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Adirondack Groups to New York State:

Law Must Be Changed before Exploratory Mining Is Permitted in Forest Preserve

New York, NY – As the New York State Department of Environmental Conservation (DEC) prepares for exploratory mining in the Adirondack Park Forest Preserve, four environmental organizations are asking for confirmation that the agency will not authorize sampling until laws prohibiting the mining are changed. The request comes from Adirondack Wild: Friends of the Forest Preserve; the Atlantic States Legal Foundation; Protect the Adirondacks! and the Atlantic Chapter of the Sierra Club, in a letter drafted on their behalf by Earthjustice, a non-profit environmental law firm. The groups contend that a constitutional amendment, Proposition 5, approved by the voters last November, removed only one layer of protection from about 200 acres of forest (known as “Lot 8”), but all other legal requirements remain in full force and effect.

Prior to the narrow approval (53% to 47%) of the amendment, New York’s Constitution required that Lot 8 be “forever kept as wild.” The amendment removed that permanent constitutional protection and allowed the State to decide whether to permit mineral sampling on Lot 8, which is part of the Jay Mountain Wilderness Area. Lot 8 abuts property on which NYCO Minerals, Inc. (NYCO) operates an eight-story-deep open-pit mine (the Lewis mine). NYCO wants to expand its operations into the Wilderness Area, which has been protected by generations of New Yorkers since 1885.

In the letter, dated January 17, 2014, the groups acknowledge that Lot 8 no longer has the “forever wild” protection afforded under the Constitution, but they point to a list of additional

statutes, forest management plans, and regulations that bar the contemplated mining operations.

"We are asking the DEC Commissioner to confirm within 15 business days that the listed provisions must be changed before any sampling can be authorized," said Deborah Goldberg of Earthjustice. "The Constitution now gives DEC the choice whether to let NYCO expand its operations, but to proceed legally, amendments are needed to more than just the Constitution. Right now, the law prohibits industrial activity on wilderness land, and DEC does not have a choice whether or not to obey the law."

The road building, tree cutting, and drilling involved in minerals exploration would undoubtedly cause great disturbance to the area. In addition, the groups have documented that Lot 8 is rich in older growth trees and varied wildlife habitats that demand great care and careful assessment prior to any mineral sampling operations.

"The passage of Proposition 5 last November was based on misleading and incomplete legislation. It left many major issues to be resolved after the vote about how the Forest Preserve is to be mined. We're working to hold State agencies accountable to ensure that ecological damage to the Forest Preserve is minimized," said Peter Bauer, Executive Director of Protect the Adirondacks!

Samuel H. Sage, President, Atlantic States Legal Foundation, said that "The narrow passage of Proposition 5 on Election Day last November may have removed the 'forever wild' protection from the Forest Preserve lot in the Jay Mountain Wilderness Area. However, there remain many other requirements in law that have not been amended or repealed and are fully in effect. These must be vigorously and transparently enforced by the Adirondack Park Agency, DEC and the Legislature."

"Concern still exists among Sierra Club members that the text of the ballot initiative did not accurately reflect the actual language of the constitutional amendment," said Roger Downs, Conservation Director of the Sierra Club Atlantic Chapter. "Accordingly, we want to be exceedingly careful that New York State laws and regulations are closely adhered to as this process moves forward."

"Basically, what we are saying to DEC is 'follow the law,' " said Dan Plumley, Partner with Adirondack Wild: Friends of the Forest Preserve. "DEC cannot issue even a temporary revocable permit to allow mineral exploration unless and until the full range of laws protecting our wilderness areas from commercial exploitation and industrial uses are amended."