

**Public Comment Summary:
Comments submitted to the APA on the Jay Mountain Wilderness UMP
Amendment, June 2014**

Comments on legality of the action:

- Mineral exploration by NYCO on Lot 8 in the Jay Mountain Wilderness cannot be legally authorized by approval of the UMP amendment.
- The activities that are proposed include cutting “corridors” for heavy machinery, basically road building, tree cutting, drilling, use of chemicals and use of motor vehicles are all prohibited activities under the Wilderness Guidelines of the State Land Master Plan (SLMP). The APA should not approve activities prohibited by the SLMP.
- All actions in a UMP must be authorized in the SLMP. The only way that the series of proposed activities can be allowed is if the SLMP is first amended.
- The APA’s contention passage of the NYCO Constitutional Amendment in November 2013 “implicitly” repeals all other state laws regarding this tract is false. The APA must also recognize and obey all other applicable laws.
- Proposition 5 does not allow for administrative changes to the APSLMP.
- This UMP amendment is legally invalid.
- There can be no meaningful public participation or rational Agency action without clear legal standards to govern administrative decisions.
- The 2013 Constitutional Amendment is permissive, not mandatory.

The People of New York state voted twice to approve a Constitutional Amendment that will allow for this Action to occur. The Constitutional Amendment overrides the APSLMP guidelines for Wilderness.

Comments on Natural Resource Inventory:

- DEC must conduct baseline studies of flora, fauna and water resources.
- The APA has failed to adequately inventory the natural resources on Lot 8, including the many intermittent streams, vernal pools, and the complex mature forest with many trees 150 years old or older.
- The wetlands assessment performed by the Agency does not adequately document existing wetlands.
- The NYNHP program inventory does not adequately address existing forest conditions.

An inventory of natural resources was included in the 2010 Unit Management Plan as required by the APSLMP. This requirement does not direct either the Department or the Agency to conduct the inventory, but to use the best available information. In addition, the Department had the New York Natural Heritage Program conduct an inventory in 2013 for Lot 8. Their findings are included as Appendix B of the UMP Amendment.

Wetlands were reviewed by Agency staff using 2009 infrared orthophotographs. This process is used regularly by the Agency to determine wetland jurisdiction and can eliminate the need for a site visit. Agency staff determined that 4 of the 6 wetlands identified are jurisdictional, but that additional field work would be necessary to determine boundaries. The Department will work in cooperation with the Agency to avoid wetland impacts.

The Agency was not asked to evaluate for the presence of vernal pools. The Agency has no jurisdiction on this natural community type and does not routinely document vernal pools.

The NYNHP inventory conducted on July 25, 2013 was to determine if the forest on Lot 8 qualify as “Old Growth”. The forests in Lot 8 do not meet all of the criteria necessary for the definition of Old Growth.

Comments on UMP Amendment Process:

- The APA and DEC must obey their Memorandum of Understanding (MOU) for State Land management. The MOU established a series of timetables and work items for both agencies when amending a UMP. The APA must adhere to the MOU as a basic measure of public accountability.
- The APA is needlessly rushing this UMP amendment. NYCO is seeking a major expansion of its adjoining mine site, which extends mining operations for years before the Forest Preserve lands are needed for mining.

In 2007 (revised March 2010) the Agency and the Department entered in to a Memorandum of Understanding (MOU) concerning the implementation of the State Land Master Plan for the Adirondack Park. This MOU provides guidelines for procedures and clarifies specific program responsibilities. These guidelines may be modified upon agreement from both parties, either informally or formally through revisions.

The Agency and the Department agreed to a two meeting review schedule for this UMP amendment because of the unusual circumstances of this amendment. The legal effect of the constitutional amendment is that the APSLMP’s Wilderness guidelines do not apply to Lot 8; thus there is no discretion for the Agency regarding the activity’s conformance with the APSLMP. The activity is being documented through the UMP amendment so that if the lands are not acquired by NYCO, the lands will be reclaimed and remain part of the unit and governed by the UMP and the APSLMP.

Comments on TRP process:

- DEC should not ignore its own TRP policy.
- The draft TRP and work plan are insufficient.
- More stringent terms and conditions need to be added to the TRP.

The Department has followed their existing TRP policy and in many cases has asked for more detailed information than is necessarily required in a TRP application. The department has responded separately to these comments.

SEQR Comments:

- The Jay Mountain UMP should not be amended without sufficient time for public hearing and public comment. Public hearings should be held statewide.
- The draft UMP submitted by DEC to APA does not meet the SEQR requirement of a full EIS and documentation.
- The proposed UMP amendment is part of a larger mine expansion by NYCO Minerals and must be evaluated by the APA for cumulative impacts and comply with the prohibition of “segmentation” requirements under the State Environmental Quality Review Act.

The Agency and the Department had a period for public comment which was extended by one month. The Department, as Lead Agency, followed the State Environmental Quality Review (SEQR) process. This action was determined to be a Type I Action, published in the June 11, 2014 Environmental Bulletin, and did not require the preparation of an Environmental Impact Statement.

This TRP is for exploratory drilling. There is no subsequent mining planned until the results of this action are known. Any subsequent mining activity will require a separate review.

Environmental Review Comments:

- A thorough analysis of the impact of the drilling lubricants is needed. A plan should be developed which identifies ways to prevent contamination of these lubricants and how they will be reclaimed.
- The UMP needs a clear reclamation plan for both potential scenarios (just test bores and/or the full mining operation).

Public Comment Summary:

Comments submitted to the APA on the Jay Mountain Wilderness UMP Amendment, June 2014

- Concern of groundwater pollution from drilling activities. Concern for toxic spills.

The Department has included detailed analysis and procedures required to be followed in the Temporary Revocable Permit (TRP) issued to NYCO.

Comments on Mining Process:

- The process must be carefully monitored, with on-site inspectors.
- Mines are never reclaimed, concern that this process will not be enforced.

The Department has included detailed analysis and procedures required to be followed in the Temporary Revocable Permit (TRP) issued to NYCO .

This TRP is for exploratory drilling. There is no subsequent mining planned until the results of this action are known. Any subsequent mining activity will require a separate review.