

STATE OF NEW YORK  
SUPREME COURT COUNTY OF ALBANY

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

Plaintiff-Petitioner

Index No. 2137-13  
RJI No. 01-13-ST-4541  
Hon. George B. Ceresia, Jr.

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

-against-

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

Defendants-Respondents.

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#### APPENDIX A – The Return

##### Documents referenced in the complaint-petition, Exhibits Nos.:

1. Adirondack Park State Land Master Plan (Master Plan, update published October 2011)
2. DEC/APA Memorandum of Understanding, last revised 2010 (2010 MOU).
3. 2006 Snowmobile Plan for the Adirondack Park/Final Generic Environmental Impact Statement (2006 Snowmobile Plan)
4. Relevant excerpt from the 2003 draft 2003 Adirondack Park snowmobile plan
5. 2011 Moose River Plains Wild Forest Unit Management Plan (UMP)
6. 2005 Wilmington Wild Forest UMP
7. 2010 Amendment to the Jessup River Wild Forest UMP
8. Management Guidance: Snowmobile Trail Siting, Construction and Maintenance on Forest Preserve Lands in the Adirondack Park (2009 Guidance - DEC format), with November 21, 2009 Commissioner memorandum approving the Guidance as an amendment to the DEC/APA MOU and rescinding ONR-2 with respect to the Adirondack Park
9. Tree cutting tallies for the Seventh Lake Mountain, Wilmington, and Gilmantown Trails (set forth below as separate exhibits)
10. 2009 Guidelines for Snowmobile Trail Groomer Operator Training (Groomer Guidelines)

**Additional Documents Referenced in the DEC/Agency Answer: Exhibit Nos.:**

11. Agency November 23, 2009 transmittal letter and November 13, 2009 Resolution "With Respect To An Interpretation Of The State Land Master Plan Involving Compliance Of Proposed Guidance For Snowmobile Trail Siting, Construction And Maintenance On Forest Preserve Lands In The Adirondack Park" (2009 Agency Consistency Resolution, and Guidance in APA format)
12. June 8, 2006 APA "Agency Guidance, State Land-2, on State Land Master Plan Interpretation on Standard Snowmobile Bridge Design and Use of Natural Materials for Design and Construction" ((2006 Snowmobile Bridge Guidance).

**Additional Documents referenced in the Answering Affidavit of Karyn B. Richards: Exhibits Nos.:**

13. Relevant pages of Vols. I and II of the *Future of the Adirondack Park* (Temporary Study Commission on the Future of the Adirondacks 1970)
14. Relevant portions of the June 1972 Master Plan (1972 Master Plan)
15. Relevant portion of the April 1979 Master Plan (1979 Master Plan)
16. Relevant portion of the November 1987 Master Plan (1987 Master Plan)
17. DEC Commissioner's Organization and Delegation #84-06 (tree cutting)
18. 1991 DEC Division of Lands and Forests Direction LF-91 2 (tree cutting)
19. 1986 Van Valkenberg Policy on snowmobile trails (1986 Policy)
20. 1998 DEC Office of Natural Resources Policy 2 (ONR 2)
21. 2000 DEC "Clarification of Practice Regarding Snowmobile Use for Snowmobile Trail Grooming, Maintenance, and Construction in Wild Forest" (Clarification of Practice) and DEC 2000 Interim Guidelines [submitted Appendix N of 2006 Final Adirondack Park Snowmobile Plan, Exhibit 3 above]
22. December 3, 2001 Adopt a Natural Resource Agreement (AANR) with Trail Groomers Snowmobile Club; December 4, 2001 AANR with Algonquin Sno-Blazers, Inc.
23. DEC September 2009 Power Point Presentation on draft snowmobile trail guidance at the September 2009 meeting of the Agency's State Land Committee [have – being printed]
24. Winter 2013 Adirondack Mountain Club Newsletter

**Additional Documents referenced in the Answering Affidavit of James E. Connolly: Exhibit Nos.:**

25. March 2006 DEC power-point presentation on "APA & DEC Consultation on Snowmobile Trail Construction & Maintenance: Determining the "Character of a Foot Trail" Existing Policy Guidelines." and minutes of the March 9, 2006 meeting of the Agency's State Land Committee
27. September 2, 2009 Connolly/Davies memorandum with Draft Snowmobile Trail Guidance
28. DEC power point presentation on the draft snowmobile guidance at the Agency's State Land Committee's September 2009 meeting.
29. Relevant Portion of the Minutes of the Agency's State Land Committee September 2009 meeting
30. Relevant Portion of the Minutes of the Agency's October 2009 Meeting
31. Documents submitted to the Agency members for the November 12-13, 2009 meeting:
  - November 4, 2009 Agency staff transmittal memorandum
  - November 4, 2009 Agency staff memorandum describing revisions made in the draft guidance
    - revised draft trail guidance
    - Comparison of original draft trail guidance and revised draft trail guidance
    - DEC staff memorandum (Kenneth Hamm) on DEC's delegation of administrative responsibilities
    - draft Agency resolution
    - DEC staff memorandum (Robert Davies) with maps depicting approved locations of trail grooming activities in Wild Forests
32. Agency power-point presentation on the revised draft guidance
33. Compilation of public comments received on the draft trail Guidance, on disc
34. Relevant portion of the minutes of the Agency's November 12-13, 2009 meeting
35. DVD of Webcasts of the Agency's September, October, and November 2009 meetings

**Additional Exhibits referenced in the Answering Affidavit of Tate M. Connors: Exhibit Nos.:**

36. Work plan and work plan modification reports for the Seventh Lake Mountain Trail
37. Map of the Seventh Lake Mountain Trail
38. Tally of trees cut for the Seventh Lake Mountain Trail

39. Photographs of the Seventh Lake Mountain Trail taken July 2, 2013

**Additional Exhibits Referenced in the joint affidavit of Robert J. Daley and Stephen J. Guglielmi:  
Exhibit Nos.:**

- 40. Map of the Wilmington Trail
- 41. Work plan for the Wilmington Trail
- 42. Tally of trees cut for the Wilmington Trail
- 43. Work Plan Modification for the re-route of a portion of the Wilmington Trail
- 44. APA Freshwater Wetlands General Permit for the re-route of a portion of the Wilmington Trail
- 45. Photographs of portions of the completed Wilmington Trail.

**Additional Exhibits Referenced in the affidavit of Benjamin C. Thomas: Exhibits Nos.:**

- 46. Map of the Gilmantown Trail
- 47. Work plan for the Gilmantown Trail
- 48. Tally of trees cut for the Gilmantown Trail
- 49. Work plan modification for the Gilmantown Trail
- 50. Photographs of the Gilmantown Trail

**Additional Exhibits Referenced in the affidavit of Maxwell Wolkenhauer: Exhibit No.:**

- 51. Compilation of TRPs and AANRs authorizing the use of tracked groomers on Forest Preserve snowmobile trails (disc).

End of List

**EXHIBIT C**

In the Matter of the Application of PROTECT THE ADIRONDACKS! INC.,  
v. NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
and ADIRONDACK PARK AGENCY

**RETURN DOCUMENTS:**

**VOLUME I, EXHIBITS NOS. 1- 7**

1. Adirondack Park State Land Master Plan (Master Plan, update published October 2011)
2. DEC/APA Memorandum of Understanding, last revised 2010 (2010 MOU)
3. 2006 Snowmobile Plan for the Adirondack Park/Final Generic Environmental Impact Statement (2006 Snowmobile Plan)
4. Relevant excerpt from the 2003 draft 2003 Adirondack Park snowmobile plan
5. 2011 Moose River Plains Wild Forest Unit Management Plan (UMP)
6. 2005 Wilmington Wild Forest UMP
7. 2010 Amendment to the Jessup River Wild Forest UMP

**VOLUME II, EXHIBITS NOS. 8 -22**

**Documents referenced in the complaint-petition,  
Exhibits Nos.:**

8. Management Guidance: Snowmobile Trail Siting, Construction and Maintenance on Forest Preserve Lands in the Adirondack Park (2009 Guidance - DEC format), with November 21, 2009 Commissioner memorandum approving the Guidance as an amendment t the DEC/APA MOU and rescinding ONR-2 with respect to the Adirondack Park
9. Tree cutting tallies for the Seventh Lake Mountain, Wilmington, and Gilmantown Trails (set forth below as separate exhibits)
10. 2009 Guidelines for Snowmobile Trail Groomer Operator Training (Groomer Guidelines)

**Additional Documents Referenced in the DEC/Agency Answer:  
Exhibit Nos.:**

11. Agency November 23, 2009 transmittal letter and November 13, 2009 Resolution "With Respect To An Interpretation Of The State Land Master Plan Involving Compliance Of Proposed Guidance For Snowmobile Trail Siting, Construction And Maintenance On Forest Preserve Lands In The Adirondack Park" (2009 Agency Consistency Resolution, and Guidance in APA format)

12. June 8, 2006 APA "Agency Guidance, State Land-2, on State Land Master Plan Interpretation on Standard Snowmobile Bridge Design and Use of Natural Materials for Design and Construction" ((2006 Snowmobile Bridge Guidance).

**Additional Documents referenced in the Answering Affidavit of Karyn B. Richards:  
Exhibits Nos.:**

13. Relevant pages of Vols. I and II of the *Future of the Adirondack Park* (Temporary Study Commission on the Future of the Adirondacks 1970)
14. Relevant portions of the June 1972 Master Plan (1972 Master Plan)
15. Relevant portion of the April 1979 Master Plan (1979 Master Plan)
16. Relevant portion of the November 1987 Master Plan (1987 Master Plan)
17. DEC Commissioner's Organization and Delegation #84-06 (tree cutting)
18. 1991 DEC Division of Lands and Forests Direction LF-91 2 (tree cutting)
19. 1986 Van Valkenberg Policy on snowmobile trails (1986 Policy)
20. 1998 DEC Office of Natural Resources Policy 2 (ONR 2)
21. 2000 DEC "Clarification of Practice Regarding Snowmobile Use for Snowmobile Trail Grooming, Maintenance, and Construction in Wild Forest" (Clarification of Practice) and DEC 2000 Interim Guidelines [submitted Appendix N of 2006 Final Adirondack Park Snowmobile Plan, Exhibit 3 above]
22. December 3, 2001 Adopt a Natural Resource Agreement (AANR) with Trail Groomers Snowmobile Club; December 4, 2001 AANR with Algonquin Sno-Blazers, Inc.

**VOLUME III, EXHIBITS NOS. 23-31**

**Additional Documents referenced in the Answering Affidavit of Karyn B. Richards:  
Exhibits Nos.:**

23. DEC September 2009 Power Point Presentation on draft snowmobile trail guidance at the September 2009 meeting of the Agency's State Land Committee [**have – being printed**]
24. Winter 2013 Adirondack Mountain Club Newsletter

**Additional Documents referenced in the Answering Affidavit of James E. Connolly:  
Exhibit Nos.:**

25. March 2006 DEC power-point presentation on "APA & DEC Consultation on Snowmobile Trail Construction & Maintenance: Determining the "Character of a Foot Trail" Existing Policy Guidelines." and minutes of the March 9, 2006 meeting of the Agency's State Land Committee

27. September 2, 2009 Connolly/Davies memorandum with Draft Snowmobile Trail Guidance
28. DEC power point presentation on the draft snowmobile guidance at the Agency's State Land Committee's September 2009 meeting.
29. Relevant Portion of the Minutes of the Agency's State Land Committee September 2009 meeting
30. Relevant Portion of the Minutes of the Agency's October 2009 Meeting
31. Documents submitted to the Agency members for the November 12-13, 2009 meeting:
  - November 4, 2009 Agency staff transmittal memorandum
  - November 4, 2009 Agency staff memorandum describing revisions made in the draft guidance
  - revised draft trail guidance
  - Comparison of original draft trail guidance and revised draft trail guidance
  - DEC staff memorandum (Kenneth Hamm) on DEC's delegation of administrative responsibilities
  - draft Agency resolution
  - DEC staff memorandum (Robert Davies) with maps depicting approved locations of trail grooming activities in Wild Forests

**VOLUME IV, EXHIBITS NOS. 32-36**

**Additional Documents referenced in the Answering Affidavit of James E. Connolly:  
Exhibit Nos:**

32. Agency power-point presentation on the revised draft guidance
33. Compilation of public comments received on the draft trail Guidance, on disc
34. Relevant portion of the minutes of the Agency's November 12-13, 2009 meeting
35. DVD of Webcasts of the Agency's September, October, and November 2009 meetings

**Additional Exhibits referenced in the Answering Affidavit of Tate M. Connors:  
Exhibit Nos.:**

36. Work plan and work plan modification reports for the Seventh Lake Mountain Trail

**VOLUME V, EXHIBITS NOS. 37-51**

**Additional Exhibits referenced in the Answering Affidavit of Tate M. Connors:  
Exhibit Nos.:**

37. Map of the Seventh Lake Mountain Trail



38. Tally of trees cut for the Seventh Lake Mountain Trail
39. Photographs of the Seventh Lake Mountain Trail taken July 2, 2013

**Additional Exhibits Referenced in the joint affidavit of Robert J. Daley and Stephen J. Guglielmi:  
Exhibit Nos.:**

40. Map of the Wilmington Trail
41. Work plan for the Wilmington Trail
42. Tally of trees cut for the Wilmington Trail
43. Work Plan Modification for the re-route of a portion of the Wilmington Trail
44. APA Freshwater Wetlands General Permit for the re-route of a portion of the Wilmington Trail
45. Photographs of portions of the completed Wilmington Trail.

**Additional Exhibits Referenced in the affidavit of Benjamin C. Thomas:  
Exhibit Nos.:**

46. Map of the Gilmantown Trail
47. Work plan for the Gilmantown Trail
48. Tally of trees cut for the Gilmantown Trail
49. Work plan modification for the Gilmantown Trail
50. Photographs of the Gilmantown Trail

**Additional Exhibits Referenced in the affidavit of Maxwell Wolkenhauer:  
Exhibit No.:**

51. Compilation of TRPs and AANRs authorizing the use of tracked groomers on Forest Preserve snowmobile trails (disc).

**Additional Exhibits referenced in the Reply Affidavit of James E. Connolly:  
Exhibit Nos. :**

52. 1979 amendment to Master Plan, pgs. 14, 15, 18, 19;
53. 1987 amendment to Master Plan, pgs. 9, 10, 13, 14, 15;
54. The Future of the Adirondacks, Vol. II: The Technical Reports.

**Additional Exhibits referenced in the Affidavit of Susan L. Taylor:  
Exhibit No.:**

55. Amended Verified Petition

**Additional Exhibits, requested October 15, 2013:**

**Exhibit Nos:**

56. Relevant *Environmental Notice Bulletin* notices of tree cutting or approval of UMPs involving tree cutting for community connector snowmobile trails.
57. Pertinent parts of the following UMPs proposing community connector snowmobile trails:
- a. Fulton Chain Wild Forest UMP amendment, October 3, 2006;
  - b. Blue Mountain Wild Forest UMP, May 1995;
  - c. Black River Wild Forest and other lands UMP, May 1996;
  - d. Independence River Wild Forest UMP, October 1986, and UMP amendment, October 2011;
  - e. Shaker Mountain Wild Forest and Northville Boat Launch UMP, January 2006;
  - f. Vanderwhacker Mountain Wild Forest UMP/EIS, April 2005;
  - g. Watson's East Triangle Wild Forest and other lands UMP, December 2010;
- There is presently no UMP for the Sargant Pond Wild Forest;
58. Pertinent parts of other UMPs proposing community connector trails:
- a. White Hill Wild Forest and other lands UMP. December 2006;
  - b. Scaroon Manor Public Campground UMP amendment. December 2010.

**EXHIBIT D**

**SIMON AFFIRMATION, EXHIBIT D:  
DECISIONS AND ORDERS**

8/22/2013 Decision & Order on motions (default, convert, dismiss, denial of P.I., 7th Lake Mountain, Wilmington, and Gilmantown trails), Hon. Ceresia, Jr.

10/28/2013 So Ordered Letter re: discovery schedule, Hon. Ceresia Jr.

11/19/2013 Decision & Order re: denial of P.I., Catamount Taylor Pond Trail, Hon. Ceresia Jr.

11/21/2013 Decision & Order granting amicus to snowmobile association, Hon. Ceresia, Jr.

12/2/2013 So Ordered Letter re: revised discovery schedule, Hon. Ceresia, Jr.

3/7/2014 So Ordered Letter re: Note of Issue, Hon. Ceresia, Jr.

4/29/2014 So Ordered Letter allowing sur-reply for plaintiff, Hon. Ceresia, Jr.

10/15/2014 Decision & Order on discovery motions including motion for protective order, etc., Hon. Ceresia, Jr.

12/12/2014 Decision & Order dismissing Article 78, Hon. Ceresia, Jr.

8/19/2015 Order to Show Cause re: denial of TRO, Newcomb to Minerva, setting hearing date, Hon. O'Connor

9/4/2015 Decision & Order re: denial of P.I., Newcomb to Minerva, Hon. Connolly

10/20/2015 Decision & Order on Plaintiff motion re: discovery, etc., Hon. Connolly

3/16/2016 Decision & Order re: privilege documents, etc., Hon. Connolly

4/20/2016 Trial Order

5/9/2016 So Ordered Letter modifying trial order, Hon. Connolly

7/8/2016 Order to Show Cause re: denial of TRO for Newcomb to Minerva to North Hudson, Hon. O'Connor

7/13/2016 Scheduling Order for Summary Judgment, expert disclosure & oral argument, Hon. Connolly

7/15/2016 Order to Show Cause granted, Appellate Division, 3rd Dept., Hon. Clark

**SIMON AFFIRMATION, EXHIBIT D:  
DECISIONS AND ORDERS**

- 7/18/2016 Order to Show Cause, revised Appellate Division, 3rd Dept., Hon. Clark
- 7/22/2016 Decision and Order on Motion, Appellate Division, 3rd Dept., pending Supreme Court decision on motion for P.I., Hon. Clark
- 8/10/2016 Decision & Order re: denial of P.I., Newcomb to Minerva to N. Hudson, Hon. Connolly
- 8/19/2016 Order to Show Cause signed Appellate Division, 3rd Dept., Hon. Clark
- 8/25/2016 Revised Order to Show Cause signed Appellate Division, 3rd Dept., Hon. Clark

**EXHIBIT E**

***Protect the Adirondacks! Inc. v. NYS DEC and APA Index No. 2137-13***  
**SIMON 8/30/16 AFFIRMATION, EXHIBIT E:**  
**AFFIDAVITS IN SUPPORT OF DEFENDANTS-RESPONDENTS' MOTION FOR**  
**SUMMARY JUDGMENT**

**1. Loretta Simon Affirmation**

- Exhibit A: Petition/Complaint dated April 12, 2013
- Exhibit B: Answer, Re-Notice and Objections in Point of Law dated 9/25/13
- Exhibit C: Record Index (Exhibits 1-58)
- Exhibit D: Decisions and Orders List
- Exhibit E: Defendants- Respondents Supporting Affidavits List
- Exhibit F: State of Material Facts
- Exhibit G: *Association for the Protection of Adirondacks v. McDonald*  
Record Statement of Facts, pages 1-15

**2. Peter Frank (DEC)**

- Exhibit A: September 25, 2013 Affidavit of Karyn Richards

**3. Kathleen Regan (APA)**

- Exhibit A: 2014 State Master Plan amendment
- Exhibit B: Adirondack Park Land Use Classification Statistics 5/21/14

**4. Maxwell Wolckenhauer (DEC)**

- Exhibit A: Tree Tally Class II Trails

**5. Joshua Clague (DEC; trail closures)**

- Exhibit A: Map depicting Moose River Plains trail closures
- Exhibit B: Map depicting Wilmington trail closures
- Exhibit C: Map depicting Jessup River-Gilmantown trail closures

**6. Timothy Howard, PhD (Expert Affidavit)**

- Exhibit A: Resume
- Exhibit B: Figures and Tables for fragmentation assessments
- Exhibit C: Aerial Imagery-Wilmington trail

**7. Tate Connor (DEC; Seventh Lake Mountain trail)**

- Exhibit A: September 23, 2013 Affidavit of Tate Connor
- Exhibit B: Photos Seventh Lake Mountain trail, July 14, 2016

**8. Robert Ripp (DEC; Newcomb-Minerva-North Hudson trail)**

- Exhibit A: July 19, 2016 Affidavit of Robert Ripp with exhibits
  - Exhibit A: Map of Newcomb-Minerva-North Hudson trail
  - Exhibit B: ENB Region 5 Notices 6/8/2016
  - Exhibit C: 2009 Snowmobile Guidance
  - Exhibit D: Snowmobile Trail Work Plan- Newcomb to Minerva  
Segment 9, Boreas River to Stony Pond Trail
  - Exhibit E: Snowmobile Trail Work Plan- Newcomb to Minerva  
Trail, Segment 11, Stony Pond to Minerva Woods Trail
  - Exhibit F: LF 91-2
  - Exhibit G: Forest Handbook excerpts

*Protect the Adirondacks! Inc. v. NYS DEC and APA Index No. 2137-13*  
**SIMON 8/30/16 AFFIRMATION, EXHIBIT E:**  
**AFFIDAVITS IN SUPPORT OF DEFENDANTS-RESPONDENTS' MOTION FOR**  
**SUMMARY JUDGMENT**

**Robert Ripp (DEC; Newcomb-Minerva-North Hudson trail) cont'd.**

- Exhibit B: 2015 Community Connector Trail Plan
- Exhibit C: May 23, 2014 Snowmobile Work Plan – Harris Lake trail (Santanoni)
- Exhibit D: October 22, 2015 Work Plan Modification - Santanoni to Lake Harris
- Exhibit E: August 17, 2015 Snowmobile Work Plan- Hyslop Easement to Roosevelt Truck Trail
- Exhibit F: Beech bark disease photographs on Newcomb to Minerva trail
- Exhibit G: Balsam infestation photographs on Newcomb to Minerva trail

**9. Steven Guglielmi (DEC; Wilmington trail)**

- Exhibit A: December 19, 2013 Snowmobile Trail Work Plan, Segment 3
- Exhibit B: June 9, 2014 Snowmobile Trail Work Plan
- Exhibit C: April 26, 2013 Tree removal request

**10. Benjamin Thomas (DEC; Gilmantown trail)**

- Exhibit A: ENB notice
- Exhibit B: DEC Forest Preserve snowmobile bridge engineering plan
- Exhibit C: Work Plan for Palmer Pond Bridge dated 2/1/16  
Work Plan amendment dated 8/15/16

**11. Jonathan DeSantis (DEC; Perkins Clearing-Lewey Lake trail (Two Miles of Hell), Old Telephone Line trail (old Powerline trail), Moose River Plains snowmobile trail closures, Jessup River Wild Forest trails: Crow Hill relocation, Brister Brook, Fish Mountain, Fish Mountain Spur, Mud Lake, Moffit Beach and Shaker Mountain Wild Forest trails: Sailor Swamp, Pinnacle, Old State Road**

- Exhibit A: Work Plan (NYS0005540)

**12. Daniel Levy (DEC; Taylor Pond trail)**

- Exhibit A: September 24, 2013 Affidavit of Daniel Levy
- Exhibit A: Taylor Pond Management Complex Unit Management Plan excerpts
- Exhibit B: Snowmobile Work Plan for Taylor Pond to Wilmington Community Connector 7/8/13
- Exhibit C: ENB Region 5 Notice 7/24/13
- Exhibit D: Map of Taylor Pond Connector Trail Map
- Exhibit E: Tree Tally

**13. Keith Rivers (DEC; Mt. Tom, Steam Sleigh, Burning Creek, North Crossover Town Line Road Cutoff, Catspaw Lake Spur trails)**

- Exhibit A: Mt. Tom Snowmobile Trail checklist
- Exhibit B: Mt. Tom East trail work plan dated 8/12/13
- Exhibit C: Mt. Tom East trail work plan dated 10/2/15
- Exhibit D: Steam Sleigh Trail work plan dated 12/10/12
- Exhibit E: Steam Sleigh Application for Routine Maintenance dated 9/28/15
- Exhibit F: DEC Request For Work



*Protect the Adirondacks! Inc. v. NYS DEC and APA Index No. 2137-13*  
**SIMON 8/30/16 AFFIRMATION, EXHIBIT E:**  
**AFFIDAVITS IN SUPPORT OF DEFENDANTS-RESPONDENTS' MOTION FOR**  
**SUMMARY JUDGMENT**

**14. James Sessions (DEC; Seventh Lake Mountain trail tree tally)**

**EXHIBIT F**

*Protect the Adirondacks! Inc. v. NYS DEC and APA*  
Index No. 2137-13

**Statement of Material Facts**

1. The Adirondack Park consists of approximately six million acres of public and private lands. The Department of Environmental Conservation (DEC) is authorized by statute to administer the public lands within the Adirondack Park, in accordance with the Adirondack Park State Land Master Plan (Master Plan) developed and administered by the Adirondack Park Agency (APA). Aug. 24, 2016 Affidavit of Peter Frank ¶ 4; Aug. 17, 2016 Affidavit of Kathleen Regan ¶¶ 10-21.
2. As of May 2014, there were 2,551,699 acres of State Forest Preserve land in the Adirondack Park. Aug. 17, 2016 Regan Aff., ¶ 20.
3. Most of the Forest Preserve lands within the Adirondack Park are classified by the APA pursuant to the Master Plan. Record Exhibit (R. Ex.) 1 (2011 Master Plan).
4. Snowmobile use is generally prohibited in areas classified as wilderness, primitive or canoe. R. Ex. 1 at 19-31.
5. Snowmobile use is permitted on trails designated by DEC in lands classified wild forest, intensive use, and travel corridor. R. Ex. 1 at 33-35, 37-41.
6. Within the 1,298,209 acres of lands classified as wild forest, the total maximum mileage permitted for snowmobile trails is 848.88 miles (between 926 and 1235 acres at 9' and 12' widths respectively).<sup>1</sup> Aug. 17, 2016 Regan Aff. ¶ 20; Aug. 24, 2016 Frank Aff. ¶ 6. To date 780.13 miles of trails are approved for snowmobile use. Aug. 24, 2016 Frank Aff. ¶ 12.

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<sup>1</sup> 848.88 miles includes Class I trails, which are 8 feet wide.

7. The "Management Guidance: Snowmobile Trail Siting, Construction and Maintenance on Forest Preserve Lands in the Adirondack Park" (2009 Snowmobile Guidance) provides that Class II Community Connector trails (Class II trails) are multi-use recreational trails designed to connect communities; located in the periphery of wild forest and other Forest Preserve areas, as close as possible to motorized travel corridors. R. Ex. 8 at 3.
8. Class II trails may be maintained to a 9 foot maximum cleared trail tread width except on sharp curves and steep running slopes where they may be maintained to a 12 foot maximum cleared trail width, in accordance with the 2009 Snowmobile Guidance. R. Ex. 8 at 10.
9. The 2009 Snowmobile Guidance also allows all snowmobile trails to be kept clear to a height of 12 feet, as measured from the ground level. R. Ex. 8 at 10.
10. DEC tree cutting policy on Forest Preserve lands requires notice, approval and a count of all trees to be cut by species, class, and size for trees three inches or more diameter-at-breast height (dbh). R. Ex. 18 at 2.
11. Approximately 27 miles of Class II trails have been constructed, or were under construction, in the time period of January 1, 2012 through October 15, 2014, including one trail in 2011. Aug. 24, 2016 Frank Aff. ¶ 13.<sup>2</sup> The total acreage of Class II trails in that timeframe, ranges from 29.5 acres to 39.3 acres (at 9' and 12' widths respectively). Aug. 24, 2016 Frank Aff. ¶ 13.
12. Approximately 53 miles of existing snowmobile trails in the Adirondack Forest Preserve have been closed to snowmobile use. Aug. 24, 2016 Frank Aff. ¶ 13; Aug. 22, 2016 Affidavit of Jonathan DeSantis ¶¶ 12-14; Aug. 19, 2016 Affidavit of Joshua Clague.

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<sup>2</sup> This mileage does not include trail segment 9, segment 11 or the Palmer Pond Bridge access route. Construction of the Newcomb to Minerva to North Hudson trail system was enjoined by Order of the Appellate Division dated August 25, 2016.

13. The total number of trees approved to be cut and the length of each trail or trail segment is known and set forth in the list of Class II trails found in Exhibit A (Tree Tally Class II Trails) of the August 19, 2016 affidavit of Maxwell Wolckenhauer. Tree cutting is complete for all trails listed on the “Tree Tally Class II Trails” except the Newcomb to Minerva to North Hudson trails.
14. The facts related to construction of each trail, including construction of bridges and erosion control features, are known and set forth in affidavits of individual foresters responsible for trail construction. A list of trails and affidavits is found in the Aug. 19, 2016 Wolckenhauer Aff., Ex. A (*see* “Trail Name” and “DEC Staff” columns); *see also* Aug. 24, 2016 Frank Aff. ¶¶ 14-15; Aug. 30, 2016 Affirmation of Loretta Simon, Ex. E (list of Defendants’ supporting affidavits).

**EXHIBIT G**

IN THE  
**Court of Appeals**  
OF THE  
STATE OF NEW YORK

THE ASSOCIATION FOR THE PROTECTION  
OF THE ADIRONDACKS and JOHN G.  
AGAR, Respondents,

*against*

ALEXANDER MACDONALD, Conservation  
Commissioner of the State of New  
York, and WILLIAM G. HOWARD, Su-  
perintendent of Lands and Forests  
in the Division of Lands and For-  
ests of the Conservation Depart-  
ment of the State of New York,  
Appellants.

**STATEMENT UNDER RULE 234**

This action was begun by a submission of a controversy upon a statement of facts agreed upon between the parties above named pursuant to the provisions of Sections 546-548 of the Civil Practice Act and was duly executed and acknowledged by the parties November 6, 1929 and duly filed in the office of the Clerk of Albany County and submitted to the Appellate Division of the Supreme Court, Third Department, November 26, 1929.

The names of the original parties herein are as above. There has been no change of parties since this action was begun.

1

# Supreme Court of New York

APPELLATE DIVISION—THIRD DEPARTMENT.

THE ASSOCIATION FOR THE PROTECTION  
OF THE ADIRONDACKS and JOHN G.  
AGAR,

Plaintiffs,

*against*

ALEXANDER MACDONALD, Conservation  
Commissioner of the State of New  
York, and WILLIAM G. HOWARD, Su-  
perintendent of Lands and Forests  
in the Division of Lands and For-  
ests of the Conservation Depart-  
ment of the State of New York,  
Defendants.

2

Controversy  
Submitted  
Pursuant to  
Sections 546-548  
of the Civil  
Practice  
Act.

3

The Association for the Protection of the Adirondacks, a domestic corporation duly organized and existing under and by virtue of the Membership Corporations Law of this State and John G. Agar, a person of full age, the plaintiffs above named; and Alexander MacDonal, Conservation Commissioner of the State of New York and William G. Howard, Superintendent of Lands and Forests in the Division of Lands and Forests of the Conservation Department of the State of New York, each of full age, the defendants above named, being parties to a question in difference between them hereinafter stated, do hereby agree upon the following case containing a statement of the facts upon which the controversy between them