

**Adirondack Wild: Friends of the Forest Preserve  
Atlantic States Legal Foundation  
Protect the Adirondacks !**

June 26, 2015

Thomas DiNapoli, Comptroller  
Office of the State Comptroller  
110 State Street  
Albany, NY 12236

Joe Martens, Commissioner  
NYS Department of Environmental Conservation  
625 Broadway  
Albany, NY 12233

Re. NYCO Minerals & Lot 8 Valuation and Appraisal Process

Dear Comptroller DiNapoli and Commissioner Martens:

The passage in 2013 of the Article XIV constitutional amendment authorizing mineral exploration on the 200 acres of Lot 8 in the Jay Mountain Wilderness Area occurred in the absence of implementing legislation. This spring, NYCO Minerals completed the mineral exploration phase on Lot 8. We write to you with concerns about the next steps in the process.

These steps are roughly outlined by the 2013 constitutional amendment Joint Legislative Resolution as follows:

- NYCO Minerals provides NYS DEC with its exploratory drilling information;
- NYS DEC uses that data to conduct a fair market value appraisal of Lot 8;
- If NYCO Minerals wishes to proceed, NYCO and DEC propose a land exchange assuring at least equal acreage to Lot 8 and equal or greater value of lands to be received and assuring a minimum value of lands received of one million dollars. To quote from the Joint Legislative Resolution, “the Department's appraisal of Lot 8 and the one million dollar floor value will ensure that the exchange parcel coming into the Forest Preserve will total significantly more than 200 acres;”
- The NYS Legislature must pass legislation to authorize the land exchange, confirming that in fact the land exchange is providing equal or greater value to New York State and is fully supported by an independent appraisal derived from accurate data and correct analysis of that data.

During the legislative discussion of the amendment in 2013, NYS DEC assured members of the State Legislature in a white paper that:

“The exact acreage to be received will depend on DEC’s independent, thorough appraisals of both Lot 8 (which will factor in the value of wollastonite under the property) as well as the property to be provided to the State in the exchange, and the adoption of legislation by the State legislature authorizing the actual exchange. The State would likely receive well more than 1,000 acres of land in any exchange. The land to be received for inclusion in the Forest Preserve would be in the vicinity of Lot 8 and provide greater natural resource, recreational and environmental value than Lot 8. The land to be received would also improve access to the Forest Preserve in the area of the Jay Mountain and Hurricane Mountain wilderness areas and Taylor Pond Wild Forest.”

Furthermore, in an affidavit submitted to the State Supreme Court of Essex County, dated Sept. 3, 2014, DEC’s Director of Lands and Forests Rob Davies stated:

“We also recognized that exploratory drilling needed to occur to ensure the public was getting a fair return for the potential temporary conversion of Lot 8 to private ownership. A complete and comprehensive appraisal of Lot 8 required the information derived from the proposed exploratory drilling. Because prior amendments to Article XIV of the New York Constitution ("Article XIV") have required legislative approval of the value of the lands to be exchanged, we agreed that the Legislature would need to know the full fair market value of Lot 8.”

There are many factors that must be carefully weighed in determining that full, fair market value. The undersigned ask that your agencies work cooperatively to assure the State Legislature that the appraisal justifies public confidence in the method employed, the appraised value derived, and the conservation and monetary values of the lands to be received should a land exchange for Lot 8 move ahead. We are concerned that mineral reserves under Lot 8 could be undervalued. Such a circumstance would further undermine the NYS Forest Preserve and the integrity of Article XIV. Equally important is a thorough evaluation of the natural resource and wilderness values of any lands to be received in exchange. Lot 8 has been shown to possess a great many such values and any lands to be received in exchange should equal or exceed those.

For these and other reasons, the exploratory drilling information and the appraisal should be publicly noticed and subject to public review and comment.

Thank you very much for your attention to these matters. We would be pleased to meet with your staff members to discuss our concerns, and we look forward to your responses.

Sincerely,

*David Gibson and Dan Plumley, Staff Partners*  
Adirondack Wild: Friends of the Forest Preserve  
P.O. Box 9247, Niskayuna, NY 12309

*Peter Bauer, Executive Director*

Protect the Adirondacks!

P.O. Box 769, Lake George, NY 12845

*Samuel H. Sage, President*

Atlantic States Legal Foundation

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Cc: Marc Gerstman, DEC Executive Deputy Commissioner  
Rob Davies, DEC Director of Lands and Forests  
Michael Naughton, DEC Counsel's Office  
Margaret Becker, Deputy Comptroller  
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Herman Farrell, Chair, NYS Assembly Ways and Means Committee  
Steven Englebright, Chair, NYS Assembly Environmental Conservation Committee  
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