

Testimony of Carole Fraser
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Hearing before the Subcommittee On National Parks, Forests And Public Lands
Oversight Hearing On “Expanding Access To Federal Lands For People With
Disabilities”

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Good morning Chairman Grijalva, Ranking Member Bishop and members of the Subcommittee on National Parks, Forest and Public Lands. Thank you for the opportunity to testify before your Subcommittee today.

My name is Carole Fraser. I am the Universal Access Coordinator for the New York State Department of Environmental Conservation. This testimony addresses the Department's experience in creating a large number of accessibility projects in the outdoor environment over the past several years and the factors that maintain our successful program.

The Department of Environmental Conservation (DEC) administers jurisdiction over 4.5 million acres of state land. A majority of the state land in the Adirondack and Catskill mountain regions is designated as Forest Preserve and as such and is afforded the highest level of protection under Article IV of our State Constitution. Forest Preserve lands are protected as “forever wild” and public use is clearly delineated according to land classifications from Wilderness and Wild Forest to Intensive Use areas.

In 1997, a lawsuit was brought under the Americans With Disabilities Act by individuals seeking motorized access to areas in our Adirondack Forest Preserve (Galusha v. NYS DEC et al., Civil Action No. 98-CV-1117). In 2001, a settlement was reached when the DEC offered a list of 185 diverse projects, at a cost of 4.8 million dollars, that when constructed would offer accessibility to programs such as camping, fishing, canoeing, hunting, boating, picnicking, horseback riding and birdwatching. These projects, and dozens of others across our state, were constructed using the guidelines put forth by the Access Board's 1999 Regulatory Negotiation Committee for Outdoor Developed Areas hereinafter referred to as the “Guidelines”.

The settlement contained several other mandates: the designation of a full-time Statewide Coordinator for Access Issues; one staff person to act as Access Coordinator in each of our nine regions, who would deal with access issues in addition to their daily responsibilities; a commitment to training staff and vendors of services in the Forest Preserve; the creation of an advisory committee; and education and outreach to the public.

In general, our experience in New York with the use of the Access Board's minimum guidelines has been a positive one. As an agency whose statutorily defined and paramount mission is to protect and preserve the natural areas of the state, we found that the Guidelines provided adequate protection while maximizing accessibility. The defined "conditions for departure" which are included for trails worked well in establishing parameters to preserve important features and the natural setting. Nearly all of the projects named in our settlement were designed and constructed using the Guidelines and the response from the public has been overwhelmingly positive.

We did face some challenges in creating access in some areas of our Forest Preserve, where our construction materials were limited to the use of natural materials such as wood and stone. Also, there were areas where we found a need to go beyond what the Guidelines were suggesting to provide meaningful access. One of those areas is beach access where we provide at least a 60 inch width of firm and stable surface. We have found that once a mat or pathway is established across a beach many people choose to use the pathway and a 36 inch width is too narrow. Also, the wider path allows people to walk or roll abreast and provides passage for two people using wheelchairs for mobility. That being said, if dunes or any other natural resources, would be impacted by the 60 inch width, there should be an exemption to go down to a more narrow width.

Another area where we found a user conflict was in the 3 inch edge protection that the Guidelines state should encompass the tent platforms. People have found that the edge protection made transfer from a wheelchair difficult. Our suggestion is that an area be kept free of edge protection for the option of transfer.

In addition, we found it difficult in some backcountry areas to follow the recommendations for Outdoor Recreation Access Routes when providing access to a waterway or body of water as the slope can be steep to the shoreline. Even with switchbacks, in some cases the best we could do to minimize the slope more closely resembled the Guidelines that are designed for trails. Therefore, we recommend that the conditions for departure for trails also apply to Outdoor Recreation Access Routes in back country areas.

The DEC developed our own accessible designs for a number of outdoor recreation elements that were not included in the Guidelines such as equestrian mounting platforms, informational kiosks, trail registers and hunting blinds.

Some areas that continue to challenge us are finding the proper recipe for creating a firm and stable surface using natural materials. While we appreciate that the Guidelines remain neutral on the type of materials that may be used to create a firm and stable surface, guidance would be beneficial. For example, a crushed limestone and stone dust mixture works well on trails but may not be the proper surface for a campsite if it prevents a tent stake from penetrating the surface.

It has been important for us to keep our visitors informed of what they will or may encounter when visiting our back county areas. Sites that have been assessed for accessibility may contain a section of steeper slope for example than what may be expected. Our approach is to measure the slope and distance that it occurs for inclusion on our website and written information on the site. The Universal Trail Assessment Process, a standardized process for measuring trail conditions, has been a useful tool in providing information to people so that they can make their own choices based on their abilities.

The success of our program stems from several factors. First and foremost is a commitment to training. Many Department staff have received and continue to receive training in Disability Awareness. This provides an understanding of the need for universal access to our programs and services. Field staff take pride in the accessibility projects and continue to think about inclusion instead of looking at access as an unfunded mandate. Training on the Guidelines for outdoor developed areas was provided by the Access Board, the National Center on Accessibility, and the Northeast Disability and Business Technology - ADA Center. This specific training was essential to staff understanding and properly implementing the Guidelines. Training opportunities on the above mentioned topics as well as various others including Universal Design, the Americans with Disabilities Act and the Universal Trail Assessment Process were opened to staff from other state agencies, Independent Living Centers, local governments, colleges and not-for-profits to enable networking that keeps us all learning from each other and motivated to make outdoor areas accessible to everyone.

Second, we work closely and regularly with an informed group of individuals with various types of disabilities to guide our decisions relating to access to public programs. We value opportunities to provide direct outreach through presentations and exhibits at conferences, workshops and meetings with organizations that serve people with disabilities to promote our accessible areas and invite their feedback. Similarly, we reach out to trail groups, recreational therapists and other recreation businesses and organizations to share what we have learned about creating access in the outdoor environment and promote inclusive outdoor recreation in general.

Finally, we run several programs each year that introduce people with and without disabilities to our recreation opportunities, through ribbon-cutting celebrations and “open houses” at specific sites, events with adaptive equipment for use and by community-building disability awareness days featuring scavenger hunts, wildlife demonstrations, and inclusive exhibits of many kinds.

In conclusion, what we have learned through implementing the guidelines for outdoor areas is that it is possible to create accessibility and protect the resource at the same time thereby preserving the fundamental experience for all. The Guidelines parallel our goals to strive for the “minimal tool approach” that blends these projects into the natural environment and protects the landscapes. We applaud the work of the Access Board in developing these important guidelines. Our goal continues to be to provide a balanced approach to accessibility, both geographic and programmatic, to provide people with as many choices as possible while protecting the natural character that people seek in exploring the great outdoors.