

STATE OF NEW YORK
SUPREME COURT

ALBANY COUNTY

In the Matter of the Application of
PROTECT THE ADIRONDACKS! INC.,

**AFFIDAVIT OF
PETER BAUER**

Plaintiff-Petitioner,

INDEX NO. 2137-13

for a Judgment Pursuant to
Section 5 of Article 14 of
the New York State Constitution,
and CPLR Article 78,

RJI NO.01-13-ST-4541

-against-

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL
CONSERVATION and ADIRONDACK PARK AGENCY,

Defendants-Respondents.

STATE OF NEW YORK)

)SS.:

COUNTY OF WARREN)

Peter Bauer, being duly sworn, deposes and says that:

1. I am the Executive Director of Plaintiff-Petitioner
Protect the Adirondacks! Inc. (hereinafter the "Plaintiff" or
"PROTECT").

2. I make this affidavit in support of Plaintiff's cross-
motions for a temporary restraining order and preliminary
injunction during the pendency of the First Cause of Action and
for a default judgment on that cause of action.

3. I also make this affidavit in opposition to the motions
by the defendants-respondents New York State Department of
Environmental Conservation ("DEC") and Adirondack Park Agency
("APA") (collectively "Defendants") to convert and to dismiss the

Plaintiff's verified complaint-petition ("Complaint"), and to compel acceptance of Defendants' tardy motion papers.

4. The construction of the snowmobile trails at issue in this case is resulting in the destruction of a substantial amount of timber on the Forest Preserve, the creation of a man-made setting, and the destruction of the wild forest character of the land, all in violation of Article 14, § 1 of the Constitution.

5. On October 18 and November 12, 2012, January 21 and June 28, 2013, I visited the Seventh Lake Mountain snowmobile trail, which is currently under construction in the Moose River Plains Wild Forest Unit of the Adirondack Forest Preserve. On those occasions, I witnessed construction work under way and sections of the trail where work had been completed, all on Forest Preserve land.

6. On those dates, I took the photographs which are attached hereto as exhibits, and which accurately demonstrate the condition of that trail on those dates. These exhibits are as follows:

Exhibit A - Fall 2012: Rutted trail cut into the earth, approximately 20 feet wide. Trail was partially built on a long-abandoned "tote road", but was widened well beyond its prior width by the clearing of trees and other vegetation.

Exhibit B - Fall 2012: Massive bridge under construction. Bridge is sized to carry the weight of grooming machines weighing

several tons. Also shows destroyed timber cast aside next to trail.

Exhibit C - Fall 2012: Destroyed timber dumped on side of trail. Blue paint circles mark rocks and stumps to be removed from forest floor.

Exhibit D - Fall 2012: DEC excavating machine at work in the Forever Wild Forest Preserve.

Exhibit E - Fall 2012: Typical trail construction scene. Trail is much more than 8' wide.

Exhibit F - Fall 2012: Typical stump of destroyed tree in the Forest Preserve.

Exhibit G - Fall 2012: Typical destroyed timber and stumps in the Forest Preserve.

Exhibit H - Fall 2012: Typical bench cut, extending well up the hillside to the right.

Exhibit I - Fall 2012: Typical section of trail with multiple bench cuts, and flattened and graded sections.

Exhibit J - Fall 2012: Section of trail where boards and loads of gravel were installed on the forest floor to create man-made trail tread. Trail width greatly exceeds 8' and a drainage ditch is shown on the left side.

Exhibit K - Fall 2012: Natural rock ledge destroyed by DEC personnel to accommodate trail construction, with pile of stone removed from ledge in foreground, and large bridge in background. Trail width greatly exceeds 8'.

Exhibit L - January 2013: Massive bridge constructed for snowmobile trail, sized to accommodate grooming machines weighing several tons.

Exhibit M - June 2013: Destruction of forest floor, with destroyed timber discarded on both sides of trail.

Exhibit N - June 2013: Trail cut through forest, with extensive excavation, side-cutting and benching. The damage extends well beyond the width of the trail itself on both sides.

Exhibit O - June 2013: Another section of trail cut through the forest, with extensive excavation, side-cutting and benching. Damage extends far up the hillside on the left side, well beyond the width of the trail itself.

Exhibit P - June 2013: Another section of trail cut through the forest, with extensive excavation, side-cutting and benching. Damage extends far up the hillside on the right side, well beyond the width of the trail itself.

7. As shown by these pictures, the graded and excavated area of the trail varies in width from about 9 feet to about 14 feet, and is wide as about 20 feet.

8. These photographs demonstrate that the construction of this snowmobile trail has resulted in the substantial destruction of timber on the Forest Preserve, and has created a man-made setting that is not consistent with the wild forest nature of the Forest Preserve.

WHEREFORE, I request that Plaintiff's motions be granted and that Defendants' motions be denied.

Peter Bauer

Sworn to before me this _____
day of July, 2013.

NOTARY PUBLIC

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