Opponents of Adirondack mine say land swap is not a done deal

Environmentalists say legislative approval, review is needed for Lot 8 mining

By Rick Karlin
The Times Union

February 3, 2014

New Yorkers in November approved a constitutional amendment allowing a North Country mining company to do a land swap so they could continue extracting wollastonite from their mine, which is located astride the Adirondack Park's "Forever Wild" boundary.

And while voters approved the deal by a 53-47 percent margin, a group of environmentalists who opposed the swap from the beginning are saying "Not so fast." They point to a dump truck's worth of regulations and requirements that need to be sifted through before NYCO Minerals can start exploring for minerals on the wooded site, known as Lot 8.

The environmentalists do not mention the possibility, but their letter could suggest that the whole affair could end up in court.

"At this point, obviously, the constitutional amendment was passed," said Deborah Goldberg, the managing attorney for Earth Justice. But, she added, "If the Department of Environmental Conservation decides it wants to go forward, it has a lot of work to do."

Earth Justice, which focuses on environmental litigation, last month listed a series of legislative and regulatory issues they say need to be dealt with before drilling begins.

"The passage of Proposal Number Five removed only one layer of legal protection for Lot 8," Goldberg said in a letter to state Environmental Commissioner Joe Martens.

Lot 8 refers to the approximately 200 acres adjacent to NYCO's Willsboro mine in northern New York.

The mine abuts the Adirondack Park boundary, and a constitutional amendment was required in order for it to expand. Voters had to approve a land swap that would let the parkland be mined.

NYCO has agreed to turn over about 1,500 acres of woodlands and mountain
terrain to the park in exchange for the plot, which would come back to the state after it was mined and reclaimed in future decades.

The environmental community was split on the issue. Some were OK with the concept since new acreage was coming under the park’s protection. But others, including Adirondack Wild and Protect the Adirondacks, said they believed it set a bad precedent.

Now, Earth Justice, along with Adirondack Wild and Protect the Adirondacks, say the Legislature still needs to approve the swap; that an environmental review is needed; and that other requirements must be met before drilling or even the actual swap can begin.

They noted that the DEC was poised last month to issue a draft temporary permit to start drilling for samples on the land. "The amendment in and of itself did not change existing law," said Dan Plumley of Adirondack Wild. His group contends that the area targeted for mining contains rare ecological treasures such as old growth trees, although that was contested by NYCO.

DEC spokesman Peter Constantakes said the agency "will proceed with a transparent public process that will comply with all laws and regulations pertaining to this matter."

And NYCO representatives said they were reviewing the letter but had no immediate comment.

Members of the coalition stressed they weren't intent on court action. "I want to emphasize that while litigation is possible, no decision has been made by any of the coalition partners at this point," Plumley said in an email.

Wollastonite has a variety of industrial uses, including plastic-making and in friction products such as automobile brakes.

The mine expansion has been touted as a way to preserve the approximately 100 jobs there since it would allow the company to continue extracting wollastonite in future years.

Those who follow Adirondack development and wilderness issues are likely also looking to another project, near Tupper Lake, that has ended up in court.

In that case, the Adirondack Park Agency in January 2012 voted to allow the 6,500-acre Adirondack Club and Resort, attached to the Big Tupper ski area, to move ahead. It has been described as the largest single development ever allowed in the park.
Then, however, two groups that had also signed the NYCO letter, the Sierra Club and Protect the Adirondacks, sued the Park Agency, contending that they violated their own rules in granting the approval. The case is still in litigation.