



November 15, 2007

United States Department of Energy
Office of Electricity Delivery and
Energy Reliability, OE-20
1000 Independence Avenue, S.W.
Washington, DC 20585

Gentlepeople:

**Re: National Interest Electric Transmission Corridor
Designation for the Mid-Atlantic Area - Docket # 2007-OE-01**

We are writing in support of the filing submitted by New York, dated November 5, 2007, which petitioned for New York State intervention and rehearing of the U.S. Department of Energy's Order designating the Mid-Atlantic Area National Interest Electric Transmission (NIET) Corridor. The following is also provided as supporting and supplemental material to formal comments submitted to DOE by the New York State Public Service Commission on October 6, 2007 and by the New York State Department of Environmental Conservation on July 3, 2007 on the draft NIET Corridor designation.

The Adirondack Park Agency objects to designation of portions of the Park within the Mid-Atlantic NIET Corridor as it would preempt State regulatory authority and has been designated without a full environmental review under the National Environmental Policy Act.

The Adirondack Park Agency Act (APA Act), which was first enacted by the New York State Legislature in 1971, provides a policy framework for land use and development within the Park which is meant "to insure optimum overall conservation, protection, preservation, development and use of the unique scenic, aesthetic, wildlife, recreational, open space, historic, ecological and natural resources of the Adirondack park." The Adirondack Park Agency administers the Adirondack Park Land Use and Development Plan, Adirondack Park State Land Master Plan, New York State Freshwater Wetlands Act and New York State Wild,

Scenic and Recreational Rivers System Act within the Park boundaries. The Park also has been given international recognition as part of the Champlain-Adirondack Biosphere Reserve. The Mid-Atlantic NIET Corridor, as proposed, contains eight counties which are partially located within the Adirondack Park.

The APA Act also declares "the policy of this state [is] that new land use and development or acquisition of land by the United States within the Adirondack park shall conform to the land use and development plan and the master plan for the management of state lands so far as practicable...."

The Adirondack Park was created in 1892 by the State of New York amid concerns for the water and timber resources of the region. Today the six-million-acre Park is the largest publicly protected area in the contiguous United States, greater in size than Yellowstone, Everglades, Glacier, and Grand Canyon National Park combined. The boundary of the Park encompasses both State land and 103 municipalities with over 130 settlements. Private land also includes undeveloped timber lands, farms and other lands with somewhat denser development closer to hamlet areas.

The Adirondack Park is unique in its intricate mixture of public and private lands. About 135,000 people live within the Park year round. The harmonious blend of private and public lands give the Adirondacks a diversity found nowhere else - a diversity of open space and recreational lands, of wildlife and flora, of mountains and meadows, and people of all walks of life.

Virtually all State-owned lands within the Park, totaling more than 2.8 million acres, are classified as Forest Preserve protected by Article XIV of the New York State Constitution which provides that:

"Lands of the state, now owned or hereafter acquired, constituting the forest preserve as now fixed by law, shall be forever kept as wild forest lands. They shall not be leased, sold or exchanged, or be taken by any corporation, public or private, nor shall the timber thereon be sold, removed or destroyed."

This New York State constitutional provision prohibits State alienation of any proprietary interest in such lands, such as conveyance of the fee or taking of an easement by a utility company. The use of State lands for the purpose of establishing a utility right-of-way or construction of a transmission line requires an amendment to New York State's Constitution before such use could be considered. New York's constitutional amendment process requires approval by two successively elected legislatures and a subsequent vote by the citizens of New York. New York has rigorously enforced this requirement for the smallest infrastructure improvements, and then only when no alternatives are possible.

In order to identify and protect the natural resources of the Park, the APA Act classifies all land, both private and public, on the Adirondack Park Land Use and Development Plan Map and Official State Land Map. The Park includes over one million acres of formally designated Wilderness, managed according to guidelines and criteria substantially identical to federal Wilderness. In addition, 1.3 million acres are classified Wild Forest, where a variety of outdoor recreation activities are allowed. The Adirondack Park State Land Master Plan sets policy for the management of these State-owned lands.

The Adirondack Park Land Use and Development Plan applies to the 3.4 million acres of private land in the Park. The Plan is designed to conserve the Park's natural resources and open-space character by directing and clustering development to minimize its impact on the Park. Guidelines are specified for the intensity of development within each category, based on an average number of buildings per square mile. Projects of regional significance usually require a permit from the Adirondack Park Agency. The Adirondack Park Agency is a party to any NYS Public Service Commission proceeding on the siting of major utility lines within the Park. The Agency's regulatory concerns are thereby integrated into major public utility transmission line decisions. Pre-emption of this procedure by the designation of the Mid-Atlantic NIET Corridor will severely erode New York's regulatory programs to protect the open space character of the Adirondack Park.

Many Adirondack rivers are subject to special regulations and permit requirements adopted under the New York State Wild, Scenic and Recreational Rivers System Act. These regulations apply in addition to those set forth in the APA Act. Agency regulations apply to the designated rivers and private lands adjoining them, generally up to one-quarter mile from the edge

of the river. The specific rivers within the Adirondack Park which are part of New York's Wild, Scenic and Recreational Rivers System and which are located in part or completely within the designated NIET Corridor include the Ausable, Black, Bog, Cold, Deer, Grasse, Hudson, Independence, Jordan, Moose, Oswegatchie, Otter Brook, Raquette, Sacandaga, St. Regis, Salmon, Saranac, Ampersand Brook, Blue Mt. Stream, East Canada Creek, West Canada Creek, West Stony Creek, Round Lake Outlet and Long Pond Outlet.

Enclosed maps depict the legal interests protected by the Agency in the Park, including wetlands, wild, scenic and recreational rivers, wilderness, and the official State and Private Plan maps.

Because of the potential for usurpation of State authority for regulation of both public and private lands within the designated NIET corridor, it may erode this Agency's ability to protect the wild forest character of public lands within the Park and pre-empt private land regulations which have been established to protect the open space characteristics of agricultural and timber land. The APA Act is also meant to insure that any private land use and development is undertaken within the context of the Adirondack Park setting.

The designation of the Mid-Atlantic NIET Corridor is a major federal action that will have significant affect on the quality of New York's and the Adirondack Park's environmental resources. While a full EIS is contemplated for federal land designation in the west, no comparable consideration has been accorded the largest area of designated Wilderness area east of the Mississippi, a part of New York's great Adirondack Park.

The Adirondack Park Agency joins the other New York regulatory agency comments and requests DOE rescind its order for the designation of the Mid-Atlantic NIET Corridor until a comprehensive review of environmental impacts of the designation is conducted.

Sincerely,



Curtis F. Stiles
Chairman

CFS:dal
Enclosures

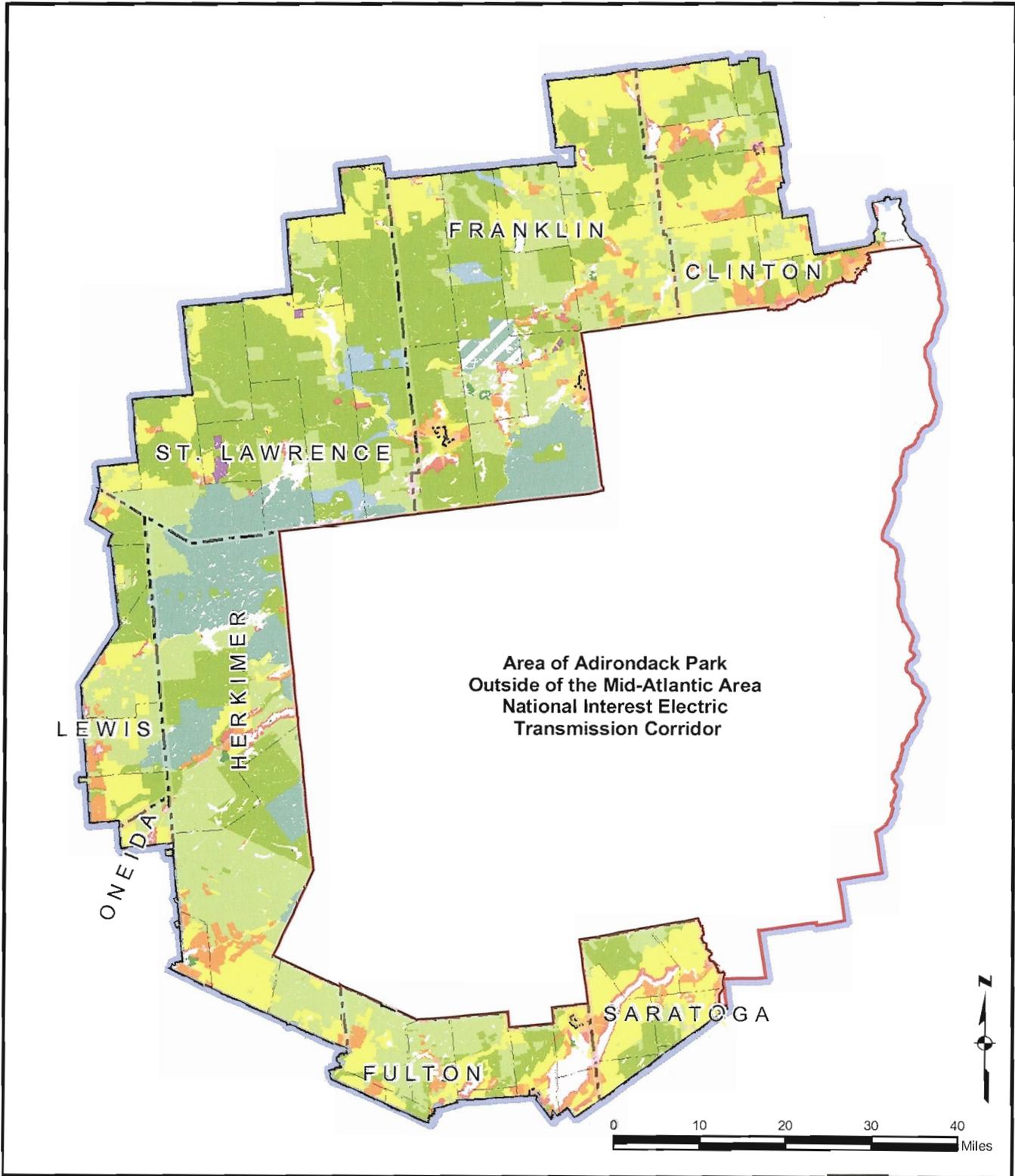
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cc: Eliot Spitzer, Governor
Andrew Cuomo, NYS Attorney General
Judith Enck, Deputy Secretary for the Environment
Patricia L. Acampora, Chair, NYS Public Service Commission
Alexander Grannis, Commissioner, NYS DEC
Alison Crocker, General Counsel, NYS DEC
Stuart Gruskin, Executive Deputy Commissioner, NYS DEC
Jared Snyder, Assistant Commissioner, NYS DEC
Christopher Amato, Assistant Commissioner, NYS DEC
Maureen Leary, NYS Office of the Attorney General
Agency Members and Designees
Mark Sengenberger, Interim Executive Director

The Adirondack Park Land Use and Development Plan Map and State Land Map within the Mid-Atlantic Area National Interest Electric Transmission Corridor



Adirondack Park Boundary

Private Land Classification

- Hamlet
- Moderate Intensity
- Low Intensity
- Rural Use
- Resource Mgmt.
- Industrial Use

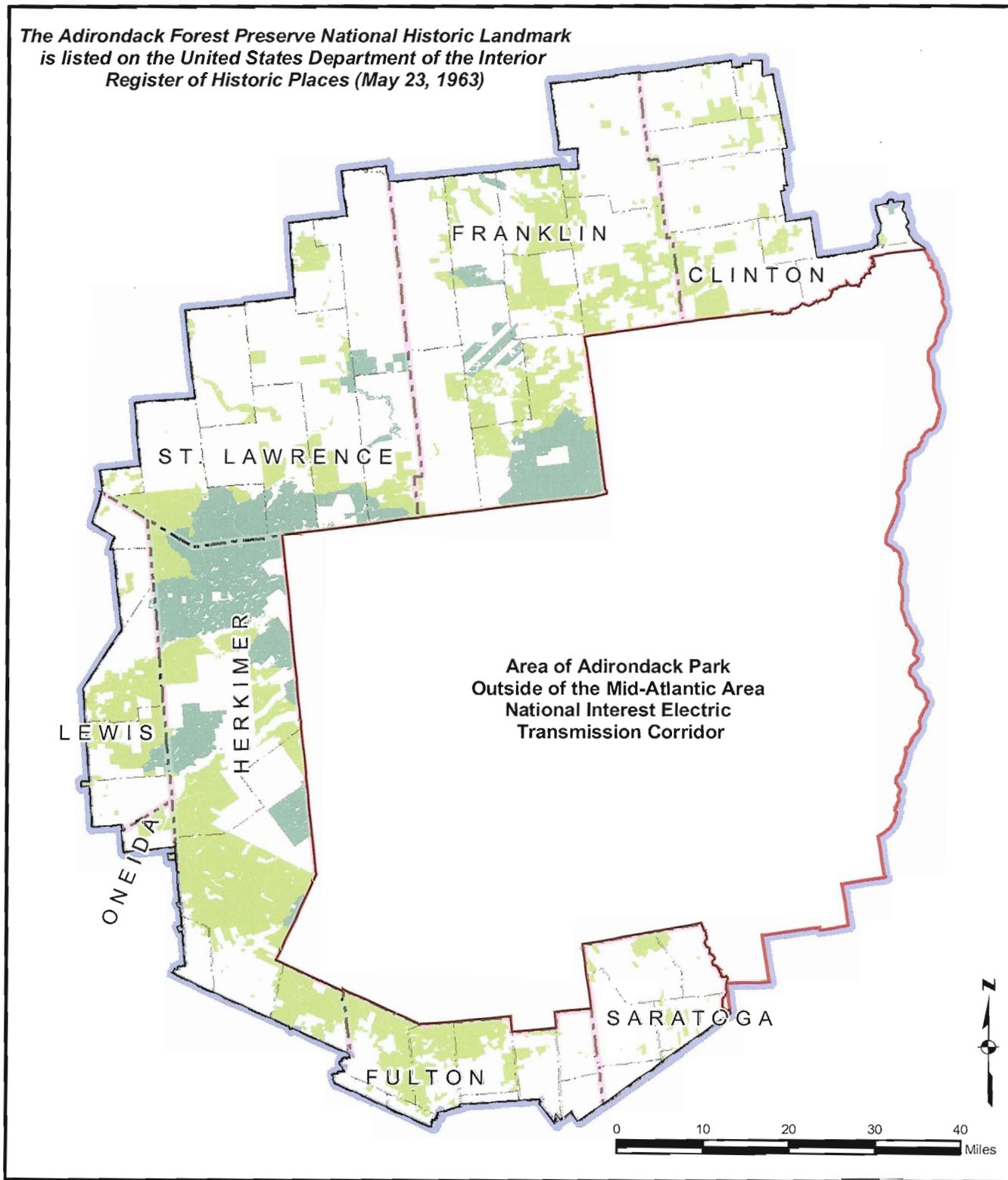
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Public Land Classification

- Primitive
- Wild Forest
- Intensive Use
- Historic
- State Administrative
- Pending Classification
- Wilderness
- Canoe Area

The Adirondack Forest Preserve within the Mid-Atlantic Area National Interest Electric Transmission Corridor

*The Adirondack Forest Preserve National Historic Landmark
is listed on the United States Department of the Interior
Register of Historic Places (May 23, 1963)*



Legend

 Adirondack Park Boundary

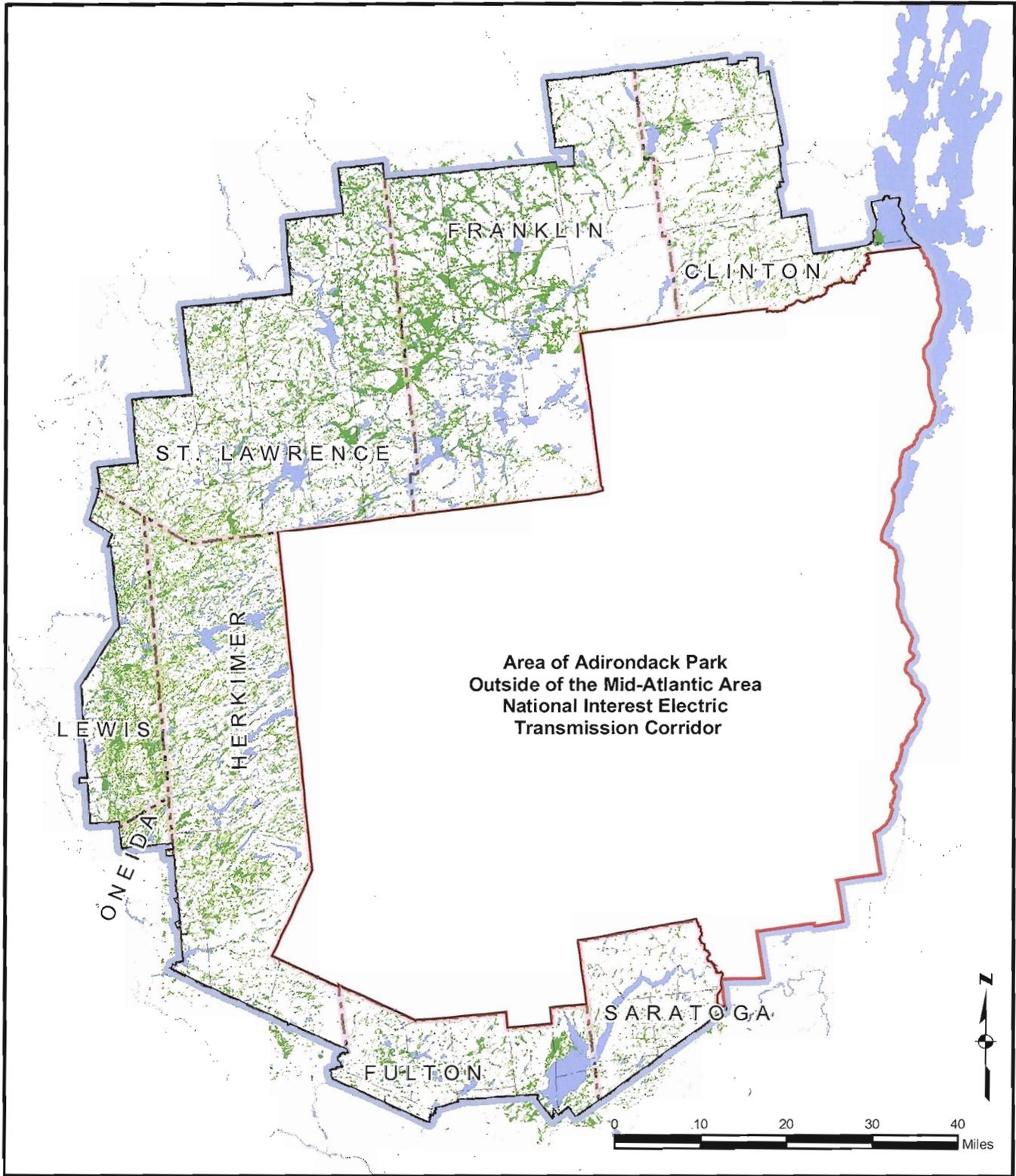
Adirondack Forest Preserve Classification

-  Wilderness or Primitive Area
-  Canoe Area
-  Wild Forest Area



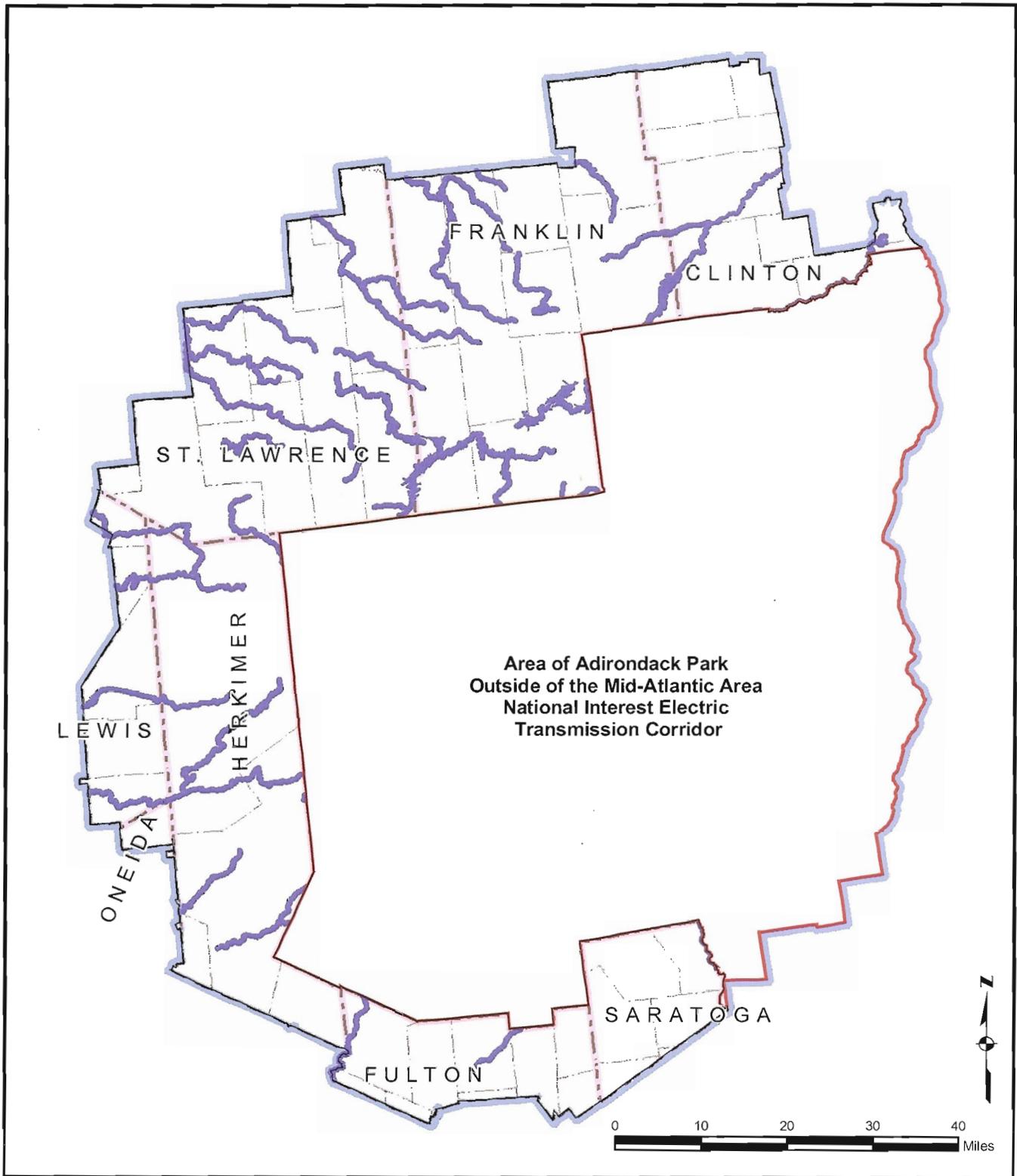
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**Adirondack Park Freshwater Wetlands
within the
Mid-Atlantic Area National Interest Electric Transmission Corridor**



- Legend**
-  Adirondack Park Boundary
 -  Major Water Bodies
 -  Freshwater Wetlands

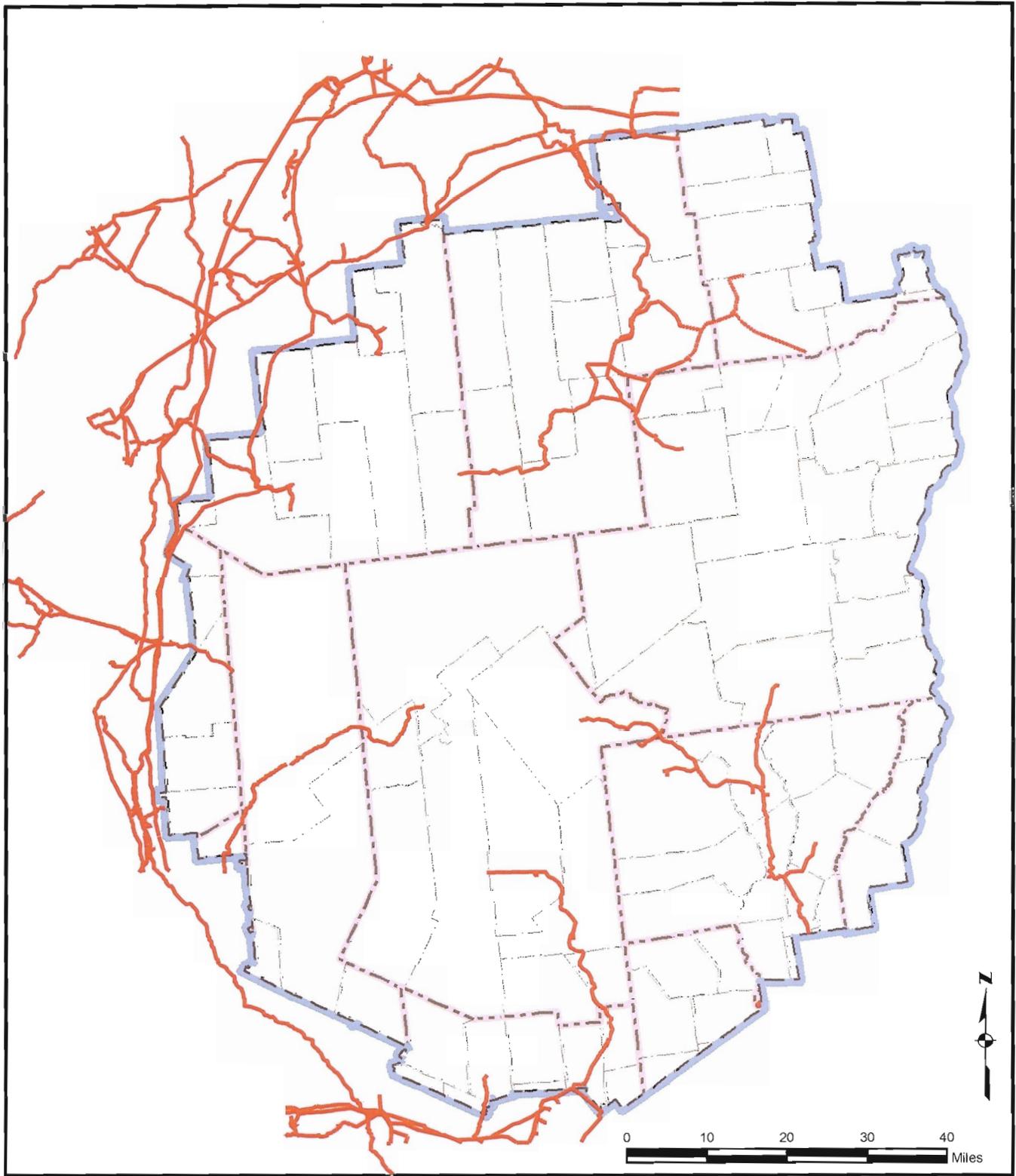
**Adirondack Park Wild, Scenic, and Recreational Rivers
within the
Mid-Atlantic Area National Interest Electric Transmission Corridor**



Legend

-  Adirondack Park Boundary
-  Wild, Scenic, or Recreational Rivers

Existing Major Electric Transmission Lines within and near the Adirondack Park



Legend



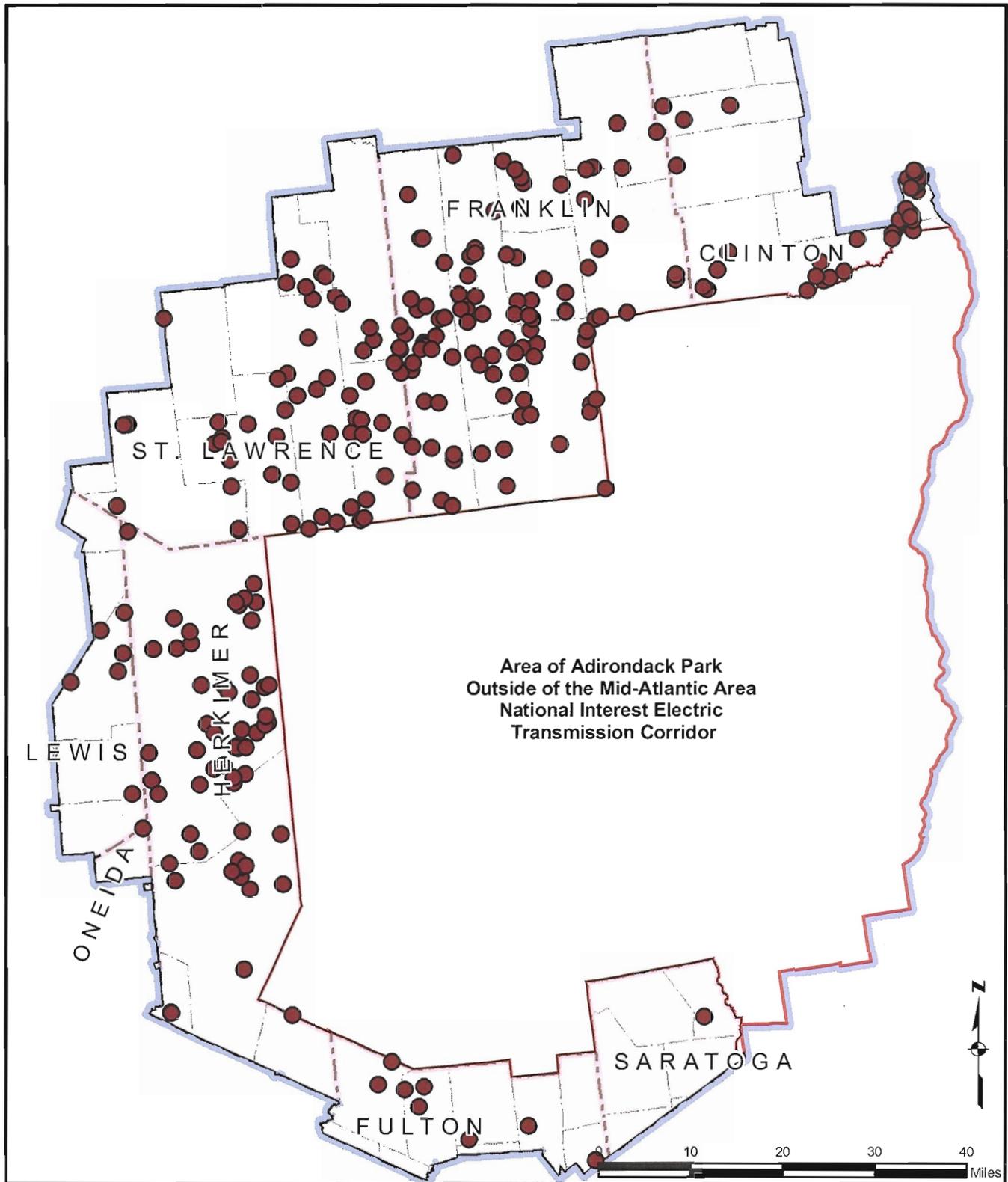
Adirondack Park Boundary



Existing Major Transmission Lines.

Source: Northern Forest Lands Inventory

Occurrences of Rare, Threatened, Endangered, or Special Concern Species within the Adirondack Park and the Mid-Atlantic Area National Interest Electric Transmission Corridor



Legend



Adirondack Park Boundary



Occurrence of Rare, Threatened, Endangered, or Special Concern Species. Points represent the center of the known occurrence. (source: New York Natural Heritage Program, New York State Department of Environmental Conservation. July 2006. Biodiversity Databases, Element Occurrence Record Digital Dataset. Albany, New York.)

Rare, threatened, endangered, or special concern species that are known to occur within the area of the Adirondack Park that is inside of the Proposed Mid-Atlantic National Interest Electric Transmission Corridor¹

Scientific name	Common Name
Vascular Plant	
<i>Ammophila champlainensis</i>	Champlain Beachgrass
<i>Betula pumila</i>	Swamp Birch
<i>Boechera stricta</i>	Drummond's Rock-cress
<i>Calamagrostis stricta</i>	Northern Reedgrass
<i>Calypso bulbosa</i> var. <i>americana</i>	Calypso
<i>Carex arcta</i>	Northern Clustered Sedge
<i>Carex backii</i>	Back's Sedge
<i>Carex crawei</i>	Crawe's Sedge
<i>Carex formosa</i>	Handsome Sedge
<i>Carex haydenii</i>	Cloud Sedge
<i>Carex houghtoniana</i>	Houghton's Sedge
<i>Carex livida</i>	Livid Sedge
<i>Carex lupuliformis</i>	False Hop Sedge
<i>Carex merritt-fernaldii</i>	Fernald's Sedge
<i>Carex retroflexa</i>	Reflexed Sedge
<i>Carex schweinitzii</i>	Schweinitz' Sedge
<i>Carex tinctoria</i>	Tinged Sedge
<i>Carex wiegandii</i>	Wiegand's Sedge
<i>Ceanothus herbaceus</i>	Prairie Redroot
<i>Corydalis aurea</i>	Golden Corydalis
<i>Cynoglossum virginianum</i> var. <i>boreale</i>	Northern Wild Comfrey
<i>Cypripedium arietinum</i>	Ram's-head Ladyslipper
<i>Descurainia pinnata</i> ssp. <i>brachycarpa</i>	Northern Tansy-mustard
<i>Diphasiastrum complanatum</i>	Northern Running-pine
<i>Diphasiastrum sitchense</i>	Sitka Clubmoss
<i>Draba glabella</i>	Smooth Rock-cress
<i>Eleocharis ovata</i>	Blunt Spikerush
<i>Equisetum pratense</i>	Meadow Horsetail
<i>Eurybia radula</i>	Swamp Aster
<i>Halenia deflexa</i>	Spurred Gentian
<i>Hippuris vulgaris</i>	Common Mare's-tail
<i>Huperzia selago</i>	Fir Clubmoss
<i>Juncus stygius</i> ssp. <i>americanus</i>	Moor-rush
<i>Lactuca hirsuta</i>	Downy Lettuce
<i>Listera australis</i>	Southern Twayblade
<i>Littorella uniflora</i>	American Shore-grass
<i>Myriophyllum alterniflorum</i>	Water Milfoil
<i>Myriophyllum farwellii</i>	Farwell's Water-milfoil
<i>Neobeckia aquatica</i>	Lake-cress
<i>Omalotheca sylvatica</i>	Woodland Cudweed
<i>Persicaria careyi</i>	Carey's Smartweed
<i>Petasites frigidus</i> var. <i>palmatus</i>	Sweet Coltsfoot
<i>Piptatherum canadense</i>	Canada Ricegrass
<i>Platanthera hookeri</i>	Hooker's Orchid
<i>Podostemum ceratophyllum</i>	Riverweed

Scientific name	Common Name
<i>Prunus pumila</i> var. <i>depressa</i>	Dwarf Sand-cherry
<i>Prunus pumila</i> var. <i>pumila</i>	Low Sand-cherry
<i>Pterospora andromedea</i>	Giant Pine-drops
<i>Pyrola asarifolia</i> ssp. <i>asarifolia</i>	Pink Wintergreen
<i>Rhododendron canadense</i>	Rhodora
<i>Salix pyrifolia</i>	Balsam Willow
<i>Scheuchzeria palustris</i>	Pod Grass
<i>Schoenoplectus heterochaetus</i>	Slender Bulrush
<i>Solidago simplex</i> var. <i>randii</i>	Rand's Mountain Goldenrod
<i>Symphotrichum boreale</i>	Northern Bog Aster
<i>Thalictrum venulosum</i>	Veiny Meadow-rue
<i>Triglochin palustre</i>	Marsh Arrow-grass
<i>Trisetum melicoides</i>	Melic-oats
<i>Viburnum edule</i>	Squashberry
<i>Viola nephrophylla</i>	Northern Bog Violet

Invertebrate Animal

<i>Lithophane lepida lepida</i>	A Noctuid Moth
<i>Ophiogomphus anomalus</i>	Extra-striped Snaketail

Vertebrate Animal

<i>Aquila chrysaetos</i>	Golden Eagle
<i>Asio flammeus</i>	Short-eared Owl
<i>Catharus bicknelli</i>	Bicknell's Thrush
<i>Circus cyaneus</i>	Northern Harrier
<i>Falcapennis canadensis</i>	Spruce Grouse
<i>Falco peregrinus</i>	Peregrine Falcon
<i>Gavia immer</i>	Common Loon
<i>Haliaeetus leucocephalus</i>	Bald Eagle
<i>Ixobrychus exilis</i>	Least Bittern
<i>Myotis leibii</i>	Eastern Small-footed Myotis
<i>Picoides dorsalis</i>	Three-toed Woodpecker
<i>Podilymbus podiceps</i>	Pied-billed Grebe
<i>Prosopium cylindraceum</i>	Round Whitefish

¹Source: New York Natural Heritage Program, New York State Department of Environmental Conservation. July 2006. Biodiversity Databases, Element Occurrence Record Digital Dataset. Albany, New York