

Adirondack advocates clash over lawsuit's possible effects on trail work

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Peter Bauer, who scrutinized central Adirondack snowmobile trails under construction, argues that his lawsuit challenging the associated tree cutting shouldn't affect most hiking trail work. Photo by Mike Lynch

The fate of Adirondack Forest Preserve trees and trails is on the line in an ongoing lawsuit that has divided environmental organizations.

Protect the Adirondacks, a nonprofit, sued the state Department of Environmental Conservation and the Adirondack Park Agency over the

construction of snowmobile trails on the state forest preserve. They're called Class 2 community connector trails, and are 9 feet wide with some 12-foot-wide curves and slopes. The amount of tree cutting involved in the first 25 miles of these trails, Protect the Adirondacks has argued, violated the "forever wild" clause in the state constitution. That clause ensures that millions of acres of forest preserve lands are protected for future generations, and prevents the harvest and sale of timber.

Recreation and environmental organizations disagree on how this case could influence trail work and maintenance. Supporting the DEC are the Adirondack Mountain Club, Nature Conservancy and Open Space Institute, who all believe the case goes beyond snowmobile connector trails and [bleeds into any trail work, including maintenance of hiking trails](#).

Peter Bauer, executive director of Protect the Adirondacks, said the litigation is about Class 2 snowmobile trails and not hiking trails. He specifically called the Adirondack Mountain Club and Open Space Institute's concerns "specious claims."

"They had the opportunity to intervene in the case years ago and present evidence to the trial court to support these claims, but did not do so," Bauer added in a news release.

Siding with Protect the Adirondacks is a similarly formidable list of environmental organizations including the Sierra Club, Adirondack Council and Adirondack Wild: Friends of the Forest Preserve.

The community connectors in question are intended to link Adirondack towns and villages. The DEC has argued its method of measuring and cutting trees for these trails is in line with its long-term guidance and policy and does not violate the state constitution. DEC defines a tree as being 3 inches in diameter at breast height, but Bauer and his organization have argued smaller trees should count.

The New York State Court of Appeals will hear final arguments on the case on March 23, the last step after the [Appellate Division, Third Department issued a 4-1 decision](#) that left matters fuzzy. The court ruled that building community connectors through the forest preserve is permitted, [but that the estimated per-mile destruction of 925 trees of all sizes violated the constitution's timber protections](#). About 200 of those trees per mile were 3 inches in diameter or larger, according to the court.

[The litigation](#) has led to a [state-ordered moratorium](#) on a number of trail projects in the forest preserve. A spokesperson for DEC said in an email that "all work on the Forest Preserve has been impacted by the Appellate

Division decision.” As a result, trail groups who work with DEC, such as the Adirondack Mountain Club and Barkeater Trails Alliance, have had to put certain projects on hold.

Josh Wilson, executive director of Barkeater Trails Alliance, said his group was advised not to cut any vertical stem on some projects in the High Peaks.

“In most cases, we’re not cutting what any reasonable person would define as a tree,” Wilson said, referring to the typical trail work his organization does.

But Bauer believes the DEC and those supporting the state are mistaken in their interpretation of what the outcome of the lawsuit could be should his organization win.

“Protect the Adirondacks fully supports public access to the Forest Preserve for hiking and other forms of recreation by the public,” Bauer said. “There is no evidence that the decision of the Appellate Division will affect ordinary building and maintenance of hiking trails as the Adirondack Mountain Club (ADK) and Open Space Institute (OSI) claim.”

Bauer was reacting to a Tuesday press release from both ADK and OSI, which said they plan to file a joint friend-of-the-court brief in support of DEC. They join the same side as the Nature Conservancy, which has also said it will file a friend-of-the-court brief.

Bauer attacked the credibility of both ADK and OSI, citing “deep financial and staffing ties” to the DEC and other state agencies and called them “red herrings designed to give cover to DEC as it pursues its goals of expanding motor vehicle use on the public Forest Preserve. OSI runs a revolving door between its staff and the top levels of the DEC.”

Last summer a former OSI northern program director, [Katie Petronis, was appointed as DEC’s](#) deputy commissioner of natural resources. DEC Commissioner Basil Seggos made that announcement.

But even those outside the nonprofit world have said Protect the Adirondacks’ lawsuit has gone beyond what Bauer may have intended.

Bill Farber, chairman of the Hamilton County Board of Supervisors, has worked with Bauer on promoting and building trails in his county, which is entirely in the Adirondack Park. Farber said he and Bauer have “agreed to disagree” on the definition of timber. He understands Bauer’s concern about the amount of tree cutting for the community connector trails, but he believes the litigation has “created more chaos.”

“The (Appellate Division) court made a decision that clearly impacted any form of recreation where you might have to cut trees in order to do the trail work,” Farber said. “It basically threw into chaos what constitutes timber.”

The Nature Conservancy argued in a news release last week “that the decision being appealed relied too heavily on counting the number of trees being removed, instead of looking at all the impacts of the proposal as required by law.”

Michael Barrett, executive director of ADK, said in a news release that the lawsuit has “spilled over into other forms of recreation that require sustainably built trails.”

“The Adirondack Park is in dire need of improved hiking trails,” Barrett said. “Our current network needs to be revamped to meet modern standards for trail design, which focus on minimizing erosion, protecting surrounding vegetation, and maintaining hiker safety.”

The Sierra Club, which has already submitted a friend-of-the-court brief in favor of Protect, highlighted the damage the amount of tree-cutting for the trails in question could do to the forest preserve over time. While there are 25 miles in question for this case specifically, Bauer and his supporters worry about the additional hundreds of miles of Class 2 connector trails DEC has planned for the future.

“Millions of taxpayer dollars have been allocated to the forest preserve,” the Sierra Club wrote in the brief. “Whittling away at these protections should be done only with extreme caution and where entirely necessary. The Class 2 trails do not rise to that level.”

John Sheehan, communications director for the Adirondack Council, also said he doesn’t believe the lawsuit will mean the DEC cannot build new trails.

“It just means that the DEC has to be more careful in selecting the path,” Sheehan said. He noted that “forever wild” cases before the Court of Appeals are only heard a few times a century.

Dave Gibson, managing partner of Adirondack Wild: Friends of the Forest Preserve, argued that increasing motorized vehicle use, which these community connectors could do, violates the “forever wild” clause.