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**Exploratory Drilling in Wilderness Would Violate Non-Constitutional Laws;
Groups File Legal Challenge to Mineral Testing in Forest Preserve**

Albany, NY – Four environmental organizations dedicated to maintaining the integrity of the NYS Forest Preserve filed a lawsuit today challenging the State’s approval of mineral exploration on 200-acres of pristine, publicly-owned Adirondack Forest Preserve Wilderness known as “Lot 8” in Essex County. The organizations are Adirondack Wild: Friends of the Forest Preserve, Atlantic States Legal Foundation, Protect the Adirondacks! Inc., and Sierra Club, and they are represented by the non-profit law firm, Earthjustice, and pro bono co-counsel Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.

The Article 78 lawsuit seeks to stop mineral exploration in the Jay Mountain Wilderness until the State complies with all applicable laws. It was filed in Albany County Supreme Court against the NYS Department of Environmental Conservation (“DEC) and its Commissioner, the NYS Adirondack Park Agency (“APA”) and its Chairwoman, and NYCO Minerals, Inc. The groups contend that a constitutional amendment (Proposition 5) narrowly approved by the voters last November suspended one layer of protection for Lot 8, but all other legal requirements protective of Wilderness areas remain in full force and effect.

However, the State agencies have maintained that the amendment “implicitly repealed” all such laws and regulations affecting Lot 8. In June, the APA determined that an amendment of the Jay Mountain Wilderness Unit Management Plan (“UMP”) authorizing mineral exploration conforms with State Land Master Plan Wilderness guidelines. DEC has determined that exploratory drilling will have no significant adverse impacts, granted final approval of the UMP amendment, and issued a final temporary revocable permit (“TRP”) authorizing the mineral sampling operations. Tree cutting and other physical disturbance may begin as soon as July 16.

“The State’s theory of implicit repeal leaves APA and DEC operating in a complete legal vacuum,” said lead attorney Deborah Goldberg of Earthjustice. “They agencies now are violating numerous laws, are ignoring their own internal procedures, and generally are proceeding in an entirely arbitrary and ad hoc manner.”

According to the terms of the TRP, mineral sampling by NYCO Minerals will require the destruction of up to 1,254 trees, the construction of corridors in the forest for vehicular access, and installation of up to 21 drilling pads, with resulting noise, light pollution, and air emissions from industrial equipment. Drilling would continue up to eight months.

“The agencies claim that industrial drilling does not carry the potential for even one significant adverse environmental impact, even though it will take place in a completely wild forest sheltering sensitive plants, including two protected orchid species,” Goldberg added. She also noted that the DEC issued a TRP for a boundary survey of Lot 8 last February, which resulted in the cutting of vegetation within the Lot 8 Wilderness, and withheld that information from the organizations.

“Basically, what we are saying to DEC and APA is ‘follow the law,’ ” said Dan Plumley, Partner with Adirondack Wild: Friends of the Forest Preserve. “It is a flagrant legal violation for the agencies to allow mineral exploration unless and until the full range of laws protecting our wilderness areas from commercial exploitation and industrial uses have been amended.”

"The passage of Proposition 5 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 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."

"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."

“The road building, tree cutting, and drilling involved in mineral exploration will undoubtedly cause great disturbance to Lot 8 and beyond it,” added Adirondack Wild’s David Gibson. “In addition, the groups have carefully 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 groups note that there is no reason for the State to rush to judgment with respect to mineral sampling on Lot 8. Recently, APA held a hearing on a NYCO application to expand its existing Lewis mine by approximately 50 percent, and NYCO owns another permitted mine two miles away at Oak Hill that should be ready for full-scale mining by 2016. The company itself estimates these mines have at least 25 years of mineral reserves.