

# How state environmental officials sold a plan to mine an Adirondack Wilderness

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Some green groups say valuable forest lands in the Jay Mountain Wilderness will be lost in the proposed NYCO land swap. Photo: Brian Mann

A green group in the Adirondacks is raising new questions about a controversial plan to build an open-pit mine on 200 acres of forest preserve land in the Jay Mountain Wilderness.

That NYCO minerals land swap required an amendment to the state constitution and was approved by voters two years ago. The project has already survived one legal challenge.

But [Protect the Adirondacks revealed new documents and internal communications yesterday](#) showing that state officials lobbied aggressively behind the scenes in favor of the mining company.

"We never knew the great extent that [the DEC] were involved. We had no idea that it was immense and the number of people at the DEC were involved in it as the record clearly shows now," says Protect director Peter Bauer.

## A mining project long viewed by Conservation Department as a "win-win"



*DEC Commissioner Joe Martens. Photo: Matt Ryan for Innovation Trail*

We've known for years that the Cuomo administration backed the NYCO Minerals land swap. It's also no secret that state Conservation Commissioner Joe Martens – who left that post last month – was a staunch supporter of the project.

Under terms of the deal, the company is allowed to explore for a mineral called Wollastonite in a wilderness area near the town of Lewis in Essex County. If mining goes forward, NYCO will eventually pay for new tracts of land that would be added to the Park. "It really is a win-win proposition," said Martens in an interview with NCPR in June 2013.

"The community benefits because NYCO is a good company and they employ about 100 full-time people and about 50 part-time," he said. "The 1,500 acres that we would get back that would go into the forest preserve [as part of the land swap] are exceptional properties."

### **Behind the scenes, a closely coordinated lobbying effort**

*All of the machinery of state government is supposed to stay neutral and stay independent and that is not what happened here*

But documents acquired by Protect the Adirondacks through a Freedom of Information request and made public yesterday show the state Conservation

Department under Martens' leadership working far more intimately with NYCO than was previously known.

Internal emails and communications with NYCO show DEC officials coordinating public language with the company over a period of months. They worked together to develop talking points, while DEC officials lobbied the state legislature on the company's behalf.

After NYCO raised concerns, the DEC even helped change the language of the ballot proposal seen by voters when they walked into the voting booth in 2013.

Protect's Bauer says that level of behind-the-scenes coordination raises red flags. "They obviously worked very hard to push this through for the benefit of NYCO in a very questionable way. Their advocacy and lobbying from beginning to end raise questions that need to be investigated."

### **DEC's lobbying efforts included an effort to sway green groups**

These documents also show repeated efforts by state officials to convince environmental groups to support the NYCO project. Bauer says groups like the Adirondack Mountain Club and Adirondack Council that eventually backed the deal were pressured in secret meetings and communications. "It's pretty clear to us that DEC was leaning heavily on organizations to get in line and support this."

Willie Janeway, a former top official and now head of a green group called the Adirondack Council, confirmed yesterday that DEC mounted a major lobbying effort targeting groups like his. "Sure there was pressure," he said, suggesting that such lobbying by state officials is common.

The Adirondack Council did eventually back the NYCO land swap, angering many rank and file members. That was a major coup for the company and helped sell the proposal in the state legislature.

But Janeway says it wasn't pressure from the Cuomo administration that convinced his group to come on board. He says the DEC eventually laid out a deal that he felt was good for the Park and served the best interests of the forest preserve. "They laid out the details of the proposal, the 1,500-plus acres that would be provided in return [for permission to mine on forest preserve land]. Only when that information was put forward in the record did the Adirondack Council indicate support."

But other green groups have raised concerns about the DEC's handling of the NYCO project.

Just last month, a former assistant commissioner at the DEC named Chris Amato – now with an environment group called Adirondack Wild that opposed

the NYCO deal – argued that the Conservation Department’s advocacy for the NYCO deal was alarming. "I was absolutely astounded to see the DEC actually taking a position in favor of that amendment," Amato said.

**"Yes, DEC...actively promoted this legislation"**



*Photo: NYCO Minerals*

Speaking yesterday, acting DEC commissioner Marc Gerstman – who replaced Martens this month – acknowledged that his agency worked closely with NYCO before the land swap was approved by the legislature in 2013.

"Yes, DEC prior to second passage in the legislature actively promoted this legislation in the best interest of the Adirondack Park and the best interest of communities," he said.

Gerstman said state officials had worked carefully to avoid violating rules that shape lobbying efforts by state agencies. "We did everything with an abundance of caution to make sure we didn't cross any lines of impropriety."

But Gerstman draws a line between his agency’s behavior lobbying on behalf of the deal before it passed the legislature and their activity in the months leading up to the public vote on the matter in November of 2013.

At that point, Gerstman says the advocacy ended and DEC focused strictly on educating the public in a neutral way. "The agencies have a right to inform only about the facts and the science and we did not advocate in any way, shape or form. And there's no evidence that we did."

## **Protect the Adirondacks calls for new investigations**

This question could be key. Protect the Adirondacks is arguing that state officials not only behaved unfairly in supporting this project behind the scenes but also may have violated state laws that limit the way government officials can lobby on a Constitutional amendment like the one involving NYCO.

"All of the machinery of state government is supposed to stay neutral and stay independent and that is not what happened here," Bauer said. His group has submitted a legal complaint to the state Attorney General, the Comptroller's office, the Inspector General and the Joint Commission on Public Ethics asking for formal investigations.



*Protect the Adirondacks executive director Peter Bauer*

Bauer says he also hopes the state legislature will take up the matter. But acting Commissioner Gerstman argued that the NYCO minerals project has already survived a series of public debates and legal tests over a period of years.

"One question is why Protect continues to go after this issue," Gerstman said. "Mr. Bauer and Protect should move on to some other issue that's important to protect the environment."

That kind of shift seems unlikely. If nothing else, the documents revealed by Protect the Adirondacks appear to show New York's Conservation Department working in coordinated, intimate and perhaps unprecedented ways with a company seeking to mine 200 acres of an Adirondack wilderness area. That kind of partnership clearly has the attention of the Park's environmentalists.

NYCO, meanwhile, conducted test drilling operations on the site last winter. The company's spokesman John Brodt told the New York Times that they're still deliberating whether to move forward with active mining on the site.