

2013 to 2021 ... and beyond



“THE DOOR
IS CLOSED”

In the beginning . . .



- Seventh Lake Mountain Trail construction in Moose River Plains Wild Forest (October 2012)
- Motion to Appellate Division (February 2013)

*State of New York
Supreme Court, Appellate Division
Third Judicial Department*

Decided and Entered: March 28, 2013

516317

**In the Matter of PROTECT THE
ADIRONDACKS! INC.,**
Petitioner,

**DECISION AND ORDER
ON MOTION**

v

**NEW YORK STATE DEPARTMENT
OF ENVIRONMENTAL
CONSERVATION et al.,**
Respondents.

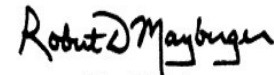
Motion for consent to maintain suit pursuant to section 5 of article XIV of the New York State Constitution.

Upon the papers filed in support of the motion and the papers filed in response thereto, it is

ORDERED that the motion is granted, without costs.

PETERS, P.J., LAHTINEN, McCARTHY and GARRY, JJ., concur.

ENTER:



Robert D. Mayberger
Clerk of the Court

PROTECT 
THE ADIRONDACKS!

Early filings and legal work

2013:

- Appellate Division granted permission for Protect to sue (March 2013)
- Filed suit Albany Supreme Court (April 2013)
- Injunctions denied (August 2013)

From 2013-2016:

- Field work
- Depositions
- Motion for summary judgment

- Injunction granted (August 2016)



Section of the Newcomb to Minerva Class II trail

Trial for 13 days (March-April 2017)

- Dr. Philip Terrie – Adirondack & Article 14 history
- Stephen Signell – tree counts & ages/sizes & forest impacts (grasses, invasive species, tree mortality)
- Ronald Sutherland – impacts from habitat fragmentation & reduction of ecosystem function
- William Amadon – trail planning and construction (the Class II trails do not have the characteristics of an Adirondack hiking trail)
- Peter Bauer – tree counts, proof of construction methods and trail conditions, widths and trail signage



Post Trial and Supreme Court Decision

- Post trial submissions (July 2017)
- Supreme Court's 2017 held that there was no Article 14 violation
- Supreme Court found that the evidence presented by PROTECT was largely credible
 - Historic meaning of "timber" = "all 'trees'"
 - Definition of a tree (one inch and greater dbh)
 - Tree counts (25,000 total trees)
 - Trail observations
 - PROTECT appealed decision
 - July 2019, Appellate Division, Third Department, overturned Supreme Court, finding no violation of forever wild, but ruled level of tree cutting was unconstitutional

Summary of Tree Counts
on Class II Community Connector Trails

Trail Segment	Acres	Miles	Status during count	Stipulated number of trees $\geq 3"$ DBH <i>approved to be cut</i>	Signell's count of $< 3"$ DBH Trees	Total stip. trees $\geq 3"$ DBH + $< 3"$ DBH	Stip. Trees $\geq 3"$ DBH/ acre	Total stip. trees $\geq 3"$ DBH + $< 3"$ DBH/ acre	Stip. Trees $\geq 3"$ DBH/ mile	Total stip. trees $\geq 3"$ DBH + $< 3"$ DBH/ mile
Santanoni-Harris Lake	2.4	2.2	Cut and graded	363	245	608	151	253	165	276
Hyslop to Roosevelt Truck Trail (segment 6)	3.2	2.9	Recently Cut	1148	3251	4399	363	1,390	396	1,517
Roosevelt Truck Trail to Boreas River	2.1	1.95	Route marked, uncut	715*	3101	3816*	336*	1793*	367*	1957*
Boreas River to Hewitt Pond Road to Stony Pond Trail (segment 9)	5.8	5.3	N. section marked, S. section recently cut	1253	1875	3128	217	541	236	590
Stony Pond Trail to Private (Minerva) (segment 11)	3.2	2.9	Route marked, uncut	423	2178	2601	134	822	146	897
Total for Newcomb to Minerva Trail	16.6	15.25	n/a	3,902	10,650	14552	235	875	256	954
Seventh Lake Mountain Trail	13.0	11.9	Trail completed	2,085	5116	7201	161	555	175	605
Gilmantown Trail (Jessup River)	2.6	2.4	Trail completed	127	261	388	49	148	53	162
Cooper-Kiln Trail (Wilmington)**	3.2	2.9	Trail completed	482	1490	1972	152	623	166	680
Subtotal for other trails	18.8	17.2	n/a	2,694	6867	9561	144	510	157	556
TOTALS	35.4	32.45		6,596	17,517	24113	186	681	203	743

*no stipulated number for trees ≥ 3 inches, so Signell count used instead.

Prepared by Stephen Signell and admitted into evidence over State's objections



2021: Court of Appeals Opinion

State of New York Court of Appeals

OPINION

This opinion is uncorrected and subject to revision
before publication in the New York Reports.

No. 21
Protect the Adirondacks! Inc.,
Respondent-Appellant,
v.
New York State Department of
Environmental Conservation et
al.,
Appellants-Respondents.

Jennifer L. Clark, for appellants-respondents.
John W. Caffry, for respondent-appellant.
Sierra Club; Adirondack Association of Towns and Villages, Inc. et al.; Empire State
Forest Products Association, Inc.; Open Space Institute, Inc. et al.; Adirondack Council,
Inc. et al.; The Nature Conservancy, amici curiae.

May 4, 2021

PROTECT 
THE ADIRONDACKS!

Opinion of the Court of Appeals

- Discussion of Forest Preserve history
- Concluded that “planned 27 miles of snowmobile trails may not be built without constitutional amendment” (p. 9)
- Disagreed with the App Div that the provision of Article 14 of the Constitution is “bifurcated”
- All members of the Court agreed that the provision is unitary
- “The forever wild provision ensures the preservation of state-owned land within the Adirondack Park (and Catskills) in its wild state”.

RIVERA, J.:

On this appeal, we must determine whether the state’s plan for the construction of approximately 27 miles of Class II community connector trails designed for snowmobile

- 1 -

- 2 -

No. 21

use in the Forest Preserve is permissible under the New York Constitution. The plan requires the cutting and removal of thousands of trees, grading and leveling, and the removal of rocks and other natural components from the Forest Preserve to create snowmobile paths that are nine to 12 feet in width. We conclude that construction of these trails violates the “forever wild” provision of the New York State Constitution (art XIV, § 1) and therefore cannot be accomplished other than by constitutional amendment.

Violations of the Constitutional provision

- “Substantial change to the Forest Preserve . . . that did not benefit the overall public interest”
- Destruction of 25,000 total trees
- “Class II trails require greater interference with the natural development of the Forest Preserve than is necessary to accommodate hikers”; not typical hiking trails:
 - “removal of rock and grading of the wild forest”
 - “same width as an interstate highway lane and enough to accommodate two SUVs, side-to-side”
 - bench cuts require “clearing of the forest floor up to 20 feet in width in certain areas—a span wide enough to site a two-car garage “

Post Court of Appeals Decision




Camp Santanoni to Lake Harris



Seventh Lake Mountain Trail

- Seeking Judgment
 - Final declaration that the State's construction of the Class II trails violated the Constitution
 - Granting PROTECT its costs and disbursements as awarded by the Appellate Division
- Seeking closure of unconstitutional Class II trails that were constructed before the injunctions were in effect



“Until the [People] say otherwise, however, the *door is closed* because the planned Class II trails are constitutionally forbidden”

