



PRESS RELEASE

February 1, 2017

## Supreme Court Judge Orders Trial for Lawsuit Over the Future of Forever Wild

*Court denies Motions for Summary Judgment by both sides*

*Trial to be held on issues involving the permissible level of tree cutting on the Forest Preserve and whether the construction of class II snowmobile trails constitutes an improper use of the Forest Preserve due to dramatic changes in terrain*

**For more information:**

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Albany, NY – A State Supreme Court Justice in Albany County has ordered a trial in the lawsuit brought by Protect the Adirondacks against the Department of Environmental Conservation and Adirondack Park Agency challenging the constitutionality of the construction of a network of road-like class II community connector snowmobile trails in the Adirondack Forest Preserve. Protect the Adirondacks believes these new trails violate the “forever wild” provision of Article 14 of the State Constitution due to the cutting of over 31,000 trees, the clearing of over 50 acres of land, and the vast changes to the terrain and forest ecology of the affected areas. The trial is set to start on March 1, 2017.

A copy of the court’s January 26, 2017 decision is attached.

In its decision to send this matter to trial, the Supreme Court repeatedly referenced the recent Court of Appeals decision in the Friends of Thayer Lake v. Brown case, which involves public navigation rights in the Adirondacks. That decision reversed lower court rulings on motions for summary judgment, and sent the case back to the Supreme Court for a trial to develop a more complete record. Similarly, the purpose of the trial in court on the current Article 14 lawsuit will be to develop a complete factual record where there are serious matters in dispute over what constitutes a tree, the historic

interpretation of what “timber” means in the NYS Constitution, the ecological benefits of closing interior trails to snowmobiles, and whether the construction of class II snowmobile trails constitutes an improper use of the Forest Preserve due to dramatic changes in terrain.

“This decision shows the seriousness and merits of our arguments,” said Peter Bauer, Executive Director of Protect the Adirondacks. “The court refused the state’s demand to dismiss our case.”

“We have documented the actual or planned destruction of over 31,000 trees on trails that have been built, or where construction was planned or underway, and the vast changes to the Forest Preserve from construction practices that are very different from those used on foot trails. We believe that construction of this new network of trails is a different type of use of the Forest Preserve and requires a constitutional amendment,” said Peter Bauer.

In the summer and fall of 2016, the Appellate Division, Third Department, issued a series of preliminary injunctions to stop the State from cutting trees on the Forest Preserve to build new class II community connector snowmobile trails. That court extended this injunction in the fall so that it remains in place until the appeal of an earlier denial by the Supreme Court is resolved. This ban will likely extend into the field season in the summer of 2017 or longer. These injunctions have kept over 7,500 Forest Preserve trees alive, so far.

This lawsuit was filed by Protect the Adirondacks against the NYS Department of Environmental Conservation and Adirondack Park Agency in 2013 alleging a violation of Article XIV, Section 1, the forever wild provision of the NYS Constitution. It is important for the future of forever wild because the state is currently working to build an extensive network of road-like trails through the Forest Preserve. To date, the state has built or plans to build over 36.5 miles of these trails, which will require clearing of more than 50 acres and destruction of over 31,000 trees. Protect the Adirondacks believes that if the State of New York wants to build a network of road-like trails through the Forest Preserve that require the cutting of tens of thousands of trees, then the state should pursue a constitutional amendment to accomplish this.

Unlike other trails built on the Forest Preserve, new “class II community connector snowmobile trails” are excavated with heavy machinery to remove large boulders and stumps, utilize extensive bench cutting along trailsides, grade and flatten a wide trail surface area, remove thousands of trees over 3 inches diameter at breast height (DBH), remove thousands more trees under 3 inches DBH, remove the entire native understory, often replace the native understory with a grass mix, open the forest canopy, fracture and chip away bedrock, utilize oversized bridges often equipped with reflectors, and are built to handle operation of motor vehicles at high rates of speed. No

other recreational activity in the Forest Preserve, requires such intensive tree cutting, terrain alteration and destruction of natural resources. Protect the Adirondacks believes that this planned network of hundreds of miles of class II community connector snowmobile trails violates Article XIV, Section 1 of the NYS Constitution.

Protect the Adirondacks is being represented in this case by Caffry & Flower and Braymer Law, PLLC of Glens Falls. The state is being represented by the Attorney General's Office.

### **Protect the Adirondacks**

Protect the Adirondacks, Inc. (PROTECT) is a privately funded, IRS-approved not-for-profit organization dedicated to the protection of the 6-million-acre Adirondack Park in northern New York. PROTECT was formed through the merger of the Association for the Protection of the Adirondacks and the Residents' Committee to Protect the Adirondacks in 2009. PROTECT pursues its mission to protect the Adirondack Park and defend the public "forever wild" Forest Preserve through citizen advocacy, grassroots organizing, education, research, and legal action. PROTECT is governed by a volunteer Board of Directors. PROTECT maintains an office in Lake George. For more information see [www.protectadks.org](http://www.protectadks.org).

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