



**Board of Directors**

March 1, 2024

Charles Clusen  
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Hon. Kathy Hochul  
Executive Chamber  
The Capitol  
Albany, NY 12224

James McMartin Long  
Michael Wilson  
**Vice-Chairs**

Barbara Rottier  
**Secretary**

**Re: Forest Preserve Fee Acquisition in the Adirondack Park Attempts to Subvert Recent Court of Appeals Decision on Constitutional “Forever Wild” Protections**

David Quinn  
**Treasurer**

Dear Governor Hochul:

Nancy Bernstein  
John Caffry  
Andy Coney  
Dean Cook  
James C. Dawson  
Lorraine Duvall  
Robert Glennon  
Roger Gray  
Evelyn Greene  
Sidney Harring  
Sheila Hutt  
Dale Jeffers  
Patricia Morrison  
John Nemjo  
Peter O’Shea  
Philip Terrie  
Chris Walsh

We write to bring to your attention the failure by the Department of Environmental Conservation (DEC) to comply with the “Forever Wild” provision of the New York State Constitution and a recent New York Court of Appeals decision in connection with its recent purchase of 181 acres in the Town of Newcomb, Essex County, in the Adirondack Park. The Court of Appeals ruled in *Protect the Adirondacks, Inc. v. NYS Dept. of Envntl. Conservation*, 37 NY3d 73 (2021) that DEC’s construction of 12-foot-wide snowmobile trails on Forest Preserve lands in the Adirondack Park violated the Constitution’s Forever Wild clause. Nevertheless, DEC purchased the Newcomb lands knowing that it purports to include an easement allowing the Town of Newcomb to construct a 12-foot-wide snowmobile trail on those newly acquired Forest Preserve lands.

**Staff**

Peter Bauer  
**Executive Director**

DEC purchased the subject property with full knowledge of the existence of easement, which was granted by the land’s prior owner, The Nature Conservancy (TNC), to the Town of Newcomb less than 12 months after the Court of Appeals decision. TNC had actual knowledge of the Court’s decision because it submitted an amicus brief in opposition to Protect the Adirondacks’ constitutional claims in the Court of Appeals. The easement granted by TNC to the Town is thus a transparent effort by TNC and the Town to conduct an end-run around the Court of Appeals decision and the Forever Wild clause. Unfortunately, it appears that DEC is complicit in this ploy.

Claudia K. Braymer, Esq.  
**Deputy Director**

Christopher Amato, Esq.  
**Conservation Director  
and Counsel**

Even though the easement provides that construction of the snowmobile trail must be approved by DEC, somehow the department has failed to raise this significant constitutional issue in its discussions with the Town. Remarkably, DEC has also thus far refused to commit to not approving construction of a

**Protect the Adirondacks**

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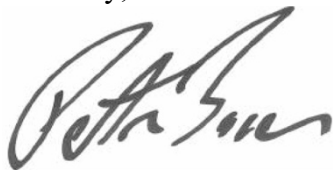
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new snowmobile trail that fails to meet the constitutional standards enunciated by the Court of Appeals. We are disturbed that the State agency entrusted with the “care and custody” of the Forest Preserve, recently purchased lands subject to facially unconstitutional rights in an easement and is compounding that violation of the public trust by refusing to make clear that it will not approve construction of a new snowmobile trail that fails to pass constitutional muster. We have shared our concerns with DEC in meetings over the last month, but they have taken no action. See our recent letter to the Commissioner attached.

We therefore ask that you direct DEC to promptly issue a written public statement that it will not approve construction of a new snowmobile trail on the subject Forest Preserve lands that violates the Forever Wild clause of the State Constitution.

On behalf of the Board of Directors of Protect the Adirondacks, please let me express our gratitude for the opportunity to share our concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter Bauer". The signature is fluid and cursive, with a large initial "P" and "B".

Peter Bauer  
Executive Director

Cc: John O’Leary  
Ashley Dougherty  
Basil Seggos  
Tom Berkman