



New York State  
Department of Environmental Conservation

Division of Lands & Forests

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**FINAL ENVIRONMENTAL IMPACT STATEMENT**

**MODIFICATION OF WORKING FOREST  
CONSERVATION EASEMENTS HELD BY DEC ON LANDS  
OWNED BY HEARTWOOD FORESTLAND FUND III, LP**

**Northern Flow Rivers Conservation Easement  
Franklin 231B**

Towns of Waverly, Santa Clara and Duane, Franklin County  
Town of Hopkinton, St. Lawrence County

**Tooley Pond/Santa Clara Conservation Easement  
St. Lawrence 239B & 246B**

Towns of Clifton and Clare  
St. Lawrence County

**Croghan Conservation Easement  
Lewis 207B**

Towns of Croghan and Watson  
Lewis County

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**Date of Acceptance:** July 20, 2011

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**FINAL ENVIRONMENTAL IMPACT STATEMENT**  
**Modification of Working Forest Conservation Easements**  
**Held by DEC on Lands Owned by Heartwood Forestland Fund III, LP**  
Franklin 231B; St. Lawrence 239B & 246B; Lewis 207B

**I. Summary**

This final Environmental Impact Statement (“EIS”) has been prepared to consider and assess potentially significant environmental impacts that may result from a proposal to modify three (3) working forest conservation easements (“Easements”).<sup>1</sup> The Easements are held by The People of the State of New York, acting by and through the Commissioner of the Department of Environmental Conservation (“DEC”). The Easements encumber 110,000 acres of land in the northwestern Adirondack Park and are owned by Heartwood Forestland Fund III, LP (“Heartwood” or “Landowner”). DEC’s authority to modify the Easements derives from New York State Environmental Conservation Law Section 49-0307 (3)(a) and from the Easement terms.

The significant modifications to the Easements being proposed under this action include:

(i) the permanent right to allow Heartwood to retain up to 220 hunting and fishing camps on the Easements, which would otherwise terminate in 2014; (ii) the permanent right to allow Heartwood to lease one-acre privacy areas around each camp (“Camp Envelopes”); (iii) new restrictions to camp structures and camp lessee motor vehicle and motorized vehicle (particularly, ATV) access to each camp; and (iv) a new option for Heartwood to enroll in a third-party sustainable forestry certification program. In exchange of these rights, Heartwood will convey 2,708 acres in fee (all property rights) of certain Easement and unencumbered private lands to The People of the State of New York.

The purpose and potentially significant beneficial impacts identified under the proposed action include: (i) sustained economic viability and long-term, professional forest management of the Easement lands from the additional revenue generation of the camp leases; (ii) enhanced sustainable forestry operations and the potential decrease of state staff time and costs from a new option, allowing Heartwood to enroll the Easements into an approved sustainable forestry certification program; (iii) decreased motorized vehicle use and its associated adverse environmental impacts on the Easements and adjacent Forest Preserve lands from a modification referencing Heartwood’s retained rights as defined under “forest management activities;” (iv) increased stewardship capacity from the continued use of the Easement lands by camp lessees, who remain personally vested in their camps and the property; (v) retention of a long-standing Adirondack cultural and social tradition from the continuation of recreational hunting and fishing camps on the lands; (vi) added protection of and public recreational access to the Northern Flow River Corridors from Heartwood’s conveyance of 2,708 acres of lands to The People of the State of New York; and (vii) alignment with other similar, large working forest conservation easements held by The People of the State of New York.

The potentially adverse environmental impacts identified under the proposed action include:

(i) bacterial contamination of surface water or groundwater from associated camp outhouses; (ii) aesthetic or scenic impacts from the continued existence of camps and associated structures on the Easement lands; (iii) overharvesting of fish and game from the continued use of the Easement lands by camp lessees; (iv) loss of 220 acres of Easement lands from the addition of one-acre “Camp Envelopes” for each of the 220 camps; (v) discouragement of general public recreational use from the continuation

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<sup>1</sup> *“Conservation easement” means an easement, covenant, restriction or other interest in real property, created under and subject to the provisions of this title which limits or restricts development, management or use of such real property for the purpose of preserving or maintaining the scenic, open, historic, archaeological, architectural, or natural condition, character, significance or amenities of the real property in a manner consistent with the public policy and purpose set forth in section 49-0301 of this title, provided that no such easement shall be acquired or held by the state which is subject to the provisions of article fourteen of the constitution.*

of camp lessee use; (vi) potential illegal use of motorized vehicles (particularly, ATVs) by camp lessees and its associated adverse environmental impacts on the Easement lands and adjacent Forest Preserve lands.

Several of the identified adverse impacts were not determined to be significant because they remain consistent with the Easements' continued use and purpose as an active working forest, where sustainable logging continues to take place, established logging roads remain, and where the remaining camps and "Camp Envelopes" are located in very dense proximity with one another, and located along these existing roads.

The potential of the above adverse environmental impacts were weighed against the more modest environmental benefits examined for a "no action" alternative, and where the following adverse economic, cultural, social and environmental impacts were identified: (i) economic losses to Heartwood's commercial working forest revenue, weakening the intention of the Easements' principal objective of perpetuating the long-term, professional management of the forest resources; (ii) increased potential of motorized vehicle use and its associated impacts from a less restricted definition of "forest-management activities" by the "Landowner" as referenced in a footnote; (iii) loss of long-standing Adirondack social, cultural, and economic values; (iv) loss of additional protections and recreational use of a portion of the Northern Flow River Corridors; and (v) the lost opportunity to decrease state costs and staff time.

As concluded, DEC's analysis found the beneficial environmental, economic, social and cultural impacts outweighed the adverse environmental impacts of the proposed action and the "no action" alternative. It's thus DEC's position that the proposed action: (i) supports the "principal objective" of the original Easements, which are to ensure the long-term use and sustainability of the lands as productive working forests, contributing to the State's economy; ii) protects the Adirondack region's unique, natural resource values, and forest-related recreational activities as described under the New York State Open Space Conservation Plan's Working Forest Conservation Easement priority project, which the Easements were acquired under; iii) remains consistent with similar, large working forest conservation easements acquired by the State since this time; and iv) that the loss of 220 acres for camps and related structures will be equally compensated for by Heartwood's conveyance of 2,708 acres of new public lands to The People of the State of New York, of which 562 acres would be permanently protected for the first time.

## **II. Draft Environmental Impact Statement**

A draft EIS (*Appendix A*) for the proposed action was released on November 11, 2009 and subsequently on November 25, 2009, in order to provide additional references. A forty-eight (48) day public comment period was provided, ending on December 28, 2009. Letters and emails received have been reviewed and either addressed by DEC in the *Response to Public Comments Summary (Appendix B)* or within the final EIS.

### **A. Draft EIS Revisions**

***Substantively, the content, evaluations, and determinations remain consistent with the draft EIS. Updated or additional information, references and clarifications added to the draft are noted below and italicized within this final EIS.***

#### **1. Summary & Formatting Outline**

A summary and additional outlining and formatting revisions were added to the final EIS, in order to flesh out the four (4) most significant modifications of the Easements under the proposed action and to assess the environmental impacts of those modifications.

#### **2. Footnotes**

Footnotes have been added to provide references, including references to documents provided in the appendices.

#### **3. New Content**

The following are new sections added to the final EIS that were not in the draft EIS.

**a. III. Background, A.1. New York State’s Working Forest Conservation Easement Program**

**b. III. Background, A.2. Adirondack Park State Land Master Plan**

**c. III. Background, A.5. Adirondack Park Agency Jurisdiction**

**d. IV. Proposed Actions, B.1. Restrictions on Motor Vehicles & All-Terrain Vehicles**

*This section explains a footnote clarification to a term used throughout the original conservation easements, which was addressed in the draft EIS as an administrative and clerical modification in the Background section (III); and indirectly referenced in the Beneficial Impacts section (VI.A.). The correction to the footnote is further emphasized in this final EIS because of its potential to reduce the illegal use of motor vehicles and all-terrain vehicles on the Easement lands.*

**e. VIII. Mitigation Measures, B. Adirondack Park Agency Agreements**

**f. VIII. Mitigation Measures, C. DEC Monitoring & Enforcement**

*Under section VIII, Mitigation Measures to Avoid or Minimize Potential Adverse Impacts, a new section C was added to provide further explanation of DEC’s working forest conservation easement baseline monitoring and enforcement system, which was briefly referenced in the draft EIS.*

**g. VIII. Mitigation Measures, D. DEC Public Recreation Management Plans**

*During the public comment period, DEC received questions on roads that would be open to public motorized vehicle use on the Easement lands and the need for the final EIS to evaluate the potential impacts of illegal motor vehicle and all-terrain vehicle use by camp lessees remaining on such lands. Though the planning for public recreational facilities and management on working forest conservation easements managed by DEC remains a separate process, this section was added to the final EIS to address this question and to explain the various factors, scope of planning and review DEC undertakes when planning for public recreation on such easements where public recreational rights are acquired.*

**4. Appendix**

The appendix to the draft EIS has been expanded to provide additional documents referenced in the final EIS, in addition to DEC’s *Response to Public Comments Summary* and *Record of Public Comments* (Appendix C).

**III. Background**

DEC holds three (3) working forest conservation easements that permanently restrict land use and development on approximately 110,000 acres of privately owned, forest lands in Franklin, St. Lawrence, and Lewis Counties (*Appendix D*). The Easement lands were formerly owned by Champion International Corporation (“Champion”) and were granted to The People of the State of New York by The Conservation Fund on June 30, 1999. The current landowner of the Champion International property is Heartwood Forestland Fund III, LP, who is legally responsible for upholding the terms and conditions of the Easements.

**A. 1999 Champion International Conservation Easements**

**1. New York State’s Working Forest Conservation Easement Program**

*Private forestry is a practice that remains one of New York’s long-standing, natural resource-based industries.*

*“With the trend in the last 20 years of major forest product industries selling off large tracts of their land-holdings to private timber investment companies, sustaining New York’s commercial forest industry and the substantial values provided by our state’s forests has become a primary focus of New York’s open space conservation efforts.”*

*“The objective of the State’s Working Forest Conservation Easement Program is to allow the purchase of easements over productive forest land so that landowners are paid to limit their right to develop their land, while retaining it as private property*

*dedicated to resource use.”<sup>2</sup>*

*Since 1999, New York’s Working Forest Conservation Easement program has ensured the future protection of over 700,000 acres of New York’s private forests within in the Adirondacks from potential subdivision, while at the same time supporting the use of the property for long-standing commercial timber production which has long contributed to the State’s economy.*

## **2. Adirondack Park Agency Act, enacted in 1973**

*The Adirondack Park Agency Act (“Act”), Section 801, Article 27 of the New York State Executive Law, recognizes the importance of private lands within the Adirondack Park:*

*“In the past, the Adirondack environment has been enhanced by the intermingling of public and private land. A unique pattern of private land use has developed which has not only complemented the forest preserve holdings but also has provided an outlet for development of supporting facilities necessary to the proper use and enjoyment of the unique wild forest atmosphere of the Park.”<sup>3</sup>*

*The Adirondack Park State Land Master Plan developed pursuant to Section 805 of this Act recognizes:*

*“11. Due to the importance of the forest products industry to the economy of the Adirondack region, bulk acreage purchases in fee should not normally be made where highly productive forest land is involved, unless such land is threatened with development that would curtail its use for forestry purposes or its value for the preservation of open space or of wildlife habitat. However, conservation easements permitting the continuation of sound forest management and other land uses compatible with the open space character of the Park should be acquired wherever possible to protect and buffer state lands.”<sup>4</sup>*

## **3. Acquisition of Working Forest Conservation Easements**

*In 1999, The Conservation Fund purchased certain development and recreation rights from Champion to help ensure the future protection of the State’s forest resources and public access to the remote Northern Flow River Corridors. Shortly thereafter, The Conservation Fund conveyed the three conservation easements to The People of the State of New York, making it one of the State’s largest land acquisition and conservation easement transactions at that time.*

## **4. Protection of the Northern Flow River Corridor - Lands Acquired by The People of the State of New York for Addition to the Forest Preserve**

*The acquisition of the Easements by The People of the State of New York was accompanied by the purchase of full property rights (fee title) on approximately 29,000 acres, which was added to the State Forest Preserve. The lands were acquired to protect significant water resources including the Deer River, East and Main Branches St. Regis River, Long Pond Outlet, South Branch Grasse River, and West Branch Oswegatchie from future development and timber management. An approximate ¼ mile (1,320 feet) setback was acquired along portions of each riverbank. The “Fee lands” encompass the primary recreational water resources formerly owned by Champion International, including land along the Northern Flow River corridors and other ecologically sensitive areas.*

## **5. Adirondack Park Agency Jurisdiction**

*The Adirondack Park Agency Act, Article 27 of New York State Executive Law, provides the Adirondack Park Agency (“APA”) with the responsibility for maintaining the protection of the Adirondack Park, and overseeing development proposals of privately owned lands within the Adirondack Park boundary, through the exercise of powers and duties provided by this Act. The*

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<sup>2</sup> 2009 New York State Open Space Conservation Plan. New York State Department of Environmental Conservation. p. 44.

<sup>3</sup> Adirondack Park State Land Master Plan. New York State Adirondack Park Agency and New York State Department of Environmental Conservation. 1987. Revised 2001. p. 3

<sup>4</sup> See footnote (3); p.7.

proposed action involving privately owned lands within the Adirondack Park therefore falls under APA's jurisdiction and as such, APA is an Involved Agency pursuant to SEQR (6 NYCRR § 617) for the proposed action.

**a. APA Enforcement Settlement Agreement E99-025**

Many issues related to the original acquisition project, including non-compliance with three state laws administered by APA, the APA Act, the Freshwater Wetlands Act and the Wild Scenic and Recreational Rivers Act, and their implementing regulations were identified in the APA Enforcement Settlement Agreement. Corrective actions for camps on the Easement lands were premised on the fact that camps were to be removed after 15 years. Accordingly, to implement the proposed modifications to the Easements and allow the camps to permanently remain, certain provisions of the Settlement Agreement needed to be amended by APA and Heartwood (Appendix E).<sup>5</sup>

On December 2, 2010, APA, DEC and Heartwood signed a "Revised Agreement with Respect to Violations (APA Enforcement File E99-025) (Appendix F).<sup>6</sup> If the camps are to remain on the Easement lands under the proposed Easement modifications, the revised agreement requires remediation on existing camps in violation of state laws administered by APA. The Revised Agreement also allowed the processing of a new APA project application by Heartwood, explained below.

**b. APA Project Permits 98-313 & 2010-298**

Since the proposed modifications to the Easements constituted a material change in Heartwood's existing APA Project Permit 98-313 (Appendix G), Heartwood was required to apply for a new permit from APA to address the following changes: i) to permanently retain up to 220 hunting camps; ii) to set aside one-acre camp envelopes for each camp, along with access routes; iii) to subdivide a 4,655 acre "S-4" forestry management tract, in order to convey a 2,146 acre portion of the tract situated northeast of the Deer River to The People of the State of New York, in exchange for retaining the camps; and iv) update the deadline for completion of any remediation or other compliance actions, in addition to other project components.

On April 20, 2011, APA issued Project Permit 2010-298 (Appendix H) to Heartwood for the above changes. In their "Summary Evaluation of Agency Approval Criteria" (paragraphs 72 - 77, pg. 39), APA concluded that the proposed modifications to the Easements:

- i. to allow the hunt clubs/camps to remain is consistent with the historic use of the timber management lands and is compatible with the "character descriptions" and "purposes, policies and objectives" for Resource Management and Rural Use lands under section 805 (3) (f) and (g) of the Adirondack Park Agency Act;
- ii. provides further protection of open space resources on these land use areas, while allowing for the continuation of forest management and hunting and fishing cabin uses, which are listed as compatible uses in section 805 (3);
- iii. hunting and fishing cabins (camps) are grouped along existing roads and trails and are of a very limited density and one acre privacy areas surrounding each camp are predominately located within areas already disturbed by roads and trails (with no new roads and trails being proposed as part of this project), satisfies APA Act section 809 (10) regarding consistency and compatibility of project proposal;
- iv. allowance of one acre privacy areas for up to 220 camps would account for a total of 220 acres out of 110,000 acres or less than two tenths of 1% would be restricted from public access under the proposed Easement modifications; and

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<sup>5</sup> APA Staff Comments on Draft Environmental Impact Statement (Proposal to Modify Working Forest Conservation Easements, former Champion Lands now owned by Heartwood Forestland Fund III, LP); December 21, 2009. (Appendix E)

<sup>6</sup> Revised Agreement with Respect to Violations (APA Enforcement File E99-025); December 2, 2010. (Appendix F)

- v. *would result in significant protection of historic, recreational and open space resources, with the potential for only limited impacts to open space throughout the three large tracts.*<sup>7</sup>

*Additionally, APA acknowledged the State's 1999 acquisition of Fee lands along the five designated rivers and added to the State Forest Preserve "...protected key wildlife, ecological, recreational and open space resources;"<sup>8</sup> and where "...these "Fee land" one quarter mile wide corridors provide exemplary protection for river waters."<sup>9</sup>*

#### **B. Principal Objective of Heartwood Easements**

The Easements are referred to as working forest or sustainable forestry conservation easements because they are designed and written specifically to protect private forest land that are actively managed for timber or other marketable forest products. The primary purpose of the Easements is to maintain and support the long-term use and availability of these lands for sustainable forest management, in a way that is economically viable and avoids or minimizes negative impacts to water quality, soil productivity, sensitive species or biological communities, and other natural resources on the Easement lands. The secondary and tertiary purposes of the Easements are to protect or enhance wildlife habitat and to provide opportunities for public outdoor recreation.<sup>10</sup>

#### **C. Rights & Provisions of Heartwood Easements**

The original Easements have many terms, conditions, and provisions that prohibit or limit commercial development and other land uses, while still retaining the commercial forestry uses or rights of the Landowner and providing new public recreational rights to The People of the State of New York. The following are the four (4) significant terms, conditions, and rights of the Landowner as described in the 1999 Easements, which would be affected by the proposed modifications of the Easements.

- 1. Termination of Camp Lease Rights & Removal of Camps.** Landowner's right to lease the Easement lands and 220 traditional hunting and fishing camps on such lands to private individuals and clubs until June 30, 2014, a period of fifteen (15) years from the signing date of the Easements on June 30, 1999; and the Landowner's responsibility to remove all hunting and fishing camps related to the termination of the camp leasing right within three (3) years of the June 30, 2014, camp leasing termination date.
- 2. Motorized Vehicle Use Rights.** Landowner's discretion to permit camp lessees, guests, or others to use motorized vehicles, including all-terrain vehicles (ATVs), on any roads and trails on the Easement lands.
- 3. Sustainable Forestry Operations.** Landowner's development of a forest management plan approved by DEC.
- 4. Exclusive Hunting Rights.** Landowner's exclusive hunting rights which permits the Landowner to prevent public access to and use of the Easement lands during the period of September 1 through December 31 each year, until June 30, 2014.

#### **IV. Proposed Action**

The proposed action is to modify certain terms, conditions, restrictions, and rights of the Easements. *These modifications (Appendix I) support the purposes of the original Easements and focus on the four (4) significant provisions of the original Easements' terms, described above in section III.C.*

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<sup>7</sup> APA Project Permit 2010-298; April 20, 2011. (Appendix H)

<sup>8</sup> See above footnote (7); p. 40; paragraph 77.

<sup>9</sup> See footnote (7). p. 34; paragraph 59.

<sup>10</sup> Proceeding 5963; Champion/Northern Flow Rivers ("Santa Clara") Tract; Franklin 231B; Franklin Co. - Liber 726 at Page 129; Recorded on July 1, 1999. Proceeding 10088; Champion/Tooley Pond Tract; St Lawrence 239B; Champion/ Santa Clara Tract; St. Lawrence 246B; St. Lawrence Co. - Instrument No.1999-00013119 4 of 83; Recorded on July 1, 1999. Proceeding 10001; Croghan Tract; Lewis 207B; Lewis Co. - Liber 643 at Page 190; Recorded on July 1, 1999. (Appendix D)

## A. Retention of 220 Hunting & Fishing Camps

1. **Camp Lease Agreements.** Landowner's right to enter into exclusive private posting lease agreements on the Easement lands until June 30, 2014 will be terminated, and replaced with the long-standing right of the Landowner and any future landowner to lease no more than 220 traditional hunting and fishing camps.<sup>11</sup>
2. **Recreation Camp Envelopes.** Each camp will be allotted a one-acre surrounding area of land (referred herein as "Camp Envelope") which will contain all camp buildings and other camp improvements, e.g., outhouses, sheds, etc., which may be posted by camp lessees to restrict public access from the Camp Envelopes only.<sup>12</sup>

## B. Restrictions on Motor Vehicle & Motorized Vehicle Use

1. **Footnote Correction.** *A footnote defining "forest-management activities," which includes "forest-related recreational activities," was modified to ensure that any motorized recreational activities reserved by the Landowner would not be extended to the Landowner's lessees, invitees, contractors, agents or assigns.*<sup>13</sup>
2. **Motor Vehicle Restrictions.** Use of passenger cars, trucks, and snowmobiles, not including ATVs, by camp lessees will be limited to only designated routes and designated routes open to the general public for certain motor vehicle use on the Easement lands, which will be agreed upon by the Landowner and DEC.<sup>14</sup>
3. **Motorized Vehicle Restrictions.** Use of motorized vehicles, specifically ATVs, by camp lessees will be limited to only certain, specific access routes ("Camp Access Routes") to and from each Camp Envelope, which will be agreed upon by the Landowner and DEC; and where such use of ATVs may only be during times of the year when these routes are inaccessible with larger passenger vehicles, i.e., "mud season."<sup>15</sup>

## C. Sustainable Forestry Certification

Landowner will be provided a new forest management option, giving them the choice to either have a DEC approved forest management plan or to enroll and maintain the Easement lands in an approved sustainable forestry certification program, which will require annual inspections of the Easement lands with independent auditors and audit reports provided to DEC.<sup>16</sup> This option has been provided in similar, large working forest conservation easements, acquired by the State and managed by DEC, since this time.

## D. Termination of Exclusive Hunting Rights

Landowner's exclusive hunting rights reserved from September 1 to December 31 each year until June 30, 2014 will be terminated, granting The People of the State of New York full year-round public recreation rights on the Easement lands.<sup>17</sup>

## E. Clerical & Administrative Revisions

Additional clerical and administrative revisions will be part of the proposed modifications in order to make the Easements' terms consistent with the proposed changes and more consistent with recent working forest conservation easements acquired by The People of the State of New York. These

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<sup>11</sup> Modification Ten (10). Proposed Conservation Easement Modification: Franklin 231B Northern Flow Rivers; St. Lawrence 239B & St. Lawrence 246B Tooley Pond & Santa Clara Tracts; Lewis 207B Croghan Tract. (*Appendix I*)

<sup>12</sup> Modification Eight (8). See footnote (11).

<sup>13</sup> Modification Fifteen (15). See footnote (11).

<sup>14</sup> Modification Thirteen (13) (c). See footnote (11).

<sup>15</sup> Modification Thirteen (13) (e). See footnote (11).

<sup>16</sup> Modification Ten (10) (b). See footnote (11).

<sup>17</sup> Modification Seven (7). See footnote (11).

revisions include: i) update of clause relating to the demolition and removal of deteriorating structures; ii) update of DEC contact and address information; and iii) update of indemnification clause to provide DEC and The People of the State of New York greater liability protection. All other terms, conditions, restrictions, and rights described in the original Easements will remain unchanged.<sup>18</sup>

## **V. Purpose & Anticipated Benefits of Proposed Action**

### **A. Purpose of Proposed Action**

#### **1. To Support the Easements' Long-Term Working Forest Objective**

One of the main purposes of the proposed modifications is to support the principal objectives of the original Easements, which is:

*"...to perpetuate, as a sustainable working forest, the productive forest resources on the Easement lands; to encourage the long-term professional management of those forest resources; and to facilitate the biologically and economically sustainable production of forest resources while minimizing the impacts on water quality, scenic benefits, wildlife habitat, recreational and other values."<sup>19</sup>*

Permitting the continuation of camp leasing by Heartwood is consistent with and supportive of the primary purpose of the original Easements, *"to encourage the long-term professional management of those forest resources,"* as private recreation leasing is a significant component of the Landowner's sustainable working forest business formula. Since 1999, DEC has entered into similar, large sustainable working forest conservation easements where the landowner maintains their camp leasing right. Such leasing programs are an added component that supports the economic viability of sustainable forestry operations on the State's largest working forest easement lands and which are compatible with the State's ongoing Working Forest Conservation Easement Program.

#### **2. To Support Recreation Suitable on Working Forest Easements**

The second purpose supports the third objective of the original Easements', which is:

*"...to provide opportunities for public recreation in a manner that is consistent with the forest management and resource conservation purposes."<sup>20</sup>*

*A majority of camp lessees are state citizens who hold long-standing family traditions and gatherings at these camps. The predominant recreational use of the Easement lands continues to be for hunting and fishing purposes by camp and club lessees. The remoteness of the Easement lands, the long-standing history of camp and club leases in addition to the lands remaining active working forests, all contribute to the lands being suitable for camp and club recreational use.*

The original 1999 agreement to remove the camps after a fifteen (15) year period was met with strong public sentiment that was and continues to be expressed in support of the continuation of camp leasing on the Easement lands.

#### **3. Restrictions on Motorized Vehicles**

*The original Easements provide a "Declaration of Restrictions" which restricts certain rights being retained by the Landowner. These restrictions address the use of motorized vehicles by the Landowner for "forest management" activities. A footnote is provided to define "forest management," which term includes forest-related recreational activities. Currently, the definition of the term reserves to the Landowner forest-related recreational activities, including motorized activities, which may inherently be extended to the Landowner's lessees, invitees, contractors,*

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<sup>18</sup> Modification Twelve (12), Fourteen (14), and Sixteen (16). See footnote (11) reference.

<sup>19</sup> See footnote (10).

<sup>20</sup> See footnote (10).

agents and assigns.<sup>21</sup> The footnote was modified accordingly to ensure that these rights are not extended beyond the Landowner of its successors.<sup>22</sup>

In addition, camp lessees currently are permitted unrestricted motorized vehicle use, including ATVs, on all roads and trails within their posting lease with any occurrences of damage and degradation addressed by Heartwood on a case-by-case basis. The proposed modifications would place new restrictions on Heartwood's capability to allow certain motorized vehicle use on the Easement lands by camp lessees.

## **B. Anticipated Economic, Social, Cultural & Environmental Benefits of Proposed Action**

The following are the anticipated economic, social, cultural and environmental benefits expected from the proposed modifications, which would provide additional benefits and assurances to The People of the State of New York.

### **1. Retention of 220 Hunting & Fishing Camps**

In addition to the above benefits to The People of the State of New York, the following benefits have been identified for the retention of 220 hunting and fishing camps alone.

#### **a. Economic Component of New York's Sustainable Working Forestry Industry**

Retention of camp leasing rights by Heartwood will help to make the sustainable forestry use of the Easement lands more economically viable, which in turn protects local jobs and commerce related to the sustainable forest products industry in northern New York.<sup>23</sup>

#### **b. Economic, Social & Cultural Benefits for Surrounding Adirondack Communities**

Economic benefits provided by clubs and camp lessees to the surrounding local communities, including local tax revenue generated by the lease camps, which amounted to approximately 2% or approximately \$176,000 of the total assessed value of the Champion International lands in 1999. In addition, clubs and camp lessees will continue to provide customers for local businesses and will continue to contribute significantly to the long-standing social, cultural, and recreational benefits of the surrounding Adirondack communities.

#### **c. Additional Recreational Means**

Camp leases provide an additional means for individuals to access and use the Easement lands for hunting, fishing and other outdoor recreation purposes. *Retention of these camps will continue to provide a traditional recreational experience option for state and out-of-state residents, who maintain long-term family ties and traditions on these lands, while providing "...opportunities for public recreation in a manner that is consistent with the forest management and resource conservation purposes..."*<sup>24</sup> of the Easement lands as they have for over the last 100 years.

#### **d. Stewardship of Easement Lands**

Hunting clubs and families have leased the camps on the Easement lands for decades and hold a personal knowledge of, attachment, and investment in these lands. This personal investment provides The People of the State of New York additional stewardship on extensive areas of remote lands in the Adirondacks. As a consequence, they have become the eyes and ears on the Easement lands for DEC and Heartwood.

#### **e. Continuation of a Long-standing Cultural & Social Tradition**

The retention of the camps would allow state residents and visitors to participate in and enjoy local hunting and fishing clubs and recreation camps in the Adirondack region, where

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<sup>21</sup> See footnote (10).

<sup>22</sup> Modification Fifteen (15). See footnote (11).

<sup>23</sup> "Hunting Camp," Dave Mance III. Northern Woodlands. Autumn 2008.

<sup>24</sup> See footnote (10).

the use of camps remain to be an accepted traditional and cultural use of large, remote, privately-owned and managed forest lands.

**f. Protection of Northern Flow River Corridors**

In exchange for providing Heartwood the long-standing right to lease up to 220 hunting and fishing camps that would otherwise end in 2014, Heartwood will convey certain parcels of their land in fee (all property rights) to The People of the State of New York (*Appendix J - Map of Heartwood Lands to be Transferred to The People of the State of New York*).

- 1) **2,146 acres within the Adirondack Park**, currently part of the Northern Flow Rivers Tract (*herein referred as, "Santa Clara Tract"*) Easement lands, will become part of the Forest Preserve. All remaining rights on these lands will be transferred to The People of the State of New York and will be added to the Forest Preserve, located adjacent to the recently classified Deer River Primitive Area, a valuable public recreational and ecological resource.
- 2) **562 acres of currently unencumbered Heartwood property with 4,800 foot frontage along the Deer River and just outside the Adirondack Park** will be added to State Forest lands. Under State Forest designation, the land will be managed according to DEC sustainable forestry practices and open to the public for outdoor recreational use.

**g. Recreational Access to Northern Flow Rivers**

New land parcels conveyed in fee to The People of the State of New York will provide public access to a previously inaccessible parcel of detached Forest Preserve that will become available to the public for hunting, fishing, camping, and other outdoor recreation.

**h. Equal Support for New York's Sustainable Forest Industry Landowners**

Perpetual continuation of camp leasing on the Easements would be consistent with similar and more recent working forest conservation easements negotiated and acquired by The People of the State of New York, and which DEC and the public have found to be acceptable both economically, socially, and ecologically in supporting the goals of private working forest landowners and the State's Working Forest Conservation Easement program.

**2. Restrictions on Motorized Vehicle Use**

*The proposed modifications clarify an existing footnote referencing forest-related recreational activities, including the use of motorized vehicles, along with several new restrictions on motor vehicle and motorized vehicle (including ATVs) use by camp lessees on the Easement lands.*

**3. Potential Decrease In State Costs & Staff Time**

Heartwood will have a second option to either continue with a DEC approved forest management plan based on sustainable forestry standards provided for in the original Easements, along with on-going DEC forestry monitoring, or they can enroll in an approved sustainable forestry certification program. *Under the certification program, a professional auditing entity, approved by DEC, will provide independent monitoring and supervision of Heartwood's forestry operations on the Easement lands, including physical inspection and verification of sustainable forestry practices, as set forth in the Easements.<sup>25</sup> The auditing entity's objective is to ensure Heartwood is upholding the sustainable forestry principals of the certification program and the principal sustainable forestry objective of the Easements. This option provides additional "green" marketing benefits to Heartwood, while at the same time, reducing DEC staff time and costs associated with monitoring the forest management operations on the Easement lands.*

**4. Year-round Public Access to Easement Lands before 2014**

Prior to the original opening of full public recreation rights on June 30, 2014, Heartwood's exclusive hunting right will be terminated and year-round public access and recreational use of the Easement Lands, including hunting during the Big Game Season which is anticipated to be

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<sup>25</sup> Modification Ten (10). See footnote (11).

the primary public outdoor recreational use of the Easement lands, will be opened. Heartwood will give up their exclusive hunting right within one (1) year of receiving APA, Project Permit 2010-298 (April 20, 2011), provided the amendment is consummated prior to that date.

**C. Exchange of Rights between The People of the State of New York & Heartwood**

The permanent continuation of the right to lease hunting and fishing camps to individuals and clubs is a financial benefit to Heartwood. Detailed real estate appraisals are conducted by DEC to determine the exact acreage of fee land to be conveyed and to ensure an equal real property exchange between Heartwood and The People of the State of New York. *Appraisals conducted by DEC and the agreement contract to amend the conservation easements must also be reviewed and approved by the State's Attorney General and Office of the State Comptroller consistent with state law and before an exchange can occur.* If approved, the measurable real estate values of transferring full fee title and rights on 2,708 acres of land will be an immediate and direct benefit to The People of the State of New York, *of which 562 acres will be permanently protected for the first time.*

**VI. Environmental Setting & Land Use**

**A. Regional Overview of Easement Lands**

The three (3) working forest conservation easements involved in the proposed action each pertain to geographically separate blocks of land located in the northwestern section of the Adirondack Park, lying in portions of eight towns in Franklin, St. Lawrence and Lewis Counties. The three (3) tracts of forest lands, currently owned by Heartwood are identified as the Santa Clara Tract (or "Northern Flows River Tract"), encompassing approximately 72,000 acres located in the Town of Hopkinton in St. Lawrence County, and the Towns of Waverly, Santa Clara and Duane in Franklin County; the Tooley Pond Tract, encompassing approximately 24,000 acres located in the Towns of Clifton and Clare in St. Lawrence County; and the Croghan Tract, encompassing approximately 13,000 acres located in the Towns of Croghan and Watson in Lewis County. (*Appendix K - Map of Heartwood Easement Lands*)

**1. Geographic Features**

***Low Elevation Boreal Forest & Northern Flow River Corridors***

The Easement lands are entirely within the Adirondack Mountain region *and part of the Low Elevation Boreal Forest, discussed in the regional priority conservation projects section of the 2009 New York State Open Space Conservation Plan.*<sup>26</sup> *The Low Elevation Boreal Forest area within the Adirondack Park consists of a combination of spruce-fir forest and wetlands more common of areas much farther north.* The area in which these lands are located is not as mountainous as in the central and eastern Adirondack region, but rather is more generally characterized as having rolling hills that are interspersed with several significant north flowing rivers, *known as the Northern Flow River Corridors. This area has been identified as a regional priority project since the original 1992 New York State Open Space Conservation Plan and includes the Deer, St. Regis, Grasse, Oswegatchie, Raquette and Little Rivers Corridors, in addition to several ponds, lakes, and large wetlands.* Glacial characteristics are predominant such as gently curved ridges and valleys, long winding eskers, and numerous lakes, ponds, and wetlands. The significant forest lands are composed primarily of northern hardwoods, with some conifer stands, including boreal forest types in proximity to the many wetlands. Wetlands, water bodies, forest access roads, and log landings break the forest cover frequently.

**2. Forest Species**

Because the Easement lands are actively managed for timber, a significant acreage of trees is comprised of younger age classes in comparison to the adjoining Forest Preserve. This pattern of managed and preserved forests across the landscape provides a mix of habitat types that benefits a greater diversity of plant and animal species. For example, it is expected that over time

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<sup>26</sup> 2009 New York State Open Space Conservation Plan. DEC. p. 96.

shade intolerant species such as white ash and black cherry will decrease within the Forest Preserve as the forest progresses in age to a *“late successional” forest, escaping disturbance for long periods*. However, these species should remain a viable component of the adjacent Easement lands where openings in the forest canopy created through harvesting are more common than openings created naturally.

### **3. Historic Use of Easement Lands**

The Easement lands have served as working forests for commercial timber production since the early 1900's, first by the St. Regis Paper Company and later by Champion International Corporation. Today, the lands continue to be used by Heartwood for commercial forestry operations, and secondarily for a variety of outdoor recreational activities by both private hunting and fishing leaseholders and the general public. Both companies have leased exclusive hunting and fishing rights on portions of the Easement lands and have permitted lessees to erect camp buildings. Prior to acquisition of certain rights on the Easement lands by The People of the State of New York, recreational use of these lands was limited to leaseholder hunting and fishing clubs and guests of the landowner for the last 100 years, with no general public access allowed.

### **4. Relation to Adjacent or Nearby Forest Preserve**

The three tracts subject to the proposed action are located adjacent to various Forest Preserve parcels, which are managed by DEC (*see section VI.B. below for a description of each Tract*). The proximity of the Easement lands to adjacent Forest Preserve lands in the area ranges from parcel contiguity to separations of several miles. The Easement lands are continually being managed for forest products; and in cases where Easement and Forest Preserve lands are contiguous or nearby, logging operations and road construction activities may be seen or heard by public recreationists using the Forest Preserve. In addition, legal motor vehicle access to nearby or contiguous private in-holdings, coupled with deeded permanent and reciprocal easements, giving Heartwood rights of motor vehicle use and maintenance across existing Forest Preserve roads leading to the Easement lands, may further contribute to ambient noise and odor levels that affect the Forest Preserve recreational experience. These activities will not change with the proposed modifications and Forest Preserve recreationists in the area should continue to expect a recreation experience that may be minimally impacted by such activities, as they have in the past.

### **5. Recreational Use of Easement Lands**

#### **a. Private Use**

Current private recreational use of the Easement lands includes camp/cabin camping, hunting, fishing, snowmobiling, and the use of ATVs to access lease areas. The primary recreational use of the Easement lands has historically been for big game hunting of deer. Much of the recreational use intensity on the Easement lands is largely dependent on the written lease agreements governing each individual camp or club lease. Since 1999, the original Easements have required camp lessees to establish and post one-acre “Recreation Camp Envelopes” that do not conflict or interfere with legal property lines or adversely impact permitted public use.

#### **b. Public Use**

Permitted public recreational use of the Easement lands includes snowshoeing, cross-country skiing, fishing, trapping, canoeing, kayaking, swimming, wildlife observation, and limited hunting (small game only, as permitted from January-August, until 2014). Snowmobile trails open to the public have been maintained on the lands long before the establishment of the 1999 Easements and continue to be a public recreational resource. Under the Easement terms, public hunting on the Easement lands is prohibited during the period of September 1 through December 31, with all public use of the lands prohibited during the Northern Zone Whitetail Deer Rifle Season (a subset of the full Northern Zone Big Game Season) until June 30, 2014; with the exception of certain designated Rifle Season Public Access Corridors that the public may travel on year-round to access the adjacent Forest Preserve.

As the Easement lands are a productive timber resource for The People of the State of New York, the public recreational experience on these lands varies significantly from the recreational experience within the surrounding Forest Preserve, where people tend to seek a quieter, more primitive wilderness experience. Though a wide range of public recreational uses have been acquired by The People of the State of New York, and are permitted on the Easement lands, recreational use of the lands continues to be primarily by camp and club lessees for hunting and fishing purposes. All general public and camp lessee recreational activities on the Easement lands are required to be consistent with existing laws and regulations, such as state regulations governing hunting, fishing, and trapping (*Appendices M - Q provides additional information on public recreation planned on each of the three (3) tracts*).

## **6. Existing Infrastructure**

### **a. Camps**

*Currently, there are a total of 208 camps with associated structures, e.g., sheds, outhouses, being leased on the three Easement tracts (Appendix L - Photos of Camps).*

### **b. Network of Logging Roads**

Existing infrastructure on the Easement lands includes a large network of logging roads and skid trails with their associated gates, culverts, bridges, log landings, and sand/gravel pits, as well as the hunting and fishing camps used by private lease-holders. All camp buildings and other structures have been inventoried and building footprints established *and entered into DEC's Conservation Easement Baseline Monitoring system, described in section VIII.C.* Interior access to the Easement lands is provided by more than 500 miles of improved or partially improved gravel roads developed for logging and accessing lease camps. Internal roads and access lanes range in character from dirt skid trails and so-called "winter roads" (roads created solely for the use of logging vehicles and machinery on frozen surfaces) to well developed and maintained gravel haul roads.

## **B. Description of Tracts**

Each of the three Easement tracts, Northern Flow Rivers (*now commonly referred to as "Santa Clara"*), Tooley Pond and Croghan, are subject to the terms and provisions of the original Easements and contain natural resources and recreational opportunities of significant value to The People of the State of New York. Descriptions of each tract are summarized below.

### **1. Santa Clara (Northern Flow Rivers) Tract**

The Santa Clara Tract is the largest of the three tracts, comprising more than 72,000 acres near the hamlet of Santa Clara in west-central Franklin County. The Santa Clara Tract encloses State Forest Preserve lands along the Deer River and the East and Main Branches of the St. Regis Rivers, and in the Madawaska Pond and Quebec Brook areas. The enclosed Forest Preserve parcels are classified as Primitive and Wild Forest, and are managed as part of the Debar Mountain Wild Forest Unit. The largest contiguous block of the Debar Mountain Unit lies east of the Santa Clara Tract's eastern boundary along NYS Route 30. The terrain of the Santa Clara Tract is moderate consisting of low rolling hills and mountains and is covered by a mix of northern hardwood and softwood forest types. Fish and wildlife are typical of the northern Adirondacks with known populations of spruce grouse; bald eagle, peregrine falcon, three-toed woodpecker and common loon have been identified on or adjacent to the Santa Clara Tract.

Three classified rivers bisect the Santa Clara Tract: i) the Main Branch of the St. Regis River, classified as a "Recreational River"; ii) the East Branch of the St. Regis River, classified as a "Scenic River"; and iii) the Deer River, classified as a "Scenic River." River corridors range from meandering broad streams to narrow rock-filled channels with steep rapids and falls. There are numerous other streams, ponds, bogs, and wetland areas, giving the area a wild, boreal character.

### **2. Tooley Pond Tract**

The Tooley Pond Tract comprises approximately 24,000 acres in the Towns of Clare and Clifton in south-central St. Lawrence County. Elevations range from 840 feet above sea level near Degrasse to

1,780 feet above sea level on top of Tooley Pond Mountain. The defining geographic feature of the Tooley Pond Tract is the meandering 16-mile stretch of the South Branch of the Grasse River, which is encompassed by a ribbon of State Forest Preserve, bisecting the Easement lands. As with the Santa Clara Tract, the Tooley Pond Tract is covered by a mix of northern hardwood and softwood forest types; and fish and wildlife are typical of the northern Adirondacks with known populations of spruce grouse, bald eagle, peregrine falcon, three-toed woodpecker and common loon, have been identified on or adjacent to the Tract.

### **3. Croghan Tract**

The Croghan Tract comprises just over 13,000 acres in the Towns of Croghan, Diana, and Watson in Lewis County. The Croghan Tract lies in a transitional area between the primarily agricultural area of the Black River valley to the west and the more remote and higher elevation area of the Adirondack Mountains to the east. Forest Preserve lands border the eastern boundary. The Tract contains 2,295 acres of classified wetlands, amounting to approximately 17.5% of the total tract acreage. Sugar maple, American beech, and yellow birch are the most prevalent hardwood species, while red spruce, hemlock, and balsam fir represent the majority of the softwood component. Softwoods are dominant in forested wetlands, which resemble boreal forests commonly found farther north, and which contain species such as tamarack and black spruce. Wildlife present in the area is typical of that found in the western Adirondack foothills eco-zone with common large mammals being white-tailed deer and black bear, and typical fur-bearing species being beaver, coyote, fisher, otter and bobcat. Although uncommon, moose may be present, and pine marten have recently become established in the general area.

Bird diversity in the area is relatively high due to the transitional nature of the landscape from agricultural fringe to Adirondack forest. The Breeding Bird Atlas 1980 census data identified 124 confirmed, probable, and possible breeding bird species in the 20 census blocks covering the Croghan Tract. People often use the Tract to access the Beaver River and recreational opportunities in the adjacent Forest Preserve, Pepperbox Wilderness and Watson East Triangle Wild Forest. Opportunities for stream fishing are readily available on the Croghan Tract. However, the small size and remoteness of most of the streams, coupled with the small average size of the brook trout that inhabit these waters make them generally unpopular to non-local anglers.

## **VII. Potential Significant Environmental Impacts**

### **A. Beneficial Impacts of Proposed Action**

The following beneficial impacts to The People of the State of New York under the proposed action will provide additional measures that support the principal, secondary and tertiary objectives of the original Easements.

#### **1. Principal Objective - Timber Production**

*“The principal objective of this Easement is to perpetuate, as a sustainable working forest, the productive forest resources on the Protected Property; to encourage the long-term, professional management of those forest resources; and to facilitate the biologically and economically sustainable production of forest resources while minimizing the impacts on water quality, scenic benefits, wildlife habitat, recreational and other conservation values.”<sup>27</sup>*

Since the development of the original 1999 Easements, DEC has entered into similar, large sustainable working forest conservation easements. Each of these easements has allowed the landowner to continue leasing camps on their properties for additional profits. It is a right that supports the long-term, professional management of their forestlands, as their logging operations must be economically viable to be sustainable and to ensure their long-term existence and success. Heartwood’s ability to continue leasing traditional hunting camps on the Easement lands will provide them with additional revenue that contributes to the profitability of

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<sup>27</sup> See footnote (10).

the commercial forestry use of the forest lands, helping them to meet the Easements' original purpose of maintaining the lands as productive, sustainable working forests.

## **2. Ensuring Sustainable Forestry Practices**

*The original Easements provide that any and all forest management activities occurring on the Easement lands are to be conducted in accordance with a forest management plan approved by DEC. The proposed modifications provide Heartwood with the additional option to enroll in a qualifying forest certification program, determined by DEC. Both options will ensure that Heartwood develops a forest management plan that takes into account long-term, sustainable silvicultural goals, special treatment areas designed to protect sensitive ecological areas, and best management practices that protect the surrounding natural resources. However, should Heartwood choose to enroll the Easement lands into an approved forestry certification program, it would reduce burdens on DEC staff and cut costs associated with this part of the Easement monitoring.*

## **3. Motorized Vehicle Restrictions to Minimize Potential Adverse Impacts**

*Under the original Easements, a footnote is provided to define "forest management activities" which includes forest-related recreational activities. The definition reserves to the Landowner forest-related recreational activities, including motorized activities that could be extended to the Landowner's lessees, invitees, contractors, agents and assigns.<sup>28</sup> The correction to this footnote in the proposed modifications would ensure that these rights do not extend beyond the Landowner and its successors.*

Further, camp lessees are currently permitted unrestricted motorized vehicle use, including ATVs, on all roads and trails within their posting lease with instances of damage and degradation addressed by Heartwood on a case-by-case basis. The proposed modifications will establish limits and restrictions on the private use of motorized vehicles on the Easement lands, significantly reducing the patterns, levels, and frequency of lessee motor vehicle and ATV use that currently exists on the Easement lands and which could occur in the future.

## **4. Year-Round Public Recreational Access before 2014**

The proposed modification will grant the public full year-round recreational use and access to the entirety of the Easement lands, with exception of the one-acre Camp Envelopes, prior to the June 31, 2014. The People of the State of New York will also enjoy ownership and full recreational access and use of more than 2,500 acres of land that will be conveyed to The People of the State of New York in fee, as well as, access to a previously inaccessible parcel of detached Forest Preserve.

## **5. Support of New York's Sustainable Forestry Easement Landowners**

Since the acquisition of the Easements in 1999, The People of the State of New York have acquired several other large working forest conservation easements *on more than 700,000 acres* of forestlands in the Adirondack and Tug Hill regions. Unlike the 1999 Champion Easements, these easements allow the commercial forestry landowners to lease traditional hunting camps in perpetuity, as it is mutually acknowledged by the State, the landowners, and many constituents to be beneficial to both the forest landowner and the local communities, in addition to helping the State achieve its goal of protecting and maintaining large tracts of sustainable working forest lands. The proposed modification will therefore ensure the Easements remain consistent with other more recent working forest conservation easements acquired by The People of the State of New York since this time.

## **B. Potential Adverse Environmental Impacts of Proposed Action**

The following are the potential adverse environmental impacts on the Easement lands and adjoining Forest Preserve lands from the proposed action, which modifies four (4) significant provisions of the original Easements' terms.

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<sup>28</sup> See footnote (10).

## 1. Easement Lands

### a. Retention of 220 Hunting & Fishing Camps

Modification of the Easements to allow Heartwood to continue leasing up to 220 hunting, fishing, and recreation camps on one-acre Camp Envelopes may have the potential to cause adverse aesthetic or environmental impacts on the Easement lands.

#### 1) Water Quality Impact

a) **Bacterial Contamination of Surface Water or Groundwater.** Continued use of outhouses associated with the camps could potentially result in bacterial contamination of surface water or groundwater. This impact will also likely exist with the public use of DEC permits to set up and use temporary hunting camps, where the potential of inadequate sanitary facilities, e.g. campers, trailers, etc., may exist on the Easement lands.

#### b) Northern Flow Rivers

*In 1999, at the same time as the conveyance of the Easements, The People of the State of New York acquired full property rights on over 29,000 acres of former Champion lands along the Northern Flow River corridors. The lands provided an approximate ¼ mile buffer between the Easement lands and the river corridors. All private camps within this area were removed and the lands were added to the State Forest Preserve, in order to ensure added protections of the rivers.*

i. **Santa Clara Tract.** *The Deer River and the East and Main Branches of the St. Regis Rivers on the Santa Clara Tract are also “classified rivers” pursuant to 6NYCRR PART 666 and Environmental Conservation Law (ECL) Article 15, Title 27, which restricts use within these classified river corridors.*

ii. **Tooley Pond Tract.** *A ribbon of Forest Preserve land running the length of the river on both sides and bisecting the Easement lands protects the 16-mile stretch of the South Branch of the Grasse River.*

iii. **Croghan Tract.** *A portion of the West Branch of the Oswegatchie River stretching north from the Long Pond Road Bridge to the south end of Rock Pond is protected by Forest Preserve lands. In addition, approximately 17.5% of the Croghan Tract contains 2,295 acres of classified wetlands, protected under 9 NYCRR Part 578, regulations enforced by APA.*

*The above, established protections, in addition to the proposed modification that requires 100’ setback requirements for all camps and associated camp structures from any river, pond, lake, or perennial stream or government-regulated wetland, and APA Project Permit 10-298 setback provisions are provided to ensure that the potential of adverse impacts to the rivers and wetlands is minimal (also see, Section VIII. below for full discussion of mitigation measures to protect water quality).*

#### 2) Aesthetic/Scenic Impact

*APA’s Findings in Permit 2010-298 states:*

*“The retention of no more than 220 hunt club camps in proximity to existing roads and trails on the approximately 110,000 acre project site will help preserve open space, given the following facts: (i) the number of camps has already been reduced from the 300+ as of 1999 down to a proposed total of 220; (ii) the 220 camps would represent a average density of only one camp per 500 acres; (iii) the 220 acre total area impacted by camps represents only a fraction (two tenths of one percent) of the 110,000 acre project site; (iv) most camps are grouped in specific hunt club areas along existing roads; (v) much of the one acre privacy areas around each camp would be within the area already impacted by existing roads and trails; and (vi) revenue from the licensing of the camps is an important part of a mix of strategies that can assist in ensuring continuation of economically sustainable*

*forest management which, in turn, aids in support of open space and can further continued protection of open space by Conservation Easements.”<sup>29</sup>*

**3) Fish & Wildlife Impacts**

*Overall, no potentially significant adverse impacts on fish and wildlife populations with the proposal to allow up to 220 camps to remain are expected. This is concluded based on the existing working forest landscape conditions of the Easements, where land and noise disturbance are a common occurrence, and where the proposed 220 acres out of 110,000 acres (two tenths of a percent) are of very limited density and are clustered and located near existing logging roads and trails.*

a) **Overharvesting of Fish & Game.** Hunting will likely remain the principal recreational use of the Easement lands by camp lessees because of the extensive network of existing logging roads. Though deer populations are generally higher in actively managed forests, the permanent continuation of the camps could result in a greater number of people using the Easement lands throughout the year, which could potentially increase the disruption of wildlife and/or over-harvesting of certain fish and game.

**4) Recreational Impacts**

a) **Loss of 220 acres Open to Public Recreational Use.** A cumulative of 220 acres (0.2%) of the Easement lands would no longer be available for public recreational use. *However, the general public who are interested in extended, overnight hunting and fishing on the Easement lands may camp at designated public locations or have an opportunity to lease one of the 12 new recreation camp sites.*

b) **Discouragement of General Public Use.** Continued use of the Easement lands by camp lessees may have the potential of discouraging use by the general public. Since the Easement lands will remain working forests, located in a remote section of the northwestern Adirondacks, and will continue to be used primarily for big game hunting by camp lessees, *local residents, visiting campers, and visitors lodging locally, overall general public use of the Easements is not expected to increase significantly.*

**b. Use of Motorized Vehicles by Camp Lessees**

Continuation of the camp leases may result in a greater potential for motorized vehicle use, especially ATVs, by camp lessees on designated routes than may not otherwise occur with the removal of the camps.

**1) Noise Impact**

As the Easement lands primary objective is the production of forest products and to perpetuate the use of the lands as an active working forest, the noise impact from limited ATV use to access camps during the mud season is minor in comparison to the timber operations on the lands and the long-standing existence and use of the lands for snowmobiles.

**2) Wildlife Impact**

The potential exists for illegal use of motorized vehicles on roads, trails, or other areas of the Easement lands that are not specifically designated as open for such use, which may result in wildlife disruption due to noise.

**3) Soil Impact**

The potential exists for the erosion of roads or trails from the illegal use of motorized vehicles. Roads and trails designated for lessee motor vehicle use were constructed by the current and previous landowners as a means to access various parts of the Easement lands for forest management purposes, which are typically improved gravel construction and built to handle use by heavy trucks and logging equipment.

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<sup>29</sup> APA Project Permit 2010-298; April 20, 2011. p.36. (Appendix H)

#### 4) **Recreational Impact**

- a) **Discouragement of General Public Use.** Illegal use of motorized vehicles by camp lessees may have the potential of discouraging use by the general public. However, enforcement of illegal motorized vehicle use is a management objective and concern *that remains to exist for a majority of State Forest and Forest Preserve lands, regardless of camp lessees' presence on adjoining or nearby properties.*

## 2. **Potential Adverse Environmental Impacts on Adjacent Forest Preserve**

Modification of the original Easements to allow Heartwood to continue leasing up to 220 hunting, fishing, and recreation camps on one-acre "Camp Envelopes" were not found to have potentially significant adverse aesthetic or environmental impacts on the adjacent Forest Preserve.

### a. **Retention of 220 Hunting & Fishing Camps**

#### 1) **Aesthetic/Scenic Impact**

*The proposed modifications place 500' square footage restriction on all camps; 20' height restrictions on all camps and associated camp structures; and 100' setback requirements for all camps and associated camp structures from any river, pond, lake, or perennial stream or government-regulated wetland.<sup>30</sup> These camps are modest in size and facilities. (Appendix L - Photos of Camps).*

- a) *APA Findings in Project Permit 2010-298 has found approximately 160 of the existing 208 camps located on the Easement lands are "pre-existing," built prior to the August 1, 1973 effective date of the Adirondack Park Land Use and Development Plan, had not been expanded by more than 25% after that date, and pursuant to §811(2) of the APA Act, are not subject to Agency permit jurisdiction. Of the 46 camps constructed post-1973, 33 were found to have required an Agency permit, due mostly to the camps being built 500 square feet or greater in size in Resource Management areas.*

#### 2) **Noise Impact**

When considering the continued use of motor vehicles and ATVs on the Easement lands by camp lessees in a dispersed and limited way, as put forth in the proposed modifications, the impacts of noise and odor on adjacent Forest Preserve lands are not likely to exceed current ambient levels; *and where no recreational complaints have been received from users on the adjoining Forest Preserve lands.*

### b. **Use of Motorized Vehicles by Camp Lessees**

In the cases where illegal trespass by camp lessees occurs on adjacent Forest Preserve lands, impacts from motorized vehicle use by camp lessees, particularly ATVs, may potentially have similar impacts as those addressed above on Easement lands. *Since no restrictions in the past have been placed on motorized vehicle use by camp lessees and guests of Heartwood, the following evaluates the occurrences, issues and complaints received by DEC for the current, non-restricted use on the nearby and adjacent Forest Preserve lands.*

#### 1) **Illegal ATV Use on Adjacent Forest Preserve**

The potential for ATV trespass on neighboring Forest Preserve lands is a more likely adverse impact. With the exception of certain deeded permanent and reciprocal private right-of-ways, almost none of the existing roads through Forest Preserve in the surrounding area have been legally opened or designated for motorized use.

- a) **DEC Observed Violations.** Overall, the number of observed locations where ATV trespass has occurred on Forest Preserve lands in the area is considerably less than other similar areas in the Adirondack Park. According to DEC Forest Rangers, the few locations in the area where ATV trespass onto Forest Preserve does occur are most frequently accessed directly from adjacent county and town roads that have been opened to public ATV riding by a resolution of the appropriate governing body. By comparison, instances of

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<sup>30</sup> Modification Five (5). See footnote (11).

ATV trespass originating from Heartwood's posting leases have steadily declined to near-negligible levels with Forest Rangers reporting only a handful of Environmental Conservation Appearance Tickets ("ECATs") issued to the Landowner's lessees for violations of prohibitions on motorized use in the Forest Preserve since 1999. This situation is largely attributed to the lessee's investment in the lease, interest in maintaining the lease, and the desire to have a private recreation experience separate from that of public recreationists using State lands.

i. **2006 DEC Watson's East Triangle Wild Forest Draft UMP**

*The 2006 Draft UMP discusses the illegal use of motor vehicles associated with the Croghan Easement Tract and adjoining Forest Preserve Wilderness Areas. The illegal use on the Forest Preserve areas has been noted to occur mostly with ATVs using old logging roads to reach hunting or fishing destinations. The Draft UMP states: "After the closure of all roads to the use of ATVs within the [Unit] [through the 2004 DEC Administrative Action<sup>31</sup>] much of the illegal ATV use on the [Unit] has been alleviated, as well as, on the neighboring wilderness areas. Recent site visits have confirmed some illegal ATV activity still occurs on the Steam Sleigh and Doc Woods snowmobile trails. Evidence of incursions into adjoining wilderness areas has been sporadic."<sup>32</sup>*

b) **Location of Camp Access Routes.** The majority of roads and trails designated as access routes are located entirely on the Easement lands with the exception of two routes on the Tooley Pond Tract and one on the Santa Clara Tract where the Landowner owns the legal "right-of-way" over or through Forest Preserve lands. Besides these instances, all other designated access routes are far-removed from nearby Forest Preserve lands, and as such, the potential of trespass on and degradation of neighboring Forest Preserve lands attributed to camp lessee's restricted ATV use during the mud season will be substantially reduced. In consideration of these factors, the levels and patterns of ATV trespass that occur on Forest Preserve lands in the area will likely remain static.

2) **Recreational Impact**

a) **Disruption of Recreational Enjoyment on Adjacent Forest Preserve.** The potential adverse impacts of permitted lessee ATV use on the experiential value of users of the nearby Forest Preserve lands will likely remain static or lessen as a result of the limitations set forth in the proposed modifications, especially considering that camp lessee ATV use on the Easement lands will only be permitted at times when public use of neighboring Forest Preserve is light during the spring "mud season."

**C. Adverse Impacts that Cannot Be Avoided or Adequately Mitigated**

1. **Retention of 220 Hunting & Fishing Camps**

Some of the potential adverse impacts related to the proposal to continue leasing up to 220 hunting and fishing camps on one-acre (1) Camp Envelopes on the Easement lands, as described above, may be unavoidable.

a. **APA Review**

*The proposed modifications will require that all Camp Envelopes and the permitted structures therein, whether currently existing or constructed in the future, comply with any and all Adirondack Park Agency (APA) permits and regulations. Camp and accessory structure siting and construction must be approved by DEC to ensure compliance with the*

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<sup>31</sup> In September 2004, through an administrative action by DEC, certain roads on state lands open to public passenger vehicles were closed to public ATV use throughout the State. This was done after a determination was made by the State Attorney General's Office that the use of public roads by ATVs was not compliant with §2405(1) of the Vehicle and Traffic Law (see [www.aq.ny.gov/bureaus/appeals\\_opinions/opinions/2005/informal/2005\\_21.pdf](http://www.aq.ny.gov/bureaus/appeals_opinions/opinions/2005/informal/2005_21.pdf)).

<sup>32</sup> Watson's East Triangle Draft Unit Management Plan. DEC. September 2006. p.30. (Appendix Q)

*terms of the Easements.*<sup>33</sup>

**b. Existing Camp Structures**

*The camps on the Easement lands are modest in size and amenities (Appendix L).*

**2. Motorized Vehicle Use by Camp Lessees**

*Certain restricted ATV use to access the camps on the Easement lands is necessary and thus presents some potential of illegal use of motorized vehicles on the Easement lands and adjacent Forest Preserve lands.*

**D. Irreversible & Irretrievable Commitments of Environmental Resources**

**1. 220 Acres of Easement Lands Restricted to General Public Use**

A combined total of up to two hundred-twenty (220) acres of land, comprised of 220 individual one-acre Camp Envelopes (some isolated, some adjoining), will remain off-limits to public use and access on portions of the Easement lands. This represents two tenths of 1% of the total 110,000 acre Easement lands *or 99.8% of the Easement lands that are open and available to the general public.*

**2. DEC Monitoring & Enforcement Costs**

**a. Camp Violations**

DEC will retain certain costs for the monitoring of camp violations, which will be enforced under the Easements.

**b. Motor Vehicle Use by Camp Lessees**

*With or without the camps, the public recreational use of the Easement lands will require DEC to assume costs for management, including the maintenance of certain main roads or bridges. Costs associated with construction and maintenance of Camp Access Routes or additional roads and trails open to motor vehicle use (excluding ATVs) for camp lessee use will remain Heartwood's responsibility.*<sup>34</sup>

**E. Growth-Inducing Aspects of Proposed Action**

It is not expected that the proposed action will significantly induce or promote further development or growth in the region. Retaining the camps will however maintain the status quo of the area, while the new provisions of the proposed modifications will restrict future improvements or expansions of the camp structures, resulting in no potential growth outside the existing camp structures on the Easement lands.

**VIII. Mitigation Measures to Avoid or Minimize Potential Adverse Impacts**

Under the proposed action, Heartwood and DEC will agree to certain terms, conditions, and restrictions provided for in the modifications. *These provisions, in addition to the Revised Agreement with Respect to Violations (APA Enforcement E99-025), APA Project Permit 2010-298 and 98-313, DEC's Easement monitoring and enforcement, and Recreation Management Plans ("RMPs") guided by a DEC and APA MOU (Aug. 13, 2010) and subject to SEQR, will serve to ensure that any potentially significant adverse impacts related to the proposed action will be avoided or minimized to the maximum extent feasible.*

**A. Provisions of Proposed Action**

**1. Retention of 220 Hunting & Fishing Camps**

*The following restrictions are provided in the proposed modifications to minimize and mitigate any potential adverse environmental impacts related to the retention of up to 220 camps on the Easement lands. The restrictions are in addition to Heartwood complying with all terms and conditions of their Revised Agreement (E99-025) with APA, Project Permit 98-313 and 2010-298, which ensures consistency with APA's administrative jurisdiction of state laws set forth in the APA Act, the Freshwater Wetlands Act, and the Wild, Scenic and Recreational Rivers Act.*

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<sup>33</sup> See footnote (5).

<sup>34</sup> Section (7) of "Terms & Conditions." See footnote (10) reference.

#### a. **Camp Provisions & Restrictions**

- 1) **Camp Locations.** Heartwood and DEC must agree on the location of each of the existing one-acre (1) Camp Envelopes, as depicted on a camp access map (*in development*), agreed upon by Heartwood and DEC, which map may be revised and updated on an annual basis.
- 2) **100 Ft. Camp Setbacks.** Camps and related camp structures may not be located or relocated within one hundred (100) feet of a river, pond, lake, perennial stream, or government-regulated wetland.
- 3) **Camp Size.** Camps may not occupy more than five hundred (500) square feet of ground area, may not exceed twenty (20) feet in height, and must be constructed in compliance with the terms and conditions of the Easements and any applicable laws and regulations.
- 4) **Related Camp Structures.** Related camp structures such as outhouses and storage sheds may not exceed twenty (20) feet in height.
- 5) **Camp Envelope.** Camps and related camp structures must be located entirely within the specified one-acre (1) Camp Envelope.
- 6) **Camp Relocations.** DEC will be given 30 days prior written notice for the relocation of any camps.

#### 2. **Motor Vehicle Use Restrictions**

##### a. **Camp Lessee Motor Vehicle Use**

- 1) **Camp Access Routes.** Heartwood and DEC must agree on the location of all designated access routes to each Camp Envelope, as depicted on a map developed and agreed upon by DEC and Heartwood, which map may be revised and updated on an annual basis. Any additional roads or trails Heartwood designates for camp lessees' use by passenger car, truck, or snowmobile (not including ATVs) must appear on the camp access map and will be subject to DEC review and approval.
- 2) **Camp Lessee Use Subject to Public Use.** Motor vehicle use by camp lessees will be restricted to only those designated roads and trails depicted on a map of the Camp Access Routes or those roads and trails specifically designated for use by the public. Use of motorized vehicles, specifically ATVs, by lessees will be only for the purposes of ingress and egress to Camp Envelopes on designated Camp Access Routes.
- 3) **Public Access.** Heartwood must continue to ensure that Camp Envelopes and designated motor vehicle access routes do not restrict or impede the public's use of roads or trails that are open for their [public] use.
- 4) **Compliance with DEC Recreation Management Plans.** Motor vehicles using any roads open to public recreation use by car, truck, or other passenger vehicle on the Easement lands must comply with applicable standards and criteria established in the respective Easement's Recreation Management Plan.
- 5) **Motor Vehicle Identification.** Heartwood will provide and require each camp lessee to display a sticker or other visible notification that clearly identifies motor vehicles as belonging to a camp lessee.
- 6) **Camp Lessee Guests.** Heartwood will assure that any guests of camp lessees possess a pass allowing access by passenger vehicle only and will ensure that such guests are restricted in accessing the Easement lands by ATV or snowmobile.
- 7) **ATVs.** Use of ATVs by camp lessees will only be for the purposes of accessing a Camp Envelope by way of that camp's designated Camp Access Route.
- 8) **ATV Use Restrictions.** Lessee use of ATVs on designated Camp Access Routes will be further restricted to only those time periods of the year ("mud season"), when travel on Easement roads and trails with passenger vehicles is likely to cause significant road damage and potential adverse impacts to natural resources.
- 9) **Construction & Maintenance.** Construction and maintenance of designated and approved Camp Access Routes and designated roads and trails open to the public must meet or

exceed the specifications and standards agreed upon by DEC and the Landowner, which specifications and standards may be amended from time to time.

**B. Adirondack Park Agency (APA) Agreements & Proposed Easement Restrictions**

*APA's jurisdiction over the proposed action and as an Involved Agency provides additional review and assurances for mitigating and minimizing potential adverse impacts of the proposed action. Heartwood and APA have agreed and signed the Revised Agreement with Respect to Violations (APA Enforcement File E99-25), dated December 2, 2010 and Project Permit 2010-298, dated April 20, 2011, legally binding Heartwood (and any future landowner) to the Agreements.*

*For instances where the proposed Easement modifications and/or original 1999 Easement terms and conditions overlap with terms provided in APA Project Permit 98-313 or 2010-298, or the Revised Agreement (E99-25), Heartwood will be responsible for complying with the more stringent of terms set forth within these agreements.*

**C. DEC Monitoring & Enforcement**

**1. GIS Mapping & Conservation Easement Baseline Monitoring**

**a. Camp Violations**

*DEC's Bureau of Real Property has inventoried, located, measured and photographed all camp structures currently existing on the Easement lands. The three (3) specific Easement tracts, Santa Clara, Tooley Pond, and Croghan, are mapped on DEC's internal GIS system, providing specific data pertaining to an area or camp on the Easement Tracts, allowing DEC to monitor any changes over time. This system provides an easily accessible baseline of data for DEC land managers and staff to assist in ensuring compliance of the proposed provisions defined in the Easement modifications. In addition to the electronic documentation of the Easements' camp structures and access routes, documents relating to the Easement lands, including the original Easements, any approved Easement modifications, Recreational Management Plans, enforcement and violation documents, and boundary line surveys can be currently accessed through the Bureau's GIS Conservation Easement Baseline Monitoring System.*

**2. Enforcement**

**a. Illegal Motor Vehicle Use by Camp Lessees**

- 1) **Violations.** Motor vehicles using any roads open to public use by car, truck, or other passenger vehicle on the Easement lands must comply with applicable traffic laws and regulations, *and standards and criteria for motor vehicle use, as described in the respective Recreation Management Plan.*
- 2) **DEC & Landowner Enforcement.** A continued, regular presence of DEC law enforcement (Forest Rangers) in the area, supported by the commitment of the Landowner to promote regulatory compliance by camp lessees, will help to ensure that lessees continue to adhere to restrictions on motor vehicles and other regulated uses of the Easement lands.
- 3) **Camp Lessee Adherence.** *As provided in the original Easement terms, both DEC and the Heartwood hold the right to enforce the terms of the Easements. If either party feels the other is not upholding such terms, both parties will work to address such issues, and as needed such violations of the Easement terms can be upheld in a court of law. However, as demonstrated on other working forest conservation easements held by The People of the State of New York through DEC, motor vehicle compliance will likely be self-enforced by lessees, who have a desire to meet Heartwood's expectations in order to preserve the private recreational opportunities that they pay for as camp lessees.*

**D. DEC Public Recreation Management Plans**

*The original 1999 Easements conveyed certain recreational rights and access to The People of the*

State of New York on the Easement lands, including motor vehicle access on designated “motorized access corridors” developed through a “Land Management Plan,” in consultation with and approval by the Landowner.<sup>35</sup> These rights provided DEC with the responsibility for managing such public access on the Easement lands in accordance with the Easement, and any future Land Management Plan. Since the proposed action permits Heartwood to continue leasing camps on the Easement lands, a provision was added that would only allow camp lessees to use motor vehicles to the same extent provided to the public. Thus, the process of opening roads to public motor vehicle use, and respectively to camp lessees, as members of the public, will occur through the Land Management Plan (referred herein as, “Recreation Management Plan” or “RMP”) developed by DEC and in consultation with Heartwood.

The development of a Recreation Management Plan requires DEC to undertake a comprehensive process that evaluates many factors including the demand, compatibility and opportunity for types of recreation activities, DEC management expenses, construction and signage development and expenses, staffing, environmental and public safety impacts, compliance with the provisions of the Conservation Easement and the acquired recreation rights. The variety of factors to evaluate requires DEC to follow a planning process that includes SEQR; compliance with state law; APA review, guided by an Memorandum of Understanding (“MOU”) with DEC, signed September 10, 2010, which will ensure consistency with APA Wetlands and River Acts and the Adirondack Park Agency Act;<sup>36</sup> in addition to, Heartwood consultation, public meetings, plan review and a 30 day public comment period. As a result, approval of the proposed modifications described in this Final EIS does not commit DEC to opening roads to public motor vehicle use beyond the currently available use provided in the Interim Recreation Management Plans, nor committed to designating future public use of ATVs on the Easement lands.

#### **1. Opening Roads to Public Motor Vehicle Use**

The potential for adverse environmental impacts from the use of motor vehicles, and motorized vehicles, whether by the public or camp lessees on the Easement lands, adjoining private lands, and adjoining Forest Preserve lands remains a concern for certain environmental groups. Through the proposed action, the above provisions listed in section VIII.A.2. establish additional motor vehicle restrictions to assist in minimizing adverse impacts associated with this right.

##### **a. Recreation Management Plans (“RMPs”)**

Development of maps and RMPs will address recreation rights reserved to The People of the State of New York, in order to ensure compliance with the terms of the approved Easement modifications and to minimize any potential environmental impacts to adjacent Forest Preserve lands, river corridors, and public health and safety.

##### **1) Santa Clara Easement Tract**

Public recreation access to and use of the Santa Clara Tract will be addressed and planned for in a RMP to be developed specifically for the Santa Clara Tract Conservation Easement lands. An Interim RMP was developed in 2000 to provide initial public recreation opportunities on this Tract (Appendix M).

##### **2) Tooley Pond Easement Tract**

Public recreation access to and use of the Tooley Pond Tract is being developed in a RMP that also is being addressed and planned for in conjunction with an amendment to the adjacent Grass River Forest Preserve UMP. Initially, an RMP was developed in 2000 for this Tract to begin providing public recreational access (Appendix N). A map of the Tract was developed in January 2008 to provide information at the entrance of the Grass River Conservation Easement, which borders the northern boundary of the Tooley Pond Tract

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<sup>35</sup> Section 4) c) of “Affirmative Rights.” See footnote (10) reference.

<sup>36</sup> Memorandum of Understanding between The Adirondack Park Agency and The Department of Environmental Conservation Concerning State-Owned Conservation Easements on Private Lands within the Adirondack Park. August 13, 2010. (Appendix R)

(Appendix O).

**3. Croghan Easement Tract RMP & Watson's East Triangle Wild Forest Draft UMP**

*An RMP was developed for the Croghan Tract in 2000 (Appendix P). Since this time, public recreation access to and use of the Croghan Tract has been re-addressed and planned for in conjunction with the 2006 Draft Unit Management Plan ("UMP") for the adjacent Watson's East Triangle Forest Preserve Unit (Appendix Q). As such, the 2006 DEC Watson's East Triangle Wild Forest Draft UMP and Croghan Tract Conservation Easement RMP is referenced as a recent example of the sustainable public recreation planning and management actions DEC has proposed for this tract. Further, the combined Draft UMP and RMP process demonstrates the comprehensive site research, planning and review DEC undertakes to mitigate and minimize any potential of adverse environmental impacts and public safety risks.*

*IV. Proposed Management Actions*

*B. Facilities Development and/or Removal*

*1. Roads - Conservation Easement Lands*

- Assess all roads on easement lands for condition, impacts and illegal use.<sup>37</sup>*

*IV. Proposed Management Actions*

*C. Public Use Management*

- Direct public access across the Rifle Season Access Corridors on the Croghan Tract Easement during hunting season through adequate signing. These corridors are to allow public access to adjoining Forest Preserve lands and may only be used during this time for that purpose.*
- Produce a map and brochure that adequately describes facility locations, restrictions and promotes the responsible use of the unit.<sup>38</sup>*

**b. Public Review**

*DEC seeks public comments for all UMPs for state lands and RMPs for Conservation Easements under its jurisdiction, where public recreation rights are acquired. Frequently, public meetings are held to gain understanding of certain issues and a consensus of what types of recreational facilities are desired within the parameter of the acquired public recreational rights. The information gathered from public comments and the meetings guides DEC in the management proposals and facility planning set forth in the final UMPs and RMPs. The review also serves to inform the public on the recreational activities and limitations provided on the Easement lands.*

**c. APA Review**

*APA reviews all UMPs for state lands developed by DEC to ensure compliance with the Adirondack Park State Land Master Plan and state rules and regulations subject to public lands within the Adirondack Park. APA reviews RMPs developed for conservation easements, pursuant to the above referenced MOU between DEC and APA, signed September 10, 2010, and state rules and regulations subject to private lands within the Adirondack Park.*

**d. Landowner Review**

*All public recreation planning developed on Easement lands involves consultation with the landowner, and in the case of the Easements subject to the proposed action and other certain working forest conservation easements managed by DEC, require the landowner's approval.*

**e. SEQR Compliance**

*The several factors involved in the management planning process of recreational rights acquired by The People of the State of New York, including the use of motorized vehicles on the Easement lands, will be subject to its own evaluation, SEQR process, and review in*

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<sup>37</sup> Watson's East Triangle Draft Unit Management Plan. DEC. September 2006. p.69. (Appendix Q)

<sup>38</sup> See above footnote (36). p.80.

*order to exercise these rights in a manner that minimizes the environmental impacts on the resources.*

*In sum, the comprehensive planning and monitoring procedures outlined above demonstrate the ongoing evaluation, monitoring, and precautionary measures DEC continues to take in planning recreational use and access of the Easement lands, in addition to addressing motorized access, including illegal ATV use on adjacent Forest Preserve lands. DEC will plan for public use of the Easement lands and implement actions according to RMPs. Such planning and implementation of public recreation rights coupled with public outreach on such rights will help assure members of the public that they are welcome to use the Easement lands for permitted outdoor recreational opportunities, in addition to promoting sustainable use of the Easement lands by the public and camp lessees.*

## **IX. Alternatives**

### **A. Reasonable Alternatives**

Besides the “no action” alternative, no other alternatives are proposed. *Both DEC and Heartwood are in agreement that the proposed action is the most reasonable and feasible alternative to no action. Both parties have developed the proposed modifications through extensive negotiations, where possible alternatives were examined. The result is a fair and comprehensive agreement encompassed under the proposed action, which is examined in the Final EIS.*

### **B. No Action**

If the original Easements are not modified and remain unchanged, the result will be the removal of all leased hunting and fishing camps on the Easement lands within three (3) years of the June 30, 2014 camp leasing termination date.

#### **1. Beneficial Impacts of Not Taking the Proposed Action**

Removal of all of the camps on the Easement lands may result in the following beneficial impacts:

- a. relatively minor increase in undeveloped land on the Easement lands, although it is likely that the sites would continue to be used as log landings and/or browsed by deer, thus delaying eventual reforestation;
- b. reduced potential for bacterial contamination of surface water and/or groundwater associated with camp outhouses; and
- c. potential of less recreational activity, including hunting on the Easement lands, resulting in fewer disturbances to wildlife.

*The Draft EIS listed the potential of less motor vehicle traffic, including ATV use, on the Easement lands and adjacent Forest Preserve lands as a beneficial impact. However, upon clarification of the footnote correction restricting the Landowner’s reserved right of forest-related recreational activities including motorized activities, not implementing this correction could likely pose more of an adverse impact than a beneficial impact.*

#### **2. Adverse Economic, Cultural & Environmental Impacts of Not Taking the Proposed Action**

The adverse economic, cultural, social and environmental impacts of not taking the proposed action would result in the following *significant losses* to The People of the State of New York.

##### **a. Sustaining New York’s Forestry Industry**

*Economic losses to the commercial working forest landowner would diminish the viability of the Easement lands’ use for sustainable forestry purposes and weakens New York’s Working Forest Conservation Easement program for keeping large tracts of forestland in private ownership and contributing to New York’s forest products industry.*

##### **b. Loss of a Significant Outdoor Heritage Pastime**

Degradation or loss of the social, cultural, and economic values that permanent hunting and fishing lease camps provide to the surrounding rural communities and the loss of a significant outdoor heritage pastime on the Easement lands for the Adirondack region.

**c. Increase Potential for Motorized Vehicle Abuses on Easement Lands and Nearby or Adjacent Forest Preserve Lands**

DEC will have limited ability to restrict Heartwood's reserved right to allow private use of motorized vehicles on the Easement lands, despite the fact that the camps would be removed. Arguably, this right of Heartwood could be exercised in perpetuity, even if the hunting and fishing camps are removed from the property in accordance with the terms of the original Easements. Unless significant damage to natural resources on the Easement lands or nearby adjacent lands are clearly linked to guests of Heartwood, DEC could potentially have difficulty addressing motorized vehicle violations occurring on the Easement lands without the presence of long-term and invested camp lessees on the Easements to assist in recognizing violations.

**d. Less Protection & Recreational Use of Northern Flow River Corridors**

Additional protection and public recreational use of 2,708 acres of land conveyed to The People of the State of New York by Heartwood through the exchange will be lost if the proposed action is not approved.

**e. Lost Potential to Reduce State Costs and Staff Time**

The modifications are intended to encourage industrial forest landowners to enroll their Easement lands in an approved forestry certification program. Without the modifications, DEC would lose the potential and likely benefit of having the presence of an independent inspection and auditing team to help monitor Heartwood's compliance with the sustainable forestry terms of the Easements *and the opportunity to reduce state costs and staff time.*

**X. Conclusion**

*Since the 1999 acquisition of the "Champion land deal," which was the State's largest working forest conservation easement at that time, DEC has assisted the State in acquiring hundreds of thousands of acres of additional working forest conservation easements, under the New York State Open Space Conservation Plan's "Working Forest Conservation Easements" priority project. These easements have provided forest landowners the right to retain a private recreational/camp leasing program. At the same time, these easements have provided The People of the State of New York certain public access and recreational opportunities and continued sustainable forest management protections that would have not materialized without the landowner being able to retain its private, recreational camp leasing rights. Over the last decade, since the Champion land and easement acquisitions, the private recreational camp leasing programs held by Heartwood and several other private forest landowners have yet to demonstrate any significant adverse environmental impacts to the working forest conservation easements they exist on or to adjacent Forest Preserve lands.*

*The Final EIS identifies certain potential adverse environmental impacts resulting from the proposed action, which are evaluated and weighed against the economic, social and cultural benefits of the proposed action for The People of the State of New York, along with the potential significant adverse environmental impacts and the more modest environmental benefits examined for a no action alternative. It is thus concluded, and therefore the position of DEC, that the proposed modifications to the Easements: i) supports the "principal objective" of the original Easements, which is to ensure the long-term use and sustainability of the lands as productive working forests, contributing to the State's economy; ii) protects the Adirondack region's unique, natural resource values, and forest-related recreational activities as described under the New York State Open Space Conservation Plan's Working Forest Conservation Easement priority project, which the Easements were acquired under; iii) remains consistent with similar, large working forest conservation easements acquired by the State since this time; and iv) that the loss of 220 acres for camps and related structures will be equally compensated for by Heartwood's conveyance of 2,708 acres of new public lands to The People of the State of New York, of which 562 acres would be permanently protected for the first time.*

## References

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## Appendices

Appendix A	Draft Environmental Impact Statement, November 2009
Appendix B	DEC Response to Public Comments Summary, 2011
Appendix C	Record of Public Comments, December 2010
Appendix D	Existing Conservation Easements, July 1999
Appendix E	APA Staff Comment on Draft Environmental Impact Statement, December 2009
Appendix F	Revised Agreement with Respect to Violations (APA Enforcement File E99-025), December 2010
Appendix G	Adirondack Park Agency Permit 98-313, June 1999
Appendix H	APA Project Permit 2010-298, April 2011
Appendix I	Proposed Conservation Easement Modifications, July 2009
Appendix J	Map of Proposed Heartwood Lands to be Transferred to The People of the State of New York, November 2009
Appendix K	Map of Heartwood Conservation Easement Lands, November 2009
Appendix L	Photos of Camp Structures, 2008
Appendix M	Santa Clara Easement Tract Interim Recreation Management Plan, June 2000
Appendix N	Tooley Pond Easement Tract Final Land Management Plan, June 2000
Appendix O	Map of Tooley Pond Easement Tract and Adjacent Grass River Easement, January 2008
Appendix P	Croghan Easement Tract Interim Recreation Management Plan, June 2000
Appendix Q	Watson's East Triangle Wild Forest Draft Unit Management Plan, September 2006
Appendix R	Memorandum of Understanding between APA and DEC Concerning State-Owned Conservation Easements on Private Lands within the Adirondack Park, August 2010

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Appendices A - R are available on the DEC web site at: [www.dec.ny.gov/lands/59344.html](http://www.dec.ny.gov/lands/59344.html) or to request a copy by mail or email, contact Heather Carl: [hff3feis@gw.dec.state.ny.us](mailto:hff3feis@gw.dec.state.ny.us) or (518) 408-0941.

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