

STATE OF NEW YORK
SUPREME COURT: COUNTY OF ALBANY

In the Matter of the Application of

PROTECT THE ADIRONDACKS! INC.,

Plaintiff-Petitioner

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

-against-

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

Defendants-Respondents.

State of New York)
)
County of Albany) ss.:

Peter J. Frank, being duly sworn, deposes and says:

1. I am a Forester 4, and Chief of the Bureau of Forest Preserve Management (Bureau) in the Division of Lands and Forests (Division), with the New York State Department of Environmental Conservation (Department or DEC) and have been employed by the Department since December 1986. My responsibilities include Bureau administration, coordinating and reviewing Unit Management Plans (UMPs), and oversight of project work plans. As set forth in previous affidavits to the Court, I received an Associate Degree in Applied Science in Pre-Professional Forestry from Paul Smith's College, Paul Smiths, New York, in

REPLY AFFIDAVIT OF
PETER J. FRANK

Index No. 2137-13
RJI No. 01-13-ST-4541

Hon. Gerald W. Connolly

1983, a Bachelor of Science in Natural Resources Management from the State University of New York College of Environmental Science and Forestry, Syracuse, New York in 1986 and a Master of Science degree in Computer Management Systems from Union College, Schenectady, New York in 1998.

2. I have read the verified complaint/petition (complaint) of plaintiff-petitioner Protect the Adirondacks! Inc. (plaintiff) and am familiar with the matter having previously submitted affidavits dated June 20, 2013, April 22, 2015, August 21, 2015, July 19, 2016 and August 24, 2016.

3. I submit this reply affidavit in further support of Defendants-Respondents' motion for summary judgment.

4. Plaintiff's expert, Steve Signell alleges that Class II Community Connector Snowmobile trails do not have the character of a foot trail. *See* October 26, 2016 Affidavit of Steve Signell ¶¶ 6-16. Mr. Signell gives examples where the dimensions of foot trails differ from the dimensions of snowmobile trails in Department Policy. *See* Oct. 26, 2016 Signell Aff. ¶ 8-9. Mr. Signell's allegations are misdirected because he is equating trail characteristics solely with trail dimensions. Snowmobile trails are constructed according to numerous standards and specifications, but they still retain the essential character of a foot trail. *See* Nov. 16, 2016 Connor Aff. ¶¶ 10-23.

5. Both foot trails and snowmobile trails are constructed to blend in with the surroundings, meander through the woods, maintain a closed canopy overhead, avoid large trees and rocks, have bridges and structures made of wood and stone, and have a natural unpaved tread. Both foot trails and snowmobile trails require limited cutting of vegetation and terrain

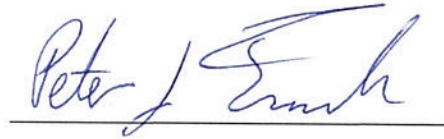
modifications for drainage and erosion control resulting in trails with essentially the same characteristics.

6. Mr. Signell alleges that Class II trails contrast with the “Wild Forest Nature of the Surrounding Forest Preserve Lands.” *See* Oct. 26, 2016 Signell Aff. ¶¶ 17-23. To reach this conclusion Mr. Signell analyzed photos of the Seventh Lake Mountain Community Connector trail. He alleges that he found measurable differences in vegetation between plant communities on the trail versus the surrounding forests off the trail. He states that at 56% of the survey points the vegetation is different. *See* Oct. 26, 2016 Signell Aff. ¶ 21. However, without a benchmark or control group for comparison this data is useless. If Mr. Signell conducted the same analysis on foot trails, in my professional opinion he would have found a similar level of differences between the foot trail and the vegetation in the surrounding forests. To the extent Mr. Signell believes grasses are “unwanted” on trails, as described in the affidavit of Forester Robert Ripp, grasses are planted as a temporary erosion control measure and they will eventually be displaced by shade tolerant plants. *See* Nov. 7, 2016 Ripp Aff. ¶ 16.

7. Plaintiff also alleges that Class II trail bridges differ from foot trail bridges because they use large pole logs. *See* Sept. 27, 2016 Amadon Aff. ¶ 11. However, poles are used on both foot trail bridges and Class II bridges. Additionally, contrary to Mr. Amadon’s assertion that large bridges are needed for snowmobile groomers, they are needed to bear the weight of pedestrians, snowmobiles, horses, and other uses, and the additional weight of snow and ice in the winter. Where there is flowing water on a multi-use trail, a bridge may be constructed for safe passage and to protect the natural resource.

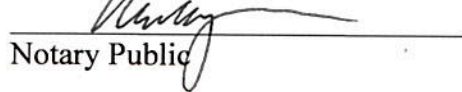
8. Finally, plaintiff compares United States Forest Service (USFS) classifications for trails to the standards used in the Adirondack Forest Preserve. They are irrelevant. These are not federal lands, and the federal standards do not apply to State-owned Adirondack Forest Preserve lands.

9. In summary, the actual difference between Class II trails and other trails in the Forest Preserve is one foot in width, an insubstantial difference. See Nov. 7, 2016 Ripp Aff. ¶ 7.



Peter J. Frank

Sworn to before me this 17th day
of November 2016



Notary Public

MICHAEL P. NAUGHTON
Notary Public – State of New York
Registration No. 02NA6002587
Qualified in Saratoga County
Commission Expires Feb. 9, 20 18