



PRESS RELEASE

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## Court Grants PROTECT's Motion to Challenge APA and DEC Snowmobile Trail Building Program in the Adirondack Forest Preserve

*Lawsuit alleges violations of State Constitution due to extensive tree cutting and destruction of wild forest character*

*Lawsuit alleges illegal use of large tracked groomers on designated trails in the Forest Preserve and violations of state law and regulations*

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Albany, NY – On March 28, 2013, the Appellate Division, Third Department, granted Protect the Adirondacks' motion for consent to maintain its suit pursuant to Article 14 of the State Constitution, which seeks to establish that community connector snowmobile trails administered by the NYS Adirondack Park Agency (APA) and Department of Environmental Conservation (DEC) violate Article 14's Forever Wild clause.

The second aspect of the case, which demonstrates that the use of large tracked motorized grooming machines, such as snowcats, violates the Adirondack Park State Land Master Plan, did not require the consent of the Court to file. PROTECT's attorneys expect to file and serve the entire summons and complaint soon.

In February, Protect the Adirondacks filed a motion in a new lawsuit against the NYS Department of Environmental Conservation (DEC) and Adirondack Park Agency (APA) to challenge recent policy and snowmobile trail construction practices in the Adirondack Forest Preserve. The lawsuit contains two parts: 1) allegations that the construction by the DEC of new 9 - 12-foot-wide "community connector" snowmobile trails violates the "Forever Wild" clause of the NYS Constitution; and 2) allegations that the DEC and APA violated the Adirondack Park State Land Master Plan and DEC regulations in authorizing the mechanical grooming of snowmobile trails with large tracked groomers.

Under the state Constitution, all lawsuits by private parties seeking to enforce Article 14 of the State Constitution must receive approval from the Appellate Division before being filed in a lower court. As noted above, this approval was granted. This action makes no ruling on the merits of PROTECT's claims, but was a procedural step.

## **Constitutional Claims: excessive tree cutting and destruction of “wild forest lands”**

Article 14, Section 1, of the NYS Constitution reads, in pertinent part:

The lands of the state, now owned and 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, exchanged, or be taken by any corporation, public or private, nor shall the timber thereon be sold, removed, or destroyed.

PROTECT’s lawsuit alleges that DEC’s cutting of more than 2,200 trees over the 11.9 miles of the new class II community connector snowmobile trail in the Moose River Plains Wild Forest area of the Forest Preserve violated the NYS Constitution’s prohibition on tree cutting. Whereas prior case law has found some limited tree cutting on the Forest Preserve in furtherance of state management to be acceptable, PROTECT believes that the amount of tree cutting for the new community connector snowmobile trail exceeds permissible limits.

In addition to the new “community connector” snowmobile trail built in the Moose River Plains, DEC has already approved similar trails in the Wilmington and Jessup River Wild Forest areas, which will also require cutting hundreds of trees. PROTECT estimates that the entire community connector trail system planned by DEC in its Adirondack Park Snowmobile Plan will result in cutting over 8,000 trees and clearcutting almost 50 acres of the Forest Preserve.

In addition to the illegal tree cutting, PROTECT alleges that the Forever Wild clause of the Constitution was violated by the widening, clearing, grading, flattening, tree removal, rock removal, destruction of bedrock, bench cutting, use of gravel, and bridge building involved in creating the new community connector snowmobile trail in the Moose River Plains.

## **Article 78 Claims: violation of State Land Master Plan and DEC regulations by allowing large motor vehicle tracked groomers on designated “trails”**

PROTECT’s lawsuit also includes claims under Article 78 of the Civil Practice Law and Rules (CPLR) that the DEC and APA violated the Adirondack Park State Land Master Plan (SLMP) and DEC regulations when they authorized the use of large, multi-ton, tracked groomers on designated “trails” on the Forest Preserve. PROTECT believes state law provides that the only motor vehicle allowed to operate on a “trail” is a snowmobile on a designated snowmobile trail. All other motor vehicles are prohibited from operating on “trails” and must operate only on designated “roads.”

The SLMP states that snowmobile trails are:

A marked trail of essentially the same character as a foot trail designated by the Department of Environmental Conservation on which, when covered by snow and ice, snowmobiles are allowed to travel and which may double as a foot trail at other times of the year.

DEC and APA embarked upon a new rush of snowmobile trail building in 2012. The new “trail” in the Moose River Plains is the first major trail to be built and likely the largest to be built. The trail, now named the Seventh Lake Mountain Trail was opened with a ribbon-cutting ceremony on February 15, 2013.

Extensive background material is posted on the PROTECT website [www.protectadks.org](http://www.protectadks.org).

**Lawsuit is narrowly constructed, does not challenge snowmobiling or motor vehicle use in the Forest Preserve or use of large groomers on roads**

It's important to note what this lawsuit is not about. It is not about eliminating the use of snowmobiles on the Forest Preserve. It is not about eliminating motor vehicle use from the Forest Preserve. This lawsuit focuses on how the APA and DEC manage and groom snowmobile trails on the Forest Preserve.

Legal representation for this lawsuit is being handled by John Caffry and Claudia Braymer of Caffry and Flower in Glens Falls.

**Protect the Adirondacks**

Protect the Adirondacks 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 guided 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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