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STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

December 5, 2023

Basil Seggos
Commissioner
Department of Environmental Conservation
625 Broadway
Albany, NY 12233

Re: Oversight of New York State Forest
Tax Programs
Report 2023-F-18

Dear Commissioner Seggos:

Pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law, we have followed up on the actions taken by officials of the Department of Environmental Conservation (Department) to implement the recommendations contained in our audit report, *Oversight of New York State Forest Tax Programs* (Report [2020-S-51](#)).

Background, Scope, and Objective

New York State's land area of 30.2 million acres comprises almost 19 million acres of forest, which provide many public benefits, including clean air and water, carbon storage, forest products (e.g., timber), jobs, scenic beauty, and outdoor recreation opportunities. Of the 19 million acres, about 14 million acres (74%) are privately owned. To encourage the long-term management of privately owned woodlands to sustainably produce forest crops and increase the likelihood of both healthy forests and a stable forest economy, in 1974, New York enacted Real Property Tax Law 480a – a tax incentive program (480a Program) for qualifying private forest landowners.

The Department has general oversight responsibility for the 480a Program, which is executed by its Central Office and 23 satellite sub-regional offices in seven of its nine regions. To enroll in the 480a Program, landowners must apply to certify their land through the Department. Forest land is eligible if the tract is at least 50 contiguous (adjoining) acres exclusively devoted to and suitable for forest crop production (e.g., timber) and stocked with a stand of forest trees sufficient to produce a merchantable forest crop within 30 years from when it is certified by the Department. Additionally, the landowner must submit a forest management plan, prepared by a qualified forester, for Department approval – and any changes to the management plan must also be approved by the Department. Forest land enrolled in the 480a Program receives an annual property valuation exemption of up to 80%, which can result in significantly less local taxes (school, county, and municipal) for the landowner. In return, the landowner commits the land to the production of forest crops for the next succeeding 10 years. The 480a Program has an annual recommitment; each year a landowner receives a tax break,

they must submit an annual commitment form recommitting their land for the next succeeding 10 years.

The 480a Program is the second iteration of New York’s forest tax program. The 480 Program, also known as the Fisher Forest Act, dates back to 1926 – and the land management goals and requirements reflected the needs of the time. According to New York statewide parcel data, 795 properties, totaling 260,669 acres, remain committed (“grandfathered”) under the former program; these landowners have been benefiting from local tax reductions – and lesser qualifying standards – for over 45 years. For example, the 480 Program did not require approval of management plans or annual commitment forms and had a lower acreage requirement – a minimum of 15 acres – for eligibility. While the requirements are less stringent, the former program required some Department oversight of the committed land.

The objective of our initial report, covering tax exemptions granted under the 480 and 480a programs for the period January 2017 through December 2019, as well as observations and actions taken by the Department to monitor those properties through July 2021, was to determine whether the Department was adequately monitoring the 480 and 480a private forest programs to ensure forest land is appropriately enrolled and landowners are adhering to requirements to assist in the protection of the environmental benefits of the State’s forest resources. The audit found monitoring and enforcement weaknesses in the Department’s oversight of the 480a Program that undermined its ability to ensure 480a Program forest lands continue to be protected and enhanced as an economic and environmental resource of major importance and that only eligible properties receive local tax exemptions. Additionally, while there are gaps in the law regarding oversight responsibility under the 480 Program, for the 795 properties spanning 260,669 acres, landowners had been benefiting from local tax reductions for over 45 years, but the properties were largely unmonitored by the Department or localities. In most cases, the Department was not aware which properties were enrolled in the 480 Program.

The objective of our follow-up was to assess the extent of implementation, as of September 2023, of the two recommendations included in our initial audit report.

Summary Conclusions and Status of Audit Recommendations

Department officials made progress in addressing the issues identified during the initial audit. Of the initial report’s two audit recommendations, both were partially implemented.

Follow-Up Observations

Recommendation 1

Improve communication and partnerships with local assessors to ensure that properties are appropriately enrolled, eligible, and benefiting from the 480a and 480 Programs; and that management plans are followed, adequate records are maintained, enforcements are applied when violations occur, penalties are satisfied, and other administrative changes the Department deems necessary to improve the 480a and 480 Programs are made.

Status – Partially Implemented

Agency Action – The Department was actively working with members of the New York State Assessors Association (Association) to develop a 480 and 480a course for the Association’s October 2023 conference. The Department expected this 3-hour course would help assessors understand the requirements of the 480 and 480a programs,

improve communication between the Department forestry staff and local assessors across the State, and bolster compliance. The training was expected to cover various areas such as record keeping, violations and penalties, and any administrative changes. Department program staff also present at local assessor meetings to aid in communication efforts. Additionally, the Department proposed regulatory changes to the 480a Program to make certain administrative changes, such as requiring the use of Department-provided forest management plan templates that include all necessary plan elements. The proposed regulations expired on September 13, 2023, and, therefore, the changes were not enacted. However, Department officials stated that they will continue efforts to promote regulatory change for the betterment of the program and have already drafted a new proposal of changes they plan to put out for public comment by the end of calendar year 2023.

Recommendation 2

Develop and maintain a centralized statewide database to improve oversight and administration of statewide forest tax programs, including compliance with management plans, work schedules, and annual commitments.

Status – Partially Implemented

Agency Action – The Department submitted a proposal to develop a statewide database to the Office of Information Technology Services (ITS) in fall 2022. ITS responded that it lacked resources to undertake the project and estimated a per year cost of \$250,000–\$375,000 for the development and maintenance of the database. Therefore, the Department is pursuing other federal funding through the U.S. Forest Service and, if such funding is procured, will continue plans to develop a centralized statewide database to improve oversight of forest tax programs.

Major contributors to this report were Andre Spar, Matthew Conway, and Kevin Lance.

We would appreciate your response to this report within 30 days, indicating any actions planned to address the unresolved issues discussed in this report. We thank the management and staff of the Department for the courtesies and cooperation extended to our auditors during this follow-up.

Very truly yours,

Amanda Eveleth
Audit Manager

cc: Andrew B. Fischler, Office of Internal Audit, DEC