

# NYCO Begins Drilling In Jay Mt. Wilderness Area

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*Dan Plumley of Adirondack Wild on Lot 8.*

NYCO Minerals has begun cutting trees and drilling for wollastonite in the Jay Mountain Wilderness, actions that could render moot legal efforts to thwart the company's plans.

NYCO spokesman John Brodt confirmed that the company began work in December after New York State Supreme Court Justice Thomas Buchanan dismissed a lawsuit challenging NYCO's permit.

Last week, Earthjustice filed a notice of appeal with the Appellate Division of State Supreme Court, but it's uncertain whether it will follow through. The nonprofit organization is representing Protect the Adirondacks, Adirondack Wild, the Sierra Club, and the Atlantic States Legal Foundation.

Peter Bauer, executive director of Protect, said the legal issues might be considered moot by the time an appeal would be decided. He said the groups will decide within a few weeks whether to pursue the appeal. "It's highly unlikely that a court would act before the damage is done," he said. "So that will be a major factor in our decision."

Earthjustice contends that a test-drilling permit issued to NYCO by the state Department of Environmental Conservation violates the Adirondack Park State Land Master Plan and other environmental laws. The permit allows NYCO to cut trees for access roads and drill sites.

Ordinarily, mining is forbidden in the Forest Preserve, which is protected by the state constitution as “forever wild.” In 2013, however, the public voted to amend the state constitution to authorize the state to give NYCO a 200-acre parcel in the Jay Mountain Wilderness in exchange for other lands. The swap will not take place until NYCO confirms that the parcel, known as Lot 8, has sufficient wollastonite to make the deal worthwhile. Wollastonite is a fairly rare mineral used in ceramics, plastics, and paints.

Justice Buchanan had issued a temporary restraining order against the drilling, but he lifted it in December when he dismissed the suit. Hannah Chang, an attorney with Earthjustice, said the organization might ask the Appellate Division to issue another temporary restraining order. “The work [at Lot 8] could take a few months, so there’s a possibility that the court would make a decision on the request before then,” she told *Adirondack Almanack*.

Even if such a restraining order is granted, Bauer said Lot 8 will have been severely damaged in the interim.

“This is a historic moment for the Forest Preserve,” he said. “This is arguably the greatest injustice and greatest abuse of the Forest Preserve in the last 120 years of public ownership.”

Among other things, Earthjustice disputes DEC’s finding that the test drilling would result in no significant adverse environmental impact—a finding that freed NYCO of the obligation to prepare a lengthy environmental impact statement. Earthjustice also claims that the Adirondack Park Agency’s amendment of the Jay Wilderness management plan to allow drilling violated the State Land Master Plan.

DEC and the Adirondack Park Agency contend that the constitutional amendment, known as Proposition 5, supersedes laws and regulations that conflict with it. Nevertheless, state officials say the drilling plan was designed to protect the environment.