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Defending the East's Greatest Wilderness

October 19, 2009

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Thomas Congdon
Chair, State Energy Planning Board
c/o NYSERDA
17 Columbia Circle
Albany, NY 12203-6399
Via Electronic Mail (e-mail)

RE: 2009 State Energy Plan Draft comments

Dear Mr. Congdon:

The Adirondack Council appreciates the opportunity to offer comments on the draft 2009 New York State Energy Plan ("Plan") as it nears the final stage. The Adirondack Council is a not-for-profit, membership based organization dedicated to ensuring the ecological integrity and wild character of the Adirondack Park. The Adirondack Council was created in 1975 and does not accept and any government funding.

We appreciate all of the efforts of the New York State Energy Planning Board and Energy Coordinating Working Group to develop the draft Plan, along with the important and detailed Issue Briefs. The Council also thanks you for listening to our request and extending the deadline for the final Plan beyond the original October 15 deadline. An issue as important as the State Energy Plan should not be rushed. All comments must be fully analyzed and carefully considered before you finalize the Plan.

The Adirondack Council is generally supportive of the goals of the Plan to help reduce our dependence on foreign petroleum-based energy products and increase our in-state production of clean and renewable energy, which will reduce the pollutants that cause both acid rain and climate change. We strongly support the

The mission of the ADIRONDACK COUNCIL is to ensure the ecological integrity and wild character of the ADIRONDACK PARK.

Plan's recommendation that the Energy Conservation Construction Code must be updated (p. 14). We also agree that enforcement by local government will vary across the state, as manpower varies. We suggest that New York consider using some of its resources dedicated to energy efficiency to ensure proper training for local enforcement officers, and consider a grant program to help pay for necessary code enforcement staff in economically distressed areas of the state.

The Adirondack Council is deeply disappointed in Governor Paterson's Deficit Reduction Plan (DRP) announced on October 15, which would devastate the spirit and intent of the Regional Greenhouse Gas Initiative (RGGI) auction proceeds being used for energy efficiency and renewable energy programs. This raid would create an extremely harmful precedent if accepted by the Legislature. The misappropriation of RGGI funds would set the worst example for other participating states while greatly diminishing New York's role as a leader in the process. While the Governor's plan to remove \$90 million of the RGGI proceeds for General Fund relief is only proposed for one year, these targets of easy cash have a way of remaining in place. An excellent example is found in the misuse of monies from the Environmental Protection Fund (EPF). The EPF has been raided in at least six of the last eight years, with over 1/3 of the money allocated to the EPF being removed, totaling nearly \$500 million from a "dedicated fund," with another \$10 million raid proposed as part of the DRP.

As RGGI funding is mentioned numerous times in the Climate Change Issue Brief, we ask that you address how NYSERDA will handle this shortfall, along with the \$112 million recently diverted as part of the "Green Jobs/Green New York" legislation. It is not simply adequate to state that NYSERDA will work to update and change its RGGI Operating Plan. We demand real answers as to why this action is acceptable and how NYSERDA will continue to support clean energy and renewable technology when roughly 92 percent of the RGGI proceeds are being diverted to other purposes.

Additionally, the Adirondack Council remains concerned with the development of biofuel facilities. As is mentioned in the Environmental Impact and Regulation of Energy Systems Issue Brief (2.4.9 Biofuels and Biomass Energy Production, p. 14), there are consequences involved with biomass production, including road construction and clear cutting. However, we do not believe that these and other potentially severe negative impacts should be so easily dismissed by saying, "With proper planning and mitigation efforts, these impacts can be minimized." (p. 14)

We will support the use of wood as energy once strong siting, sourcing, and sustainability criteria are in place, and once the state has gotten serious about energy *conservation*. Until such environmental standards are in place at state and federal levels, development of large-scale biofuels production facilities is premature. A good start toward the needed standards is the forestry certification process designed by Forest Stewardship Council (FSC). Along with FSC certification, strong conservation easements can help prevent the over-cutting that a growing demand for biofuels could induce. However, certification and easement are not likely to be applied on all important forest lands, so state and federal standards will be needed. We suggest they recognize the following points:

- Maximum carbon sequestration is achieved by letting the trees grow – true forest preservation. Good timber management can approach – not exceed – this maximum carbon storage while also providing utilitarian goods. State and industry officials should

be honest with the public about the trade-offs involved with timber management, and should support expanded Forest Preserve and other no-cut holdings.

- Cutting should be kept as light and sparing as practicable while meeting genuine needs.
- Cutting should be less than annual growth and should spare all wetlands; pond, lake, and river shores and riparian areas; vernal pools; steep slopes and ledges; and sites of rare, threatened, and endangered species. Also to be kept out of these sensitive areas should be all infrastructure associated with energy development, including roads and power lines. These siting criteria should apply to all energy development, including large wind turbines and solar and hydro facilities.
- Whole-tree harvesting depletes soils and eliminates wildlife habitat. It should not be allowed. Ample woody material must be left in logged areas to prevent soil erosion, allow return of nutrients to the topsoil, and provide cover for wildlife.
- With a growing market for “low-grade” wood, there may be little commercial incentive for land-owners to allow trees to grow to maturity. Thus, state and federal governments should implement financial incentives or payments for the provision of ecosystem services, such as cleansing of air and water, moderation of climate, protection of soils and wildlife habitats, pollination and nutrient cycling, and other natural goods not yet recognized in the market-place. Such services are best provided by natural uncut forests (in particular, the Forest Preserve of the Adirondack and Catskill Parks), but can also be provided in smaller measure on sustainably managed timber-lands.

Wood is our region’s home-grown energy source, but it must be used with great caution and expanded conservation lest we cause widespread deforestation again, this time not so much to feed ourselves as to keep our machines running. Strong criteria, regarding how much and where trees can be cut, must be put in place so that biofuels can reduce our dependence on fossil fuels and our carbon emissions without reducing the wildness or health of our forests. The most important component of an energy policy remains conservation – of energy and of land.

We would like to thank you for the many cautionary statements included in the Environmental Impact and Regulation of Energy Systems Issue Brief as they relate to the potential siting of new facilities on Forest Preserve lands. You are correct to point out the difficult and time consuming process for a Constitutional Amendment which would be needed to allow for new hydroelectric, wind, pipeline and transmission lines to be sited on the Forest Preserve. In addition, we appreciate you also recognizing that, “Scenic and ecological sensitive areas such as the Adirondack and Catskill Parks could be particularly impacted by the siting of new transmission lines if such facilities were constructed in these areas.” (p. 12) This acknowledgement that environmentally sensitive areas are often located on private lands within the Parks is key to protecting both the private and public lands of the Adirondack Park.

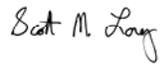
In addition, we believe that New York should require detailed bird and bat studies for wind projects. As indicated on p. 12 of the Environmental Impact Issue Brief, bird and bat mortalities are often associated with wind turbines. Currently, DEC has guidelines for these types of pre- and post-construction studies, but they are not mandatory. DEC guidelines should be strengthened and mandated, either through regulation or statute.

Finally, the Adirondack Council remains concerned with recent attempts to authorize a new Article X power plant siting law. As described on pages 54-55 of the Plan, several improvements are being discussed as part of new legislation, but we believe that the new

proposals will adversely impact the Adirondack Park. With the new threshold for Article X legislation being lowered from 80 to 30 megawatts for inclusion, many new wind projects in the Adirondacks would be exempted from Adirondack Park Agency (APA) review, and instead fall under the new law. We believe that the APA, which has been reviewing most private land use and development in the Adirondack Park for over 35 years, should continue to do so, especially for wind projects which may have major impacts on the scenic and environmental resources of the Adirondack Park.

Thank you for the opportunity to once again offer our comments. We look forward to a final Plan that meets the state's energy goals while also protecting the sensitive ecosystems of the Adirondack Park.

Sincerely,

A handwritten signature in cursive script that reads "Scott M. Lorey".

Scott M. Lorey
Legislative Director