different treatment of roads and snowmobile trails in SLMP	Existing road closure unlikely (Board would have to set % increase at 5 or less)*; consistent with the overall goal of the SLMP to limit roads on wild forest and different treatment of roads and snowmobile trails in SLMP
*Any new state land acquisitions classified as WF will or may require road closures or not permit WF acquisitions with existing roads.				

Next Steps

- Public comment period
 - Recommend 60-day comment period
- Agency consideration of public comment and deliberation
- Agency interpretation of the APSLMP
 - Determine 1972 mileage and present day mileage
 - Interpret “no material increase”
 - In present time and with current conditions, what constitutes materiality?
 - Interpret what is included as a road for the NMI calculation

Questions and Discussion

Public Comment Period

This presentation is posted on the APA website at:

<https://www.apa.ny.gov/Mailing/2022/05/stateLand.htm>

The Agency will be accepting public comments until July 11, 2022 regarding the interpretation of the State Land Master Plan to determine what road mileage in constitutes “no material increase.”

Comments may be relayed to:

Megan Phillips, Deputy Director for Planning
Adirondack Park Agency
P.O. Box 99
Ray Brook, NY 12977
Phone: (518) 891-4050
Email: SLMP_UMP_Comments@apa.ny.gov
(underscores between the words)