

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.

REPLY AFFIDAVIT OF
JONATHAN DESANTIS

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

Hon. Gerald W. Connolly

State of New York :
 :ss:
County of Fulton :

Jonathan DeSantis, being duly sworn, deposes and says:

1. I am a Forester for the New York State Department of Environmental Conservation (DEC) Region 5, located in Northville, New York and have held this position in the DEC since March 27, 2013. Previously, I was employed as a Procurement Forester for Baillie Lumber Sawmill Division and a Forest Technician for DEC Region 7. I have an Associate Degree in Applied Science Forest Technician from Paul Smith's College in Paul Smiths, New York and a Bachelor of Science Degree in Forest Resource Management from the State University of New York College of Environmental Science and Forestry (SUNY ESF) in Syracuse, New York.

2. In my position, I am responsible for managing the Adirondack Forest Preserve lands in Hamilton and Fulton counties, which encompasses ten land units, including the Moose River

Plains Wild Forest, where the Seventh Lake Mountain snowmobile trail is located. My responsibilities include reporting problems occurring on the lands, collecting field data for work plans, preparing Unit Management Plans (UMPs), and implementing pre-existing UMP actions. I also work with towns and snowmobile clubs, preparing Temporary Revocable Permits and Volunteer Stewardship Agreements that enable them to groom and maintain snowmobile trails.

3. I have read the allegations in the complaint/petition (complaint) that the construction of Class II trails violates the State Constitution, Article XIV, § 1, that a substantial amount of timber will be cut, that the trails are not consistent with the wild forest nature of the preserve, and that the trails create a man-made setting. Complaint ¶ 82. I previously submitted an affidavit in this matter, dated August 22, 2016. I submit this reply affidavit in opposition to plaintiff's allegations and in further support of the State's motion for summary judgment.

4. I am familiar with the snowmobile trail closures that were proposed in the Moose River Plains UMP (2011 UMP). Aug. 22, 2016 DeSantis Aff. ¶¶ 12-14. Sixteen trails, totaling 45.66 miles, were closed to snowmobile use upon approval of the 2011 UMP. Those trail closures are described in the UMP which is part of the Record in this matter. Record Exhibit 5 at 113, 114 and 135 (excerpts attached as Exhibit A (pages 113-114 and map of closures)).

5. Twelve out of the sixteen trails closed to snowmobiles in the Moose River Plains Wild Forest have had gates or boulders installed at the trailhead to act as physical barriers preventing access by snowmobiles or other motor vehicles. Exhibit B depicts photographs of eight barriers located at most of the trails within the Moose River Plains Wild Forest closed to snowmobiles. Some of the barriers block access to more than one trail. I took these pictures on November 10, 2016. In addition, snowmobile trail closures involved the removal of the discontinued trails from

the Town of Inlet's 2012 Temporary Revocable Permit and Inlet Barnstormers 2011 Adopt A Natural Resource Agreement and all subsequent agreements. As a result, the Town and club can no longer maintain or groom the selected trails. Trail closures also involved removal of snowmobile trail markers and all signage referencing snowmobiles.

6. Contrary to the statements of Steve Signell and Ronald W. Sutherland, that most of the trails either were already closed, did not exist, or have not been closed, the map of trail closures in the Moose River Plains Wild Forest accurately reflects the trails that have been closed to snowmobile use after the 2011 UMP was finalized. Oct. 26, 2016 Signell Aff. ¶¶ 28, 30; Sept. 27, 2016 Sutherland Aff. ¶¶ 27-28. The attached map shows the trail closures in red, with letters that correspond to the names of closed trails, as set forth in the UMP. Exhibit A.

7. The 2011 UMP clearly states all the trails that will be closed to snowmobiles. Some of these trails will remain open for other uses, such as hiking, bicycling, or cross-country skiing, but will no longer be open to snowmobiles. Those other uses are specifically listed within the UMP and mainly involve re-designating the trails for hiking.

8. Mr. Signell's argument that closing these trails to snowmobile use does not benefit the Forest Preserve is puzzling. Oct. 26, 2016 Signell Aff. ¶ 28. All of the trails listed for closure in the 2011 UMP were existing snowmobile trails used by the public. Upon information and belief two of the sixteen trails listed for closure to snowmobiles had minimal use leading up to the creation of the 2011 UMP. Those are the Benedict Creek Trail and the Butter Brook Trail, which received little use, due in part to numerous wet areas. Segments of these trails have begun re-vegetating, but these trails did exist and could only be officially closed through a UMP. Now


that these trails are closed and will not be maintained for any other uses, they will continue to be reclaimed by the forest, which results in a net benefit to the Forest Preserve.

9. In addition to allegations regarding trail closures, the plaintiff alleges that DEC trail crews felled two trees over 250 years old during the construction of the Seventh Lake Mountain trail. Nov. 1, 2016 Affidavit of Peter Bauer ¶ 19; Aug. 25, 2016 Signell Aff. ¶ 70. I used the GPS data that plaintiff produced to attempt to locate these trees. I found one tree that is likely the one to which Mr. Bauer refers, located in segment 3, close to where State Route 28 parallels the trail. It is an Eastern Hemlock tree that, upon information and belief, fell as a result of natural causes, as evidenced by the shattered stump of the tree located near the base of the fallen trunk. I took pictures of this tree on November 9, 2016. Exhibit C (figures 4 and 5 depicting shattered stump).

10. Figure 4 of Exhibit C shows the excessive rot in the stump and base of the fallen trunk, which likely weakened the tree, making it susceptible to falling in high wind. The stump has a splintered edge that matches up with the base of the fallen trunk.

11. I did not see any evidence that this tree was felled using a chainsaw. Instead, the tree appears to have fallen naturally. The first sign of a chainsaw cut occurs at 26.5 feet measured from the base of the fallen trunk. Exhibit C (figures 1 and 2). I observed five segments cut from the tree and dispersed nearby to the west of the trail. Exhibit C (figure 7). In situations where a fallen tree crosses a trail, construction or maintenance crews cut the segment of the fallen tree

crossing the trail and disperse the cut segments off trail.



Jonathan DeSantis

Sworn to before me this 15 day
of November, 2016

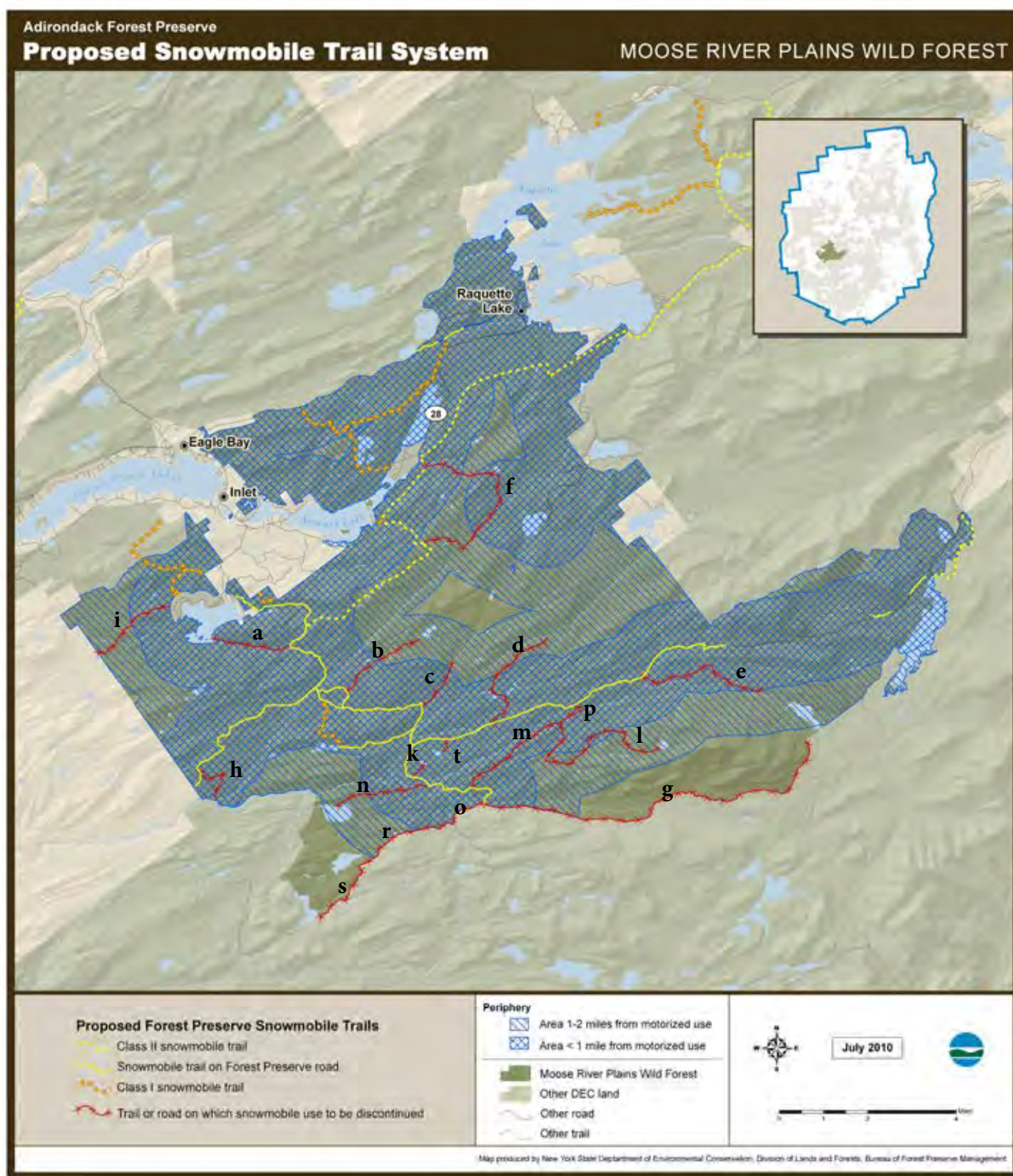
Barbara J. Lucas-Wilson

Notary Public

BARBARA J. LUCAS-WILSON
Notary Public, State of New York
No. 01LU6152580

Qualified in Dutchess County
Commission Expires February 25, 2020

EXHIBIT A



This map is taken from page 135 of the 2011 UMP for the Moose River Plains Wild Forest. The letter labels have been superimposed and correspond to the trail names and descriptions on the following two pages and within Record Exhibit 5 at pages 113 and 114.

goal of this approach is to focus motor vehicle use in or near travel corridors while making interior portions of the unit more primitive in character.

Trail Closures

The following trails and roads within the MRPWF are proposed to be closed for snowmobiling. Trails which are to be closed for snowmobiling will have their snowmobile trail markers removed. If a trail is to be retained for other uses, new trail markers will be installed and the trail will be allowed to "grow in" to the appropriate maintained width for the designated use of the trail.

- a. Fawn Lake Trail (aka Sump Trail)- 1.88 miles-This trail dead-ends at Limekiln Lake requiring an ice crossing. The trail will continue to be maintained as a foot/bicycle trail.
- b. Bear Pond Trail- 2.20 miles- this is a dead-end trail and doesn't provide access to any significant destination. A portion of the trail may be maintained for foot and bike use if a new trail is constructed connecting the LLCRR to the Bear Pond Road.
- c. Benedict Creek Trail -1.27 miles - This trail is almost indiscernible in places and receives little or no use. Due to its numerous wet areas, this trail will not be maintained for any use.
- d. Lost Ponds Trail - 2.93 miles - A dead-end trail which receives little or no use. The trail will continue to be maintained for foot and bicycle use.
- e. Butter Brook Trail - 3.25 miles - The trail is within an area proposed to be reclassified to Wilderness. This trail will not be maintained for any other uses.
- f. 7th-8th Lake Loop - 4.88 miles - Two sections of this loop will be retained as snowmobile trails. From Seventh Lake to the intersection with the proposed new trail (1.4 miles) and from Eighth Lake to the intersection with the new trail paralleling Route 28 (0.1 miles).
- g. Otter Brook Truck Trail- 8.90 miles- This trail is within an area proposed to be reclassified to Wilderness. This old road will continue to be maintained as a foot trail.
- h. Rock Dam Trail-1.43 miles- This trail is seldom used. The trail will continue to be maintained as a foot and bicycle trail.
- i. Limekiln Loop -2.16 miles The portion of this trail leading from the Limekiln Lake Campground to private lands near Beaver Dam Pond will be closed as it is a dead-end trail and could potentially lead to trespass on private lands. The 0.5 mile portion of this trail connecting the campground roads and the F.X. Matts Trail will remain open. The trail will continue to be maintained for foot, bicycle and ski use.
- j. Lost Ponds Road - 0.3 miles- This is a short dead-end road and receives no use. This road will remain open as a motor vehicle road.
- k. Ice House Pond Trail - 0.34 miles- This trail is not used. The trail will be maintained as an accessible trail in order to provide access to the pond.
- l. Sly Pond Trail - 5.31 miles- This trail is within an area proposed to be reclassified to Wilderness. This trail will be maintained as a foot trail.
- m. Sly Pond loop Trail -2.7 miles- This trail is within an area proposed to be reclassified to Wilderness. This trail will be maintained as a foot trail.
- n. Beaver Lake Trail - 2.0 miles- This trail is within an area proposed to be managed with very limited motorized uses. This trail will be maintained as a foot trail.
- o. Indian Lake Road - 5.26 miles- This road is in an area proposed to be managed with very limited motorized use. This road will be maintained as a foot trail.
- p. Sly Pond Road - 0.25 miles- The road dead-ends at the river and will be closed to all motor vehicle use. This trail will be maintained as a foot and bicycle trail.
- q. Beaver Lake Road-.25 miles- This is a dead-end road. The road will remain open for motor vehicle use.
- r. Squaw Lake Trail - 0.5 miles -This trail is within an area proposed to be managed with very limited motorized uses. This trail will be maintained as a foot trail.

- s. Indian Lake Trail - 0.1 miles- This trail is within an area proposed to be managed with very limited motorized uses. This trail will be maintained as a foot trail.
- t. Helldiver Pond Road - .35 miles- From LLCRR to dead-end.

Total miles – 46.39

Existing Interior Trails and Trail Designations

The Mitchell Ponds Trail - This trail provides a 1.7 mile connection from the LLCRR to the Mitchell Ponds Road. There are three bridges along the trail that will need to be replaced. The current bridges are approximately 4 feet in width and in poor condition. All three bridges will be replaced by 8 foot wide wooden bridges. This trail will be maintained as a Class I trail.

Seventh-Eighth Lake Trail - This trail forms a loop between the Seventh Lake boat launch and the Eighth Lake Campground. Two sections of the trail will be retained as part of the new community connector trail. The section between Eighth Lake and the Bear Pond Road/Mohegan Lake will be maintained for foot, ski and biking use. This trail will be maintained as a Class II trail.

Bug Lake Trail - Provides a connection between the Eighth Lake Campground and the Uncas Road. This trail was formerly a road providing access to Mohegan Lake. A short section of this trail, near the intersection with the Uncas Road, may need to be relocated to avoid crossing a strip of private land. If so, a new section of trail would lead to the Uncas Road approximately 800 feet east of the current intersection. This trail will be maintained as a Class I trail.

Mike Norris Trail - This trail connects the Bug Lake Trail to the Brown's Tract Carry Trail. This trail will be maintained as a Class I trail.

Brown's Tract Carry Trail - Connects the north end of Eighth Lake to the Raquette lake Railroad Trail. This trail will be maintained as a Class I trail.

F.X. Matts Trail - Connects the Limekiln Lake Campground to the Town of Inlet Trail system and to Town trails on private lands north and east of the Limekiln Lake Road. This trail will be maintained as a Class I trail.

Upper and Lower Trails - Connects the LLCRR to the Town of Inlet trail system. The Upper trail will be maintained as a Class II trail and the Lower Trail as Class I.

Dillon Road connector - This trail connects the Uncas Road to the Dillon Road (Raquette Lake Railroad). The trail is only several hundred feet in length and is groomed by the Town of Long Lake. This trail will be maintained as a Class II trail.

Cedar River Trail

The Cedar River Trail provides the only non-road connection from the MRPWF to the trail network in the vicinity of Indian Lake village. The trail begins at the bridge over the Cedar River located at Wakely Dam then parallels the river onto private lands to the north. The APA land use map shows a portion of the trail going through a part of the West Canada Lake Wilderness. It is not clear if this is a mapping error or the trail was rerouted after the classification of these lands in 1990. The existing trail, where it crosses Wilderness, follows an old road which would have been the obvious route for the trail. The reclassification of this area that would place the entire trail in wild forest will be proposed in this plan.

EXHIBIT B

Bear Pond Trail gate -
(see Exhibit A letter b)



Beaver Lake Trail gate—
(see Exhibit A letter n)



Benedict Creek Trail gate—
(see Exhibit A letter c)



Ice House Pond Trail boulders -
(see Exhibit A letter k)



Lost Pond Trail gate—
(see Exhibit A letter d)



Otter Brook Truck Trail boulders—
(see Exhibit A letter g)



Sly Pond Trail gate—
(see Exhibit A letter m)



Indian Lake Road boulders—
(see Exhibit A letter o, r & s)



EXHIBIT C

Figure 1: Side profile of the tree in relation to the 7th Lake Mtn Trail. Looking north

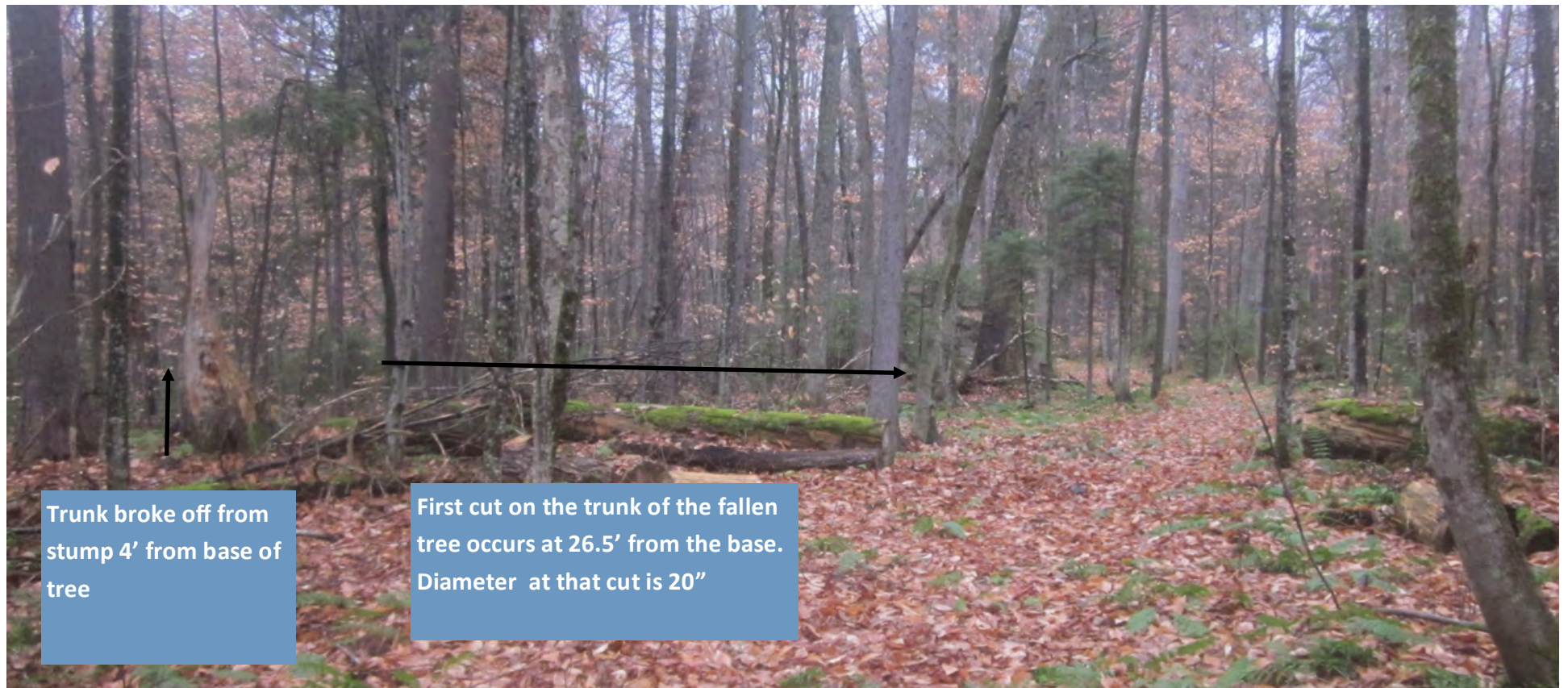


Figure 2: View of the tree looking west from the 7th Lake Mtn Trail. Arrow indicates location of the stump



Figure 3: Side view looking north. Arrow indicates location of stump in relation to the fallen trunk



Figure 4: Close up of the stump with the trunk in the foreground. Looking south.



Figure 5: View of fallen trunk next to stump. Looking east



Figure 6: Side profile depicts tree in relation to the 7th Lake Mtn Trail. Looking north



Figure 7: Bucked up pieces of the fallen trunk dispersed to the west of the trail.

