

# NEWS RELEASE

## State Plan to Allow Drilling on Forest Preserve Lands Violates State Laws and Regulations

*Environmental coalition urges state agencies to implement constitutional amendment in compliance with law*

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For Immediate Release

**For further comment:**

David Gibson, Adirondack Wild: (518) 469-4081

Peter Bauer, Protect the Adirondacks: (518) 685-3008 Cell (518) 796-0112

Roger Downs, Sierra Club: (518) 426-9144

Deborah Goldberg, Earthjustice: (212) 845-7377

The Department of Environmental Conservation (DEC) and the Adirondack Park Agency (APA) are poised to allow drilling for minerals within 200 acres of Forest Preserve. A coalition of environmental organizations has submitted a detailed letter to the APA and DEC that challenges the legality of their proposed actions. This coalition, represented by the non-profit law firm, Earthjustice, includes the Sierra Club Atlantic Chapter, Adirondack Wild: Friends of the Forest Preserve, Protect the Adirondacks, and the Atlantic States Legal Foundation.

A constitutional amendment passed in 2013 (Proposal 5), lets the State start a process for exploratory drilling by NYCO Minerals, Inc. The 53-47% vote margin that approved the amendment was the closest ever for a successful amendment involving the Forest Preserve and revealed a divided public. The vote approved a two-step process whereby NYCO first will work with state agencies on a “mineral sampling” operation to establish the value of the wollastonite ore beneath Lot 8. The second step is taken only if NYCO wants to purchase Lot 8, which can occur only after the Legislature approves the value of the property and authorizes the terms of the sale.

The lands in question are known as Lot 8 and are part of the Jay Mountain Wilderness in the Town of Lewis, Essex County. The Wilderness classification provides the strongest protection of forest lands under state law.

“Lot 8 is located within the Jay Mountain Wilderness, and even the DEC admits that the site remains state Forest Preserve land during step one,” said Earthjustice attorney Deborah Goldberg. “The constitutional amendment means that Lot 8 does

not have to be kept 'forever wild,' but before the state can allow drilling, it must comply with statutes and regulation that remain fully in force."

As part of its "mineral sampling" operation, NYCO seeks to build up to 2.5 miles of access roads and to build up to 21 drilling pads. The construction will require cutting down more than 1,250 mature trees and will cause extensive damage to an ecologically complex old growth forest.

The DEC and APA are using an unprecedented and unusually expedited process to authorize test drilling in the Forest Preserve. The DEC has submitted a draft Jay Mountain Wilderness Area Unit Management Plan (UMP) amendment to the APA that exempts the 200 acres of Lot 8 from Wilderness area protections. The APA is scheduled to review this draft UMP amendment and determine whether or not to send it to public hearing at its meeting on Friday, April 11.

The DEC also plans to authorize all NYCO's exploration activities through a Temporary Revocable Permit (TRP). The DEC listed the draft UMP Amendment and a draft TRP in the April 2<sup>nd</sup> issue of the Environmental Notice Bulletin. The ENB documents include maps and a work plan.

"The state agencies claim that the Constitutional Amendment somehow made existing state environmental laws null and void. That's not the case. The Constitutional Amendment set out a process by which part of the Forest Preserve can be sold, but this must be done in compliance with other state laws" said Peter Bauer, Executive Director of Protect the Adirondacks.

"The really big problem which the State and NYCO created for themselves is how to legally authorize mineral exploration – involving road building, cutting of over a thousand trees, construction of drilling pads and more – in a Wilderness area before a land exchange takes place. Lot 8 remains publicly-owned Wilderness to this day. The voters did not alter that fact last November. The State, therefore, now has to figure out how to authorize drilling in a legal, aboveboard way and in a manner that disturbs Wilderness character and resources in the least possible way. This Draft Unit Management Plan amendment and accompanying draft permit from DEC does not accomplish any of these goals. DEC must go back to the drawing board," said David Gibson, Partner, Adirondack Wild" Friends of the Forest Preserve.

The coalition of environmental organizations contends that the state's proposal violates numerous existing state laws and regulations. The coalition has called upon the APA to reject the plan by the DEC as unlawful and calls on both state agencies to follow a legal process to implement the constitutional amendment.

"APA's rushed permitting process for the NYCO mine will leave a massive hole in the ground where wilderness protections were once guaranteed. This kind of horse trading continues to lower the bar for mining, logging, real estate, and even fracking interests, to convert New York's wild forests into private cash cows," stated Roger

Downs, Conservation Director for the Sierra Club Atlantic Chapter. "The looming prospect of shale gas development in New York State adds urgency to an aggressive defense of Forest Preserve land – it takes little imagination to anticipate efforts by fracking interests to invoke the NYCO precedent in a campaign for the right to frack in the Catskill Park," said Roger Downs.

"As written, this amendment to the Jay Mountain Wilderness would violate the State Land Master Plan. Contrary to what the DEC asserts, the State Land Master Plan's Wilderness guidelines were not erased by the voters' decision on Proposal 5 last November. The voters amended only the Constitution, not any other laws. In order for NYCO to explore for minerals, with all the road building and great disturbance of the land and wilderness character that this activity requires, the State Land Master Plan and other laws protective of wilderness must be amended first," said Dan Plumley, Partner, Adirondack Wild" Friends of the Forest Preserve.

The DEC is taking public comments on the draft UMP Amendment to the Jay Mountain Wilderness UMP and draft TRP through May 2, 2014.

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