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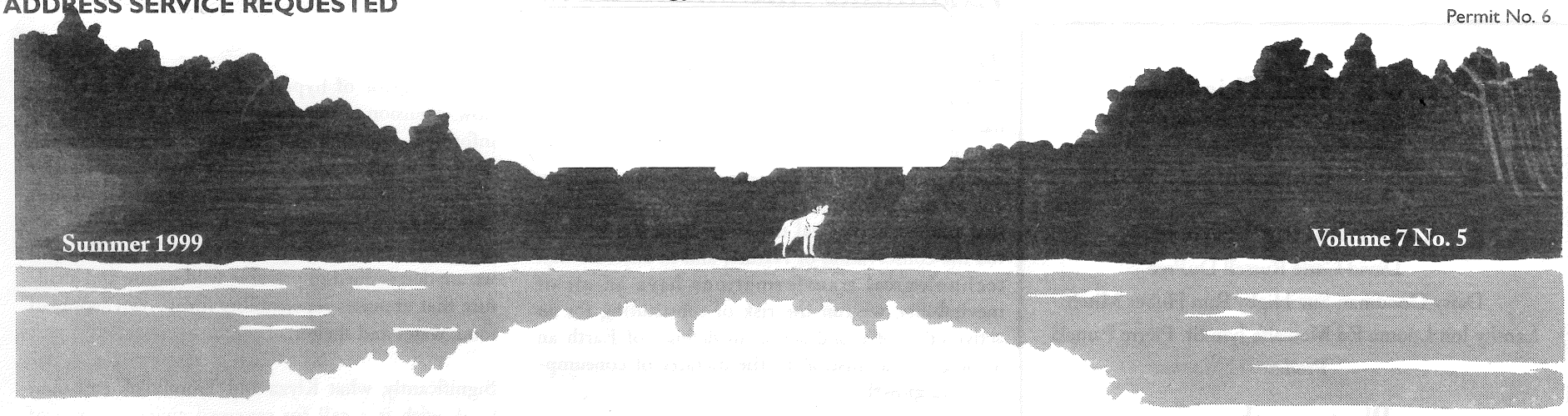
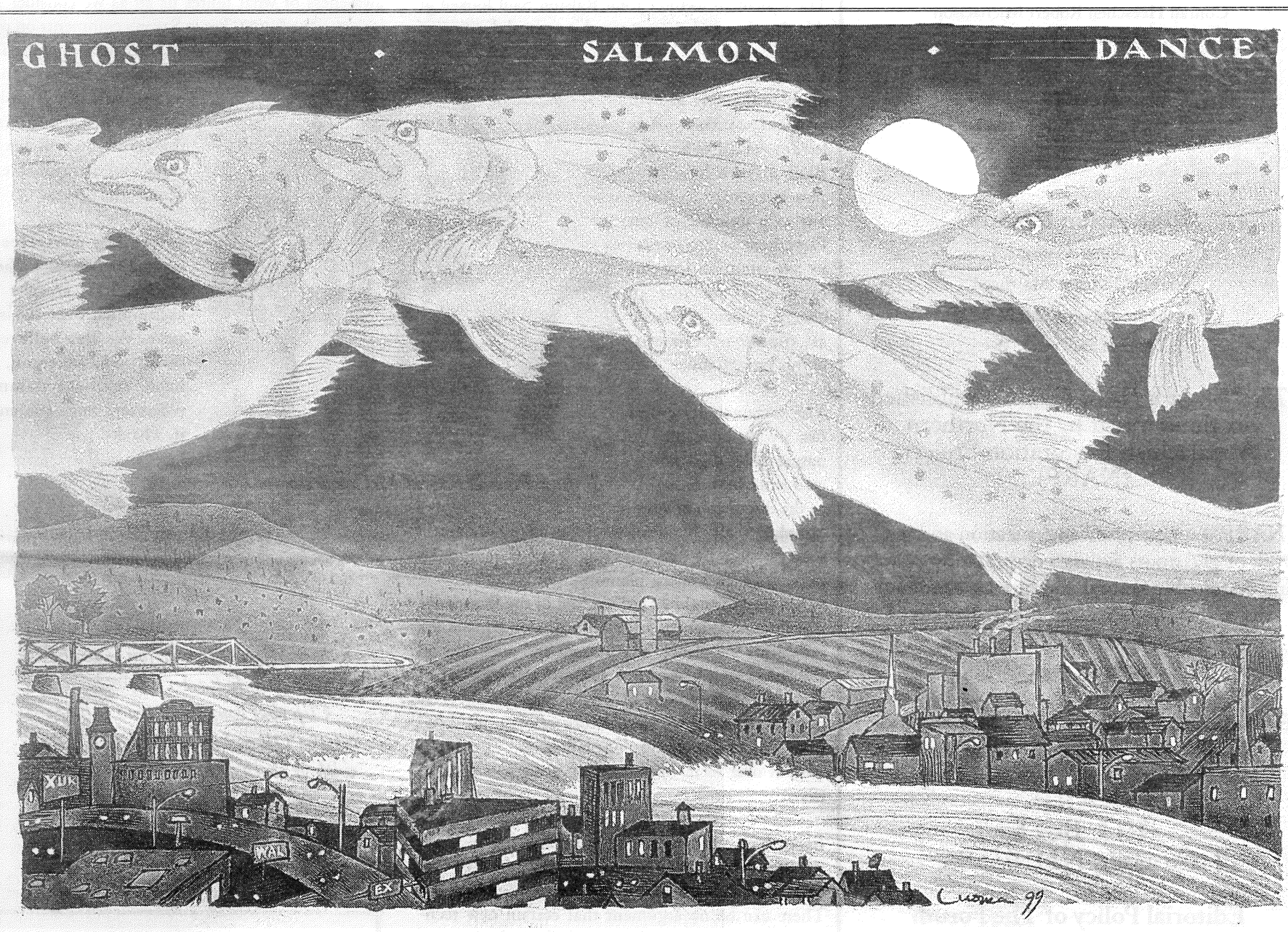
The Northern Forest Forum

Working for Sustainable Natural & Human Communities



Summer 1999 Volume 7 No. 5



Why Maine's Atlantic Salmon Deserve ESA Protection

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•OIL TANKER RULES •COD HABITAT •LYNX LITTERS •SADDLEBACK •JET SKIS •A NATIVE ECOSYSTEMS RECOVERY ACT . . .

The Northern Forest Forum

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The Northern Forest Forum is published six times a year by the Northern Appalachian Restoration Project (NARP).

NARP is a non-profit organization and network of grassroots activists dedicated to restoring sustainable natural and human communities across the Northern Forest Region of northern New England, New York, and adjoining regions.

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Editorial Policy of The Forum

Editorial views expressed herein are those of the writer and not necessarily those of other contributors or other NARP projects. We welcome diverse submissions on the Northern forest and related topics. Please send all material to the address above.
Please address letters for publication specifically to the editor.
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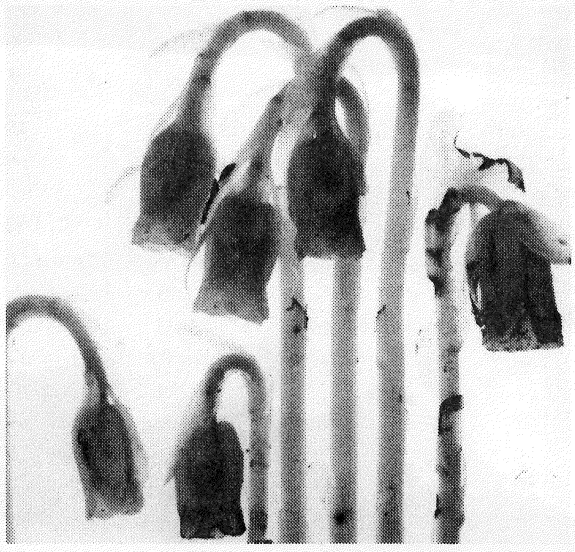
Editorial

Examining Sustainability

Recent inquiry into the nature of technology and its relationship to the sustainability of life on Earth has coupled with the decade's prevailing air of complacency (correction: obeisance) in the face of wealth and power to produce a potential hyrbrid of dangerous attitude. That is, if we blindly accept the truth that past technological transformation has benefitted the conservation of Nature, and in any case that technological transformations have an air of inevitability, we run the risk of substituting for an active ethic of moral action in defense of Earth an ideological submission to the dictates of consumption and growth.

The Canadian lecturer John Ralston Saul looked at this situation and characterized it as an abdication of active citizenship in the face of an economic ideology embracing growth and corporatism. Any leader—Clinton and Blair may be his examples but closer to home any of a number of our Governors or Senators—in any situation has this excuse: I am not in charge; I make no choices; the dictates of economic growth do.



Indian Pipes© Robert McCann/Photonica

The sustainability crowd has always been dual in nature. The high powered suits have brought to the discussion of sustainability all the accoutrements of technocratic society: as if by incorporating a limits-to-growth imperative in modern planning, design and governance we can engineer our way out of the thermodynamic consequences of 5 billion over-consumers inhabiting the planet. The peasant and poet class on the other hand has been somewhat skeptical of those with clean nails and insisted on what Gary Snyder terms the perennial work of close inhabitation: gardening, beekeeping, reflection. The camps fall out over technology, both its scale and applications.

Even those who detest the word still use *resources*. Inevitably, we grapple with their productive use, even while disagreeing over what *productivity* means. There can be no argument that certain new technologies, such as the electronics which for instance make *The Northern Forest Forum* a possibility, can replace the consumption of petroleum. Just as oil and electricity replaced coal and wood, some of our new technologies can replace oil, tar, cars, and noxious emissions. Does this mean then that we should also be accepting genetically engineered plants, terminator technology seeds, patented organisms of all types, and a corporately controlled food production system? It would be productive after all . . .

To bring this all down to the Earth of our native surroundings, the reader will find in this issue of *The Northern Forest Forum* that our context is continuing rapid change in land use and ownership of the Northern Forest region (see Jym St. Pierre's summary on page 9). Such changes have a history, as Stephen Trombulak and Christopher McGrory Klyza point out in their new book on Vermont (see excerpts on page 30). Considering both past and future, these two authors lay out three possible scenarios for Vermont's future—and by extension, that of the wider region.

The scenarios of hyper-development and even a slow extension of the status quo are the least morally informed—and the most injurious to wildness and liberty of spirit. Although we ought to dread a Vermont, northern New England or wider Northeast with twice their current populations, we nonetheless should prepare for such a possibility if we are determined to preserve wild nature and a culture that exercises reponsibility for its own supply of food, water and shelter.

Significantly, what Klyza and Trombulak end their book with is a call for renewed civics, a sense of awareness of what unites us all as we consider—or ignore—the future. Jamie Sayen's comments on page 30 offer disheartening illumination of what can be wrong in today's policy forums when industry sets the terms by which citizens can participate in democratic process.

Informing ourselves is what *The Northern Forest Forum* has sought to accomplish over its lifetime. We also believe in civics. So, welcome, sit back, read the damned paper and hope you enjoy it. Thanks.

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Visit the Northeast Wolf Center

The Maine Wolf Coalition has opened the Northeast Wolf Center in downtown Hallowell. Located at 190 Water Street, the Center "will serve as headquarters for Maine's wolf recovery effort and will focus on wolf education and research.."

For more information, call MWC at 207-445-4669, write the MWC at RR 2 Box 533, South China, ME 04358. Visit the MWC website at http://home.acadia.net/mainewolf

Wild Atlantic Salmon
Dammed Near Extinct

Living wild species are like a library of books still unread. Our heedless destruction of them is akin to burning that library without ever having read its books. . . .
—Congressman John Dingell

The decline and near extirpation of Atlantic salmon from U.S. rivers is a story that is heartbreaking as well as an ecological wake-up call. While Atlantic salmon are not protected, the likelihood of Endangered Species protection might be at hand. The following is a short history of the attempt to gain protection for one of the most imperiled species here in the United States.

Dam the Salmon

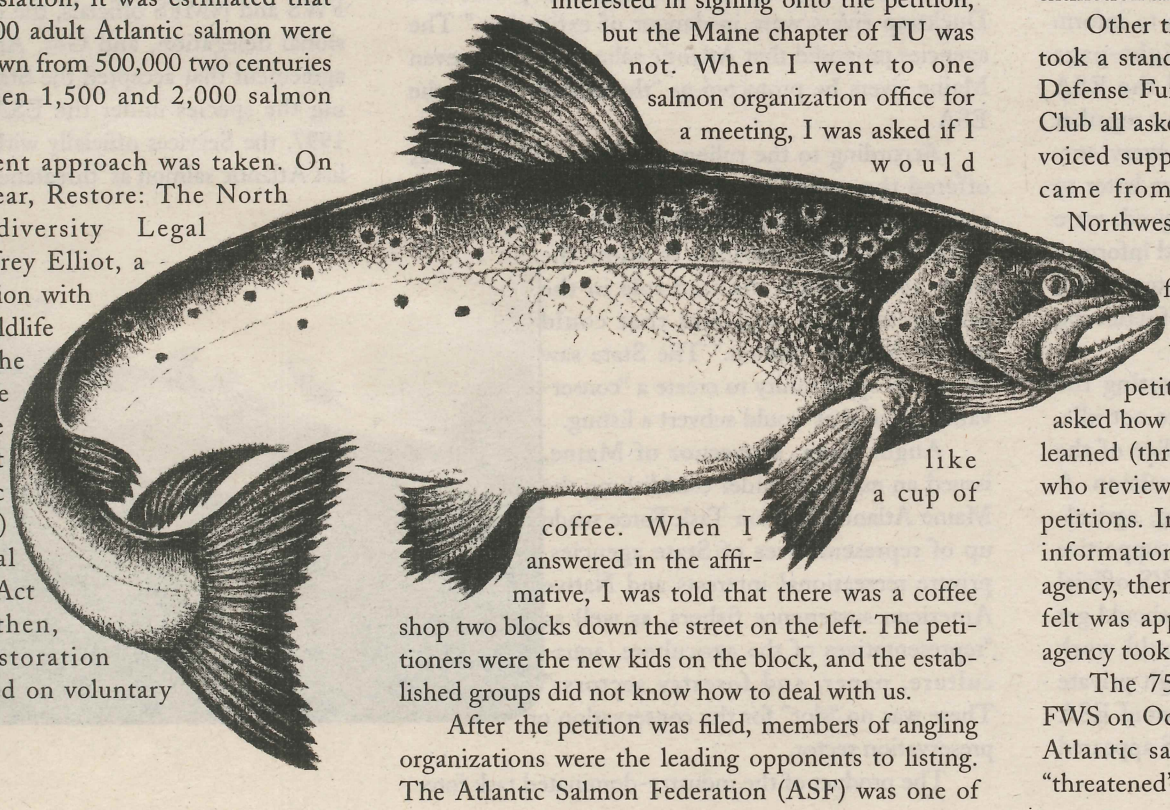
The plight of Atlantic salmon starts back with the settling of New England by Europeans. Historically, Atlantic salmon supported both a subsistence and commercial fisheries, providing food and employment to the people of New England. Salmon were so plentiful they were used as fertilizer in corn fields and laws were passed limiting employers from serving salmon to servants no more than three times a week. Atlantic salmon and other anadramous species including shad, alwife, and sturgeon were vital to the people of New England. Then came the movement in the early 1800s to "harness" water power.

The precipitous decline of Atlantic salmon can be directly tied to the first dams built on New England rivers. There are reports that within three years of building the first dam on the Merrimack River, Atlantic salmon populations declined drastically. Fish passage facilities at the dams were not constructed until the 1970s. Many of the dams blocking tributaries still do not have fish passage facilities.

The dam builders were prolific. According to a 1981 Army Corps of Engineers report, over 10,000 dams or obstructions block the rivers of New England. A salmon that spawns in the Ammonoosuc River in New Hampshire, a tributary of the Connecticut River, must pass through 12 dams before it reaches the headwaters. A migrating smolt must pass through those same twelve dams to reach the ocean, navigating the reservoirs and the spinning turbines.

There have been many attempts at restoring Atlantic salmon to various rivers. The first modern attempt was in 1947 when the State of Maine passed legislation creating a commission dedicated to protecting and restoring salmon to the State's rivers. According to the legislation, it was estimated that between 1500 and 2000 adult Atlantic salmon were returning to Maine, down from 500,000 two centuries ago. Last year between 1,500 and 2,000 salmon returned.

In 1993 a different approach was taken. On October 1 of that year, Restore: The North Woods, the Biodiversity Legal Foundation, and Jeffrey Elliot, a biologist, filed a petition with the U.S. Fish and Wildlife Service (FWS) and the National Marine Fisheries Service (NMFS) to protect anadromous Atlantic salmon (Salmo salar) under the federal Endangered Species Act (ESA). Up until then, Atlantic salmon restoration efforts had been based on voluntary programs.



Paradoxical Protection

The process of petitioning the USFWS or NMFS to protect a species is really quite simple. Successfully getting a species listed is a different matter.

According to the law, to qualify for ESA protection a species must be faced with:

- "The present or threatened destruction, modification, or curtailment of its habitat or range;
- Overutilization for commercial, recreational, scientific, or educational purposes;
- Disease or predation;
- The inadequacy of existing regulatory mechanisms;
- Other natural or manmade factors affecting its continued existence."

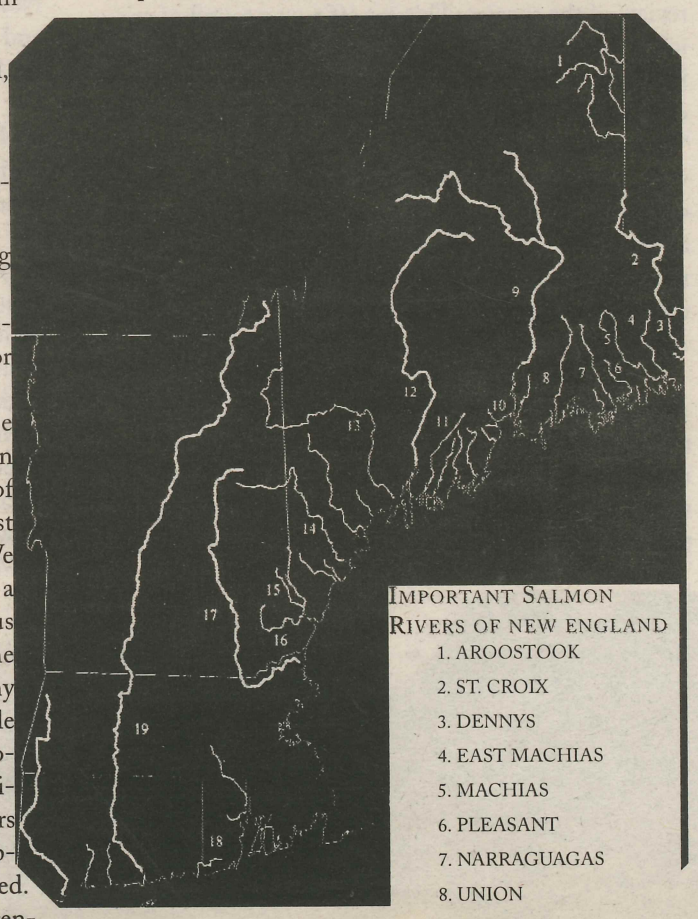
Only one of the five above factors need be present to give the species protection as "threatened" or "endangered." Atlantic salmon face all five.

Jasper Carlton, executive director of the Biodiversity Legal Foundation, has tirelessly given workshops on protecting imperiled species. One of the first things he preaches is the petitioner must know more about the species than anybody else. We took this to heart. In researching Atlantic salmon, a significant amount of time was spent in various libraries including the Boston Public Library, the regional Environmental Protection Agency, Army Corp. of Engineers, NMFS, and the Woods Hole Biological library. All articles, papers, etc. were photocopied, read for information, and filed appropriately. Because the FWS were requiring dam owners to construct fish passage facilities for salmon, up- and downstream fish passage studies were gathered. In many cases, the dam owners, not the federal agencies, had copies of these reports. Some dam owners were less than cooperative in releasing the reports in which a follow-up letter to the Federal Energy Commission, FWS, and a local congressional representative was required. Before starting the actual writing of the petition, we had accumulated a file cabinet full of background information.

While drafting the petition, we began to contact other possible allies—particularly groups with ties to salmon. New England is a funny place. The "shot heard round the world," Shay's rebellion, the abolitionist movement, and other challenges to the status quo took place here. Not so with protecting Atlantic salmon. Despite a failed restoration program and rivers with fewer than 10 returning salmon, these groups claimed that "a change was just around the corner."

The national office of Trout Unlimited (TU) was interested in signing onto the petition, but the Maine chapter of TU was not. When I went to one salmon organization office for a meeting, I was asked if I would like a cup of coffee. When I answered in the affirmative, I was told that there was a coffee shop two blocks down the street on the left. The petitioners were the new kids on the block, and the established groups did not know how to deal with us.

After the petition was filed, members of angling organizations were the leading opponents to listing. The Atlantic Salmon Federation (ASF) was one of the most difficult organizations to deal with. During a conversation with ASF director, Jane Cleaves, she claimed that the U.S. Atlantic salmon did not qualify for ESA protection, the fish was extirpated from New England. The salmon in the rivers were just hatchery clones. She did send some slides of salmon for use in our presentation. Later, she claimed that we had not spoken with her and that the petition came as a complete surprise.



Important Salmon Rivers of New England
1. AROOSTOOK
2. ST. CROIX
3. DENNYS
4. EAST MACHIAS
5. MACHIAS
6. PLEASANT
7. NARRAGUAGAS
8. UNION
9. PENOBSCOT
10. DUCKTRAP
11. SHEEPSCOT
12. KENNEBEC
13. ANDROSCOGGIN
14. SACO
15. COCHECO
16. LAMPREY
17. MERRIMACK
18. PAWCATUCK
19. CONNECTICUT

Because the petition challenged the status quo, criticism of using the ESA process was harsh. Jane Cleaves denounced the petitioners as amateurs, and said the 40 year old ASF knew best. Many newspapers editorialized against ESA listing, yet few mentioned the fact that fewer than 5,000 Atlantic salmon were returning to the U.S. Some wrote endangered status was too strong, but threatened might allow a catch and release fishery. And, there were a few enlightened editors who believed Atlantic salmon were facing extinction and the petition had merit.

Other traditional conservation organizations also took a stand-back approach. The Sierra Club Legal Defense Fund, The Wilderness Society, and Sierra Club all asked to be kept informed, but none publicly voiced support for the petition. The most support came from organizations based in the Pacific Northwest.

The Atlantic salmon petition was the first petition received by the New England office of the FWS since the ESA had been enacted in 1973. After filing the petition, a local FWS official called me and asked how the petitioning process worked. Later, we learned (through a FOIA request) one FWS official who reviewed the petition was opposed to citizen petitions. Instead he believed groups should gather information and turn the information over to the agency, then let the agency pursue whatever course it felt was appropriate over whatever time frame the agency took.

The 75+ page petition was submitted to the FWS on October 1, 1993 calling for the protection of Atlantic salmon throughout its historic range as "threatened" or "endangered" under the Endangered

Species Act, and to designate "critical habitat," including all watersheds historically inhabited by Atlantic salmon. The agency had 90 days to determine if the petition had "merit."

A Hollow Ruling

The Agencies found the petition to have "merit" on January 20, 1994 and initiated a comprehensive status review of the species. This set off a new round of criticism. Members of angling organizations started writing letters to newspapers claiming that we did not care about Atlantic salmon. Our real agenda was "locking up land." At one point we had a meeting with a number of Maine and FWS officials. Their questions were aimed at our motive. Finally, one asked about these "rumors." Was our goal to lock up the land? I responded "If the watersheds are not protected, how are the salmon ever going to be restored?" All the heads in the room nodded in the affirmative.

The opposition never really challenged the fact Atlantic salmon were in trouble. Instead, ESA "horror" stories from other parts of the country bred like mosquitoes. The spotted owl made the Pacific northwest a deserted region, no jobs, no hope. Others foretold the demise of the economy of Downeast Maine.

No facts were offered, just baseless pronouncements.

We continued communications with the two federal agencies. Because the FWS had lead the Atlantic salmon restoration program, we filed the petition with that agency. After filing, the NMFS tried to wrestle the petition away, claiming Atlantic salmon was a commercial species which meant NMFS should be the lead agency. The Atlantic salmon commercial fisheries ended back in the 1940s due to lack of fish. To protect ourselves, we filed an identical petition with NMFS, letting the two agencies fight over turf.

Once the petition was filed, we began to inform the public and opinion leaders. An eight-page "tabloid," documenting the threats and the ESA process was published. A slide show was put together and presentations were given to any and every one. Action alerts were sent out. Every negative letter to the editor was responded to promptly. Op ed. were submitted. Editorial boards were visited and information was sent to various writers and reporters. And, unfortunately for the salmon, the number of returning Atlantic salmon continued to decline.

While the two agencies were conducting the species "status review," agency officials were not idle. But their goal, at least in the regional office of the FWS, was apparently to avoid listing the salmon. A FWS official spoke at a meeting of logging, agriculture and aquaculture officials who were not supportive of ESA protection. At the meeting the FWS official "unofficially" suggested that "stakeholders" should get together and develop an entity that would work towards protecting Atlantic salmon through private means. The industry interests wanted to avoid ESA protection for Atlantic salmon and the FWS appeared to be there to help them.

The petition did draw a tremendous amount of attention to the plight of the salmon and the 20 year restoration program that has cost taxpayers well over $100 million. Fewer than 3,500 Atlantic salmon returned to the entire United States in 1993. 1994 saw even less. Media from around the country picked up the story. Articles appeared in all of the major New England newspapers, the Christian Science Monitor, New York Times, and magazines such as Down East and Outside Magazines. Despite the media attention, the species still lacked protection.

October 1994 came and went without a decision on listing. At the end of October we filed a 60-day notice. After 60-days had passed, we initiated legal action to force the agencies to make a decision.

In court documents, the Services admitted that they were in violation of the ESA. They had not announced a finding on the Atlantic salmon petition within the statutory time frame. The Judge did award us attorneys fees, "because the plaintiffs have assisted in the implementation of and government compliance with the ESA and have thereby served the public interest." But the victory was hollow. The Services ruled that the petition was "not warranted" though an Atlantic salmon population in seven Downeast rivers in Maine did qualify for ESA protection. The number of returning adult Atlantic salmon in 1994 dropped to fewer than 2,000, more than a 50 percent drop from 1993.

The ruling was a step forward. The original petition called for the Atlantic salmon to be protected throughout its historic range—from the Canadian border to Connecticut. The Services ruling, however, claimed that native salmon populations in the rivers south of the Kennebec River were extinct. Any salmon presently in those rivers, which include the Merrimack and Connecticut, were considered to be descendants of reintroduced, captive-bred fish. The ruling claimed the reintroduced salmon do not qualify for protection under the ESA.

While the claim is inconsistent with several existing programs for other endangered species such as the peregrine falcon and Florida panther, we made the decision to move ahead with what we had gained.

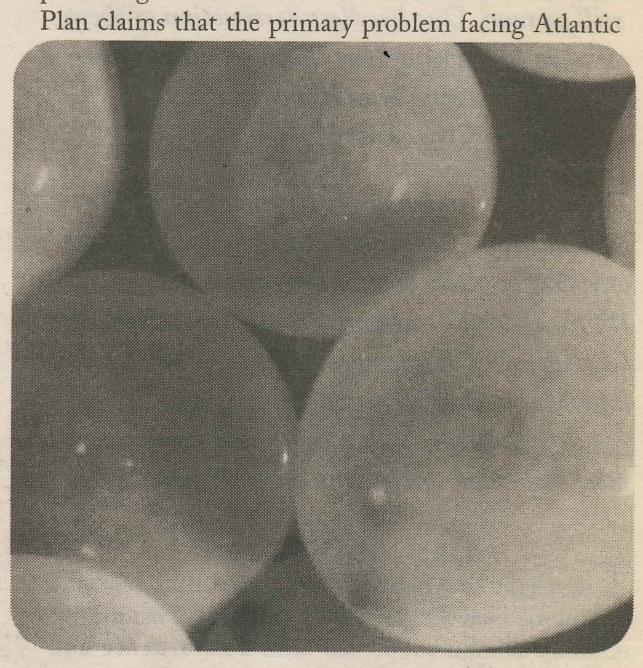
4(d) Option gets an F

On September 29, 1995, the Services ruled "populations of salmon in the Dennys, Machias, East Machias, Narraguagus, Pleasant, Sheepscot, and Ducktrap rivers were in danger of extinction." The agencies proposed that Atlantic salmon in these seven Maine rivers be protected as "threatened" under the ESA.

According to the ruling, the State of Maine was offered the opportunity to submit a "conservation plan" under section 4(d) of the ESA. This opportunity was intended to allow the State to "maintain the lead role in the management of activities that could impact Atlantic salmon." The State saw this as an opportunity to create a "conservation plan" that would subvert a listing.

Angus King, Governor of Maine, issued an executive order establishing the Maine Atlantic Salmon Task Force made up of representatives of State agencies, private recreational interests and Native American sustenance fishers, as well as "representatives of the agriculture, aquaculture, paper, and forestry sectors." There was no "slot" for the conservation or preservation sector.

The product of the industry-dominated task force is the Atlantic Salmon Conservation Plan for Seven Maine Rivers (State Plan). The record shows that the goal of the plan is to derail protecting Atlantic salmon under the ESA. The State Plan claims that the primary problem facing Atlantic



salmon is "low marine survival" and "forces beyond the control of the State of Maine."

The State put together a 400+ page package of voluntary programs and initiatives for so called salmon protection. The "proposed" actions include:

- Develop a marking system for aquaculture fish but implement only if the marking is universal, including all Canadian aquaculture fish;
- Adjust state pesticide regulations to eliminate any excessive [not all] risks to Atlantic salmon;
- Through volunteers, raise awareness of the importance of not logging shade trees along the rivers; and
- Encourage expanded beaver trapping.

Documented Salmon Returns to New England rivers since 1990

1990	4332
1991	2447
1992	3190
1993	2280
1994	1528
1995	1703
1996	2630
1997	1758
1998	1774

Evaluating the success of the State Plan is not based on the recovery of Atlantic salmon populations. Instead, success is based on how well the State Plan is implemented. A bureaucrat's wet dream.

In a December ceremony at the Maine Capital in Augusta, Secretary of the Interior Bruce Babbitt, FWS and NMFS officials, the entire Maine congressional delegation, and Gov. Angus King, signed an agreement that accepted the State Plan in lieu of listing the species under the ESA. On December 18, 1997, the Services officially withdrew the proposal to list Atlantic salmon as 'threatened."

Desperate Times, Desperate Measures

By 1998, some of the original petitioners had dropped out of the fight. But, a new coalition came together. Made up of individuals, local, regional, and national organizations; the coalition gathered data and on January 27, 1999 filed a lawsuit challenging the Services withdrawal of the proposed rule to list the critically imperiled Atlantic salmon. As this is being written, the State of Maine has filed to intervene in the case, and the Services are due to respond imminently.

Unfortunately, the number of Atlantic salmon returning to the U.S. continue to decline. Salmon returns to U.S. rivers in 1998 were among the lowest ever recorded—fewer than 2,000—continuing the decade-long downward trend. Some of the rivers in Maine saw 1 or 2 adult Atlantic salmon return. Yet, the Services and the State still claim the species is not endangered.

Five Salmon in one day for Mr. L.L. Bean of Freeport, Maine, fishing Plaster Rock Pool on New Brunswick's Tobique River.

After initial opposition, most Atlantic salmon angling groups are now supporting ESA protection for the species. The State of Maine has failed to follow through with many of the "promises" in the State Plan. In comments sent to the Services, Trout Unlimited called for Atlantic salmon to be listed. The

ASF continues to support the State Plan but individual members have joined the lawsuit.

External issues are also helping the case for ESA protection for Atlantic salmon. At least five so-called conservation plans developed in other states have failed when put to the legal test. Courts around the country have overturned such state plans and forced the listing of species, including the Barton Springs salamander in Texas, the Queen Charlotte goshawk and Alexander Archipelago wolf in Alaska, and bull trout and coho salmon in the Pacific Northwest.

While the cause of the decline of Atlantic salmon remains hidden, answers to questions raised by activists are beginning to be answered. A study on one of the rivers in Maine has found that there is 70 to 90 percent over-wintering mortality of young salmon. The salmon are not surviving in the river to make it out to the marine environment. This contradicts the State of Maine's position. Another study has linked endocrine disrupting chemicals found in various pesticides to genetic mutations in salmon. A number of the rivers that support salmon flow through industrial blueberry operations and timber industry lands where there is extensive use of these chemicals. While all of these issues have been raised by activists, the scientific community is beginning to confirm the concerns.

Whether or not Atlantic salmon are listed, the possibility of extirpation from the rivers of New England is still very real. As the battle for ESA protection enters its 6th year, there is hope that there will be a change, a recognition that Atlantic salmon are in dire straits. If the species is going to be recovered, change will be necessary.

And Next Time?

The late Molly Beattie, director of the Fish and Wildlife Service once said: "The Endangered Species Act is . . . a law that plays in when local planning and zoning, state fish and wildlife efforts, the Clean Water Act, and Clean Air Act haven't worked. It is the emergency room of conservation policy."

Initiating the process of petitioning the FWS to list a species under the ESA should be an action of last resort. Getting a species listed is bitter sweet, it means the species is on the verge of extinction, and the only thing left to possibly stop it is the ESA.

There are a couple of things that probably should have been done differently. When the initial petition was found to be not warranted, a law suit could have been filed. The Status Review could have been challenged because it did not review the species south of the Kennebec River. We should not have trusted the agency to do the right thing as much as we did. Some other lessons learned include:

• Petitioners must know more about the species than anyone else. If you do not, then others can discredit the effort right at the start—something that takes more work and time to recover from. If you can recruit a credible expert (someone with a number of letters after their name), all the better.

• Write a thorough petition that includes all information. If there is a report or article that is not helpful, include it, but also include articles and reports that challenges the information.

• Recruit a lawyer as the petition is being written. Having a lawyer involved at the beginning helps to ensure the petition is in order, provides the lawyer with background information about the issue, and helps develop a relationship with the petitioner.

• Try to have a holistic agenda. The imperiled species is just one part of the overall strategy. If the goal is to protect wildlands, talk about wildlands and how this particular species fits into the web of life. An agenda of one species can be very focused, but relating it to the larger picture can provide a frame of reference and more allies.

• Develop a public education plan. Make available information to the public, media, and political officials. Have pictures and talk about nature. Outreach as much as possible.

• Make continuous media visits. Mark the calendar to contact the editorial board of a different newspaper every 6 weeks. Give updates about the petitioning process, new information about the species, and new threats. Get to know the media and gain credibility. Don't cry wolf every time you talk, give them concise information.

• Be prepared to sue at every juncture. If the ninety-day finding is late, sue. We learned that deadlines were of little matter to the agencies. Threats of suing were ignored, lawsuits were not.

• Stay current on new research about the species and threats. During the 6 years of the salmon listing battle, new genetic information, a study about salmon emigration, and a report about impacts of endocrine disrupters have all come out, helping our case. And, providing new information furthers the petitioners credibility with the press and the public. You become an "expert."

The plight of the Atlantic salmon is only a symbol of the degradation of our rivers and our way of treating life. It is an indicator. If salmon cannot survive, how much longer will our quality of life be with us? Working to protect Atlantic salmon has been frustrating, depressing, maddening, and heartbreaking. But, I firmly believe Atlantic salmon will be protected, will recover, and once again migrate in great numbers to the headwaters of free-flowing rivers of New England to spawn. We owe it to the salmon, and to ourselves.

-finis-

Salmon Video Available

An educational video documenting the life cycle of Atlantic Salmon, entitled "The Sharing of a Secret," is available from the Newbury, Vermont based Salmon Conservancy for the Atlantic North. The 20 minute video is appropriate for school-aged and general audiences and contains footage of the Connecticut River's restored salmon.

For information please call Charles E. Metz, director, at 802-222-5644.

Farmed Salmon in Blue Hill Stock Pens. Escapees can be vectors of disease and genetic contamination for wild Atlantic salmon.

Photos on page four depicting the life cycle of wild Atlantic Salmon © Robert Michaelson.

"Legislative Courage"

Giving the Timber Industry No-Strings Subsidies

by Mitch Lansky

LD 1866 got the axe under the weight of industry folderol, but LD 1475 survived the gauntlet to fight another day

Background

Over 40% of the Northern Forest Lands Council's research money went into studies that would help "lower taxes" as the answer. But what was the question? The original question, stemming from the million acres of Diamond lands on the market in the 1980s, was what to do about the instabilities connected with large land sales in the region. Aside from advocating lowered capital gains taxes, lowered inheritance taxes, and more widespread current-use property taxes, the NFLC had little in the way of concrete solutions. Indeed, the only federal legislation that came out of the NFLC that passed was lower forestry taxes.

Some of us did not buy this argument. We wrote in the ***Northern Forest Forum*** that it seemed to be an odd strategy—to forgo millions of dollars in annual taxes for all timber holders in the country just to "protect" a few special parcels in the northern forest. These parcels could be bought full-fee with less money than the Treasury would lose. We looked at examples where tax rates were lower and could see no correlation with better management or less development. We asked the NFLC, which tried to radiate an aura of collaboration and fairness, to give us a cost-benefit analysis of such tax breaks. If such an analysis were done, we never saw it.

Capital Gains

We were right. In 1997, Congress lowered the tax rate on capital gains. What do you know? By some odd coincidence, the next year millions of acres of forests in Maine and other northern forest states were on the market. This was the opposite result promised by the NFLC.

Now, surprisingly, the Society of American Foresters is also questioning this "common wisdom" as well. In the April edition of the ***Journal of Forestry***, W. David Klemperer argues against special tax rates for timber in his article "The Advantages of Equal Income Tax Rates for All Businesses." Klemperer argues that "Considering only monetary outputs, a low rate of return in one sector should be the market's signal to produce less (until prices rise, and returns become acceptable), not a signal to reduce taxes."(Klemperer's emphasis). Lowering taxes, Klemperer argued, "would be good for timber production, yes, but not necessarily for the nation as a whole. For each gain so achieved would be a greater social loss because the tax preference would inhibit a desirable movement of capital into ventures with higher rates of return."

The US Treasury Department in 1985 (just before the 1986 tax changes that so infuriated the timber industry) stated that "any differential in tax rates among assets can reduce economic efficiency by causing capital to be reallocated to assets with lower before-tax returns." A 1981 study of the US General Accounting Office reported, "None of the many sources we contacted could provide firm evidence to support generally claimed values for conservation and reforestation from capital gains tax treatment."

The trouble with such preferential taxes is that gains are concentrated in the timber industry, but losses may be diffuse through other sectors. Conversely, loss of such tax breaks brings concentrated losses to the timber industry but diffuse gains to society. Timber industry lobbying on these issues is intense. Two of the top ten Congressional recipients of timber industry money are Maine's two senators, Susan Collins and Olympia Snowe (see www.crp.org to learn where Congressional and presidential candidates get their money).

Tree Growth

The Northern Forest Lands Council also pushed the benefits of current-use forestry taxation to retard development and promote better management. Maine's Tree Growth Tax Law has the highest acreage in current-use tax of any of the northern forest states. But the NFLC's own research showed that Maine had the worst record for subdivisions, parcelization, and development. As for forest practices, Ad Hoc Associates, one of the contractors for the NFLC, stated that "no one gave the [Maine Tree Growth] program high marks for promoting better management."

Indeed, subsequent studies of forest practices, liquidation, and timber supply have shown that despite the TGTL, there is plenty of overcutting, understocking, highgrading, stand damage, and liquidation going on. Ignoring this evidence, the Maine Forest Service, the Small Woodland Owners of Maine, and the Maine Forest Products Council have pronounced the Tree Growth Tax a "success." A success at what, though? At lowering taxes for timberland owners, of course.

In the same April edition of the ***Journal of Forestry***, Charles Brockett and Luke Gebhard gave evidence that lowered property taxes (with very loose strings) does very little (or nothing) to retard development or improve management over the long term. In their article, "NIPF Tax Incentives—Do They Make a Difference?" Brockett and Gebhard describe their study of a current-use forest tax program in Tennessee that is very similar to the Tree Growth Tax. They did a survey of participants and non participants and found that "there were almost no statistically significant relationships between participation in the Greenbelt program and land-use behavior, and no meaningful correlations regardless of level of significance."

> "I do believe that it is a good idea for the forest service to perform periodic, random audits of cutting operations to make sure that those who have filed harvest plans under the tree growth tax law are in fact following those plans." Jim Robbins on LD 1866.

One of their conclusions was that this program "has functioned as a windfall for participating landowners without providing commensurate return for the rest of the area's citizens." "The problem, as we see it," they wrote, "is that the programs can reward many landowners for doing what they would probably do anyway at the expense of the remaining taxpayers, many of whom could not afford to buy the land they are subsidizing."

They did not reject the idea of current-use taxation, however. They felt that forest lands have the potential to give many public benefits that could be compensated. Indeed they thought the subsidy could be higher, but there must be strings attached:

"For example, participating owners who intend any timbering could be required to have a meaningful management plan with effective oversight of compliance."(Brockett and Gebhard's emphasis).

LD 1866

It just so happens that the taxation committee of the Maine legislature got a chance to look at a bill that would do just that—require a meaningful management plan and have an effective oversight of compliance. LD 1866 would have required a long-term management plan that assured cutting less than growth, adequate stocking (where overstory is manageable), stand improvement (rather than highgrading), and minimizing of stand damage. It also suggested that foresters should try to reduce reliance on chemical pesticides, since this happens to be a state policy. To ensure compliance, the Maine Forest Service would have a random annual audit of cutting operations to check to see if there is a plan and the logger is following it.

Did the timber industry like this bill? No, it did not. In fact, some industry opponents were so upset with the bill they apparently lost their ability to reason. They made passionate arguments against standards that did not exist. And their ability to use logical arguments seemed to fail them.

The Tree Growth Tax Law was supposed to promote "sustained yield." If one consistently cuts more than growth, yield cannot be sustained. That should be a no brainer. LD 1866 did not specify what acreage or what time span was to be used to determine the cut/growth ratio. That would be determined by rule making with the Maine Forest Service, and industry would have plenty of opportunity for input. In the past, industry lobbyists have had no trouble ensuring that any hurdles created in such a process could be cleared without a need for jumping. They could probably convince the MFS to compare today's cut with tomorrow's projected growth (with heroic assumptions about the benefits of herbicides and plantations).

Industry opponents, despite their participation in the Sustainable Forestry Initiative, do not want the state to require them to practice sustained-yield forestry to get a tax break that is supposed to promote sustained-yield forestry. "We should never be forced to harvest less than growth," said Jim Robbins, of Robbins Lumber and president of the Maine Forest Products Council.

"This concept of a constantly rising inventory which results from not harvesting growth is a recipe for biological trouble. If we do not harvest the trees, Mother nature will" said Si Balch of Mead. He also said that the bill "would needlessly reduce harvests below sustainable levels from Mead forests by over 17% over the next 20 years."

"Forests having slow growth due to over maturity, insect and disease epidemics, blow-down or fire would be off limits to salvage harvest or improvement harvests needed to enhance future growth," said Doug Denico of Plum Creek.

How these gentlemen could precisely know the impact of a standard that had not been created is rather remarkable. The US Forest Service's 1995 inventory of Maine's forest shows that industry overcut and inventories fell. Perhaps the companies were listening to these foresters' advice!

Jeff Romano of SWOAM wrote an editorial against LD 1866 in which he argued that the requirements of the bill are so burdensome that landowners would drop out of the program and liquidate and highgrade. The trouble with this argument is that any landowner who wants to can already liquidate and highgrade under Tree Growth and not lose the tax break. Indeed, they can violate the Forest Practices Act (which is not an easy thing to do) and still retain their lowered tax rate.

LD 1475

The committee killed LD1866 (see "Three Strikes" in **NFF** Vol. 7 No. 4), but that was not the end of it. Mr. Robbins, perhaps thinking that all industry lands under the Sustainable Forestry Initiative (SFI) would be exempt, said, "I do believe that it is a good idea for the forest service to perform periodic, random audits of cutting operations to make sure that those who have filed harvest plans under the tree growth tax law are in fact following those plans."

Donald Mansius, the acting director of the Maine Forest Service, supported deleting all of 1866 but the audit. To the chagrin of industry lobbyists, Mansius stated that FSC certified lands might be exempt from the audit, but not SFI—which is not a genuine third-party audit program. The committee went along with the suggestion and transferred the

audit section, as amended by the MFS into LD 1475.

Was the timber industry happy? No it was not. What followed was some very intense lobbying to try to kill LD 1475. Abby Holman, the Executive Director of the Maine Forest Products Council, sent out a legislative alert that told of the horrors of LD 1475: "[It] creates a mechanism to kick landowners out if they are found in 'non-compliance' through periodic, random audits by the Maine Forest Service of forest management and harvest plans to 'ensure accountability of landowners' enrolled in Tree Growth."(Holman's emphasis). Imagine kicking out "non-compliant" landowners and assuring "accountability"! Who else but those abusing the program would find such language threatening? Even liquidators should get subsidies, right?

Ms. Holman called for legislators to demonstrate "legislative courage." "What is legislative courage?" she asked. "It is when a legislator votes with his or her constituency rather than under pressure of a special interest group," she answered.

A very small percentage of the population has land under Tree Growth. The General Fund reimburses towns to the tune of around 5.5 million dollars a year. The tax shift within towns is even greater. Who are the "special interest groups"? Not the timber industry, according to Holman, "you are not a special interest group, but a real person who has real concerns and you should be the one to whom they listen." What about the other taxpayers who may not want to subsidize liquidation?

Holman blamed LD 1475 on Donald Sussman "the Connecticut multimillionaire who financed Jonathan Carter's campaigns" She argued that industry constituents should "help provide [legislators] with the legislative courage they need to vote against the special interest of Donald Sussman and his gang of hired contract lobbyists." Later in her alert she went so far as to say that "Any legislative victory for Sussman is a defeat for us."

This is an extraordinary speech coming from one of the prime hired lobbyists for one of the most powerful special-interest groups in the state. The wording on the bill did not come from Sussman, it came from the Maine Forest Service. As previously mentioned, the president of the Maine Forest Products Council, Jim Robbins, even endorsed the idea of an audit during the hearing on LD 1866. Apparently, Ms. Holman assumes that just the mention of the name of Jonathan Carter as being associated with a bill should be sufficient to kill it. In this case, Mr. Carter had nothing to do with the wording of the bill.

LD 1475 got through the Taxation Committee with "ought to pass." The Maine Senate voted to send the bill to the Agriculture, Conservation, and Forestry Committee (which has been death to any forestry legislation but one—a bill, LD 1888, from SWOAM to make it more difficult for towns to pass local forestry ordinances). Surprisingly, in a completely partisan vote, the committee voted to table (rather than kill) the bill with a one vote majority. This means that the issue will rise again in the next legislative session.

Representative Paul Volenik, the legislator who introduced LD 1866, told me about the challenges for the next session:

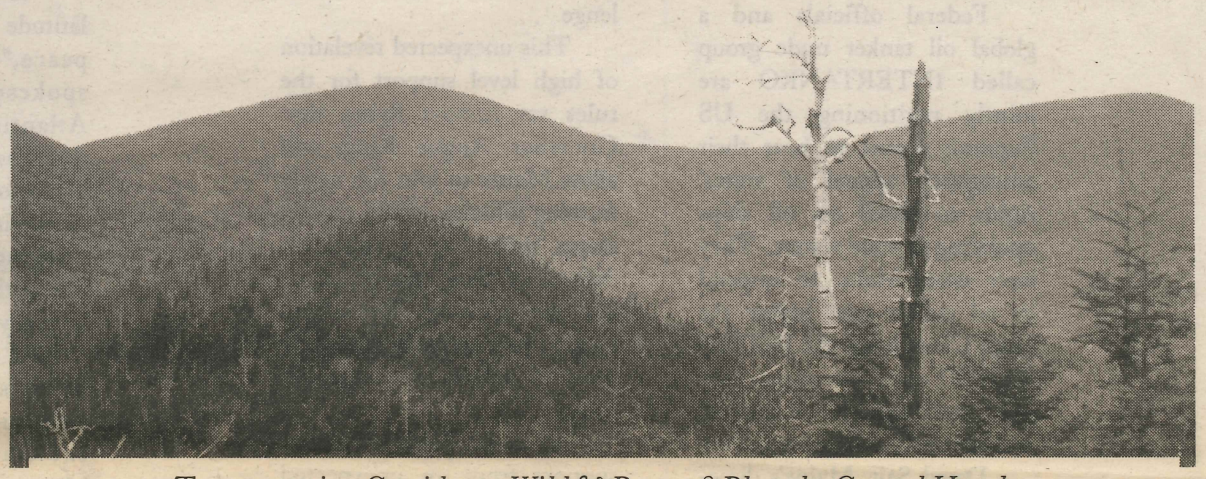
We will now have another nine months to convince the Legislature that tax incentives with requirements can bring good forestry, while the other side will have nine months to convince the Legislature that bad is good, up is down, war is peace, pesticides don' t kill people, people kill people, a low tax base is good for the economy, public means private, the U.N. is planning on occupying Wytopitlock instead of Kosovo, global warming doesn' t exist, but even if it does, it will be good as it will bring more carbon dioxide to help the trees grow, algae blooms are pretty, corporate citizens are good citizens because they don't have children to burden our school systems, and three years is a long time to own a million acres of land. Perhaps next year is finally the year the Legislature acts responsibly. Stranger things have happened!

4-Lane East-West Highway Nonsense

The board of Friends of the Boundary Mountains voted unanimously to join with the Maine Sporting Camp Association in opposing development of any four-lane east-west highway corridors in Maine. We believe such development would be wasteful, contrary to the economic interests of northern and western Maine, and detrimental to the environment and communities in those regions. We urge the state legislature to cut off the study of this proposal and not spend any more public funds, state or federal, on it.

Of far greater benefit to year-round residents, to visitors, and to Maine's economy than a four-lane east-west highway would be an upgrading of our existing highway network to provide safe, efficient access to all corners of the state. The recent improvements made on Route 150 from Skowhegan to Guilford provide the model. Route 150 is now a highway that provides safe, comfortable travel while fitting into the landscape and leaving the small towns it serves intact. Such highways provide good access to our small communities without destroying the qualities that make them attractive and livable.

Proponents of a four-lane highway believe it is in the long-term economic interest of northern and western Maine to become a major transportation corridor for the northeastern United States, the Province of Quebec, and the Canadian maritime provinces. As residents of western Maine, we believe just the opposite. We believe our relative remoteness and inaccessibility, the charm and slow pace of our small towns, and the beauty of our uncluttered landscape will be economic assets of inestimable value in the coming decades. Northern and western Maine are among the few strongholds of undeveloped land left in the Northeast.



Transportation Corridor or Wild & Remote? Photo by Conrad Heeschen

If present projections are accurate and the population of this country grows by half again its present size over the next fifty years, Maine's greatest asset will be its "backwardness." If we are truly forward-looking, we will recognize that backwardness for the irreplaceable asset it is. Maine could still be the way life ought to be for the very reason that you won't be able to get here from there at 75 miles per hour. We think visitors who value what rural Maine has to offer will be willing to drive an hour or two longer on a two-lane road to get it. Indeed, they'll probably enjoy the trip a lot more than they would on a high-speed four-lane highway.

Finally, the specific mission of Friends of the Boundary Mountains is to safeguard the Boundary Mountains from development and to conserve the area for traditional uses of recreation and forestry. It is hard to imagine how a four-lane highway could be built through northern Franklin County and the Boundary Mountains to a point at or near Coburn Gore without massive impacts on the area. The blasting, bulldozing, and filling that would be necessary in this rugged and beautiful terrain would be an environmental disaster for the region.

We concur wholeheartedly with the Maine Sporting Camp Association that Maine stands to lose much more than it could possibly gain from a four-lane east-west highway. This idea has been considered and abandoned before in this century. It is time to retire it again.

FRIENDS OF THE BOUNDARY MOUNTAINS
April 23, 1999
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Oilshippers, Enviros, Agencies Spar Over Oiltanker Rules

King's legal advisor says rules will stand federal challenge
by Ron Huber

AUGUSTA—In a dramatic ending to a bruising June 9th encounter between oil industry lobbyists and coastal protection advocates over who has the right to enforce oil-tanker safety on Maine's "marine highway." the Maine Attorney General's office told the Maine Board of Environmental Protection, and federal and global opponents of the state's oil tanker safety rules, that Maine's power to control oil tankers in state waters "would pass Constitutional scrutiny" if challenged by federal and multinational interest before the United States Supreme Court.

Federal officials and a global oil tanker trade group called INTERTANKO are jointly petitioning the US Supreme Court to hear their emergency appeal of states' rights to check on oil ships operating in state waters. They have asked Maine to suspend its oil tanker rules before the High Court hears the INTERTANKO case, claiming they need more time to understand and comment on the state rules.

David Sait, Maine's director of Response Services, made the case to the Board for passing the revised oil tanker rules in their existing form. Sait was accompanied by MDEP oil experts Stacey Ladner and Rick Kaselis.

"Just as our state cops keep Mainers safe from tired truckers, Maine also keeps its Marine Highways safe from tired tankers," said Ron Huber, director of Maine's Coastal Waters Project.

Huber and representatives of several other environmental organizations, including Conservation Law Foundation and Friends of Casco Bay, spoke in favor of the proposed rules.

"The oil tanker industry is no different from any other transportation business," said Penobscot BayWatch's Herb Hoche. "We should no more exempt them from passing state safety inspections than we do Canadian truckers using Maine's interstates. I think the Board will agree."

IN response to a Board inquiry, MDEP's David Sait asked Maine assistant Attorney General Mary Sauer to give the Board the Attorney General's position on whether Maine's oil tanker safety rules were consistent with the US Constitution. Sauer said that their office had looked at the rules, examined the court cases brought by industry against Washington state rules and met with Washington state officials and come to the conclusion that Maine could sustain a challenge.

This unexpected revelation of high level support for the rules set rumors flying that Governor Angus King will allow Maine to join the newly forming alliance of US coastal states mounting a collective defense of their right to regulate the growing fleet of oil tankers that annually move billions of gallons of dangerous cargo.

An even higher level of support from an unexpected quarter is also cheering coastal protectors. The Supreme Court has been petitioned by the oil tanker industry in a Writ of Certiorari which asks the Court to set aside Washington state barge and tanker laws.

Court watchers say the High Court is expected to take the case. Environmentalists are encouraged by the June 23rd decision upholding and even expanding states' rights.

Speaking for the majority, Justice Kennedy wrote, "Although the Constitution grants broad powers to Congress, our federalism requires that Congress treat the states in a manner consistent with their status as residuary sovereigns and joint participants in the governance of the nation."

Task Force Atlantis shadows New England scallopers

A group of cod restoration-minded activists, fishermen, and scientists are keeping close watch on the activities of the scallop fleets presently deploying from New Bedford as they carry out a controversial dredge fishery on Georges Bank, in the middle of recovering essential cod habitat, and are preparing to deploy a conservation buoy rigged with a 'web cam' in a nearby protected juvenile cod nursery to deter incursions of the protected area by scallopers. Coast Guard fisheries enforcement officials and a NOAA fisheries scientist say that the information gained could aid in offshore protected area management, and may be duplicated elsewhere, including the Pacific coast.

"If the scallopers stay below latitude 41.30, they can scrape in peace," said Ron Huber, spokesman for Task Force Atlantis, a Maine-based group that was galvanized into existence by the opening of Georges Bank's recovering cod grounds to scallop dredging. "If you go north of that line with operational fishing gear, be ready to smile for the camera."

As Georges Bank's seascape recovers, it has begun to provide safe harbor for the spat of all of the Bank's wild animals and plants. Scallop meadows, tree coral forests, sponge fields, anemone dotted cliffs and canyon walls, and even giant kelp, have begun to re-appear, and the bank's fishes, too, their living homes restoring, have begun to reappear.

More than a thousand square miles of recovering Essential Cod Habitat, however, were recently opened to scallop draggers in areas of southern and central Georges Bank, following successful lobbying efforts by former Congressman Gerry Studds and others to gain an exemption to the closure, over the objections of the mainstream scientific community and conservation groups.

The Task Force Atlantis group will deploy several remote sensing conservation buoys within a 250 square mile designated juvenile cod nursery area on the Northern Edge US/Canada undersea border area of Georges Bank. The buoys use a combination of randomly activated web-cam and passive sensors to detect vessels entering the closed area; this information will be uplinked via satellite phone to the Task Force's Shore Group for uploading onto their world wide web page.

Vessels deployed by Task Force Atlantis from locations in Maine and Massachusetts will also be examining the sea floor of the protected area to deter if unlawful dredger incursions have taken place.

Task Force Atlantis leader Ron Huber said that the deployment of remote sensors offshore will be critical in management of offshore marine protected areas.

"The Coasties simply don't have the resources and time to babysit every offshore protected area. As our sensor buoys will demonstrate, round-the-clock oversight of these offshore areas can take place from the comfort of home or office."

In response to concerns that the buoys represent an incursion of Big Brother into the offshore fishing grounds, Huber said "Protecting the public's property on Georges Bank from theft or damage is just as important as protecting money banks on land. There are a lot of valuable resources in both kinds of 'bank'."

"Anyone that tries to unlawfully plunder Georges Bank's protected areas," Huber added, "better be prepared to face the legal consequences of doing so. The wild west days of free ranging over the public's offshore property, are over.'

Noting concerns by marine scientists from the United States and Canada, who have seperately predicted that the buoy cam's lives will be cut short by gunfire from privacy-craving fishermen, Huber said, "That's just a chance we'll have to take. Over time, these guys are going to come to understand that they are fishing the public's fish on public property, at the public's pleasure. If it is the public's pleasure that certain areas be freed of industrial activity, they'll have to learn to live with it. The logging industry has survived the designation of Baxter state park. The fishing industry is about to learn that it willsurvive the designation of the Gates of Atlantis Park, too."

A rocky and biologically rich region of rugged undersea landscapes, the so-called "Gates of Atlantis" area of Northern Georges Bank was the first place in the North Atlantic to receive the Groundfish Habitat Area of Particular Concern (HAPC) designation by the New England Fishery Management Council and the federal government.

Centered at Latitude 42 degrees NORTH Longitude 67 degrees WEST, the protected area will form the central core of a planned Hague Line international marine wilderness area, spanning 1,500 square miles of sunken canyons, rugged seamounts, underwater prairies and other wild offshore ocean lands within five kilometers of the US/Canada offshore border as it crosses the Gulf of Maine and Georges Bank.

UPDATE ON MAINE'S BIG LAND & MILL SALES

An article on "Doing Deals in Maine" in the Mid Spring issue of the Forum detailed the major land and mill sales which have occurred during the past year in the paper plantation state. The prevailing paradigm in Maine continues to be shaken at its foundation.

On April 13, Sappi, the South African owner of the old S.D. Warren paper mill in Westbrook announced it was closing the pulp mill there and shutting down a paper machine. That meant the loss in late June of 315 of the 810 jobs at the facility. Sappi had already sold all of its 905,000 acres of forestland in Maine last fall to Plum Creek Timber Company.

On April 26, Georgia-Pacific Corp. announced it was going to sell its 446,000 acres in Maine to unnamed investors for an undisclosed sum. The news of the sale of G-P's Maine lands came just two weeks after the company said it would sell its 390,000 acres in New Brunswick to the provincial government there for $41 million. The G-P lands straddling the international border include most of the St. Croix watershed. However, New Brunswick, unlike Maine, recognizes the value of large public lands. Approximately half of the province of New Brunswick is already in public ownership, nearly eight million acres compared to less than six percent of the state of Maine. Finally, in late June, Maine Times revealed that the buyers of Georgia-Pacific's Maine lands are Yale University's pension fund and McDonald Investment Company of Alabama. The price is about $55 million or only $125/acre. The low price reflects the poor tree stocking condition of the lands due to excessive logging. These land sales leave the future uncertain for G-P's three mills in Maine, a pulp and papermill, a stud mill, and a composite board plant. The company says the mills are "doing really well" and will not be dumped like the land. Perhaps.

On May 19, Bowater abruptly announced its intention to sell all of its Great Northern Paper properties in Maine to Inexcon, a small company based in Quebec that specializes in rescuing businesses on the brink. GNP qualifies. After more than a year of failing to attract a buyer, Bowater was within months of shutting down the GNP mill in Millinocket. Inexcon plans to buy not only the paper mill in Millinocket but also the mill in East Millinocket, and Great Northern's huge hydropower system and remaining forest lands here totaling close to 380,000 acres. According to research by The Katahdin Times, Inexcon Papers is a new company incorporated in April just a week before its two principals, Joseph Kass and Lambert Bedard, arrived in Millinocket to kick the tires of the Bowater assets. Inexcon owns no mills and employs no papermakers, but Kass and Bedard claim to have more than 60 years of combined experience in the paper industry.

Bowater had been cooperating with a group of its mill employees who were trying to put together financing to buy, at first, just the Millinocket mill, then, by the beginning of May, all of the GNP real estate. How desperate Bowater is to sell its Maine holdings is demonstrated by how suddenly it suspended negotiations over the worker ESOP (Employee Stock Ownership Plan) proposal, and how quickly Bowater agreed to sell to a couple of guys from Canada who say they have financial backing to buy and restructure Great Northern Paper. No one will reveal the sale price, who is backing the purchase, or whether some or all of the lands will be resold.

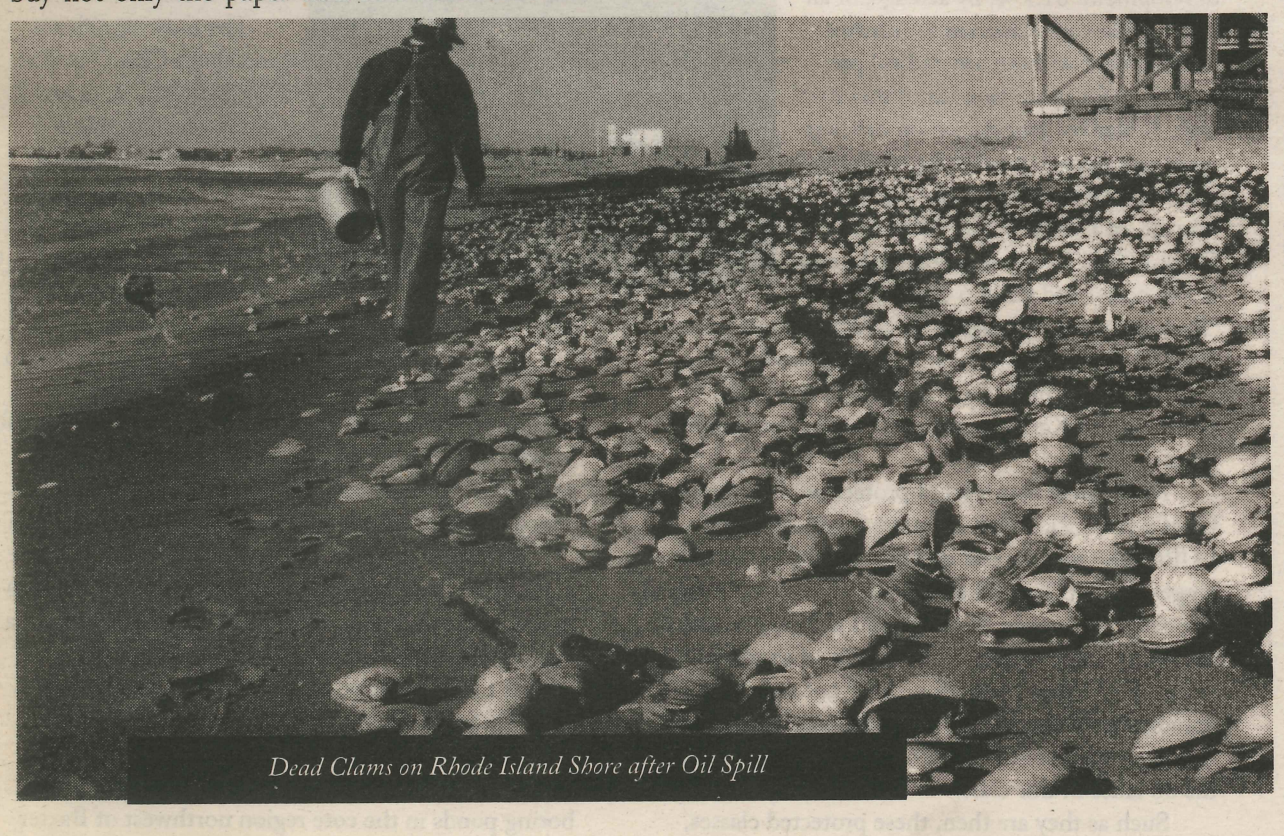
The sale comes at the moment in history when Great Northern is marking its centennial anniversary. But the old Great Northern Paper is long gone. The end began in 1970 when the company merged with Nekoosa Edwards Paper of Wisconsin to create Great Northern Nekoosa. In 1990, Georgia-Pacific took over Great Northern Nekoosa in a hostile purchase, then sold off the Maine properties in 1991 to Bowater of South Carolina. So after 100 years of papermaking, thirty years of neglect, and three (soon to be four) owners within a decade, Great Northern may have something to celebrate this year. May is the key word. Inexcon has already told union officials it wants concessions in worker benefits. It will not follow through with modernization of the East Millinocket mill. It is calculating how many jobs will not be needed in the new incarnation of the company. And the sale has not even closed yet.

On June 29, Mead Corp. said it planned to shut down four uncoated paper machines at its Rumford mill by the end of the year. That will slash its workforce of 1,400 in the state by 200 jobs. Mead is shifting production of security papers from Maine to Ohio. The company said it is cutting back here because the machines are very old and it wants to focus on making coated papers.

Some of the impacts of the big land and mill changes are starting to be felt. McDonald Investment Company, for instance, has stirred up a hornets nest in the north woods this summer by putting the 656,000 acres it bought this year from Bowater under the recreational management of North Maine Woods, Inc. NMW has established a revamped gate system. New resident day use fees and camping fees for everyone have angered a lot of visitors who have been lashing out. Leaseholders have to pay higher access fees and several businesses located behind the gates have seen business drop by as much as 50 percent. The Maine Leaseholders Association is threatening to sue. The restaurant at Pittston Farm may close. A force representing the Millinocket Fin & Feather Club showed up at one gate to practice some semi-civil disobedience. After the NMW attendant broke down in tears, the Fin & Feather guys left. Following the first couple of weekends under the new system, one NMW checkpoint attendant said "We should have gotten combat pay."

As the advantages of the old system evaporate, more and more people are recognizing the benefits of restoring to public ownership a lot more areas in the Maine Woods, such as the Moosehead-Katahdin region, which are important for traditional recreation.

Jym St. Pierre is Maine Director of RESTORE: The North Woods, 7 North Chestnut Street, Augusta, ME 04330, 207-626-5635, jym@restore.org. RESTORE is promoting the establishment of a new 3.2-million-acre Maine Woods National Park & Preserve.



Dead Clams on Rhode Island Shore after Oil Spill

OIL RULES WEBPAGE! & OTHER INFORMATION . . .

Check out the Coastal Waters Project webpage on the oil tanker rules issue:

http://homepages.lycos.com/Ron_Huber/lypersonal/oilindex.html Site also includes links to coverage of major oil spills around the world.

VIDEOTAPES OF THE FIRST HOUR OF THE JUNE 9TH OIL TANKER RULES HEARING AVAILABLE.

To order a videotape of the proceedings call Coastal Waters Project or send an email. If possible, please remit $5 for copying and shipping.

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MAINE'S WILD LAKES & LURC'S ERRORS OF OMMISSION

by Russell DuPree

Governor King's land purchase plans will focus on southern Maine. That much is indicated by the final report of the State Planning Office's Land Acquisition Priorities Advisory Committee, which subordinates concern for the northwoods region, listing it under "Other Important . . . Priorities." Says LAPAC, the wildness and remoteness of this region "are not immediately threatened . . . as long as present land use patterns continue . . ."(1)

The existing level of protection, represented in part by the Land Use Regulation Commission's lakes plan, spells doom, over the long term, for the relative continuity of Maine's wildlands and the undeveloped character of most of the lakes in the northwoods. Maine faces a fragmentation of forest lands and disruption of habitat amounting to a "sea change" in the LURC territory.

LURC'S LAKES MANAGEMENT CLASSIFICATIONS

The new state law, LD 1730, prohibiting jet skis from three protected classifications of lakes within the jurisdiction of the Maine Land Use Regulation Commission (LURC) ought to generate some curiosity regarding LURC's management plan for its lakes, including its lakes classification system, and what this plan means in terms of protection or possible development in Maine's northwoods.

The lakes management plan has particular importance for advocates of a giant northwoods region closed to development, because the plan serves as part of LURC's strategy to shield core regions of its territory from development. Unfortunately, LURC's strategy is at best a delaying action—to which the lakes plan contributes some weaknesses of its own.

LURC, created in 1971 as a division of Maine's Department of Conservation, decides zoning and permitting issues within a region equaling approximately half the state, comprised mostly of unorganized townships and concentrated primarily in the northern half of Maine. Development pressure on this region, which peaked about 199, has stayed at a high level since, causing mounting concern. The state began a survey in 1986 to identify lakes especially worthy of protection and to put together a more coherent management plan.

The result was an Amendment of the Comprehensive Land Use Plan, adopted by the commission in June, 1990. It includes LURC's Wildlands Lake Assessment, completed in 1987, which evaluates and classifies as to resource value each of the commission's 1,500 or so "great ponds" (ponds ten acres or more in size), and An Action Program for Management, completed in 1988, put together in cooperation with large landowners, giving each lake a management classification identifying how much it will be protected or developed.

As a resource assessment, the Amendment provides a huge amount of valuable data, but the management classifications need to be substantially changed to be part of a serious strategy to safeguard the undeveloped character of LURC core regions. The resource classifications are a grading of each LURC lake based on its fisheries, wildlife, scenery, shoreline character, botanic features, cultural features, and physical features (as its geology or hydrology), with equal weight being given to each of the seven categories. To receive the top resource rating of "1A", denoting a lake of "statewide significance", a lake must be rated "Outstanding" in at least two categories or "Outstanding" in one category plus "Significant" in four more. "1B" lakes, having one outstanding natural feature, are also considered of "statewide significance."

Even allowing the assessment's authors' caveat that its ratings are minimal (2), there is a glaring weakness in this system: An "Outstanding" rating for a large lake such as Baskehegan or Spednik might have many times the value of a similar rating for a smaller lake simply because of the quantitative factor.

Can the lakes in LURC jurisdiction be protected if the land around them is not? Photo of Lake Brassua by Conrad Heeschen.

(Spednik and Baskehegan, the parts of them in LURC's jurisdiction (around 13,000 acres) approach in size the area of all the "gem" lakes and remote ponds (207 in number) that LURC has made off-limits to development (15,781 acres).

To put it another way, the merely "Significant" fisheries of Baskehegan or Spednik may be quantitatively so significant as to be, in fact, very outstanding—deserving of a rating that reflects this. Additionally, from the standpoint of biological values, giving each of the categories equal weight skews the assessment's final grading; Scenic value, after all, is purely aesthetic.

LURC, by its size-unspecific grading system, has hurt the prospects of many of our most valuable lakes of receiving the recognition and protection they merit. But this is a minor flaw of methodology compared to the grim significance of the management classifications, which reveal the commission's overwhelming support to potential development: 81.7 %, by acreage, of all LURC lakes are classified for further development without any radical prescriptions for protection (as of this writing). A blanket prohibition on development was never intended for more than some "best examples": Only 2.6 %, by acreage, of LURC lakes—Management Class 1 (MC 1, whose average lake size is 348 acres) and Class 6 (MC 6, "Remote ponds" averaging 32 acres)—are protected from all development, with a 1/4-mile protection zone for the former and 1/2 miles for the latter. Rainbow and Katahdin are two of the most notable lakes in MC 1.

81.7 %, BY ACREAGE, OF ALL LURC LAKES ARE CLASSIFIED FOR FURTHER DEVELOPMENT WITHOUT ANY RADICAL PRESCRIPTIONS FOR PROTECTION.

At the next best level of protection, Management Class 2 (MC 2), which accounts for 15.7% of all LURC lake acreage and includes two of Maine's biggest lakes (Flagstaff and Chesuncook) and many of it most notable ones, development will be permitted, averaging one dwelling unit per mile of shoreline within a 500-foot protection zone (not counting grandfathered parcels and special exceptions). This translates to over 600 dwelling units divided among the 36 lakes in this class.

Such as they are then, these protected classes, MC 1, 6, and 2, which are for "undeveloped" lakes only, account for 18.3 % of all LURC lake acreage. These are the lakes on which jet skis are prohibited. (One needs to consider that there's a lot more undeveloped shoreline than the "undeveloped" category reveals. Under LURC guidelines a lake which averages more than one development unit per mile of shoreline is classified as "developed" even though it may be overwhelmingly characterized by undevelopment. A case in point, Ragged Lake, which appeared undeveloped from the air, had to be reclassified as "developed" because of objections from the owner, Great Northern Paper).

CLASS 7 LAKES

The commission has the majority of its undeveloped lakes (196,962 acres), in a catch-all class, Class 7 (which additionally includes many developed lakes that make Class 7 the home of over half of all LURC lake acreage). Class 7 lakes have been dispensed an old-fashioned prescription of "multiple use", including "recreation", one element of which, historically, has been residential development. There are 111,470 acres of undeveloped "1A" and "1B" lakes in Class 7, among them, Baskehegan, Chamberlain, East Grand, Millinocket (south of Baxter), Seboomook, Spednik, and Umbagog, more than the entire amount preserved in MC 1, 6, and 2. (An even larger amount of "1A" and "1B" lakes can be found among the developed Class 7 lakes).

The most significant thing about Class 7 is that, along with MC 1, 6, and 2, it embraces undeveloped lakes in LURC's roughly identified core regions, the "heart" of the northwoods. Here the commission says it is committed to keeping sub-divisions off of lakeshores and, where possible, out of the area entirely, finding them inappropriate to these wildlands. It does this by applying a rule of adjacency, which says a proposed sub-division must be located within a mile of an existing sub-division. A proposed lakeshore sub-division cannot claim adjacency to a non-lakeshore sub-division, and vice-versa.

But there are giant loopholes, one being that the commission can approve a proposal for a sub-division in one of these remote areas if the developer utilizes a "Lakes Concept Plan" or, outside of lakeshores, applies for recognition of a "Planned Development (D-PD) Subdistrict". In 1996, the Gardner Land Company, using a Lakes Concept Plan, tried to subdivide its land on Snake, Carpenter, and two neighboring ponds in the core region northwest of Baxter

State Park. The strenuous opposition of a coalition of groups including Maine Audubon, the Sportsman's Alliance, I.F. & W., and others, may have been what tipped the scale against the attempt.(3)

Class 3 Lakes

The remaining undeveloped lakes (17,973 acres, of which 79 % is "1A") face the full brunt of development pressure: Judged "potentially suitable for development", they have been placed (along with many partially developed lakes) in Management Class 3 (MC 3), where the commission has even waived the adjacency requirement for sub-divisions. Pemadumcook, Pocumus, Endless, and Fish River Lake are among the undeveloped lakes facing the effect of this waiver.

The principal criteria for MC 3 lakes are 1) location near existing settlement 2) no public ownership or conservation easement which would preclude development on all or the major portion of the lake, and 3) superior water quality (4). Full development of an MC 3 lake, using the commission's general planning guideline, would mean a limitation of "below an average of one dwelling unit per 400 feet of shore frontage [or] one dwelling unit per ten acres of lake surface area". (That would allow about 60 dwellings on a lake the size of Togus Pond). Beyond this the commission says it will seek to prevent further development.(5) It seems, however, to contradict itself in its treatment of some MC 5 ("Heavily developed") lakes. (See below).

Developed Lakes

More discouraging than the fate it allows a large majority (65.9%) of its undeveloped lakes is the uncertain future the commission has laid out for its developed lakes: The most protection a conservationist can count on as a certainty for a LURC lake which has already experienced a degree of development is that it has been placed in Management Class 4 ("high value, developed lakes"), as Ragged Lake, above. In Class 4, whose average lake size is 1,800 acres, the commission will allow what it calls "reasonable" development, including sub-divisions. Rangeley and Cupsuptic lakes, the Togue ponds, Upper Wilson, and West Carry ponds are among the lakes in this class.

Nearly 48% (by acreage) of developed lakes, in MC 3, MC 5, and part of MC 7 Developed, is slated for development to the extent that each lake's water quality and the availability of buildable frontage allow. Some of the developed lakes facing the ravages of MC 3 are Indian and First Roach ponds, Brassua, Onawa (extremely endangered by water pollution), Caribou, Middle Jo-Mary, Ambejejus, South Twin, Schoodic, and West Grand lakes.

Mooselookmeguntic

LURC originally tried to list Moosehead and a handful of other large lakes—Mooselookmeguntic, Upper and Lower Richardson, Aziscohos, and Square—in MC 3 but faced an opposition spearheaded by the Mooselookmeguntic Improvement Association and withdrew the lakes to Class 7, pending more elaborate plans for them. Says Nancy Perlson of the Rangeley Lakes Heritage Trust, the objections raised at a series of local hearings centered on the rule of adjacency, which, by favoring rezoning to allow development next to existing development—so as to steer it away from remote areas—encouraged over-development of partially built-up lakes. One can imagine a speaker from the floor saying that if further development , by and large, wasn't going to improve the quality of a partially developed lake, then the state shouldn't be getting into the business of making tradeoffs that encouraged it.

Since that time, the part of Mooselookmeguntic's undeveloped west shore owned by Bessie Phillips has been protected by a private effort, and 29 miles of Moosehead's east shore, in a zone 500 feet wide, from Lily Bay to the state's conservation easement next to Mount Kineo, may soon be protected in a deal between the state and Plum Creek Timber Company.(6) As a caution against euphoria about the proposed 29 miles of state protection, we need to keep in mind that LURC still has Moosehead and the five other lakes it simultaneously withdrew from MC 3 listed as "Potential Management Class 3 Lakes".

7,100 Dwellings for Moosehead

Moosehead, twice the size of Sebago and 3 1/2 times the size of Flagstaff, needs much more protection still to prevent it from becoming terribly congested. LURC's guidelines for desirable development would allow between 2,400 and 7,100 dwelling units on Moosehead, perhaps concentrated on the west shore in a kind of gigantic cluster zoning. Protecting the essential wildness of Moosehead requires protecting the vast undeveloped forest that surrounds it, as well as the 250-500-foot fringe around its shore. Some of the lakes integral to this protection—Brassua Lake and Long Pond on the Moose River, and Indian and First Roach ponds—have been classified MC 3; Ragged Lake, Big Lyford Pond, and Upper Wilson Pond are MC 4. If these lakes are developed, Moosehead's wilderness value will suffer.

The zoning component of a 1989 protection plan for Moosehead by Maine Tomorrow of Hallowell, besides protecting a big section of the undeveloped east shore, would additionally have protected the four major islands--Moose, Deer, Sugar (now protected), and Farm, placed low-density zoning on the remainder of the east shore north of Greenville, and done the same for the entire shore north of Tomhegan Township. (Who would pay for this, however, was a sticking point: Developers were expected to foot the bill. None came forward).(7)

Focusing protection on major headlands such as the Sandbar Tract and the six or seven miles of shoreline around Burnt Jacket Mountain in Beaver Cove Township would complement the idea of limiting development to the west side of the lake. Also needed are upgraded management classifications for the lakes neighboring Moosehead; increased set back requirements for home-building along rivers that are not already specially protected (Ordinarily, the requirement is only 75 or 100 feet under basic shoreland zoning(8)); increased frontage requirements on these rivers; and restrictions

Continued Next Page

Keeping Wild Character Intact

A Close Look at Pemadumcook—One Instance of the Insufficiency of LURC's Lakes Assessment

LURC's management plan was not meant to serve as a tool for preservation beyond the levels set in the plan, but it can still be put to that use. Studying it, one gets a fuller picture of the state's position as a middle man and the need for renewed advocacy. With an eye toward advocacy, the following is a look at issues of preservation in the LURC region as they apply to just one sampling of lakes among those facing the full brunt of LURC-accelerated development *(Ed. Note: For Mr. Dupree's valuable commentary on other lakes, please send a stamped, self-addressed envelope to The Northern Forest Forum at POB 6 Lancaster, NH 03584.)*

The classification of Pemadumcook Lake (Undeveloped, "1A", 7356 a.) in MC 3 underscores how LURC's management classification system is in some respects a policy of fragmentation where one can't see the community of lakes for the individual lakes. .Recognizing communities of lakes—lakes in a matrix of land—is an essential aspect of identifying specific wildlife habitats and, by extension, identifying general core regions where the intent is to protect wildlife and keep those regions' natural and wild character intact.

Pemadumcook's shores form the southern perimeter of the Debsconeag community of lakes. Formerly managed by Great Northern Paper as part of a roadless "Remote Recreational Area," this community includes Nahmakanta (MC 2) to the immediate west; Rainbow (MC 1) immediately northwest; Third Debsconeag and Passamagamet (both MC 1) immediately to the north, with Baxter Park just beyond; and Lower Jo-Mary (MC 1) immediately to the south. Further highlighting Pemadumcook's importance, a four-mile stretch of the Appalachian Trail runs alongside its west shore. Putting a road through to develop any part of Pemadumcook (west of Nicks Gut), or the west shore of Ambejejus, would have a negative effect upon the wild character of this community of lakes. Discouragingly, logging roads and clearcuts (both of which the legislature has lately failed to address) have surrounded Pemadumcook in the last two years.(12)

Pemadumcook deserves protection as part of a northwoods wildlands core, but LURC, besides making Pemadumcook a Class 3 lake, has avoided making a commitment to establishing the perimeters of such a core other than its crude guideline of encouraging development only "within two townships [distance from] the organized portion of the state or existing settlements with public services."(13) This means that the de facto perimeter will erode. Also, a steady growth, year by year, of single-family vacation homes is going on within the core, allowed under the adjacency principle and the two-lots-from-one division permitted every five years.

The worst loophole in the law affecting the northwoods core is the exemption of large-lot sub-divisions 1/4 mile away from bodies of water from the commission's review. (MRSA 12, Sect. 682, § 2). In these sub-divisions the size of the resulting individual parcels must be 40 acres or more. The Patten Corporation, between 1987 and 1993, developed half of Upper Enchanted Township in this manner. LURC wants the legislature to remove the large-lot exemption, considering it counterproductive. As it says, "many values are tied to the maintenance of large blocks of undeveloped forestlands," and "the development pattern that has taken place since 1971 is not conducive to protecting these types of values."(14) LURC has nothing good to say about the adjacency principle when considering its possible application by large-lot sub-dividers.

The commission has given some thought to what it would take to designate core regions that would be protected absolutely from further development, regions with distinct borders. It has a model on paper for such a region, called a "Natural Character Management (M-NC) Subdistrict", designed to maintain the natural and wild character of certain remote undeveloped areas comprising at least 10,000 contiguous acres of the jurisdiction and "to promote their use primarily for forest and agricultural management activities and primitive recreation". This subdistrict has never been applied and, says LURC, "will only be applied if proposed or agreed to by the affected landowners."(15)

The Nature Conservancy's recent purchase of 185,000 acres in western Aroostook County from International Paper and the impending purchase and protection, by the New England Forestry Foundation, of development rights to 3/4 of a million acres of Pingree land in northern Maine(16) may give LURC an opportunity to finally establish such a subdistrict. It seems unlikely, however, that LURC would advocate protecting parcels in between M-NC subdistricts, or even join contiguous subdistricts which had different owners, in order to create a larger subdistrict. It's apparent from its definition of the M-NC Subdistrict that LURC's intent, as with its lakes policy, is to protect only a few prime recreational areas, circumscribed mini-regions, nothing on a grander scale.

—RD

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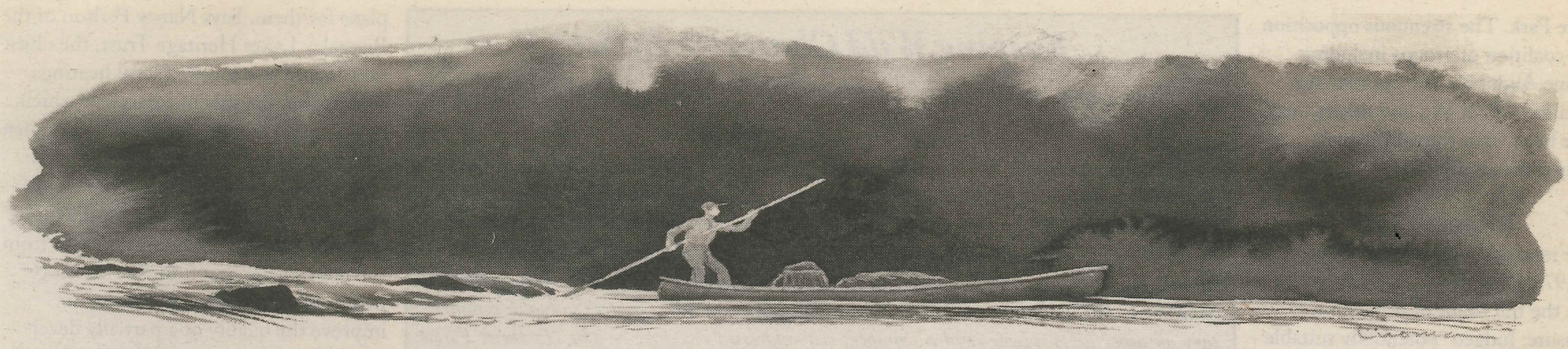

(continued from previous page) that thwart the building of "Castle Aeries" on the higher elevations (Except where the commission agrees with submitted evidence that a proposed development will harm significant scenic values, LURC prohibition of mountain home-building doesn't kick in until 2,700 feet (9)).

Further Limitations to LURC's Assessment

Water quality is the most vital issue of lake preservation, but conservationists have little leverage, within the framework of LURC's regulations, to protect the more pollution-vulnerable lakes, identified by LURC as "Water Quality Limiting Lakes," numbering 1,000, 2/3 of all LURC "great ponds". These lakes, if fully developed, would face "a significant risk", says LURC, of experiencing the maximum allowable increase in phosphorus.(10) LURC admits its water-quality tests and standards are rudimentary (11), and there is no discussion in the Comprehensive Land Use Plan of short-stopping potential water problems on some of these lakes by a public/private strategy of buying development rights to buildable frontage. There is only LURC's requirement of cluster zoning, which, for all the good it does, doesn't reduce the number of new living units allowed on a lake.

Finally, LURC has indicated that it intends to keep the majority of its lakes in the management classifications they are presently in. It will be difficult to shift a lake out of, say, MC 7, the catch-all class, and into MC 2 ("Especially high value, accessible, undeveloped lakes"). But, at the same time, we are told that the lowest resource rating, Resource Class 3, can mean a lake has not been evaluated or has been only partially evaluated, and the lake's overall resource value is unknown. LURC has identified over a hundred such RC 2 and 3 lakes with information missing. One suspects there are more. This, coupled with the inadequacies in the resource classification system mentioned earlier, put LURC's rigidity about its management classifications in an unflattering light: Together they show that the management plan represents an accomplished deal between large timberland owners and the state about how much lake frontage the former would donate to public protection and what the state would give as a quid pro quo.

Maine's Pact with Landowners

To sum up, LURC has severely restricted or prohibited development on a significant percentage—18.3%, by acreage—of the lakes in its jurisdiction. According to Fred Todd of LURC, the percentage of preservation was not "preordained" but involved the commission's gut sense of what was feasible. It makes sense that the commission's long-standing working relationship with landowners in its region would enable it to make informed guesses as to what each major owner's contribution to a lake preservation plan might be. However, says Todd, "the subsequent agreement was not to a man. Some landowners were mighty upset and contemplated legal action."

The fact that the plan represents a willing (if begrudging) contribution by the affected owners could excite enthusiasm; on the other hand, it could cause a sobering realization that the state will not likely initiate a move toward preservation goals in the LURC region beyond the scope of the lakes plan or beyond "fringe" protection of a few key lakes such as Moosehead and Flagstaff. To do so might jeopardize the agreement with land-owners that the plan represents. Such a commitment to the plan could explain the state's failure in the period preceding the most recent flurry of giant timberland sales to follow through on the recommendation of the Land Acquisition Priorities Advisory Committee that the state actively solicit federal Land and Water Conservation Fund money and money available through the Forest Legacy program for northern forest protection.(12) Having these funds in hand—even just pursuing them—might commit the state to a larger preservation goal in the LURC region than it wishes.

Russell DuPree lives and works in Freeport, Maine.

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Allagash Wilderness Waterway Management Plan Released

by Jon Luoma

The much debated and long awaited (30 years) management plan for the Allagash Wilderness Waterway was released by Maine's Department of Conservation this past January. The result of almost 3 years' work by Bureau of Parks and Lands staff and a citizen advisory board, the plan was, astonishingly, the Wilderness Waterway's first management plan since its establishment in 1966.

Some new policies include:

•Most controversially, new vehicle access at John's Bridge, just north of Eagle Lake and south of Churchill Lake, will be permitted as of 2000.

•Closure of parking (never strictly legal to begin with) at the bridge across Allagash Stream, and of a foot trail from the bridge to Little Allagash Falls.

•The seeking of "opportunities for agreements from landowners in the One Mile Area" (mostly still private land) "for state acquisition of land, or interests in land, before such lands are sold or leased to others."

•Consideration of one parcel of public land within the Mile Area as an ecological reserve.

•Allowing all-terrain vehicles in the Waterway "between January 1 and March 31, except for within one mile of Allagash Lake."

•The creation of an advisory "council" of "users and interested parties."

Other policies may lead to relocation of roads near the water and the closing of the spur logging roads after timber harvesting. (These spur roads have proved notoriously difficult to close in the past.)

In general, the plan protects true wilderness values best in the Allagash Lake/Allagash Stream area (essentially a side trip, where motors have always been prohibited and access is more difficult), while these values are permitted to erode in many cases within the bulk of the Waterway. But much depends on the individuals doing management in the future.

The John's Bridge decision, controversial within the Bureau itself, was finally made by Conservation Commissioner Ron Lovaglio, with Governor Angus King's support, against staff recommendations. "The John's Bridge issue," said Commissioner Lovaglio, "is a clear example of our challenge to strike a balance between accommodating recreational uses while preserving the wilderness character of the waterway." Left unasked is how much "accommodation" wilderness character can take. As the Maine Sunday Telegram editorialized:

"(t)he problem with the state's view of the fabled Allagash Wilderness Waterway is that it doesn't really regard the river and its associated lakes, ponds, and streams as wilderness. Thoreau's "universally stern and savage" aspect, as he wrote of the Allagash, is an alien concept at the Maine Department of Conservation."

Part of the problem is that, within the Bureau of Parks and Lands bureaucracy, the Wilderness Waterway's status has gradually been whittled back until it essentially is no different from any other state park's. There is no clear mandate either for the Waterway or for any other state-managed parcel, to manage for true wilderness values (or even, generally, just limited vehicle access).

Allagash management has been further complicated and possibly endangered by the Bureau's decision to fire long-time Waterway manager (formerly supervisor) Tim Caverly, for insubordination. Caverly spoke at the final management plan public hearing last year in favor of wilderness values, and was subsequently issued a written reprimand. He has also been charged with gender bias by several female employees. "I will vigorously fight this," said Caverly, and PEER (Public Employees for Environmental Responsibility) will challenge the firing.

Artist and ardent canoeist Jon Luoma provided this Allagash summary (and this issue's cover) on his way out the door to canoe the Allagash.

Copies of the Allagash management plan are available from the Maine Department of Conservation, 22 State House Station, Augusta, Maine 04333-0022 or on the Department's web site at www.state.me.us/doc/allagash

Letter *from* Maine

We may have, for only the second time I know of, a state regulatory body that rejects economic blackmail. A Washington county blueberry packer wants to pump down the Downeast rivers for irrigation, in the critical low-water period of the vanishing Atlantic salmon' s cycle. The Land Use Regulatory Commission restricted Cherryfield Food' s water use, despite the company' s invoking its self-proclaimed economic importance and its assertion that blueberry cultivation, compared to forested land, augments stream flow. The best exchange, between the company manager and Jeffrey Perry, a commissioner, who rejected the number-of-jobs argument and asked if, denied more water, the Canadian-owned company would leave Maine? (Only the revived *Maine Times* reported this passage.)

When the late Great Northern Paper Co. wanted the Big A damsite on the Penobscot, they promised something like 1400 jobs in the mill if they were given the hydro power; contrary to recent report that they were refused, LURC granted the dam license. BUT, it was conditioned on the 1400 or so jobs GNP had promised. No dam, GNP's bluff had been called.

Whatever you make of biodiversity, here is something in **The Restless Sea**, by Robert Kunzig, about species diversity in the deep. On a large scale, the deep sea is comparatively stable, compared with shallow and more storm-tossed waters, and this stability is prerequisite to diversity; disturbance over a small area creates the diverse mosaic. But, over a large area disturbance reduces complexity and diversity. Does this remind anyone of what Maine industrial forestry has accomplished?

After the executive vp of the **Society of American Foresters** editorialized that forestry is "a market-driven profession," I was almost embarrassed that SAF was blind to its implication, which might be taken as a working definition of prostitution. All the more startling that their magazine of June '99 would turn up a factor measuring sustainability that I haven't encountered. The piece is called Defining Stand-Level Sustainability / Exploring Stand-Level Stewardship. It argues "for a more ecologically and socially based forestry." It doesn't come from a US school but from the University of British Columbia, and is based on a model calculating what may happen under a few rather simple forest regimens. What I found challenging was this: "Users may also track several social indicators of sustainability, such as economic summaries, employment, and net energy budgets." Note that jobs is an output of this model.

A call to the Maine Bureau of Labor Statistics yielded little on the numbers of those producing logs, pulpwood, and chips. Such information, had politicians wanted it, was what our big landowners wanted kept out of the public eye—they maintained the fiction that none of those in the woods were employees, and, hence, needed no insurance, social security, or unemployment support. And, of course, they then avoid reporting the commuting Canadians, the woodsmen of preference?

The latest emergence of the **Land For Maine's Future** scam to bob up is here in Hancock County. The deal is for a township of 20,000 acres, forming one side of Nicatous Lake, with a lot of islands. This land was part of Diamond-International' s holdings, now liquidated. Ostensibly, the Robbins family sawmill bought the parcel, with the right to cut only white pine. The deeds confer all other timber to Champion-Int. for an amount to be determined later; Champion is joint owner. The property transfer tax was paid. So far, quite conventional. Well, there is a mortgage, $9.5 million max., held by Farm Credit, which does this sort of deal involving forest liquidation. Farm Credit is public money. They advertise in loggers' magazines. I found it helps if your application is endorsed by a paper company.

So Robbins Lumber is in hock for the mortgage; if the timber doesn' t pay it off, there is the prospect of selling 159 100-ft. frontage camp lots, which had been mapped and recorded in the state archives by Diamond-International in 1968. Better yet for Robbins and Champion, the threat of this shoreland development might extort public money for an easement, say from LMF. This is precisely the deal Robbins laid out in the Bangor Daily News last year, stating that their initial intention was shoreland development to cover the gap between the purchase price and the timber proceeds. How much is Champion's contribution we are supposed not to think about.

To sweeten the deal, Robbins, through Alan Hutchinson, of the Forest Society of Maine, offers title to 78 islands in Nicatous. Here the problem is: neither Robbins nor Champion own the islands. Maine law says that unless the state had sold them, they belong to us. No deed has been recorded. In Maine, it is not a crime to offer to sell land you don' t own. But, it ought to be, and so should trying to con the public into buying islands they already own.

An aromatic footnote to the foregoing is that the President of the Forest Society Of Maine is Henry Whittemore, who just happens to be the leader of the Hancock Timber Resources Group, the insurance and pension fund plunger.

IRONY, in spades: The committee advising on this LMF acquisition included Champion (a direct conflict) and other big landowners, and Pierce Atwood, the premier Paper industry criminal lawyer. One of its recommendations is using the Real Estate Transfer tax as a funding source for acquisition—one of the committee voting for this represents the Pingree heirs, Steve Schley & Co. Guess What—they snuck through a law that allowed them to avoid this tax. So did Georgia-Pacific when its timberland hit the fan. It's not yet time to revoke my comment that Mitch Lansky put in his book— "The cheap bastards hate to pay taxes."

Bill Butler
24 June 1999

Canada Lynx Gives Birth in Maine

A Canada lynx has given birth to a male and female in northwestern Maine, confirming the presence of the cats in the state. The discovery of Canada lynx kittens in Maine on June 18 is evidence that the animals do exist and reproduce in the state, federal biologists announced Monday.

"We can now say, without question, that there is a lynx population in Maine and not just an occasional animal passing through from Canada," said Dr. John Organ, a biologist with the U.S. Fish and Wildlife Service.

This discovery adds to the biological evidence on the status of cat that the agency is reviewing as it considers listing the Canada lynx as threatened under the Endangered Species Act. A decision is expected in January 2000.

Organ and a team of federal biologists began a study this past winter to learn more about the status of Maine's lynx populations and to determine what management actions, if any, are needed to conserve the species.

The biologists captured a female lynx in a trap in northwestern Maine in March, fitted her with a radio collar and released her back into the wild. She was observed later in March traveling on a logging road with two smaller lynx. The biologists said the two were probably offspring from the previous year.

At the end of May, the cat's movements stopped. According to what is known about the lynx, the biologists suspected she had established a den to give birth to a litter of kittens. After allowing the cat three weeks to settle, the biologists went to the den site to confirm that she had given birth. They found two kittens, one male and one female.

The den site is a young forest that appears to have been logged 10 to 15 years ago. The dense re-growth of young trees combined with larger uprooted trees provides a tangle of vegetation to hide newborn lynx kittens.

"The forest that we found the animals denning in was young forest with lots of under story, lots of blow down, lots of cover," said Organ.

While this is just one sighting of one animal, the discovery is evidence that the animals can survive in a young forest habitat, said Organ. Some environmentalists have argued that the cats need old-growth forests for their survival.

"We don't have old-growth forests in Maine," said Organ. "Perhaps it is the structural diversity that may be a factor."

The cats, which have large feet that act like snow shoes, allowing them to hunt in deep snow, feed primarily on snowshoe hare, a large rabbit found in young forests.

Lee Perry, commissioner of the Maine Department of Inland Fisheries and Wildlife, and Ronald Lambertson, Northeast regional director of the U.S. Fish and Wildlife Service, agree that the managed cutting of timber in northern Maine has created ideal conditions for snowshoe hare and, therefore, likely for lynx as well.

Lynx were historically found throughout much of Canada, the northern forests of the U.S. and the subalpine forests of the central and southern Rocky Mountains. The service has proposed listing the lynx as a threatened species under the Endangered Species Act in 16 of the lower 48 states, because of a decline in population numbers and a reduction in the amount of suitable habitat occupied by the animals.

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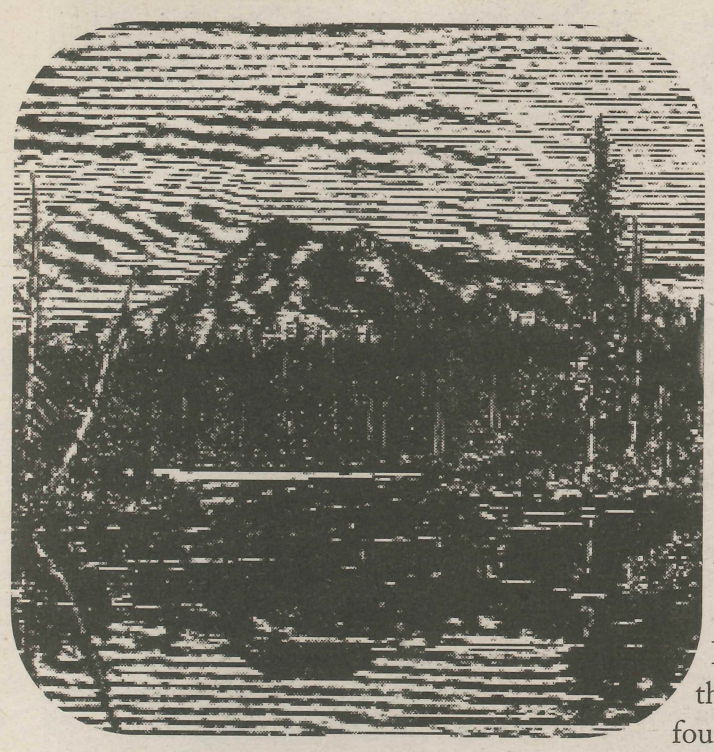
Saving Mount Katahdin—The Unsung Life of John Francis Sprague



There have been calls to protect the lands around

Illustration from ***The Knockabout Club: The Adventures of Six Young Men in the Wilds of Maine and Canada*** *by C.A. Stephens, 1886.*

Mt. Katahdin in Maine for at least a century and a half. Best known are the efforts of Percival Baxter to acquire and preserve lands surrounding the mountain in the state park named for him. The following excerpt from the book John Francis Sprague by Marius B. Peladeau (L.C. Bates Museum, Hinckley, Maine, 1988) tells the story of one of the earliest, least known and most persevering of advocates. It is reprinted with permission.

For information on current efforts to protect lands in the Katahdin region, contact Jym St. Pierre, RESTORE: The North Woods, 7 N. Chestnut Street, Augusta, ME, 04330, 207-626-5635, jym@restore.org.

John Francis Sprague's life reads as that of a man whose "plate was full." His interests were varied, his achievements numerous and his reputation considerable. Yet, all his accomplishments pale when compared to the role he played—very silently and unrecognized—in the preservation of Maine's greatest Katahdin.

To the original native Americans (and their descendants today), Katahdin was a sacred site, the home of Pamola, an evil God, and the location of many important Indian legends. The first white men to make the ascent of the 5,267 foot peak were a party of surveyors under Charles Turner, Jr., in 1804, but it was the 1846 visit by philosopher-naturalist Henry David Thoreau which first focused attention on the magnificent mountain. His two additional trips to northern Maine in 1853 and 1857, and the journal which he kept is the basis for his classic, The Maine Woods. It was Thoreau who made the first plea for wilderness preservation: "Why should not we . . .have our natural preserves, where no villages need be destroyed, in which the bear and the panther . . .may still exist, and not be 'civilized off the face of the earth' . . ."

No one heeded the plea at the time. Katahdin was privately owned by a number of timber (and later, paper) companies. They harvested the trees and allowed hunting, fishing, and camping on their lands. By the late 1880s sporting camp owners were advertising guided climbs of the mountain as a benefit of rusticating in the northern Maine Woods.

It was at this time that Sprague entered the lists to do battle for the mountain. As founder and president of the Maine Fish and Game Association, and president of the North American Fish & Game Association, he was in a position to exert leadership. A few years later, in the early 1890s, a number of Bangor citizens, including Mayor Augustus Hamlin, suggested the establishment of a game preserve around the mountain. A Bangor newspaper added support in 1895 by proposing that a thirty-nine mile area around the peak be designated a State Park. All this talk of conservation went against the wishes of the state's timber interests, then as now, one of Maine's most powerful lobbying groups.

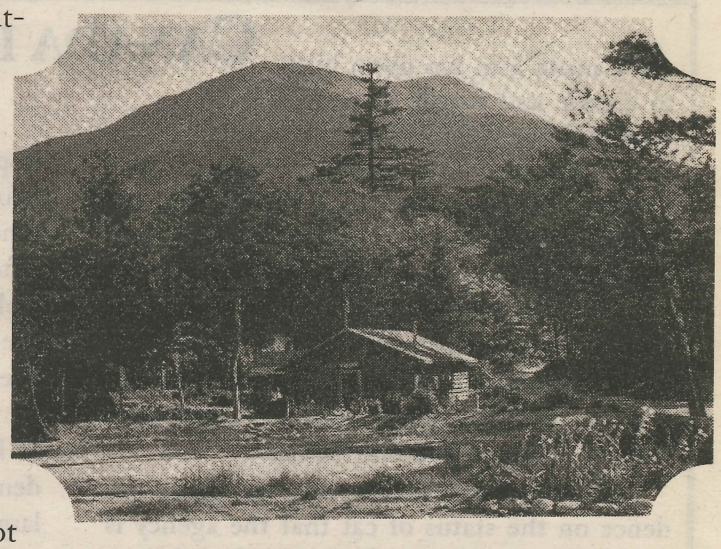
In his **Journal of Maine History**, Sprague had praised the leadership of Theodore Roosevelt, an early leader in the outdoor movement, and Sprague shared with his good friend, Rev. Hinckley, a love of Frank Forrester and William Henry Harrison ("Adirondack") Murray, the "apostles of outdoor life." The latter, especially, served as an inspiration for Sprague.

Nothing concrete came of these early calls for the preservation of the mountain. Although the public became increasingly aware of the issue, more camps, roads and trails were built, the Bangor & Aroostook Railroad promoted the mountain as a vacation mecca and the timber and paper continued to cut timber.

It is essential that two important factors not to be forgotten in the Katahdin preservation story. First, that the mountain was in his Piscataquis County, where he was known as the leader of the outdoor movement and where he had been laboring in the vineyard of natural resources preservation since the late 1870s; and secondly, that these efforts had been ongoing and unceasing for over 25 years before he and Percival Baxter became acquainted in Augusta.

Baxter himself admits that he did not come to know Sprague until sometime between 1900 and 1906, and that even then the "acquaintance" did not "ripen into friendship" until a few years later. This clearly places Sprague—and all his Maine and North American fish and game supporters—as among the first in the field, years before Katahdin became a "cause" down-state in Augusta and Portland. Through all his writings in regional and national sportsmen magazines he became the identifiable "environmentalist" of the North Woods. No one equaled him in stature, both in his own county, across the state and in national circles. His labors—all the lobbying, publicizing, speaking and writing that occupied so much of his time from the mid1880s—predate Governor Baxter's entry into the fray.

Finally, in 1913 a tentative step was taken. Congressman Guernsey (Sprague's old Dover friend) introduced a bill authorizing the Secretary of Agriculture to "examine, locate and report to the National Forest Preservation Commission for purchase, such lands in the region of Mt. Katahdin as in his judgment may be suitable for a National Park." The bill died in committee that session. Its supporters decided to enlist Sprague in the cause. In 1916 Guernsey re-introduced the bill in the U.S. Congress, this time with Sprague's more active involvement. Writings seem to indicate that Guernsey introduced the bill at specific request of Sprague's fish and game organization. Secondly, in the Journal Sprague indicated he was throwing the weight of his magazine behind the legislation and wrote an editorial urging the bill's passage.



The Congress was not ready for such a bold and expensive step and the bill died again in committee. Maine proponents, however, kept up the pressure. Sprague's good friend, Arthur G. Staples, editor of the Lewiston Evening Journal and its prestigious weekly Journal Magazine, wrote for the latter an article, published in the fall of 1920, that pushed the idea further into the public consciousness. In January of the following year, when Sprague and Baxter served together in the Senate, the latter, as President of the Senate, introduced a bill on January 25 to "establish the Mount Katahdin State Park."

In a carefully planned move to gain immediate publicity and media attention for the legislation, Sprague invited Baxter to address the fish and game association at its annual meeting on the 2 7th, only two days later. The timing could not have been a coincidence.

This was Baxter's most eloquent statement to date on the need to preserve the mountain. The speech was ordered printed as a Senate document with photographic illustrations. It was obviously meant to be more than a dry legislative document but rather a pamphlet for public distribution. Baxter and Sprague were working in tandem. Shortly thereafter Baxter, under the Maine Constitution, ascended to the governorship on the death of the incumbent and before the session was out he delivered two messages to the legislature pushing the idea of the State Park. The bill failed, however, because of the opposition of the state's business interests, led by the president of the Maine Chamber of Commerce and the Great Northern Paper Company, which owned the mountain's timber rights.

All the supporters of Katahdin's preservation, including Baxter and Sprague, had reason to be discouraged. Sprague pushed forward, trying a new strategy. In the Eightieth Legislature of 1921 he had been named to the Committee on Inland Fisheries and Game in recognition of his expertise in this area. He pushed hard for every reasonable piece of legislation that would positively affect the Fish and Game Department and, as a result, further cemented already close ties with the Department Commissioner, Willis E. Parsons of Dover. Parsons became further indebted to Sprague when he tried to raise Parson's salary and travel fund to $4000, an increase of $2500 over the Commissioner's previous reimbursement and nearly double that of any other state department head.

Sprague justified the expenditure because a strong fish and game department would solidify Maine's reputation as a sporting paradise. Because of all this support for Parsons it is easy to understand why he was well disposed to return some favors to Sprague. Sprague soon called in this debt. Working all the remainder of 1921 and through the winter of 1921-22, he marshaled every friend, fraternal brother, voter and sportsmen to present an overwhelming petition to create a Katahdin Park game preserve." If Baxter, Sprague and others could not get legislation passed to protect the area, Sprague would try to achieve part of their shared dream through Executive Order. On March 31, 1922, Parsons issued this Public Notice: On the foregoing petition of John E. Sprague and others, after due notice and full hearing, it is hereby ordered and decreed that the prayer of the petitioners be granted and that due notice of the same be given and rules and regulations be promulgated as follows: . . ."
The rest of the Public Notice sets forth the laws that prevented hunting or trapping of any fish or game in a 90,000 acre region around Katahdin, including the peak. Acting on his own, without Baxter's assistance, Sprague had accomplished the first big step. The timber and water power interests were on notice that the state had "put its foot in the door" and pried it partially open. Yes, dams might still be erected, timber cut, sporting camps built, but the people of Maine could see that the state had indicated an interest in preserving the Katahdin region as a wilderness and that the momentum was building.

Sprague made another stab at engendering support for the wilderness concept. It cannot be determined, with his physical handicap, how close Sprague ever got to the majestic peak, or if he had to enjoy it from a far distance. In the summer of 1922 he told his Senate compatriot and friend, Judge George C. Wing, Jr., that he would publish in the Journal an account of an excursion Wing planned to Katahdin that August. The party consisted of Wing, Parsons, three game wardens, Leroy Dudley, the famous Katahdin guide, two women and a teamster with horses and wagon to carry supplies. Wing's reportage of this trip included not only a story of the actual ascent but also a historical and geological exposition of the mountain's past, a bibliography of literature on Katahdin, and a recounting of the steps that had been taken, spearheaded by Sprague, to preserve it. In all its facets the article is a thorough explanation of all the reasons the peak should be saved from commercial exploitation.

Sprague's Journal published the story of the trip in the Fall 1922 issue as the lead story, and to assure its wide, public distribution, it was off-printed as a separate pamphlet available to all for 75 cents. It apparently achieved wide circulation since copies are uncommon today. Sprague most likely bore all the costs of publication and distribution as his contribution to the Katahdin cause.

Governor Baxter again raised the concept of a State Park in 1925 in his outgoing message as governor but the time was still not right. Finally, Baxter decided to do what the state seemed unwilling to accomplish. Using his considerable personal fortune he bought the land outright from the paper companies. In 1930 Baxter made his first purchase of 5,960 acres from Great Northern Paper Company and continued to add acreage for thirty years thereafter until by 1962 he had amassed a total of over 200,000 acres. These he presented as a gift to the State of Maine as the State Park he, Sprague and others had envisioned.

Sprague was not alive to see Baxter make the first purchase in 1930. He died in 1926. His contributions to the conservation of Katahdin were forgotten in the wake of Baxter's largesse. The printed record today totally ignores the vision and efforts of Sprague to keep the northeast corner of Piscataquis County a wilderness forever as the Native Americans had known it. There are hundreds of books on Baxter and/or Katahdin and none even mentions Sprague in passing.

Yet the written record is clear: John Francis Sprague, from the 1870s until his death in 1926, was a consistent force in the effort to save the mountain. Taking nothing away from Governor Baxter's great generosity, it is important that recognition be accorded Sprague as a powerful factor in the entire Mount Katahdin movement.

To read more on Baxter State Park, see ***Northern Forest Forums*** *v. 6 # 6 & v. 7 #1; they contain a two part interview with Baxter State Park's current forester Jensen Bissell. V. 6 #6 also has an article by David Carle on efforts from the 1930s onward to establish a National Park in the Katahdin region.*

Thomas Staley "Towards Katahdin" woodcut

An exhibit on Sprague, including information about his work to protect Katahdin is on display in Maine at the York Institute through July 31 and at the Bethel Historical Society from August 6 into next year. A separate exhibit, Looking at Katahdin: The Artists' Inspiration, is on display at the L.C. Bates Museum in Hinckley through October 12. It moves to the Blaine House in Augusta from October 18 through December 6,1999.

"Let the good green earth prevail"

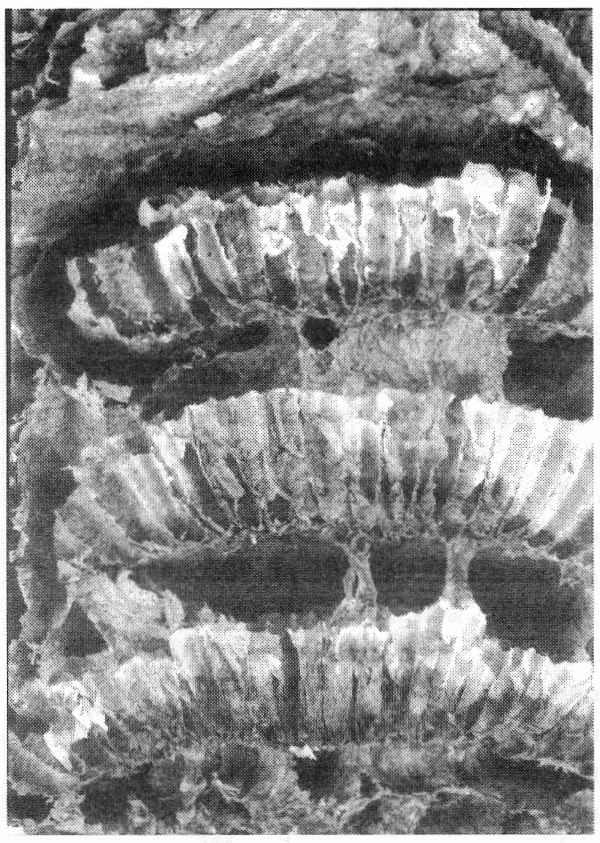
Public Commentary on U.S. F. & W. S. Nulhegan Basin Purchase: Supp

"Corporate Greed Has Gotten Us Where We Are Today"

A letter from the Bloomfield Selectboard, signed by 20 residents

"We are writing this letter to express our support in regard to the proposed acquisition of the Nulhegan Basin by the U.S. Fish & Wildlife Service.

"The people of Bloomfield have been informed of the proposed matter. At our town meeting there was no discussion about the proposal of the Nulhegan Basin. The people of Bloomfield understand the history of what has happened in the past to these lands. The ecological value of the area in question is without a doubt one of the state's greatest treasures. We need to ask ourselves why are we at this particular juncture at this point in time? If you look at the history of events in the past 20 years it will tell you that corporate greed has gotten us where we are today. It is most unfortunate to convey this to you however it is the truth. In writing this letter we will tell you that the deer herd is not in the Basin at present. Due to heavy cutting their shelter wood that they desperately depend on for cover is no longer there. We are concerned about the opposition of some hunting clubs with the idea of federal acquisition. Where were these people when the area was being heavily cut? Where were these people when they were proposing to aerial spray tens of thousands of acres in the very area that the federal government is now proposing to buy and protect.



"We support the federal acquisition of the Nulhegan Basin. It is our understanding that the agreement signed between the State of Vermont and the U.S. Fish & Wildlife will insure that some cutting will take place to insure habitat benefit and the long term benefit of the [deer] herd. This arrangement should be honored for the health and integrity of all species that the Nulhegan Basin supports. We would also appreciate our neighbors from all communities of our great state to support us at this time. Having the U.S. Fish & Wildlife as neighbors will insure that the Basin will be taken care of for generations to come."

Supportive Opinion from Vermonters

Ralph Rogosch, Enosburg Falls, VT

"I am a member of the Northeastern Loggers Association. I cut wood for a living. Still I would support the U.S. Fish & Wildlife Service's purchase in full fee of 26,000 acres in the Nulhegan Basin. I believe it is important to have some set asides of old growth timber, just to know they are there and won't be disturbed. I understand that responsible logging and timber management will be allowed in other areas of the former Champion lands."

John Savlove, N. Bennington, VT

"We are at a critical stage in human evolution. Those who would compromise what remains left of the eco-systems god so generously endowed this world with are not fully aware of how urgently our survival depends on biodiversity and ecological integrity.

"As a Vermonter, a lover of life, animals, health, and economic prosperity (the future of human economy depends on land conservation although the logic of this has not yet been figured out by many Industrial Age businesspeople), I ask you with a heavy heart to understand and act wisely regarding this opportunity to protect the Northeast Kingdom. Again, please buy in full, and let the good green earth prevail."

David L. Deen, River Steward of the Connecticut River Stewardship Council

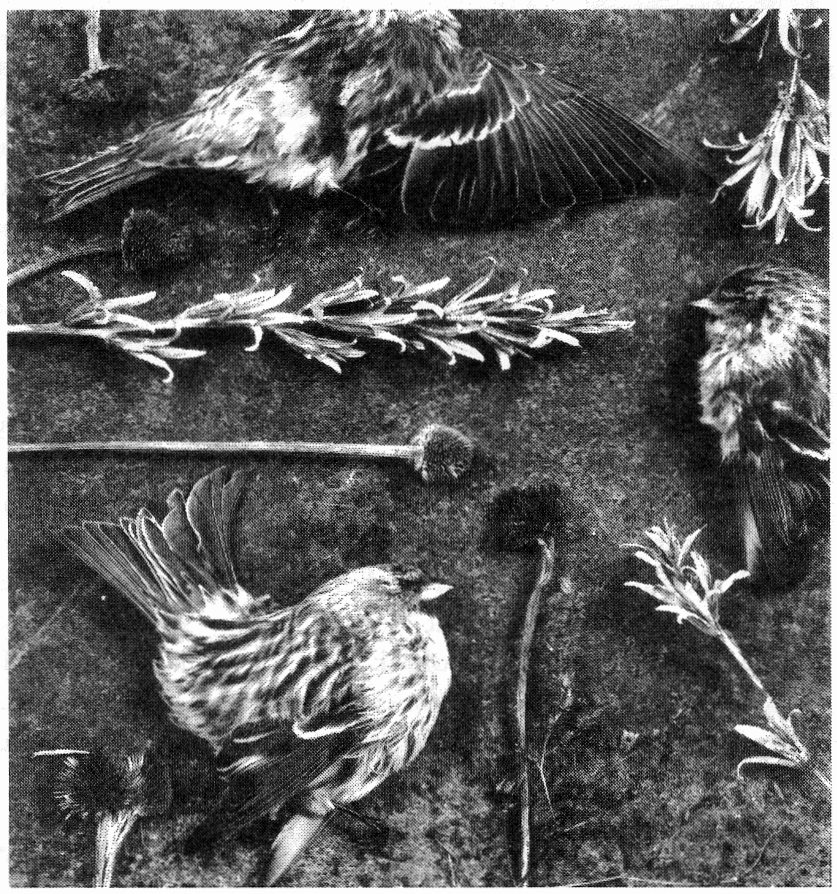
"The issue of historic uses and the expectation of the public that these uses should continue versus protection of valuable species habitat will be the biggest challenge for the Service. CRWC holds the protection of the habitat to be the higher priority for the Service over historic uses by the public. The Assessment sets out some time limits on camp leases as well as expectations for the future of hunting, fishing, trapping and snowmobiling on the lands. The public process envisioned to set the new criteria for the traditional uses will be interesting to observe to say the least. What is vital for the Service is to be responsive, where they can be, to the public but to hold to the higher priority and protect the habitat in the watershed."

ECOLOGICAL RESERVES ON THE CHAMPION LANDS

Marc Lapin, Cornwall, Vermont

"In short, the refuge is best able to serve the broad management goals by trusting to natural ecosystem dynamics to provide for a diversity of vegetation seres (i.e., successional cover-type and forest structure). If the proposed federal lands and state lands are managed more-or-less together under a regime of natural ecosystem dynamics, there is the opportunity to have nearly 50,000 contiguous acres functioning under a natural disturbance regime. Truly, this is rare in the eastern United States. Although in our lives we are unlikely to see the patchwork of structural and vegetative diversity created by natural ecosystem dynamics, the coming generations will inherit a piece of landscape that has been allowed to develop naturally and unencumbered by human preferences for certain species and certain forest stand characteristics.

"I urge you to change the language and the intent expressed on page 17, section 3. 'Management Flexibility Over Time,' page 46, section 1. 'Forest Products Industry' and page 53 section 2. 'Managing for Species Richness and Abundance.' Rather than the old paradigm and management style of attempting to create by manipulations 'a balance of habitat types on a landscape scale,' should we not forge the new paradigm of allowing natural forces to operate on nature's temporal and spatial scales to provide for a diverse 50,000 acre landscape in the long term."



All photos
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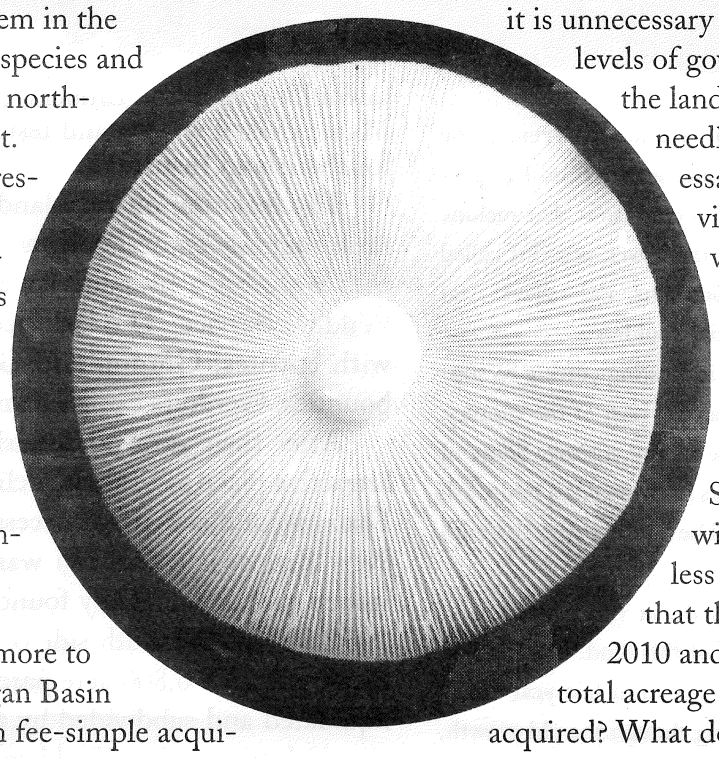
...ort for Ecological Reserves on Champion Lands

Rick Paradis, University of Vermont Environment Program
"Acquiring the land in the Nulhegan Basin in full fee will allow the Service the best opportunity to manage the area for biological diversity values, providing its expertise to the mix of public and private ownership evolving in this important land conservation project. Providing a 'core reserve' in the Nulhegan Basin with adjacent lands managed for more diverse uses mimics reserve design models developed by conservation biologists here and elsewhere. This important and special natural region of Vermont deserves no less!"

Eric R. Sorenson, Community Ecologist
The Nulhegan Basin is an exceptional natural area of both state and national significance. The combination of bedrock geology, glacial surficial deposits, climate, and the force of moving water over thousands of years has created an ecosystem in the Nulhegan Basin that contains many species and natural communities typical of more northern or boreal regions of the continent. These species and communities (terrestrial, wetland and aquatic) are a very important aspect of this region's biological diversity. Management of this critical basin and associated lands to the south in the Paul Stream watershed should be for the long term protection of ecological integrity, with appropriate public access provided. These goals can best be accomplished through public ownership.



"I have specific concerns that relate more to ultimate management of the Nulhegan Basin land should the Service proceed with fee-simple acquisition. First, although I clearly believe in and understand the importance of maintaining public access to these lands and waters, any future management by the Service should focus primarily on restoring and maintaining the ecological and biological integrity of these lands and waters. Locations of existing or proposed roads and trails, and access by motorized vehicles should be judged critically against their affect on ecological integrity.

"Similarly, managing for species richness or abundance of particular species of interest should be weighed against the effect of these practices on ecological integrity and the species that may be displaced by management. In many cases it may be that communities under the forces of natural disturbance will provide the diversity of habitats and successional types necessary to sustain individual species of interest over the long term, without forest management practices. Maintaining management flexibility over time is a logical goal and should provide the basis for making decisions of this type."

Comments from Ken and Pat Ward, Brandon Vermont
". . .the Nulhegan Basin is the home of Vermont's largest free-flowing stream; the state's largest deer wintering yard; significant wetland complexes such as the Yellow Bogs, home to rare, threatened and endangered species including Spruce grouse, Common Loon, Blackbacked woodpecker, Three-toed Woodpecker, Grey Jay, and Boreal Chickadee. The area also contains 200 acres of old-growth spruce forest, and pristine streams for native trout and Atlantic salmon.

"It has been my very recent pleasure to work on and complete the research and documentation needed for the nomination of a parcel to be included in the National Audubon Society's 'Important Bird Areas' or IBAs.

these pages:© Robert McCann/Photonica:Wasp nest; Dead Destroying Angel &HairyTailed Mole. Per requestof a reader we he deadly nature of ***amanita muscaria*** *& recommend avoiding*

The essence of the program, initiated very successfully in Europe, where pressure on environmentally sensitive and ecologically necessary areas is extreme, has three action criteria: Identify the most essential areas for birds; Monitor these areas for changes in the habitat; Conserve these areas for long term biodiversity. The creation of the Nulhegan Refuge will enable and guarantee the success of guaranteeing that biodiversity ..."

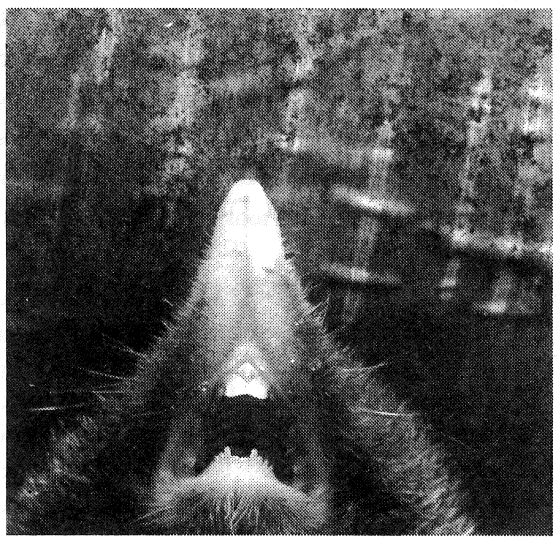
OPPOSITION, RESERVED JUDGEMENT & ECONOMIC CONCERNS

"A Tremendous Breach of Faith"

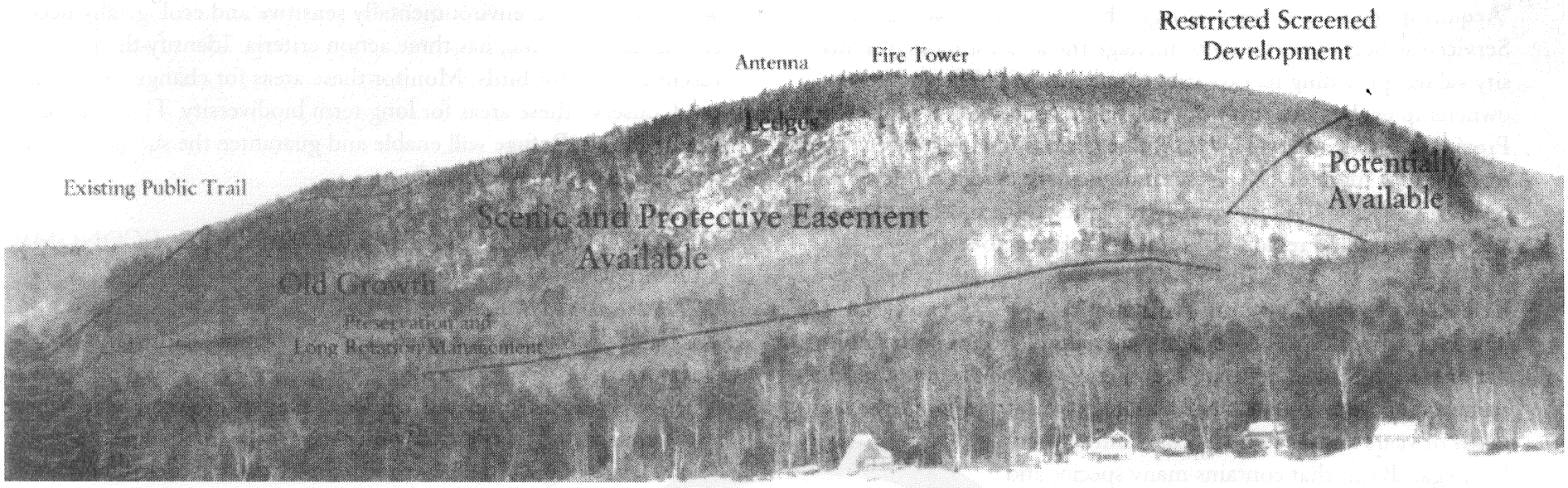
Kerrick L. Johnson, vice-president, Associated Industries of Vermont
"AIV opposes the [proposed USF&W purchase] because we believe it is unnecessary as there are other more accountable parties and levels of government who are involved with management of the lands. We oppose the proposed action because it will needlessly harm the forest products industry by unnecessarily reducing timber production levels lower than virtually any other party that might acquire the land would allow. We oppose the proposed action because its very existence constitutes a tremendous breach of faith by the Service with Vermonters, especially those of us who specifically asked how much land the Service would acquire in fee simple ownership and were told 600 acres. What is the Service's response to how many additional acres it will seek to acquire in fee simple ownership, regardless of what happens with this proposed action? Given that the management plan for the Refuge begins anew in 2010 and that the Refuge has no clear boundary, what is the total acreage the Service believes has the potential to be acquired? What does the Service consider to be the maximum number of acres that this Refuge should acquire in fee simple ownership? More importantly, what assurances do we have that the Service will abide by the verbal representations made by officials on its behalf and by its own written plan?

"Buy It All"—Comments of Sherburn E. Lang, Lyndonville, Vermont
"As the logging industry winds down from this area, and it surely will, then some other means of economic support must be available to the residents of the Northeast Kingdom. By buying this land, you are stating to us that the industry is tourism. Well, leaf peekers and tree huggers will not sustain a decent economic means for the residents of the area. We must be allowed to provide services. Canoe and boat rentals, guide services, including hiking guides, fishing and hunting guides, bicycle guides, and science related guiding can all become assets to the area. Mini marts, hotels, restaurants, bed and breakfasts, and camp rentals can also be assets. . .

"I do not want to see the area 'commercialized' nor do I want to see it 'restricted' in any manner. That is my opinion. What you must determine, 'what is best for the people of the Northeast Kingdom and the Champion Land.' Buy the land. Buy it all and get control of it all, and let Vermonters manage it for all of Vermont."



Motts' Side of the Mountain: One Family's Forest



At barely over a thousand feet in height, Almanac Mountain doesn't seem to be much of a mountain. From the firetower on top, however, one can see from Eastport to Katahdin, with an impressive view of the numerous connected lakes that include Sysladobsis, Junior, Bottle, and Duck. To the south, below the tower, is a cliff called "the ledges," which also has an imposing view of lakes, mountains, and valleys. And below this is a beautiful mixedwood forest, full of huge glacial boulders.

In some of this forest, there are piles of hemlock bark indicating cutting to supply the leather tanning industry—which had left the area at the turn of the century. On 50 acres of these woods, however, there is no evidence of any cutting. Some of the trees are quite large. I measured a red spruce at 27 inches in diameter, a white ash at 28 inches and a yellow birch at 33 inches in diameter. The site is registered with the Natural Area Program as old growth.

I visited the mountain, with its views and old growth, at the invitation of Gordon Mott, whose family had recently purchased much of this land. Gordon had told me about the old growth for a few years, but it was not until last year that I finally had a chance to get a tour of the land. Besides walking though the old growth, I also wanted to learn more about Gordon's plans to balance protection of the public values, connected with the old growth and viewsheds, with the private values of home, farm, and woodlot.

I have known Gordon since the late 1970s. In 1976, the Maine Forest Service, as part of the spruce budworm spray program, drenched my entire property—spring, brook, fields, gardens, house, and all—with chemical insecticides against my will. I wasn't exactly pleased. At that time, Gordon was with the US Forest Service, which was then justifying (with environmental impact statements) and subsidizing the program. We had some very interesting debates on the subject.

Despite such a contentious introduction, I have stayed in communication with Gordon, off and on, for over two decades. Although we don't always agree, I have benefited from our relationship. Gordon is knowledgeable, having spent twelve years as a researcher and forester with the Canadian Forest Service—eight of those years studying and modeling the dynamics of spruce budworm outbreaks. After twenty years with the US Forest Service, he worked as a consulting forester (including years working with the Passamaquoddy Tribe), a teacher at Unity College, and a consultant with the Natural Resources Council of Maine.

We still disagree on some issues (the last was the Forest Compact), but we are "neighbors" now that he lives in Lakeville. We also share many of the same concerns over social and environmental values. Gordon has been generous at printing some of my documents (when I had more primitive computer equipment) and checking some of my articles for technical errors. Lately, Gordon and I have stopped debating forestry politics—he has been more interested in the challenges presented by Almanac Mountain. His mention of protecting old growth and managing other parts of his forest with "long-rotation, high canopy closure," made me realize that he had something of importance to contribute to the long-term approaches of low-impact forestry. I had to see it. I took some friends as well.—*M.L.*

FINDING THE HOMESTEAD

The Mott home seems isolated. It is at the end of a long steep driveway, with no neighbors in sight. Gordon and his wife Ginny (who is an elementary school teacher) are used to living in isolated places. Before finding their current property they lived for two years on an island off the coast of Maine. There they pilot tested approaches to enhanced use of island natural resources—including portable sawmilling of island timbers, pioneering steelhead aquaculture in mid-Maine coastal waters, and testing out agricultural crops and techniques for the Island Institute.

The isolation of the island suited them fine as it allowed them to raise their sheep and coyotes with minimum hassle. Their three coyotes were born in captivity and placed with them by the National Wildlife Service. The last died a few years ago, aged 17. After living with coyotes, Gordon and Ginny became advocates against coyote bounties. Gordon's e-mail name is "coyote."

After their stint on the island, Gordon and Ginny looked for an attractive place to settle in a climate similar to Ginny's home in Dover-Foxcroft, and somewhat accessible to the ocean and Gordon's roots in New Brunswick. Gordon wanted a mixture of softwoods and hardwoods to manage. They found what they were looking for in 1989 on 106 acres on the south side of Almanac Mountain. This land was formerly part of a 6,800 acre parcel bought from the Penobscot Tribe and liquidated and subdivided by a large developer, Trott. Fortunately, not all of Mott's purchase had been stripped, though other lots in the subdivision had been. Indeed, the cutting had begun, and Mott had it stopped upon his purchase.

The Motts did not build here immediately. Gordon still had unfinished business with the Passamaquoddy Tribe, and so they moved their sheep and coyotes to a farm at the end of a dirt road nearby in Topsfield. Gordon did visit and explore his own and the surrounding land that went up the mountain. On one such excursion, he came upon a stand of impressively large trees on a steep, boulder-strewn slope. He suspected this was old growth and contacted the owner of the land. The owner acknowledged there was some large timber on the land (loggers had approached him), but the land was not for sale.

BUYING THE REST

The Motts moved into their new owner-built home on the mountain in 1995. Three years later, Gordon was looking on the Internet to see if another lot was for sale when he found the upper mountain lot on the market. It was a 160 acre quarter section. Twelve acres on the 1047-foot summit were owned by the Maine Forest Service for its fire tower. Three acres were owned by Maine Public Broadcasting for a TV antenna relay. There were also a few lots created to settle wills. This left 135 acres surrounding the summit—including the old growth and "the ledges."

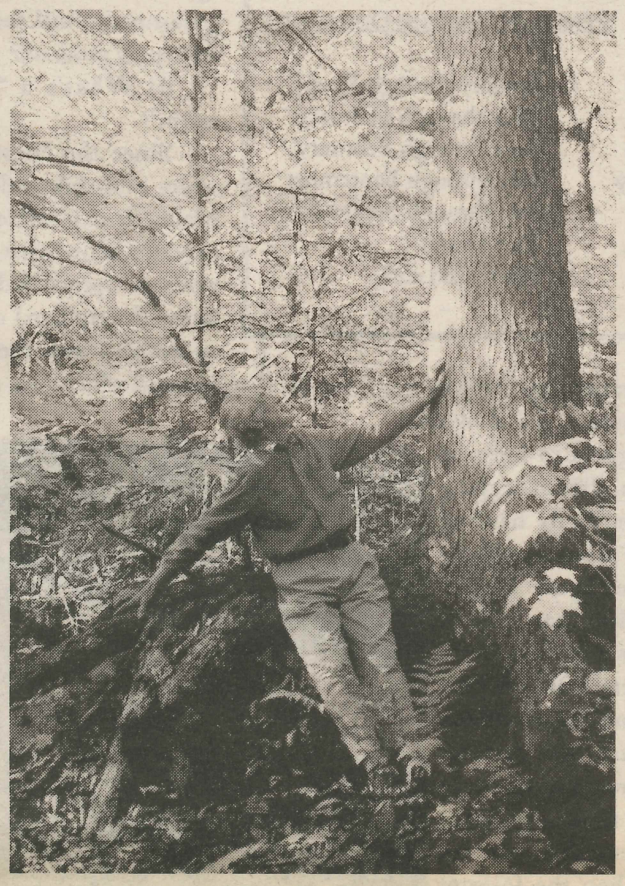
Mott called up the real estate company and found out that an agent was nearby. He jumped in his pickup—"Hell, I chased him"—and found out the land, indeed, was for sale. "I said I was 'interested.'" The owner accepted an offer at the asking price contingent on 60 days to arrange financing. Three of Mott's sons were immediately willing to participate in acquiring ownership. Together, they were able to put up 25% of the purchase price. But, because of federal rules established after the Savings and Loan crisis, the banks required 35% cash. Now what?

"It looked like this was more land than we would be able to acquire," Mott said. "We were acting in our private interest, but were

also motivated by our perception of the public interest. This little mountain should not be entirely in private hands. It is the most significant element of the viewscape from a number of lakes. It should not be stripped by feller bunchers going up the hill, as so many other mountains in the area have been. The old growth should not be converted to veneer. It should be kept pristine. Generations of people from a large region here go up to the ledges for the view—especially in foliage season. There have even been marriages up there. This is land that should be in public ownership."

Just as it was becoming clear the Mott family couldn't afford to buy the land, by serendipity, a "green angel" appeared. Mott was talking to a client, "a man of some means with environmental values," who asked what was happening and if he could be of help. He could indeed. Mott worked out a deal. He went through his client, instead of the bank.

"He is an investor who deserves a return on his money," Mott said. The Motts are paying him at competitive rates. He also has security on the investment—if the Motts are unable to pay, he gets the land—an ordinary mortgage arrangement. "More people with money to invest would probably readily engage in such 'green investments' if they were offered competitive returns," suggests Mott, implying that there is an opportunity for interested institutions to facilitate such transactions in an open investment market.



Zoning for Private and Public Benefits

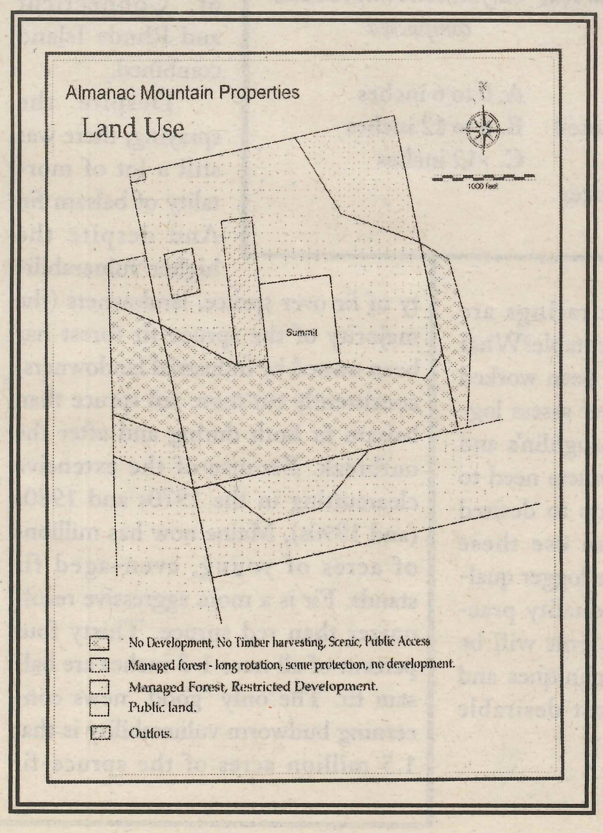
Having purchased the land, the Motts now had the challenge of managing it to ensure that public benefits would not be lost. Under the Mott family's management, all of the old growth is off bounds to any cutting or development. A buffer of non-old growth can be managed, but biological considerations are primary in this zone. What Mott calls "heritage trees" (large, old trees that were formed primarily by natural forest influences) will not be cut—and there will be no-cut zones (around 1 acre) around these trees. Cutting elsewhere in the buffer would "anticipate mortality and be based on biological, not economic, rotations." Mott's management system in this zone, "long-rotation, high closed-canopy forestry" is equivalent to the goals espoused by low-impact forestry.

Outside of the old-growth buffer is a managed forest zone, where timber and economics have more importance, but ecological aspects are still considered. Logging will be sensitive to the viewscape and not leave large openings. All trees with cavities are retained and effort is made to restore tolerant species in the regeneration. In this zone, Mott plans to follow "sound, science-based silvicultural standards" and retain all high-quality stems in the growing stock. Here too, minimizing impacts to the residual stand, is key to the long-term strategy.

While Mott sees potential for good economic returns in the long term in the managed forest, in the short term they will be cutting small volumes of mostly low value wood. He is up against poor economies of scale combined with low prices. "It's darn difficult to do the right thing to a degraded forest," Mott said. "You're lucky to break even at the front end."

Mott has started logging, utilizing a good local logger with a small bulldozer and winch. The products include firewood for the local market, birch boltwood, hardwood pulp, and several thousand feet of fir and hemlock beam timbers. Mott processes the beams himself on a small bandmill.

In the forest production zones, as with the old growth and buffers, there will be no development. The Mott family will donate the easement to this right. His neighbors, who own the prominent east face of the mountain, have also indicated a willingness to sell an easement. There will, however, be some limited areas where future development will be allowable. Indeed, the family is planning to build a camp on one of these areas. Any structures that they build, however, will not be highly visible from the lakes, and they will screen outdoor lighting from external view as well.



Why Easements?

I asked Gordon why the family is trying to sell conservation easements on land with public values, rather than sell all the rights for full fee. He responded that "This is part of our backyard. Part of the conservation easement would be within three hundred feet of our house. What we are seeking is a private/public balance. With an easement, we have standing to enforce agreements. It gives rights to my family (or whoever else might own the land) for the long term to have a say over what the public does right next to them. At the same time, it gives the public a say over what we do with our part of the easement. This leaves checks and balances and creates a buffer for the area of public interest. It's the best place to be. It's win-win."

Mott has concerns that public access to more sensitive areas in the old-growth be restricted until the flora and fauna are cataloged and that public access be on planned routes to avoid erosion and disturbance of sensitive areas. He would particularly like to ensure in the easement agreement that nesting and denning creatures not be disturbed in certain high-risk seasons. The cliffs and boulders create may potential denning sites. He also wants to ensure that hunting and trapping in the natural area be prohibited, while retaining the privilege to hunt elsewhere on the property.

The Mott family has set up a committee to make sure that the intentions of their management plans are carried out for the long term. With a school teacher, builder, surveyor/civil engineer, electrical engineer, and a forester, the Motts contribute plenty of diversity to this committee.

While they are hoping to sell easements to the state through the Land for Maine's Future Fund—the existing public ownership of the fire tower parcel is a plus in this regard—they are open to other possibilities if this arrangement falls through. Land trusts, which could hold easements, for example, could protect the same values. But there are no land trusts in this area. They could, however, help to establish a regional land trust as a repository for the conservation easement rights. Another option, though less binding unless a second party owns and can enforce the terms, is placing restrictions on the deeds.

Mott finds an irony in the opposition of "property rights" groups to public funding of land purchases. "First they said if you want it, buy it. Now the public wants to buy it and they are opposed. It's perverse," he said. "I'm a firm believer in private property rights. 'Property rights' people betray their own principles when they oppose any private property owner's absolute right to protect public values for the future on a willing buyer, willing seller basis."

On a broader perspective, Mott offered: "Like most of what I've been involved with, by luck or something else, this situation found me. I thought I was at the end of my little contribution to how things are done in the woods when I got blessed by the most complicated management proposition I've looked at—in my own backyard. Now, we've got the obligation to set a good example out in public."

ASSESSING SOIL

by Mitch Lansky

Soil is the foundation of the forest. It is where the roots dig in. Soil not only holds trees up, it also supplies water and nutrients for the trees. Damaging soil can lead to siltation of water, regeneration problems, undesirable shifts in species, and lowered productivity. With Low-Impact Forestry, we try to minimize such damage. Favored low-impact logging systems try to keep distribution and area of roads, yards, and trails to a minimum.

With the death in 1997 of soil scientist Janet Cormier, the Low-Impact Forestry Project lost a priceless resource on soil information.Janet did an important study on Best Management Practices the year before, and within months of her death from cancer she participated in a LIF conference in Ellsworth, describing her results.BMPs are designed mostly to prevent siltation of water.They are not designed to minimize soil damage in general.

Last year we approached Jim McLaughlin, Assistant Research Professor of Forest Resources, Cooperative Forestry Research Unit, University of Maine, to see if he could come up with a system for assessing soil damage. We had already benefited from the expertise of Jim's colleague at the CFRU, Bill Ostrofsky, who had demonstrated to us a system for assessing damage to residual trees.We asked Jim to come up with a numerical rating system, similar to Ostrofsky's.

Jim came up with a system that he first demonstrated in Vermont in late April at a conference put on by Barbara Alexander of the Vermont Loggers' Guild. In early June, Jim took five members of the Maine Low-Impact Forestry Project out to the University Forest to demonstrate his system to us.

Assessing Soil Hazard

To accurately measure soil damage, one has to do a pre- as well as a post-logging assessment.The pre-logging assessment is key to preventing damage.With the McLaughlin system, the forester determines potential hazards by examining the climate, soil types, hydrology, and drainage of the area to be logged. The forester lays out transects, digging occasional pits to determine depth to soil restricting layer and soil texture.The forester also determines topography and slope.

Jim has come up with a point rating system for these categories.With a high hazard rating, the logger has to take special care—including restricting logging to certain times of year.Jim recommends the following restrictions, based on drainage class type:

Operational Constraints Period of optimum operability for skid trails for forests of Maine

Drainage	Period of Optimum Operability
Excessively Well	January through Decbr.
Moderately Well	May through February
Somewhat Poorly	June through February
Poorly	July through September
	July through September, Frozen soil
Very Poorly	On frozen soil

Post Logging Assessment

Jim has developed systems to measure the area of land taken up in roads, yards, and trails as well as the degree of damage to soils.As the area in roads, trails, and yards increases, the area of productive forest decreases. Much logging damage occurs near the trails—especially to tree roots.In Scandinavia, landowners expect loggers to have no more than 20% of logging areas in trails.By hauling cable and setting trails up to 150 feet apart, loggers can have less than 10% of the land area in trails.

To determine the percentage and degree of soil disturbance, the forester lays out transects (perpendicular to trails if possible) with periodic survey points.When the forester stops at a "point," he or she then scans an area approximately 36 square feet around that spot.The following chart summarizes the classes of soil disturbance in the McLaughlin system:

Jim is working on a spread sheet form that will allow foresters to check off criteria as they do their surveys to quickly come up with damage ratings.The next step is to do a number of surveys on a variety of logging sites to determine what the numbers mean.What ratings are unacceptable?What are acceptable?What are desirable? Once this has been worked out, LIFP foresters can better assess logging operations using McLaughlin's and Ostrofsky's systems. Landowners need to know if loggers are living up to desired standards.Landowners can use these assessments to find out if the logger qualifies for a bonus for high-quality practices.These assessment systems will be crucial in learning what techniques and technologies yield the most desirable results in given situations.

Class 1	Class 2	Class 3	Class 4
Undisturbed	*Slightly disturbed subsoil exposed*	*Deeply disturbed, Rutted,*	*Surface soil removed and compacted*
	A. Litter in place		A. 0 to 6 inches
	B. Litter removed and miner soil exposed		B. 6 to 12 inches
	C. Mineral soil and litter mixed		C. >12 inches
	D. Mineral soil deposited on top of litter		

x x x

The Spruce Budworm

Ready or Not, It's Coming

by Mitch Lansky

Question. When is the best time to manage a forest to be less vulnerable to spruce budworms?

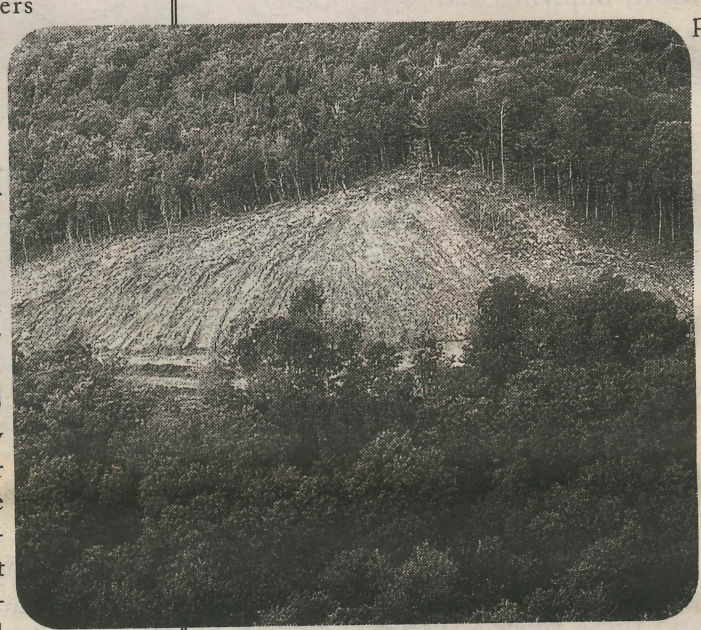
a) During an outbreak?

b) Between outbreaks?

c) It is not necessary to manage for the budworm because the government will fund the necessary spray program?

d) What's a "spruce budworm"?

Since the latest spruce budworm outbreak ended in 1985 in Maine, it is possible some readers may not know what a spruce budworm is. Spruce budworms are the larvae (caterpillars) of a moth that co-evolved with the forest of this region and which can, at times, defoliate vast tracts of conifers. An outbreak in Maine 1911-1919 reportedly killed 27.5 million cords of spruce and fir (mostly fir). Between 1954 and 1985 Maine sprayed insecticides 22 times. From 1972 to 1985 spraying was annual and massive. In 1976, the state sprayed chemical insecticides over 3.5 million acres—the equivalent in size of Connecticut and Rhode Island combined.



Despite the spraying, there was still a lot of mortality of balsam fir. And despite the higher vulnerability of fir over spruce, landowners (the majority of the spruce-fir forest has been owned by industrial landowners) consistently cut more red spruce than balsam fir both during and after the outbreak. Because of the extensive clearcutting in the 1970s and 1980s (and 1990s), Maine now has millions of acres of young, even-aged fir stands. Fir is a more aggressive recolonizer than red spruce. Thirty four percent of all trees 1-3 inches are balsam fir. The only "good" news concerning budworm vulnerability is that 1.5 million acres of the spruce-fir type were converted to hardwood (mostly low value species).

The latest report from the Insect and Disease Management Division of the Maine Forest Service has some news that ought to make state officials and landowners take notice:

"While Maine is catching increased numbers of moths, Quebec is experiencing more significant budworm changes. The area of moderate to severe defoliation in Quebec increased significantly in 1998. Even though the total acreage defoliated in 1998 is tiny compared to outbreak years in Quebec, the trend toward increases has caused concern. Some defoliated stands in Quebec are relatively close to areas of increased moth catch in Maine."

Some landowners have insisted that their "intensive management" of planting white and black spruce, pre-commercial thinning, and herbicides, will make their stands less susceptible to budworm. There is evidence, however, that these practices, that are mostly being used by industrial landowners who overcut over the last few decades, might make outbreaks worse.

One of the most severe outbreaks in the mid-60s in Quebec, for example, was in once of the largest white spruce plantations in the province. Research in 1984 in New Brunswick found that all four spruce types (red, white, black, and red/black hybrid) were equally vulnerable in an intense outbreak. Other research has suggested that "Capital-intensive activities such as planting on good sites and applying fertilizer on poorer sites, may lead to increased vulnerability because higher foliar nitrogen content will lead to increased vulnerability." Canadian researcher J. R. Blais concluded that herbicide spraying over extensive areas, "could render the forest more subject to depredations by [the budworm]."

Other research has suggested that mixedwood stands and stands with mature spruce are less vulnerable, in part because these stands have richer mixes of predators and parasites. Unfortunately, landowners seem to have declared war on red spruce. Between 1982 and 1995, the cut of red spruce was three times the growth. As a percent of inventory, the cut of red spruce was greater than for any other species.

There still may be time to prepare for the next outbreak. Given the greater involvement of environmental groups in the policy mix, it is doubtful that the old strategy of having the government subsidize chemical spray programs will persist. The state needs to start formulating a more comprehensive policy towards spruce budworm—the sooner the better.

Forestry Cooperatives Unite Ecology & Economics

by Andrew Whittaker

Small landowners own in the aggregate some 393 million forested acres in the United States, or 58% of forested land, according to statistics presented at a daylong seminar hosted by the National Wildlife Federation's Northeast Office in Montpelier on May 27.

Most of these ownerships are small, under 100 acres. Cooperation across property lines can and has magnified individual efforts to add value to wood, manage for wildlife and manage in the context of the wider ecosystem, presenters said.

Speaking at the conference were representatives of cooperatives in the upper Midwest and rural Southeast as well as incipient community forestry efforts closer to home such as Vermont's Coverts, Vermont Family Forests, the Hancock County Low Impact Forestry Project of eastern Maine and UMass Extension. The recently formed Woodworkers Alliance of Western Maine was also represented.

Keynoter E.G. Nadeau who has worked with cooperatives for 25 years outlined key characteristics of cooperative enterprises. Democratic ownership and control are what they have been intended to embody—if they do not then membership needs to reassert control. "Without a commitment to sustainability," he added, "cooperatives mean nothing to me."

Economically, the genius of the cooperative model, which he said is an under-regarded yet historically significant alternative to the more dominant corporate model of organization, is that members pledge the capital and volume of resources which enable the coop to process a finished product—the return from which exceeds the value of a raw resource sold as a commodity. Among recent examples of successful coops cited by Nadeau is a Dakota pasta producer owned by durum wheat growers which since start-up this decade has gained significant market share.

Landowners Recognize Ecosystems

UMass Extension forester David Kittredge surveyed Franklin County, Massachusetts landowners to gauge willingness to work across property lines. Kittredge found within his sample a fairly broad recognition that management issues—and ecosystems—do cross boundaries, that stewardship responsibilities span generations and that cooperating with neighbors is a viable option for many. A pilot project intended to test the survey findings faltered when forestry consultants could not be found who could work together with interested landowners.

Gus Townes from the five state Federation of Southern Cooperatives told how economic backlash against the black farmer during the civil rights movement spurred participation in buying clubs and cooperative agricultural efforts such as cotton ginning. Federal money from the Office of Economic Opportunity enabled the creation of the FSC in 1966 with a mission of amplifying such efforts and especially increasing the availability of credit to black farmers who have been traditionally discriminated against in the locally controlled dispersal of federal farm credit and other programs.

Land tenure remains an issue in the region: ownership of land by black farmers in the Louisiana-Mississippi-Alabama-Georgia-Florida region has fallen from 35 to 3 million acres since the FSC's start-up, and membership from 50 to 20 thousand. Townes said that FSC began to look to woodlots as an opportunity to address this only recently. The general attitude has been to look on the woodlot as a bank account to be periodically raided and depleted as needed, while the wider context of forest management in the Southeast has been toward clearcutting, plantations and herbicides. Townes is hopeful that raising standards of management will improve economic prospects for coop members, provide an alternative to the industrial model, and contribute to such ecologic efforts as longleaf pine restoration.

Townes' observations were echoed by that of Phil Guillery of the Institute for Agriculture and Trade Policy (a co-sponsor, with Businesses for the Northern Forest, of the Montpelier seminar). Guillery noted that the context for cooperative models in his Great Lakes region is "clear-cutting, high-grading and forest fragmentation, a negative impact for rural communities coupled with a rising demand for forest products."

How to meet the one and avoid the other? Guillery is part of the Forest Stewardship Council, which has devised standards underlying green certification. He views certification as a major vehicle to ensuring quality of management and gaining marketplace distinction for products. The IATP works with several Minnesota and Wisconsin coops that crystallized around the certification concept and seeks to provide start-up templates for other such efforts.

Jim Burkemeier of southwest Wisconsin contrasted the virtues of vertical integration, as he practices on his family farm and forest, with the general trend toward cutting faster than growth and high-grading. On his 200 acres, Burkemeier started in the 1960s with a stocking of 350,000 board feet, is presently at 400,000 after three decades of "taking a little bit every year" and intends to achieve an ultimate stocking of 1,000,000 feet. He logs, mills, kilns and markets hardwood lumber.

Burkemeier is confident that cooperatives that operate similarly can help address some of the fundamental problems with forestry. These include what he termed a welfare attitude that land management cannot pay and industry unwillingness to pay. Burkemeier is a co-founder of Wisconsin's Sustainable Woods Cooperative as well as a Smartwood certified resource manager.

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WESTERN MOUNTAINS WOOD ALLIANCE

The Western Mountains Wood Alliance of western Maine was established last June. According to its brochure, the WMWA is "an association of small to mid-size primary and secondary wood professionals in the Franklin, Oxford and Somerset areas. The alliance works to improve the competitiveness of small business in an increasingly global economy."

The Alliance membership includes woodworkers, sawmill and kiln operators, foresters and timber harvesters. Members seek to cooperate "in marketing, purchasing and training programs."

For more information, contact the WMWA at:

Post Office Box 265
East Wilton, ME 04234
207-645-2400 or krauss@megalink.net

55 Reps from Northeast Sign Roadless Area Letter

(June 24, 1999) A bipartisan letter signed by 166 Representatives was sent to President Clinton today, calling on the Administration to protect all National Forest roadless areas 1,000 acres and larger. "As the millennium dawns, safeguarding those remaining wilderness areas will provide a lasting legacy akin to the bold actions taken by President Theodore Roosevelt when he set aside our first forest reserves." said the letter sponsored by Reps. Maurice Hinchey (D-NY) and Steve Horn (R-CA). "We urge you to act boldly in that tradition so that these national treasures are not lost."

"We wish to thank all of these Representatives for standing up for our nation's natural heritage," said Steve Holmer, Campaign Coordinator for American Lands. "Roads harm the environment through habitat loss,fragmentation, and sedimentation of streams. As a result, roadless areas contain much of the remaining high-quality habitat for salmon and other coldwater fish."

When President Clinton announced the development of a roadless area policy, he said that "these unspoiled places must be managed by science, not politics." Hundreds of scientists sent the President a letter stating that "a scientifically sound policy for roadless areas should, at a minimum, protect from development all roadless areas larger than 1,000 acres." According to the National Marine Fisheries Service, the EPA, and the Fish and Wildlife Service, these areas are 'aquatic strongholds' that should remain unroaded.

"The Forest Service admits that only 18% of the roads are being maintained each year and the total backlog of needed repairs is over $8 billion dollars and growing," said Randi Spivak, President of American Lands. "As a result, crumbling roads are falling into the streams and causing catastrophic landslides each year. With over 433,000 miles of roads on the National Forests, it doesn't make sense to keep building new roads that threaten our remaining pristine wildlands."

For more information, contact: Tom Elliott, American Lands Northeast Organizer 603-643-3433 or visit www.americanlands.org

A Native Ecosystems Restoration Act

by Reed Noss

Conservationists interested in protecting and restoring native ecosystems have been forced to rely on 1) the good will of land management agencies and private landowners, or 2) legislation that is vague or was designed for other purposes. The Endangered Species Act of 1973 is the only federal law in the United States that contains an explicit goal of conserving ecosystems. Unfortunately, the Endangered Species Act contains no enforceable provisions or even guidance for ecosystem conservation. The National Forest Management Act (NFMA) of 1976 contains provisions for maintaining viable populations and a diversity of plant and animal communities, but these provisions are vague and difficult to interpret at the ecosystem level. A few other laws, such as the Clean Water Act and its requirements to maintain biological integrity, have similarly vague connections to ecosystem conservation.

Hence, many conservationists over the last decade and a half have discussed a need for an "endangered ecosystems act" or something similar. I propose a "Native Ecosystems Act" that would serve to protect and restore the entire spectrum of native plant and animal communities across the United States. The Act would have three sections: 1) endangered ecosystems, 2) representative ecosystems, and 3) ecosystem inventory, research, and monitoring. An independent Ecosystem Conservation Panel, with representatives from the relevant professional scientific societies (Society for Conservation Biology, Ecological Society of America, Natural Areas Association, American Institute of Biological Sciences, etc.) would be established to advise the Department of Interior on ecosystem listing, protection, recovery, and management decisions. If drafted and passed as legislation, the Native Ecosystems Act would give some backbone to ecosystem management.

Classification

Conservation of ecosystems must begin with a comprehensive, hierarchical classification of ecosystems for the region of concern—in this case the United States. The Act would follow the convention of classifying ecosystems as vegetation types or plant communities. A geographically defined ecosystem (e.g., the Everglades, Southern Appalachians, Greater Yellowstone Ecosystem, etc.) would consist of many such communities. Ecosystems would be classified according to the National Vegetation Classification System developed by The Nature Conservancy with the assistance of other organizations and agencies. This system was endorsed by Secretary of Interior Bruce Babbitt in October 1997. The classification includes a complete physiognomic (structural) classification of the vegetation (hierarchy and classes), and a floristic (plant species-based) classification of 4149 specific plant communities (associations). Floristic taxonomic units of plant communities are crucial to habitat delineation and scientifically based ecosystem management at a spatial scale useful to land managers. Other, older classifications can be cross-walked (explicitly linked) to the national system.

Endangered Ecosystems

This section of the Act would be modeled after the Endangered Species Act. Ecosystems would be first assessed according to their extent of decline since European settlement. Decline would include outright destruction, conversion to other land uses, or significant degradation of ecosystem structure, function, or composition (for example, see the fire-dependent ecosystems listed in Table 2). Ecosystems at any level of classification hierarchy would be considered, and separate assessments for major regions of the country would be conducted. Following the convention of the 1995 National Biological Service report on endangered ecosystems, those ecosystems that have declined by 98% or more would be considered critically endangered, by 85–98% would be considered endangered, and by 70–84% would be considered threatened. To supplement the classification based on floristics, ecosystems defined by seral stage, structure, functional relations, condition, and other ecologically relevant factors would be recognized. Hence, free-flowing rivers, old-growth forest, unplowed grassland, and ungrazed shrub-steppe could be considered critically endangered, endangered, or threatened ecosystems depending on their extent of qualitative decline in particular regions. The National Biological Service report would serve as the initial list of ecosystems, to be enforced until refined estimates of decline are available through further research.

After ecosystems have been classified according to their extent of decline, an additional criterion of rarity would be applied. The Nature Conservancy ranks plant communities (as well as species) primarily with regard to their rarity and geographic extent of occurrence. A community is ranked as G1 (critically imperiled globally) if five or fewer occurrences are extant or if the total extent of occurrences is less than 2000 acres. A community is ranked as G2 (imperiled globally) if fewer than 20 occurrences or less than 10,000 acres are extant. Plant communities ranked as G1 or G2 by The Nature Conservancy and/or state natural heritage programs would be added to the list, with G1s as critically endangered and G2s as endangered ecosystems. Ecosystem types in any category that are at high risk of further decline, for example due to human population trends and development pressures in the regions where they occur, would be high priorities for immediate protective actions (analogous to emergency listings and protective actions under the Endangered Species Act).

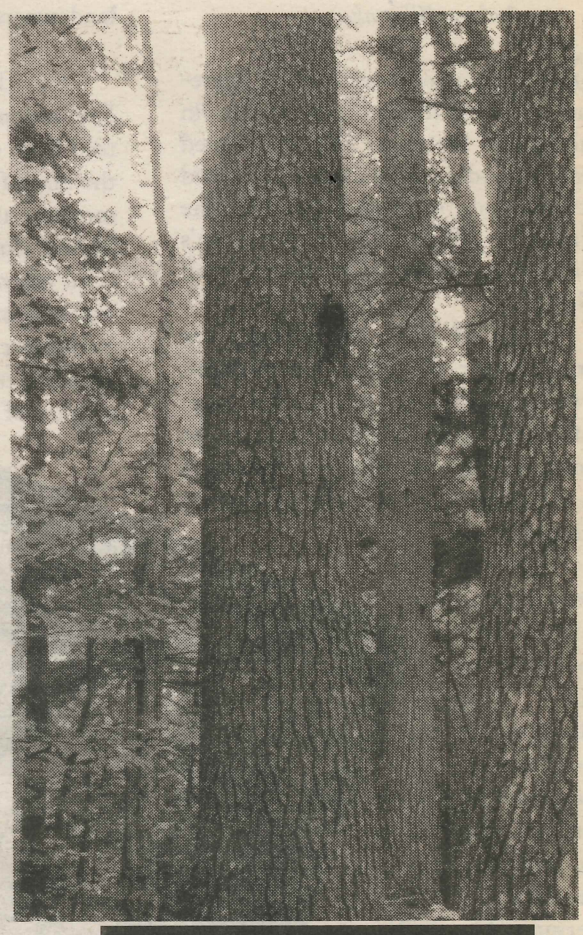
Endangered and critically endangered ecosystems on public lands, like species listed under the Endangered Species Act, would be protected from all "take" that would degrade them in any way. Thus, roading, logging, livestock grazing, mining, development, or other habitat alteration would be prohibited unless necessary for restoration (thinning, for example, might be necessary for some fire-suppressed savannas or forests, and livestock grazing may have to substitute for grazing by native herbivores in some grazing-dependent grasslands whose native herbivores have been extirpated and cannot immediately be reintroduced). On private lands, landowners would have two incentive-based options for conserving listed ecosystems: 1) generous tax credits for developing an adequate conservation plan, or 2) an option to sell the property, or a conservation easement, to a public or private conservation agency at fair market value. Threatened ecosystems would be monitored and managed on public lands in such a way as to prevent further degradation (i.e., no net loss). Federal actions (e.g., permits) that led to degradation of these ecosystems on private lands would be prohibited. Tax incentives for managing threatened ecosystems would be provided to private landowners.

Recovery goals would be established and recovery (restoration) plans developed for each listed ecosystem type. The recovery goal would be reestablishment of viable ecosystems in their native landscapes. Wherever possible, the natural distribution of vegetation along environmental gradients would be restored, as would natural disturbance regimes and populations of extirpated species. Multi-ecosystem, geographic-based recovery plans would be strongly preferred over individual-ecosystem recovery plans. All plans would include site-specific management actions, and agencies would be required to implement the plan according to specified timetables and schedules. The Ecosystem Conservation Panel would advise the Secretary of Interior on the suitability of recovery plans.

Representative Ecosystems

The purpose of this section would be to represent viable examples of all native ecosystems (plant communities) in a network of protected areas, regardless of their current rarity and across their full range of natural variation. The emphasis here is to assure that ecosystems that are still relatively secure and healthy will remain that way. Analyses of representation in the United States indicate that most ecosystem types are poorly represented, and many un-represented, in protected areas. The Gap Analysis (GAP) project, organized by the US Department of Interior and being implemented in every state, is assessing the level of representation of vegetation types nationwide. In Idaho, for example, the GAP project identified 29 out of 71 vegetation types that were either not represented in protected areas or had less than 10,000 hectares (25,000 acres) represented. The forest types with no representation were limber pine/greasewood, lodgepole pine floodplain riparian, subalpine fir-mountain hemlock, western juniper/mountain sagebrush, Douglas-fir-limber pine/mountain brush mosaic, and western juniper/low sagebrush mosaic. Although these types are not presently under intense pressure for timber harvest, they may be vulnerable to other human activities, including livestock grazing, mining, and residential development. Forest types with less than 10,000 ha protected in Idaho include several types with high timber values that are threatened by logging: western redcedar-western hemlock, grand fir-western redcedar, western larch-Douglas-fir, Douglas-fir-Engelmann spruce, ponderosa pine-lodgepole pine, grand fir-Douglas-fir, and lodgepole pine-mixed conifer.

Forest types in each state that are found to be unrepresented or under-represented in reserves would be protected by a moratorium on timber harvests—except legitimate restoration forestry—on public lands, at least until adequate representation has been achieved. What amount is adequate would be determined by



Katahdin Ironworks Old Growth

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Return of a Native: the American Chestnut's Recovery

by Ed Metcalfe

In 1904, the chestnut blight was first spotted on trees in New York City. By the 1940s the tree was virtually wiped out of its former range from Maine to Georgia and west to Michigan, Indiana, and Mississippi. It was ***the*** old growth species of the East, and in mature stands, trees could be 600 years old and average 5 feet in diameter and 100 feet in height. It was a big tree, mature individuals averaged three to four feet in diameter and 80 to 100 feet in height. Maximum size was much greater. In the heart of its range, specimens of nine to ten feet were regularly reported with diameters of over 12 feet recorded and heights of 140 feet. The wood was remarkable. It was straight-grained, lighter in weight than oak and more easily worked. It was as rot-resistant as redwood and was used for virtually everything: telegraph poles, railroad ties, timber frames, shingles, paneling , fine furniture, musical instruments and even pulpwood.

From the forester's point of view, the tree was exceptional for several reasons. In addition to its broad utility, the chestnut grew rapidly, occasionally putting on as much as one inch of new wood annually. Also unusual was the strong sprouting ability of the chestnut. When a tree was harvested, the remaining stump sent up new sprouts.

Some of the more interesting studies made by dendrologists are those relating to the range of this species. The post-glacial pollen record indicates that the tree did not enter New England until about 2,000 years ago and further show that the tree was migrating northward at a rate of about 600-800 feet a year at the time of its demise from the blight. The northern range of the species was up through central New York, Vermont and New Hampshire extending even farther north in the Hudson River and Connecticut River Valleys. To the west, the tree populated along the shores of Lake Ontario and to the east through large portions of southwestern Maine.

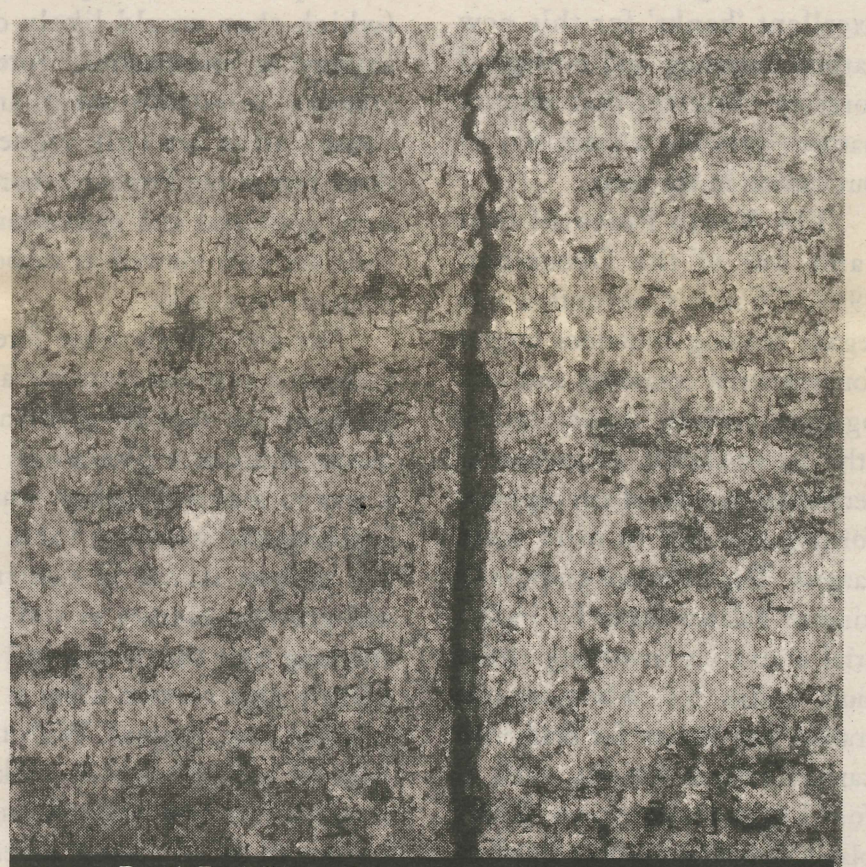
By 1950, however, the species was on the verge of extinction. Serving as a keystone in the ecological structure of the eastern forests, it was the most important food source for a wide variety of wildlife. With the demise of the Chestnut, many populations of animals and birds plummeted. The spread of the deadly chestnut blight, which killed an estimated nine million acres of trees as it moved throughout the eastern United States, is considered to be the worst ecological disaster to have hit this country in the first half of the century. The tree was, without a doubt, one of the most important sources of lumber to our region and its nuts were the most important source of food for many species.

For many years, the federal government launched vigorous programs in an effort to stem the spread of the blight and to develop resistant varieties of the chestnut, but no trees were produced which combined high levels of resistance with the desirable traits of the American Chestnut. However, with recent developments in genetics and plant pathology, there is promise that this critically important wildlife food source and timber tree will again become part of our natural heritage and landscape.

To make this promise a reality, a group of prominent scientists established the American Chestnut Foundation (TACF) in 1983 as a 501(c) 3 non-profit organization. The Foundation's mission is simple: to restore the American Chestnut as an integral part of the eastern forest ecosystem.

The Foundation's primary approach is to use the backcross method of plant breeding to transfer the blight resistance of the Chinese Chestnut to the American Chestnut. This method involves crossing the Chinese and American trees to obtain a hybrid which is one-half American and one-half Chinese. Successive generations of offspring are then continually backcrossed to further generations of American Chestnuts to eventually produce a tree which is fifteen-sixteenths American, one-sixteenth Chinese. Through a selection process, trees will be developed that have the growth characteristics of the American Chestnut and the disease resistant qualities of the Chinese trees.

Currently, TACF is expanding the regional diversity aspect of its breeding program. Native trees are being sought throughout the tree's former range. These trees are then being incorporated into the extensive breeding program now under way. It is hoped that in this way, greater genetic diversity will be incorporated into the resulting blight resistant trees. In northern New England this diversity may be especially important as the trees in our area may have developed certain strategies for surviving our colder winters.



Beech Bark Photo © Robert McCann /Photonica

. . .Native Ecosystem Restoration . . .

the Ecosystem Conservation Panel. Combined with other major initiatives (e.g., projects of The Wildlands Project and The Nature Conservancy), GAP data would be used to determine the optimal location of new reserves to meet representation and other conservation goals. General reserve design and management (including restoration) guidelines also would be provided in this section of the Act.

Ecosystem Inventory, Research, and Monitoring

This final section of the Act would apply existing programs (e.g., Gap Analysis, the US Environmental Protection Agency's monitoring programs), augmented by new studies, to provide up-to-date assessments of the status and trends of ecosystems nationwide. New studies would include detailed analyses of the extent of decline of plant communities since European settlement and experimental studies of the effects of alternative restoration and management practices for each ecosystem type. A nationwide monitoring system, using remote sensing and ground-level measurements, would track trends in ecosystem distribution, quality, protection status, and response to management. Information from research and monitoring would be used adaptively to revise lists of threatened and endangered ecosystems, modify recovery goals and methods, and eventually to delist ecosystems that have been adequately restored. Degenerative trends in nonendangered ecosystems would be noted and mitigated to prevent the need for the drastic actions required for endangered ecosystems.

Funding

All sections of the Act would receive adequate, annual levels of funding for implementation. The Ecosystem Conservation Panel would determine what levels of funding are adequate. Your comments and suggestions for improving and drafting a Native Ecosystems Act would be appreciated. Please direct your comments to Jasper Carlton at the Biodiversity Legal Foundation and Reed Noss at the Conservation Biology Institute.

—END

LET'S BANK ON WILDLANDS AND ECOLOGICAL FORESTRY

by Sue Higby

Mother Nature invested wisely and received bountiful rewards for her prudent savings and expenditures of earth's basic capital: the atom carbon for an eternity. But ever since 1850 or so, people quickly squandered these investments for short-term rewards gained from plowing soils, using fossil fuels, and destroying forestlands.

With global climate change now a recognized reality—that is, the amount of carbon released by combustion and respiration exceeds the amount 'fixed' or saved by photosynthesis: countries will soon begin to formally use carbon as units of exchange. Esoteric as this might sound, a shift to this kind of 'currency' has huge implications for forests since forests, especially wild, old-growth forests, are excellent 'banks' for this new carbon currency, and ecological forestry—forestry that mimics nature—provides a great way to put carbon in the bank.

The Kyoto Protocol that came out of the December, 1997, Climate Convention sets legally binding emissions targets for industrial countries and recognizes carbon sequestration (the accumulation of carbon in terrestrial instead of atmospheric forms) as a way to meet these targets. The Protocol proposes a kind of balance sheet for industrial countries involving emission 'credits' for carbon sequestration and 'debits' for deliberate carbon release actions, such as fossil fuel combustion. Trees play a significant role in this balance, as their life cycle involves taking in carbon dioxide for photosynthesis and storing up reserves of carbon in trunks, branches, and roots. Oceans, soils and forests all offer some potential to be managed as sinks, that is, to promote net carbon sequestration.

Many questions were raised when representatives from Forest Watch and environmental groups around the country assembled at the Center for International Environmental Law in Washington, D.C., in late January to consider the Kyoto Protocol. What makes a good carbon sink? How do we get more sinks? How do we keep track of carbon sinks and sources? Because many, many millions of dollars of 'free market' profit are at stake in the answers to these questions, interest groups are eagerly getting out their messages—some inaccurate—to the administration and other decisionmakers. The Protocol allows a great deal of 'wiggle' room that cannot help but entice players to posture for debits and credits that promise to be difficult to monitor and track.

The success of the Protocol depends on how accurately the reported forestland activities mirror reality. At present, there is much room for improvement. For example, the Protocol does not look at 'deforestation' as including timber harvesting, but the forest industry wants to count post-harvest replanting (which they would likely do anyway) as 'reforestation.' Forest creation, re-establishment, and conservation are only vaguely described in the Protocol; moreover, grassland and agricultural soils are only viewed as carbon sources—not sinks.

Not surprisingly some forest industry representatives are pushing for rapidly growing, monoculture tree plantations as a way to sequester carbon while ignoring the immense value of the carbon stored in existing old-growth reserves as well as the long time that is required to restore this carbon after it is released (e.g., logged). With the fate of our planet at stake, monoculture tree plantations—known to be ecological deserts and at high risk to insects, disease, and fire—must not be banked on for carbon sequestration.

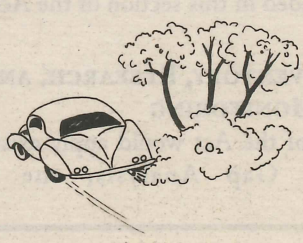
If New England's forests, and those of the nation, are allowed to age and become structurally complex, and vast areas are allowed to rewild then they would possess great value for carbon sequestration and biodiversity and more. Sedjo, Sohngen, and Jagger noted in their recent report that, ". . . if forests managed for carbon sequestration are allowed to mature and remain unharvested, one of the long-term effects may be enhanced biodiversity." Net biomass accumulation is the key to carbon sequestration, but it must be done with the conservation of biodiversity in mind.

We need to promote a clear vision for ecological forestry and ways that our forests can store carbon to meet targets set forth in the Protocol in New England and around our country. Forest Watch and the group of environmentalists that recently convened in Washington, D.C., offer the following recommendations:

Refine the Kyoto Protocol to include the carbon sequestration benefits of forest conservation, wild forest protection, and ecological forestry in the accounting system; Protect, as a matter of public policy, all old-growth forests on federal and state land and create new opportunities for public forests to age and rewild; Cease whole-tree harvesting, especially on public land, and allow the carbon and nutrients in the branches and twigs to stay in the forest; Reduce clearcutting, especially on public land, and increase the number of uncut wildlife snags and den trees that are left standing—never to be cut; Increase the rotation length—time that a tree is allowed to grow before cutting; and Provide incentives for landowners to permanently conserve forestland, create wildlands, and practice ecological forestry;

Washington Irving wrote long ago that "speculation is the romance of trade, and casts contempt upon all its sober realities" (1855). But we need to carefully consider these realities and recognize plantation tree farms as mere junk bonds of the environment—not investments for the future. Let's accelerate our carbon savings programs, (while simultaneously reducing fossil fuel consumption), by strategically investing in protecting wildlands and promoting ecological forestry.

Sue Higby is a Deputy Director of Forest Watch, a regional conservation group working to protect and re-create wild forests and to reform public land management. Visit the Forest Watch website (HYPERLINK http://www.forestwatch.org www.forestwatch.org) to find out mor(F) Sedjo, Sohngen, Jagger, Carbon Sinks in the Post-Kyoto world: Part 1, 1998.



'Forestry Intellectual Property,' Herbicide Resistant Trees, & Other, Wonderful Things

Company Press Release

NEW YORK, April 6 /PRNewswire/ -- Fletcher Challenge Forests , International Paper, Monsanto Company and Westvaco Corporation announced today their intent to form a forestry biotechnology joint venture to produce and market tree seedlings that will improve forest health and productivity for the forestry market worldwide. The four companies will contribute $60 million (US) in total over five years to the joint venture.

The companies also announced their intent to contract with Genesis Research and Development Corporation Limited, an Auckland, New Zealand, biotechnology research company, to provide genomics research. The joint venture also will acquire forestry intellectual property from Genesis.

The participating companies envision the joint venture as a worldwide magnet for future developments in forestry biotechnology and believe that as international demand for wood fiber increases, significant business opportunities will result from additional breakthroughs in forestry science. Each company possesses significant biotechnology capabilities and will share its individual strengths as an equal partner in the joint venture. The joint venture also plans to actively seek technological advances from independent laboratories, universities and other companies in order to position itself to market new advances in forestry biotechnology to the world's tree growers in the shortest possible time.

The joint venture will focus on tree species that represent a majority of the seedlings now planted by the forest industry around the world and will initially direct its efforts toward various eucalyptus and poplar species, Radiata pine, loblolly pine and sweetgum. Targeted genetic improvements include:

- herbicide tolerant planting stock to enable more cost effective, as-needed control of competing vegetation;
- higher growth rates to allow more wood to be grown on less land at lower cost;
- improved fiber quality and uniformity to increase efficiency in paper and wood products manufacturing processes.

These improvements are expected to enable forest landowners to meet the growing demand for paper and wood products while strengthening their ability to manage forestlands in a sustainable and eco-efficient manner for the benefit of future generations. Increasing the productivity of tree plantations safely and sustainably will help meet the world's wood and fiber needs without increasing pressure on native forests.

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NH Legislature Delays Herbicide Reform—Mead & Champion to Spray

by Daisy Goodman

Senate Bill 68 was introduced to the New Hampshire State legislature this session by Senator Richard Russman and several co-sponsors. The bill had two parts originally: it required a 300 foot buffer ("no-spray zone') around bodies of water, springs, wetland areas, and streams to protect water quality during aerial herbicide applications.

Pressure from the paper industry, NH Timberland Owners Association and the Society for the Protection of New Hampshire Forests caused the committee (Senate Environment) to reduce the required buffer from the original 400 feet and removed protection for runoff area—areas of intermittent water flow which feed streams and other water bodies after rainfall. The second section of the bill provided both a mandate and funding for monitoring of water quality after aerial spraying by the NH Department of Environmental Services. Until now, DES representatives have regarded the responsibility to monitor water quality after pesticide use as discretionary.

S68 passed through the Senate Environment Committee and was approved by the full Senate. From there it moved to the House Environment and Agriculture Committee. Continuing industry lobbying convinced this committee to recommend the bill "inexpedient to legislate." However, a motion on the floor of the House is proposed to pass the monitoring portion of the bill alone. This motion has yet to be considered.

Monitoring water quality after aerial spraying is particularly important in light of recent research in Switzerland. A study of rainwater chemistry by Stephan Muller scheduled for publication in the journal *Analytical Chemistry* showed that 41 samples of rainwater contained significantly higher levels of pesticides than are allowed in drinking water in Europe. Evaporation during application of pesticides results in volatilization of molecules of pesticides and their presence in rainfall. Evaporative loss was identified as a serious component of off target movement of pesticides by EPA's Environmental Effects Branch as early as 1994. The problem is compounded during aerial pesticide applications due to widespread drift and shearing of larger droplets into small ones by turbulence.

A recent study published in the *Journal of the American Cancer Society* (March 15, 1999) reveals clear links between the herbicide glyphosate, manufactured by Monsanto Corporation for aerial forestryt applications as the product Accord and for lawn, garden and farm use as Roundup, with non-Hodgkins lymphoma, a form of lymphatic cancer that is particularly difficult to treat. The incidence of non-Hodgkins lymphoma has increased 73% in the United States since 1973.

Meanwhile

Champion International will be spraying 95 acres, it is reported, from skidders this summer in Pittsburg, NH, the headwaters of the Connecticut River. When Vermont's legislature was considering a moratorium on forestry herbicide use, it went beyond Forest Resource Advisory Council recommendations and imposed restrictions on "broadscale ground applica tions" as well. This was in response to testimony that Champion was considering a ground application. At the time, Governor Dean and industry lobbyists cried foul. Time has demonstrated that herbicide opponents were not delusional.

Champion's Northeast forest policy manager Joel Swanton testified to the NH legislature this winter that "Senate Bill 68 is part of a long-term effort by those who oppose pesticide use in New Hampshire and across the Northeast to **stop** their use and undermine the economic viability of private forest land ownership." It is an argument worth confronting that private land ownership depends on pesticides.

Mead, which opened the spraying issue in Vermont in 1995, also plans to spray clearcuts in the Androscoggin headwaters region from helicopters this summer. The acreage will total 450 acres. New Hampshire is now granting these permits to spray which will take place in early August.

The federal Environmental Protection Agency took note of clearcut spraying in its **1999 State of the New England Environment** report. In a short section entitled "Reconsidering the North Woods," the report leads off by mentioning an "essentially healthy" forest impacted by anthropogenic stresses such as climate change and ozone pollution.

It also states, "Use of pesticides, especially herbicides, in forests has been a significant issue for several years in New Hampshire, Vermont and Maine. Major concerns include pesticide drift from target application areas, impacts of the chemicals on public health and the environment, and clear-cutting and other forest management practices that use herbicides to suppress hardwoods and enhance conifer competitiveness."

The EPA report mentions the Vermont moratorium which will "remain in effect until 2003"—an error. A report is due then but the moratorium remains in place until reversed by law.

It also states, "The NH Pesticide Control Board recently revised its rules to provide more notification and greater opportunities for public input . . .Although the Maine Board of Pesticide Control rejected a petition to ban aerial application in 1995, the Board is sensitive to forest herbicide issues and has begun to implement improved notification and oversight measures."—*A.W*

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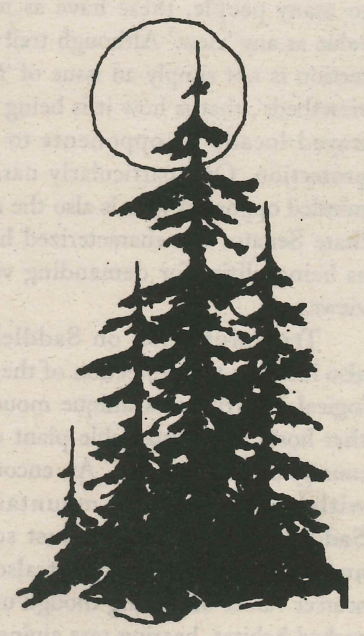
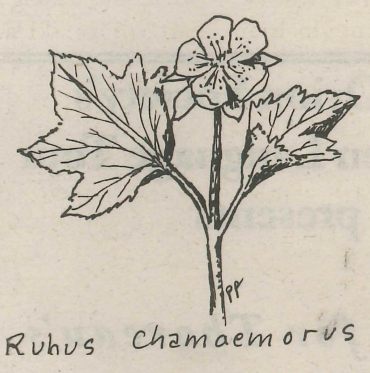


Wildland Voices Needed NOW for Saddleback

By Pamela Prodan

The final days are fast approaching for the controversy over land acquisition to protect the Appalachian Trail (AT) on Saddleback Mountain in Maine. The Environmental Assessment is out and the National Park Service (NPS) says the matter will be decided by December 1999. Now is the time for people to comment to preserve the existing Appalachian Trail experience over Saddleback Mountain and the ecological integrity of the mountain ecosystem itself.



It is extremely important that wildlands advocates speak up now for this irreplaceable mountain ecosystem. The Appalachian Trail Conference (ATC) has been the strongest environmental voice throughout this process, yet has endorsed the option that provides protection for only 893 acres. While this is better than the other two options that allow ski lifts to intrude upon the trail experience, keep in mind that Saddleback Mountain hosts a Critical Natural Area (described below), which is estimated to cover 1,524 acres.

I admire the persistence of the ATC and other members of the trail community in advocating for the AT on Saddleback for over a decade, but the scarcity of other strong voices for wildlands conservation in this process is unfortunate. Most of the discussion locally about what is 'reasonable' and 'unreasonable' for public acquisition is now focussed on the 'views' offered hikers by the various proposals and to what extent they are obstructed by ski development. Less is being said about the integrity of the mountain ecosystem, and the human experience of the mountain environment itself, although to many people, these have as much value as any 'view.' Although trail protection is not simply an issue of 'hiker viewsheds', that is how it is being portrayed locally by opponents to trail protection. One particularly narrow-minded opponent who is also the area's State Senator has characterized hikers as being elitist for demanding virgin views.

Trail protection on Saddleback also includes the protection of the ecological integrity of a unique mountain that hosts an irreplaceable plant community and fragile soils. An encounter with such a majestic mountain as Saddleback includes not just scenic and recreational values, but also the scarcer values of passing though undisturbed habitat, hearing rare alpine bird species and discovering signs of alpine wildlife. However, NPS needs to hear many more voices for protecting more than 'hiker viewsheds', or that is all that will be protected. If NPS adequately carries out this land acquisition, the human experience of the AT on Saddleback will also include other values as well as knowing with certainty that the mountaintop will remain forever wild and protected for future hikers.

A final plea—I sincerely hope that environmentalists will not leave this battle up to the Appalachian Trail community. Whether or not we as individuals and organizations feel a connection to the Appalachian National Scenic Trail is less important now than how we feel about the protection of a unique mountain ecosystem. Whether or not we plan to ever hike Saddleback Mountain, we should care what happens to Saddleback. The experience of the Appalachian Trail on Saddleback is the experience of the mountain itself.

E A Option of Preserving Existing Trail Experience

Over the years of negotiations and study, various alternatives have been developed: by NPS, its consultants, the trail community and the landowner. NPS is inviting comment on five alternatives that are examined in the Environmental Assessment:

1. No build option. Ignores the Congressional mandate to protect the entire trail from Georgia to Maine.

2. Preservation of the existing Appalachian Trail experience. Acquire 2,860 acres, the preferred option of NPS in 1987.

3. Protection of the visual foreground zone. Acquire 893 acres to protect hiker views.

4. Donation interest. Accept easement on 600 acres to allow passage of hikers through the property.

5. Optimal ski area development. Provide ski area with full opportunity to maximize its expansion potential; 784 acres described as protected.

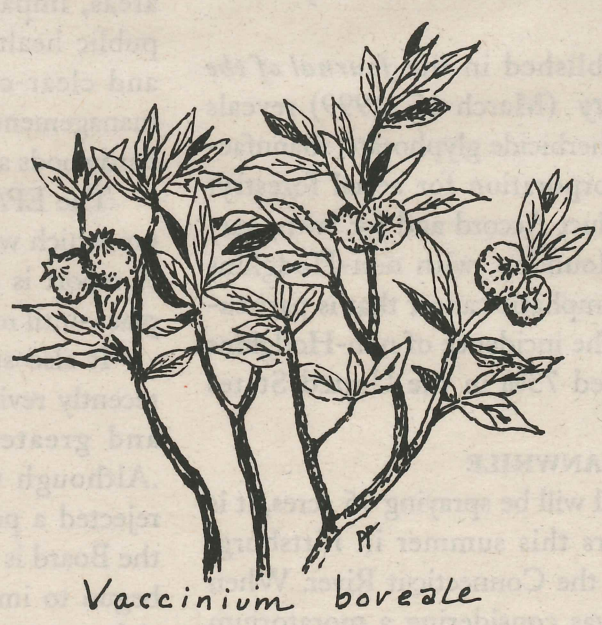
History of Ski Area's Expansion Plans

From their inception in the late 1980s, Saddleback Ski Area's expansion plans have had a dubious legal foothold. Maine's Land Use Regulation Commission (LURC) has stretched Maine laws and regulations and bent over backwards in order to approve Saddleback's rezoning and development permit applications. Absence of required data, missing plans and an unclear record were ignored because LURC presumed that Saddleback could and would ultimately fashion a Final Development Plan that would meet all the legal requirements.

During the LURC rezoning proceeding in 1988, the Maine State Planning Office (SPO) indicated concern about the Saddleback Mountain Arctic-alpine Vascular Vegetation Community, which was placed on the Register of Critical Areas on January 27, 1978. Uncommon species grow over an estimate 1,524 acres on Saddleback. It is the third most diverse of all the Maine mountains. Nineteen of the 34 arctic-alpine plant species occurring in Maine are found on Saddleback. Species include plants on Maine's watch list such as Baked-Apple Berry (Rubus chamaemorus); species of 'special concern' such as Diapensia (Diapensio lapponica); and the Alpine Blueberry (Vaccinium boreale), a candidate for listing as an endangered species in Maine.

The SPO in its testimony expressed concern about further impacts on the alpine tundra vegetation from additional skiing, foot traffic and trail grooming. The SPO felt that a proposal to relocate a portion of the exiting AT would not allow the panoramic views that the current trail provides, and thus wouldn't be the preferred route of most hikers. If the alternative trail is established, the SPO reasoned, the result will be that two trails will be used by hikers, consequently denuding more of the arctic tundra vegetation. The SPO further argued that based on potential impacts from the proposed ski facilities, certain areas of the proposed development did not meet the Commission's criteria for rezoning in that protection of existing resources would not be provided.

Although the Preliminary Development Plan application and zoning petition arguably failed to meet legal requirements, they were, in the words of LURC's order, "guardedly and conditionally approved" on February 16, 1989. The order warned that "meeting these conditions will not only be a heavy burden for the petitioners, but will no doubt result in alterations to the specific elements of their proposal that have raised the concerns highlighted throughout this document." Although of questionable legal basis, LURC's decision was never appealed. Saddleback submitted an application for a first phase of its Final Development Plan over two years later on April 1, 1991. Amendment A to the Preliminary Development Plan and Zoning Petition was also submitted. The purpose of Amendment A was to allow uses and activities that were not proposed in the original plan. LURC staff rejected and then rewrote the amended plan, which was approved by LURC. The expansion has never been built.



Saddleback's Offer

Many not very familiar with the situation have wondered whether it is not possible for the AT to coexist with ski area development. They ask why it has been so hard for NPS and the Saddleback Ski Area to reach an agreement. The simple answer is that this particular landowner is primarily interested in getting a return on his investment and not environmental stewardship. The ski area is on the market. The facilities are deteriorating. The owner's present strategy appears to be to inflate the value of the land, including the land over which the AT passes, by claiming that this area is needed to access valuable ski terrain. If true, this position serves two purposes: first, it raises the resort's value to a prospective buyer (if one can be found) and thus the seller's profit in a sale; and second, it raises the amount that the U.S. government will have to pay (meaning, we, the taxpayers) to acquire the land for the AT corridor. Naturally, the very fact that the owner is trying to sell the ski area means that the owner rebuts with vehemence every assertion by NPS that the mountain is not does not have as much viable ski terrain as the owner claims.

One of the options explored in the Environmental Assessment is a donation interest proposed by Saddleback Ski Area. The ski area's proposed 'donation' amounts to little more than a wish list of future expansion activities. Although titled a "Donation Warranty Deed," a close look at conveyance language indicates that the deed is a conveyance of rights to the United States Government, not land, and the rights are simply passage over the land and maintaining the trail. The land over which the right of passage is granted is called the "Granted Passageway." The ski area would retain an "easement in, across, along, under, and through the entire Granted Passageway," for purposes of using the Granted Passageway for virtually all kinds of recreational activities and associated infrastructure such as building roads, posting trespassing and other signs, piping water for snow making and installing utility lines.

NPS and owners of Saddleback Ski Area have attempted to negotiate a settlement, so far to no avail. The owners continue to fight the acquisition of significant land to protect the AT. Having made no secret of the fact that Saddleback Ski Area is for sale, the owners are now insisting on retaining virtually all rights to develop

the mountain to the maximum extent possible.

NPS does have the power of eminent domain. Saddleback Ski Area maintains that the Park Service is limited to using eminent domain to acquire 125 acres for each of the 3.5 miles of trail over Saddleback. However, courts have held that NPS can acquire more. Many people do not like to think about eminent domain, and some refuse to even discuss it at this point. However, the ongoing posture of owners of the ski area, i.e., that they have the right to develop the ski area without regard for the integrity of the AT, makes a settlement unlikely and the use of eminent domain probable. If eminent domain is used, NPS could acquire whatever land is needed to protect the present AT experience. This would also protect the alpine tundra vegetation, aesthetics and tranquility of the mountain. If that means acquiring upwards of 2,000 acres, so be it.

Without question, the ski area's owners fully intend that ski facilities be developed to the maximum at some point in the future, or at least is marketing that potential. Since the owners (present or future) may try to develop the entire mountain, *it is essential to act now* to protect all of the mountain that needs protection, and not assume that LURC or the Maine Department of Environmental Protection will keep Saddleback's fragile areas from being developed. LURC's present Comprehensive Land Use Plan gives less attention to mountain areas than its previous plan (see my article Mountainous Challenge Faces Maine: Veneration or Neglect? Forum, Vol 4, No. 3, Mid Winter, 1996, pg.16). The fact that LURC rezoned three townships of mountain ridgelines for Kenetech Windpower in 1995 illustrates the low regard that LURC can have for Maine mountains.

Development On and Across the Ridge

When Thompson Appraisal Company prepared an appraisal of the Saddleback Ski Area for NPS in 1998, it hired SNO.engineering (SNO.e), a resort planning company, to develop a master plan for the ski area with full opportunity to maximize its expansion potential. This is another option described in the Environmental Assessment. According to the appraiser, SNO.e's master plan avoided the Saddleback Mountain ridgeline due to its wind exposure. High winds across the ridge result in insufficient snow cover over the bare ground and, more importantly, ski lifts in areas of high winds frequently must be shut down. Some areas have shortened their lift systems to eliminate areas of high wind velocity that have resulted in entire lift shutdowns (e.g., Waterville Valley). The appraisal states:

The inability to install lifts on the ridge line of Saddleback Mountain does not impact the potential for the ski area expansion since this terrain is unsuitable for ski area development due to high winds, exposure, and lack of sufficient snow cover. The terrain on the south side of the mountain is not part of the planned expansion area due to its remoteness from the existing infrastructure, south facing slopes, and difficulty access due to the inability to install lifts to the top of the ridge.

The appraiser's judgement about Saddleback's high winds and the unsuitability of the ridge for ski area facilities is consistent with U.S. Department of Energy estimates of annual average wind power for the area. That data indicates that Saddleback Mountain sits in one of only three inland Maine areas with extremely high wind power on mountain ridge crests. Another area surrounds Mount Katahdin.

It is important to understand that the power of the wind increases eightfold when the speed of the wind doubles. The term used for describing how energetic the winds are during a period of time is 'power density.' Wind power developers attempt to measure power density at a site because it has a indirect impact on the economic feasibility of a wind power generation project. However, high power density also translates into the need for stronger and more costly towers and other infrastructure that must be engineered to endure the load thrust of high winds without buckling. In addition, as experienced hikers know, there simply will be times when it is dangerous for people to be on the mountain due to the wind and associated factors like wind chill and lack of visibility from blowing snow. Some of these occurrences will be impossible to predict. Thus, in the case of Saddleback, development of the ridgeline for skiing leaves open the possibility that skiers will become trapped on the mountain in life-threatening situations, even if the ski area could afford to build the necessary infrastructure.

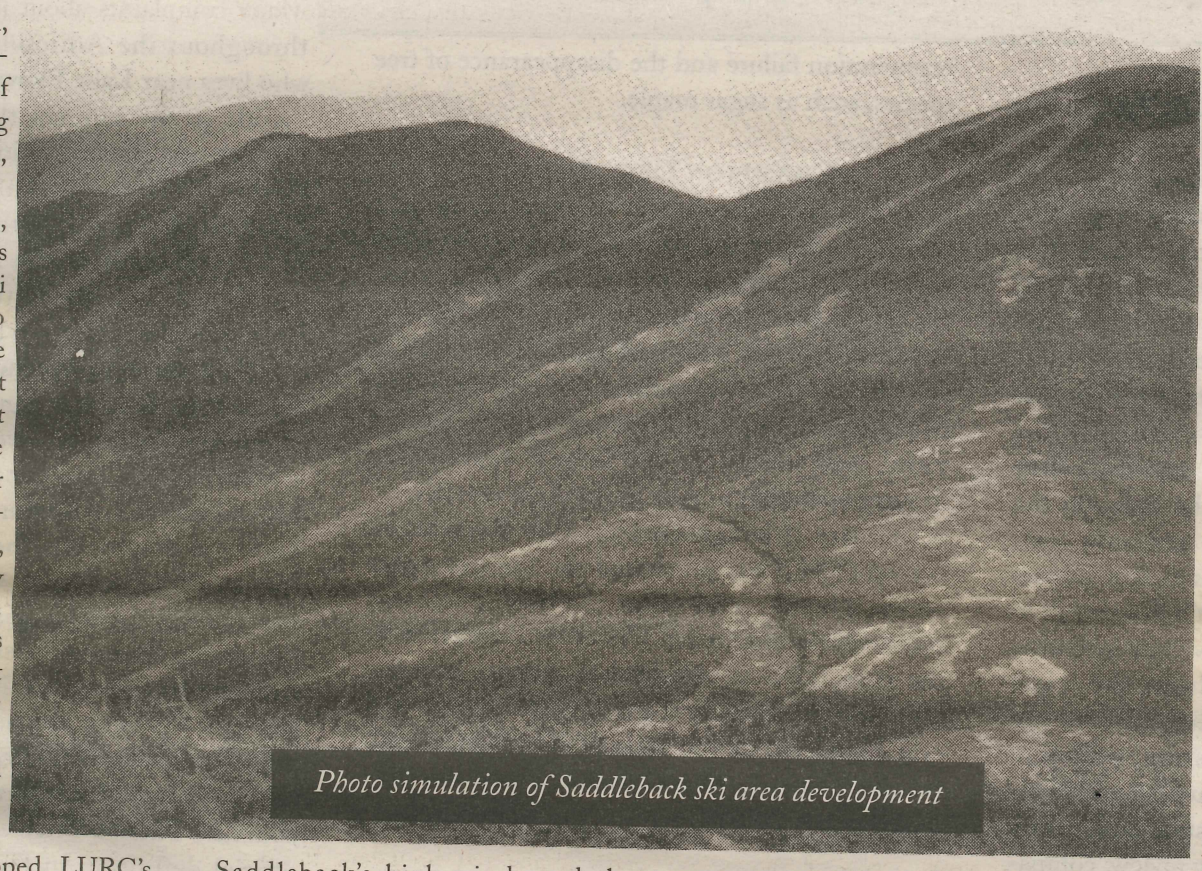


Photo simulation of Saddleback ski area development

The So-Called Protective Covenants

The proposed donation deed is not a conveyance in fee, but a release deed and a contract allowing NPS a right of passage on the mountain. In the document, Saddleback Ski Area has retained as allowed uses activities that LURC has already expressly disallowed. A list of restrictions and protective covenants on the ski area's activities in the granted passageway includes:

No lifts or buildings above tree line (these are already disallowed by LURC, as well as have ski trails);

No lifts to cross the AT footpath (LURC already requires the ski area to examine a wide range of suitable alternative locations for the ski area's proposed lifts and ski trails in order to avoid visual intrusion on the AT);

No restaurants or commercial concessions. (The fact that the ski area considers this restriction to be a protective covenant show how little is actually being conveyed in the proposed 'donation;'

No commercial non-ski season operation of ski lifts for non-hiking or non-sightseeing activities, such as for mountain biking or alpine slides. (LURC already restricts the general public use of proposed ski lift facilities to times of snow cover, and for ski related purposes only; and

No motorized vehicles to cross from May 15 to October 1, except within a 200' wide Right of Way the ski area would retain and except for ski area construction, operation or maintenance activities or for emergencies.

Other protective covenants are intended to benefit the ski area rather than the AT and are actually reserved rights. These would allow the ski area to install up to five lifts and other facilities in the Granted Passageway, operate one lift in the summer and relocate the trail within the Granted Passageway so that none of the lift terminals would be visible from the AT. Presumably, this would move the AT off the ridgeline.

In justification of the development rights reserved to Saddleback Ski Area, the deed contains references to conditions at other ski areas along the Appalachian Trail where ski area development intrudes upon the trail.

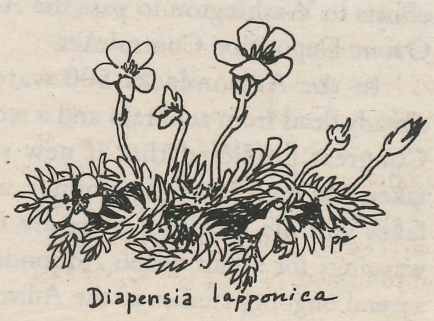
For example, the deed states, "Unlike BROMLEY (Vt.) and WILDCAT (N.H.) SKI MOUNTAINS, to the extent reasonable feasible, ski facilities, structures and buildings [within the Granted Passageway] shall be located in such a way as to minimize their visibility from the Appalachian Trail." Of course, Saddleback ignores that the circumstances of the AT at those ski areas are different—they are located in a National Forest multiple use area. The Saddleback deed then goes on to state "when not reasonably feasible, it is acknowledged by both parties that they [the structures, etc.] may be visible therefrom." More light is shed on what is meant by 'reasonably feasible' in the third sentence: "In case of conflict, it is expressly acknowledged by both parties that skiing facilities (such as trails, lifts, buildings, etc.) shall take precedent over hiker views and the GRANTOR need not have to incur extra cost for hiker viewsheds." In other words, the ski area agrees to minimize the visibility of its facilities, structures and buildings, located on the very land it purports to convey for the AT, but only if it can be done cost-free. Is it any wonder why this is a donation? In terms of protection for the AT, it is practically valueless.

Public Hearings

The Park Service will accept written comments on the Environmental Assessment and plans to hold open houses in Rangeley on Wednesday, August 4 and in Portland on Thursday, August 5. To receive a copy of the environmental assessment, contact:

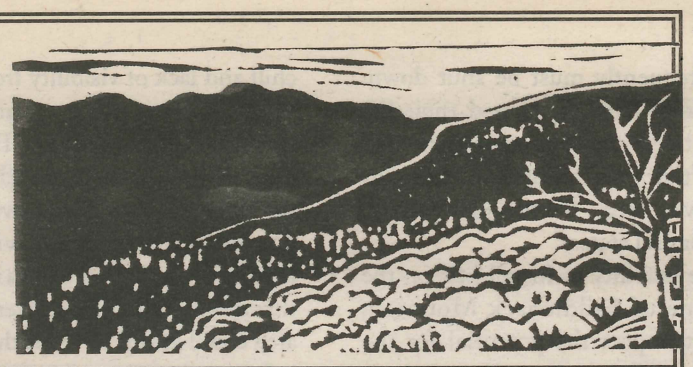
Pamela Underhill, Manager
Appalachian National Scenic Trail
National Park Service
Harpers Ferry Center
Harpers Ferry, WV 25425

You can view the Environmental Assessment at www.nps.gov/aptr/>.



ADIRONDACK PARK REPORT

by Peter Bauer



The Adirondack Park is a model for people living amidst wild areas in a way that's usually mutually beneficial to both. At six-million acres in size—bigger than the State of Vermont—the Adirondack Park contains a checkerboard of publicly owned Forest Preserve lands (2.5 million acres), which is managed as wilderness, and 3.5 million acres of private lands, 2.5 million of which is commercially managed forests. The Forest Preserve is protected as lands "to be forever kept as wild forest" in the state constitution.

This is the tightest wilderness protection in the U.S.; no timber harvesting, strictly limited use of motor vehicles. Created in 1885, lands in the Forest Preserve represent 85 percent of the total wilderness lands in the eleven Northeast states. 130,000 people make their homes and livelihoods in the Adirondacks spread throughout better than 100 communities.

All land uses in the Adirondack Park are managed jointly by the State of New York through various agencies and departments and local governments. While there are many complaints all around, the Adirondack Park works extremely well and is not only a place where people and wilderness systems coexist, but represents a successful model for large-scale landscape protection. Each issue the "Adirondack Park Report" details the most pressing recent issues facing the Adirondack Park.

State Senate Passes Acid Rain Legislation

The NYS Senate unanimously passed legislation that would prohibit New York utilities from selling excess pollution credits to states upwind of the Adirondacks. Under the 1990 Clean Air Act, which created the landmark 'cap and trade' program to regulate sulfur dioxide emissions, companies were assigned emission standards by the Environmental Protection Agency (EPA). If a company emitted less than its standard, they could sell pollution credits, by the tons, on the open market. These credits are generally purchased by either investors or utilities that surpass their allocated standards. The NYS Senate bill in essence prohibits the sale of New York pollution credits to companies in the Midwest, the origin for the majority of acid rain that falls on the Adirondacks. Under the legislation, pollution credits will be tracked by serial number and companies must register sales with state authorities. Or, to be exempt from regulatory review, companies can voluntarily create 'restrictive covenants' on their sales of pollution credits banning, by legal contract, sales of their credits to upwind states.

This bill is important because it puts the NYS Senate, controlled by its Republican majority, on record in the fight against acid rain. Further, this bill shows that the states are moving to modify the workings of the federal Clean Air Act. The NYS Senate bill is scheduled to take effect in three years, a time period that would allow federal action to retool the Clean Air Act to eliminate acid rain.

The NYS Assembly passed a similar, but different bill earlier this year. The Assembly must now either pass the Senate bill or reconcile the two bills in conference committee with the Senate. Governor Pataki has indicated his support to sign such a bill into law.Getting New York back into the acid rain fight is vital to efforts in Washington to pass the Acid Rain and Ozone Deposition Control Act.

In the Adirondacks 500 waterbodies are already dead from acid rain and a recent report to Congress predicted that if new steps are not taken and present trends continue, another 1,000 lakes will die. Further, there are now mercury warnings for a half dozen Adirondack lakes and several ongoing studies in the Adirondacks point to acid rain as an important factor in forest regeneration failure and the disappearance of tree species, such as sugar maple.

Champion Deal Sealed

It's official. The State of New York and Champion International closed on June 30, 1999 a deal for the state purchase of 29,000 acres for the Forest Preserve and 110,000 acres in conservation easements. This deal protects 70 miles of wild rivers, extensive wetland and bog areas, like Madawaska Bog and Quebec Brook, Tooley Pond, and ushers in the largest sustainable forestry operation to date in the Adirondacks.

Under this agreement, The Forestland Group (TFG) has purchased the forestry rights on the 110,000 acres where the State purchased conservation easements. Under its contract with the state, TFG is obligated to practice sustainable forestry. This transaction is the largest deal ever completed by the State of New York. In his first five years in office Governor Pataki has protected nearly 200,000 acres in the Adirondacks.

Groups Bring Suit Against over the Forest Preserve

Five environmental organizations, have brought suit against the NYS Department of Environmental Conservation (DEC) for violating the State constitutional protections for the Adirondack Forest Preserve. Under the State Constitution, Forest Preserve lands are to be 'forever managed as wild forest lands' never to be harvested, leased, sold or destroyed. Under state management motor vehicle use has been tightly regulated.

Last year a group of disabled individuals closely associated with advocates, such as Adirondackers for Access, demanding greater access to the trails and roads of the Forest Preserve for motor vehicle use, brought suit against the State alleging violations of their civil rights due to policies that limit motor vehicles in the Forest Preserve. These advocates are steadfast in their calls for expanded use of motor vehicles, especially all terrain vehicles (ATVs), which they characterize as 'wheelchairs' in the woods. Seeking relief under the Americans with Disabilities Act (ADA), these advocates have submitted extensive information demands on the DEC concerning issuance of special permits for motor vehicle use on the Forest Preserve.

A number of New York environmental organizations intervened in this suit, Galusha v. DEC, and after extensive review of information generated through Discovery in this case, have brought a counter-suit against the DEC for mismanagement of the Forest Preserve and rampant violations of the State Constitution. A the root of the matter is the DEC's issuance of Temporary Revocable Permits (TRPs), which the DEC issues for any temporary non-conformance with state law on the Forest Preserve. Things such as motor vehicles for road or trail maintenance or fish stocking or wildlife management and permits to facilitate research. Unfortunately, these permits have been issued freely and without a coherent policy. Motor vehicle use has increased precipitously as has the number of permits. DEC hardly ever says 'No.' As opposed to denying motor vehicle use, as charged by the motor vehicle advocates, DEC has been allowing far too much motor vehicle use. This suit is now pending in federal court.

Jetski Regulations

Many complaints about jetskis have been made throughout the Adirondacks. A local resident who lives near Lake Flower in Saranac Lake says his life in the summer there is like living in a hornet's nest due to the incessant buzzzzzzzzz of jetskis. From Long Lake to Piseco Lake to Cranberry Lake to Fourth Lake to Lake George to lakes throughout the Adirondack Park (and across New York State!) the cry is the same: Isn't there something that can be done about jetskis?

Unfortunately, not much can be done. There are no state laws that regulate jetskis in a meaningful way. And local governments don't have the authority to regulate and limit them. Municipalities are creatures of the State of New York and despite the "home rule" provision of Article IX of the State Constitution have only such powers as the Legislature has given them. Regulating the use of jetskis would necessitate an amendment of the state Navigation Law, though this law has been amended numerous times to provide enhanced authority for water craft regulation on specific waterbodies or for specific counties. Though often referred to as jetskis, the official definition in the Navigation Law calls them personal watercraft (PWC)—in this article we'll stick with the term jetski.

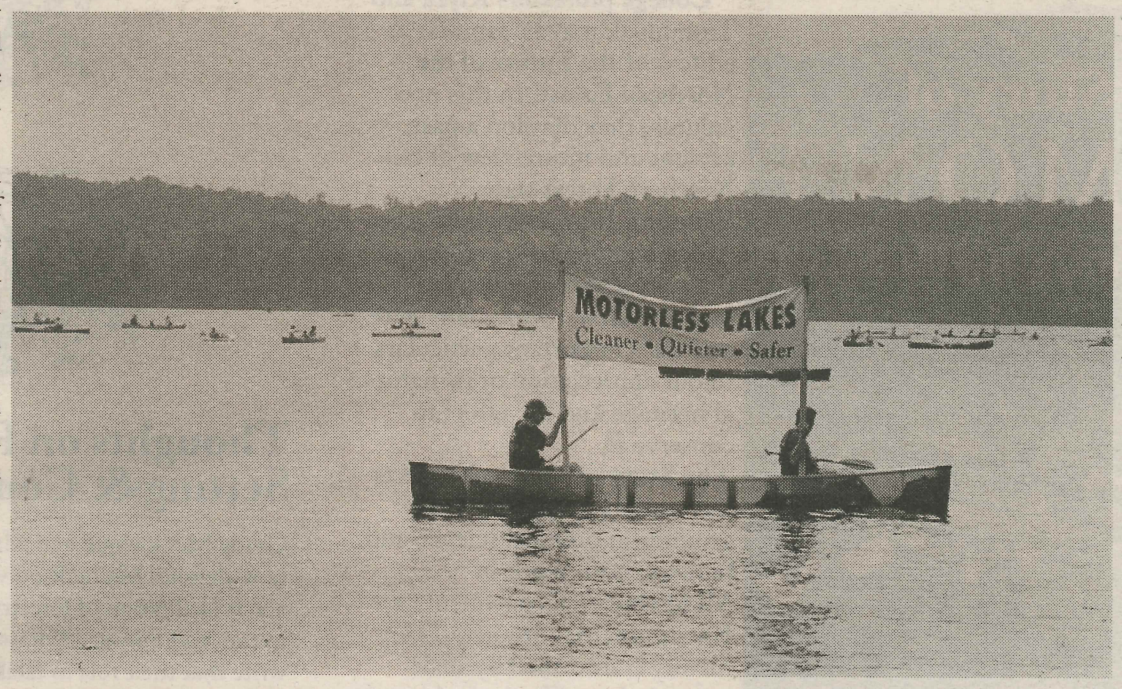
The Navigation Law was amended in 1990 to defines a jetski as ". . .a vessel which uses an inboard motor powering a water jet pump as it primary source of motive power and which is designed to be operated by a person sitting, standing, or kneeling on, or being towed behind a vessel rather than in the conventional manner of sitting or standing inside the vessel." Under this same law a "specialty prop-craft" is ". . .a vessel which is powered by an outboard motor or a propeller driven motor and which is designed to be operated. . ." (completed with language exactly like jetski language above).

The intent of the Navigation Law here was to differentiate jetskis from other types of motorized watercraft. For instance, jetskis are the only motorized watercraft prohibited from operating from sunset to sunrise and also from operating within 500 feet of a "designated bathing area" except where "the opposing shore is 500 feet from the designated area and in accordance with speed regulations and restrictions as provided by local law or ordinance but in no event at a speed in excess of ten miles per hour." Also, there are a series of operating standards for jetskis. Short of these references in the Navigation Law, there's no specific authority granted to any governing body—state, county, town, village—to regulate jetskis.

What are the problems with jetskis? They're dangerous. They disturb nesting water fowl. They pollute

much more than 4-stroke motorboat engines. Because they can travel in shallow waters they venture into areas they should not go, such as into rivers and marshes. They're noisy. They're disruptive.

Let's look at danger. The San Francisco Chronicle reported on December 30, 1997 that 45 percent of all boating accidents in California, and 55 percent of all injuries in boating accidents in 1996 were caused by jetskis. Further, in 1996 57 people died in jetski accidents nationwide. While just 9 per cent of all motorboats in the U.S., jetskis account for 36 percent of all accidents. From 1990 to 1995, the Journal of the American Medical Association reported that jetski related injuries jumped from 2,860 to 12,288. In New York, where jetskis comprise just 8 percent of all boats, they are involved in fully 30 percent of all accidents. When talking about jetskis it's important to note a few things.



They are, as writer Ted Williams described in a recent article "thrillcraft." They're not made simply for water travel. They're not made to transport people or goods or to use for fishing. They're made to ride. To perform. To go fast, to make waves, to jump wakes, to get air, for kicks. They're made to be seen. And they're made to be heard. Jetskis alienate and disrupt water fowl. After 20 years of research on Barnegat Island, New Jersey, researcher Joanna Burger of Rutgers University, found that jetskis, more than any other kind of motorboat, have had a greater disruptive impact on nesting terns. She recommends that the greatest positive impact would be for jetskis to be operated at least 100 meters from any nesting water fowl. This is the first published conclusive study of its kind Condor (Vol. 100, p. 528). In the Adirondacks, there are many anecdotes of loon nesting areas abandoned as jetskis became more prevalent on a given lake. Some have even reported failing to return to long established nests because of the increased traffic. Further, because of their disruptive nature, the Florida Game and Freshwater Fish Commission has determined that jetskis must operate fully 25 to 50 percent farther from nesting areas than outboard motorboats.

Jetskis pollute. Jetskis dump fully one-third of their oil and gas directly into the water. New models of jetskis to be released in 1999 have made improvements, but are still bad. An average 2-stroke outboard motor pollutes 250 times more than an average car, horsepower for horsepower. The U.S. EPA estimates that one hour of operation of a 70-horsepower 2-stroke engine emits the same amount of hydrocarbon pollution as driving 5,000 miles in a modern automobile. It should be noted that conventional 4-stroke engines emit 97 percent less pollution than 2-stroke engines.

Let's look at noise. Measured purely by decibels jetskis are no louder than conventional motorboats. It's the operation that changes the pitch and whine. They go back and forth all day long. They gun-the-engine, jump, stop, start, drive in circles, jump, sprint, crash, gun-the-engine, jump again. Part of the noise problem with jetskis is that they're out of the water so much their noise isn't muffled like other motorboats. And jetskis are big and getting bigger. These high-powered motorcycles for the water are big machines. A SeaDoo GTX jetski has a 110 horse-powered engine. It can surpass 60 mph and pull a waterskier. Other models are in the works for 125 horsepower.

Jetskis are disruptive. Many see the problem with jetskis as akin to that of secondhand smoke. "I don't want to breathe the smoke from your cigarette. I shouldn't have to listen to your jetski." One person's fun jumping wakes messes up the day for many others. People are adversely affected by jetskis when sitting lakeside on a dock, at the beach, fishing, in their canoes, in their homes, when renting a shoreline cabin or room.

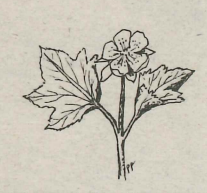
Anglers complain that one jetski can ruin a day's fishing. Birdwatchers complain that one jetski will drive away all shoreline birds for hours. Shoreline property owners complain that jetskis drive them inside; some even leave their camps on weekends! Resort operators express fear that the big summer attraction in the Adirondacks—namely clean, quiet lakes—is being jeopardized as jetski use continues unregulated.

Jetskis go where they shouldn't go. They travel in shallow areas and rivers. Jetskis buzzing up and down the Raquette, Marion, Schroon, and Saranac Rivers, among other rivers, strikes many as much more disruptive than the slow moving motorboats carrying fishermen. Jetskis have also been reported buzzing on the Hudson River north of Hadley. Big wakes on rivers caused by jetskis are disruptive to wildlife and a menace to canoeists.

Nationwide, various actions have taken place. Jetskis have been banned from areas around the San Juan Islands in Washington. On the Florida Keys jetskis are prohibited from operating within 1,200 feet of 12 public beaches and the U.S. Fish and Wildlife Service has banned jetskis from 690 miles of Key West and Great White Heron Wildlife Refuges. Jetskis have been banned in national parks including Everglades, Yellowstone, Glacier, Canyonlands and Dry Tortugas. In Vermont, beginning on May 1, 1997, jetskis were banned from all "lakes, ponds, and reservoirs" that have "a surface area of less than 300 acres." In Maine, Governor Angus King signed legislation that banned jetskis from 245 lakes there. Other places have placed limitations on the use of jetskis by setting times and schedules for operation.

Jetskis now sell over 175,000 machines a year compared with sales of 29,000 annually after they were first launched by Kawasaki in 1987. While it seems that jetskis are here to stay, sales have dropped off in the last two years. Perhaps anger about their use is driving down sales.

In New York this year a bill was introduced in the state Legislature to provide authority to towns, villages, and cities to fully regulate, including authority to prohibit, jetskis in waters under its jurisdiction. This bill was introduced in both houses of the Legislature by Senator Carl Marcellino and Assembly Representative Thomas DiNapoli.



Reading the Forested Landscape

A Natural History of New England

By Tom Wessels

Countryman Press

Etchings by Brian D. Cohen

Tom Wessels has written an excellent book which is at once a summary of the social history of central New England, a handbook for ecologists, and a guide for detectives.

Starting with the arrival of European settlers almost 400 years ago, the book traces the history of forest events from human as well as natural causes. When the colonists first arrived, the native tribal practice was to burn the forest annually. While this may seem strange by modern standards—indeed seemed strange to the colonists at the time—it accomplished what was needed at the time. Undergrowth was kept to a minimum, the forest was like a giant park, and berry bushes were allowed to regenerate annually. Because the large trees grew to giant size, they were practically immune to the ravages of fire, which could destroy smaller trees. Why did this practice die out? The native tribes themselves died out, and very quickly, too. Almost 95% of the native peoples who were living in southern New England when the colonists arrived were killed by a common disease—chicken pox—for which they had no immunity.

The early colonists cut the forests that they found in order to clear land for homesteads. They also cut and returned to England the tall timbers—white pine—for use in shipbuilding. The ships which carried the timbers to Europe sometimes returned with disease organisms among which were to eventually be those causing elm and chestnut die-offs.

Since colonial times and before, the forests of New England have suffered from floods, hurricanes, droughts and fires. The book explains how to tell, after the fact, what phenomenon might have occurred in a particular woodlot, using such clues as the direction and character of tree fall, deciphered from ancient stumps and rotted wood.

Early settlers cleared the forests for farming which became especially intense in Vermont during the sheep years, from about 1810 until just before the Civil War. About 80% of the forests were cut off, and the landscape looked far more pastoral than it does today. Wessels explains how one can determine the type of farming that might have occurred in the 19th century by "reading" the stone walls which run through what is now woods. Large rocks in the wall indicate that land was being cleared for pasture, or perhaps hayfields. Stone fences four feet high or more were likely for sheep pasture. Smaller stones in the wall indicate the land was once actively cultivated and crops planted.

The etchings by Brian D. Cohen add a great deal to the enjoyment of Wessels book. Not only do they illustrate the author's points, they do it in a manner which takes the reader back to the time of the early forests.

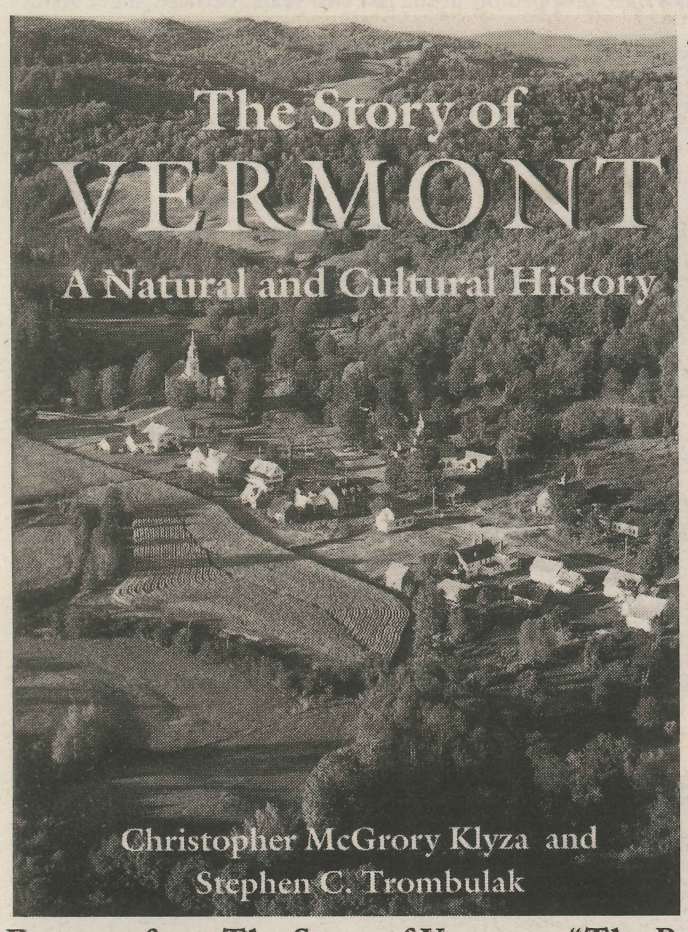
After reading the book. one cannot help but look at the forested landscape from a new perspective. One sees not only what is there at the moment, but the unseen events that have shaped the land over centuries. The stone walls especially bring to mind the men and women who worked the farms of New England. Even though the walls now separate stands of tall trees, they remind us of the backbreaking work of earlier generations. This work was meant to last and the walls are silent testimony that it usually does endure.

Reviewed by Judith Howland, Concord, Vermont, whose ancestors farmed in Hartland, Vt, in the Connecticut Valley.

The Story of Vermont

by Christopher McGrory Klyza and Stephen C. Trombulak

Middlebury College Press, 1999



A new book about the natural and social history of Vermont is now on the shelves of your local independent bookstore. Middlebury College professors Klyza and Trombulak may be familiar as editors of the **Future of the Northern Forest.** In this new volume, they develop a past, present and future view of one Northern Forest state, Vermont. It provides both a statistically informed overview of the sweep of human society over the Green Mountain state and adds important particulars to our appreciation of its natural heritage and the effort to conserve it.

The Story of Vermont reflects the authors' respective backgrounds in political science and biology; both teach in Middlebury's Department of Environmental Studies. Their history is informed by their appreciation of both the historic and natural forces that have and will continue to shape the course of humanity's occupancy in one small corner of North America.

Excerpts from The Story of Vermont: "The Return of the Forest"

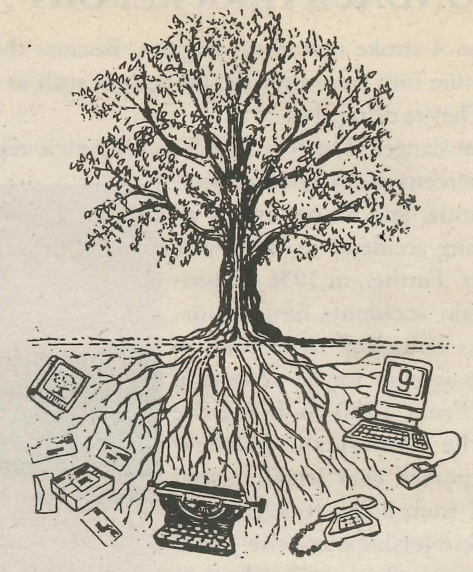
During the last two decades of the nineteenth century and the first decade of the twentieth, the foundations of Vermont forest policy were laid down. The legislature appointed a committee in 1882 to study the forest situation in the state; ten years later, a forestry commission was established. In 1894, Governor Urban Woodbury included management of the forests as a topic in one of his messages to the legislature: "Owners of timber lands in our state are pursuing a ruinous policy in the method used in harvesting timber . . . The value of our water powers and the attractiveness of our scenery and the preservation of our fish and game also call for reform." [The book then traces the development of state forestry initiatives, including 1915's town forest law, which enabled town acquisition of forestland, the establishment of a state forest service and the Depression era Civilian Conservation Corps as well as the two federal acts which would culminate in the Green Mountain National Forest].

"Many towns took advantage of the 1915 town forest law in order to generate revenue and jobs for the town, to reclaim land, to stimulate wood-products firms in the area, to protect water supplies, to provide recreation, or to serve as a memorial to war veterans or deceased family members . . .[B]y 1930, there were forty-two town forests encompassing almost nine thousand acres. A surge of new town forests occurred after 1945 when the original law was amended to require the state to reimburse the town for half the purchase price of town forestland. Further beneficial legislation was passed in 1951, requiring towns without a forest to include articles proposing them at town meeting. The state Department of Forest and Parks sought to establish a forest in every town. Following these changes, the number of town forests increased quickly. In 1950, sixty-eight towns had forests totaling over 16,000 acres."

"The final component of town forests was the preservation-oriented forest parks. As preservation was arising on the national scene in the late 1800s and early 1900s, so too was it becoming important in New England and Vermont. Never part of an organized campaign, these forest parks were typically donated to a town, as Hubbard Park was in Montpelier or Battell Woods in Middlebury.

"The state forest system was established in 1909 with the aims of stimulating private forestry by example, of protecting water sources, and of raising quality timber. The state purchased 450 acres for the first forest in Plainfield. During the 1910s, twelve more state forests totaling nearly 30,000 acres were established, including one by donation that encompassed the summit of Camel's Hump. By 1950, twenty-four such state forests existed, though the state Forest Service envisioned a system of 300,000 acres and a town forest in every town that had suitable land. The state park system (technically referred to as forest parks) was chartered legislatively in 1929, five years after the first such park was donated at Mount Philo. Twenty forest parks were established by 1950."

"Efforts to establish a national forest in Vermont began in 1905, when Marshall Hapgood offered to sell the federal government a large tract of land in the Green Mountains. A few years later, Joseph Battell explored donating some of his land for a similar purpose. In 1911, the Weeks Act was passed, which permitted the federal government to buy forestland to protect navigable waters. This law allowed for the creation of national forests in the east. Through the 1910s, plans for a national forest in Vermont were put on hold as the national Forest Service worked on establishing the White Mountain National Forest in New Hampshire and the Allegheny National Forest in Pennsylvania. A 1920 Forest Service study identified two areas in Vermont as meeting the Weeks Act requirements for potential national forest designation: the Nulhegan or northern unit in the Northeastern Highlands, totaling 240,000 acres, and the southern unit in Windham and Bennington Counties, totaling 100,000 acres. . ."



Thoughts on Facilitation, Agenda Setting & Consensus

Grady McGonagill and Maggie Herzig, the lead facilitators of the now-defunct Maine Biodiversity Project raised a troubling point about facilitation of forestry issues in their response to Mitch Lansky in the Mid Spring 1999 issue of **The Northern Forest Forum.** They write that their role as facilitators is to make recommendations about process, and that it is inappropriate for them to 'make and impose judgements.' That is the role of an arbitrator. By staying out of content, the facilitators hope to preserve their neutrality—and credibility—with all participants. In this way, they hope, they can serve as tools for consensus building.

This sounds reasonable, and I believe Grady, Maggie, and their cohorts were sincere in their desire to facilitate positive developments in the long-running debate over biodiversity protection issues. Why then, did this approach yield such meager results?

Facilitators involved in a contentious , complex conflict need to understand the issues involved and the history of the conflict if they are going to be effective in sorting out good faith and bad fgaith behavior, and charges by different sides of bad faith against other participants. Unfortunately, few, if any, of the facilitators had any real understanding of: biological diversity, ecosystem integrity, silviculture, the science of conservation biology, the history of land ownership in Maine, the history of the conflict over clearcutting and pesticide spraying, and the economics of indutrial forestry and its impact on rural communities and biodiversity. Without a solid understandinmg of these issues how can someone judge if a participant is spoutiong nonsense, or raising valid, but controversial issues?

Industry certainly felt that people like me were operating in bad faith because I kept trying to get the Maine Forest Biodiversity Project to discuss strategies for protecting the ecological integrity of Maine, instead of a reserve system composed of a few small, scattered rpresentative examples of natural communities. They felt I was operating in bad faith when I said we must consider restoration of extirpated native carnivores such as wolves, cougars and wolverines. They certainly felt I was behaving outrageously when I suggested that relying on the remnants of the industrial forest as a landscape matrix to protect most of northern Maine's biodiversity was a sciemtifically indefensible strategy.

But, what of some of the arguments of industry? Some representatives of large landowners complained they could't understand conservation biology or the concepot of biodiversity. Even after four years, they still acted confused. Did they make a good faith effort to understand the issue, or were they content to obstruct the project for four years with their foot-dragging?

Representatives of the large landowners were allowed to control the Project's agenda from the outset (otherwise they wouldn't have participated). Early in the process, the group allegedly reached 'consensus' that it would attempt to develop a reserve system in Maine that protected "representative" elements of Maine's biodiversity. Representation is, of course, an essential ingredient in protecting biodiversity, but it can be a fatally flawed strategy.

To protect the species, communities, and natural processes native to Maine requires that we devise strategies to protect ecosystem integrity, not just representative examples in small reserves. Small reserves are vulnerable to extinctions, invasions and large-scale disturbances. The only way to protect reserves against such pressures is to design large reserves that are buffered and connected to one another.

By exercising veto power over the agenda of the Maine Forest Biodiversity Project to exclude discussion of ecological integrity as a strategy to protect Maine's biodiversity, the representatives of the large landowners undermined the democratic process. They assured that all participants were not equal. They acted in bad faith.

TPL Responds to Flagstaff Criticism

Dear Editor:

A recent letter to your newspaper raised objections to Governor King's proposal to protect 14 miles on Flagstaff Lake, as part of a larger project to protect 65 miles of shorefront along Moosehead Lake, Flagstaff Lake, and the Kennebec River. It is important to ask questions when public dollars are invested, and I am writing to address these issues.

The State of Maine and Plum Creek used an independent professional land appraiser to determine the value of Plum Creek's holdings along Flagstaff Lake. Although Flagstaff Lake's shoreline is subject to restrictions, under current LURC regulations, substantial development on Plum Creek's shorefront holdings is possible. The absence of public roads is not an obstacle to development, since there are suitable private roads on the property. House lots on Flagstaff Lake are an attractive commodity, and in recent years, lots between 4 and 9 acres have sold for $33,000-$45,000 each. Flagstaff Lake is an outstanding natural resource that the State of Maine has already invested in protecting. LURC's 1987 Maine Wildlands Lake Assessment classifies Flagstaff Lake as a 'gem lake' because of its exceptional wildlife resources, scenic beauty, fisheries, and proximity to the State's Bigelow Preserve.

The Trust for Public Land is working with the State of Maine and Plum Creek to help complete this important project. The Trust is a public charity that has worked for 27 years in 45 states to protect land for people to enjoy as parks and open space.

In 1998, Consumers Digest magazine gave the Trust for Public Land an A+ rating in the article "Which Charities are the Most Charitable?" The Trust has also been highlighted by Forbes magazine and the Chronicle of Philanthropy as one of the most efficient and effective charities in the country. Our work to help the State of Maine protect Plum Creek's land is supported entirely by private charitable donations. Governor King and other committed Maine citizens have worked for years to protect Moosehead Lake, Flagstaff Lake, and the Kennebec River. The Trust for Public Land is privileged to be part of the effort.

Sincerely,
Whitney HatchNew England Regional Director
The Trust for Public Land

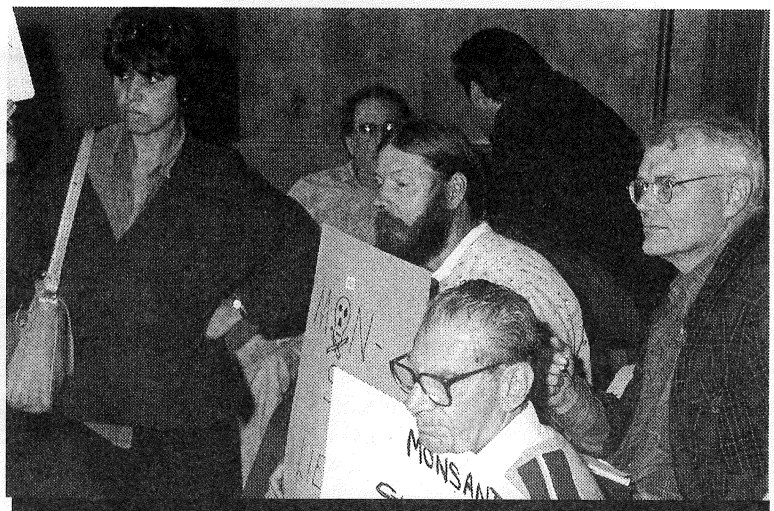
Two Passages

David Briars of Craftsbury, Vermont died this last March. David supplied valuable technical and moral support during the struggle to keep Champion International and Monsanto from spraying clearcuts in Vermont. He was engaged in numerous other populist efforts during a life notable for its simplicity as well as diversity of interests. His many friends shared stories of his life at a ceremony shortly after he died; all knew different aspects of a fun, funny, loving and inventive man.

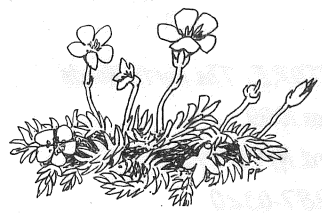
David Briars had the gift above all of a passionate conviction in the virtues and requirements of democracy. As a tech-head, he saw and utilized the capacities of computers and the Internet. Among his creations was the McLibel Newsletter, a key piece of that battle against corporate abuse of power. What fired up David Briars, more than corporate arrogance, however, was a belief that is uniquely American; a 19th century belief in the dignity of people and self-governance. His anarchism was tempered by service to knowledge: he knew we have a duty to higher truth, the truth in Nature, and fellow beings. The people who knew David are thankful for a life that gave shape to this belief.

On the morning of July 5, a powerful thunderstorm swept out of Quebec and crossed northern Vermont and New Hampshire. This storm which was born in the upper Midwest took the life of 32 year old George Miller who was on a weekend vacation from New York City where he worked as a teacher and had an extensive network of friends.

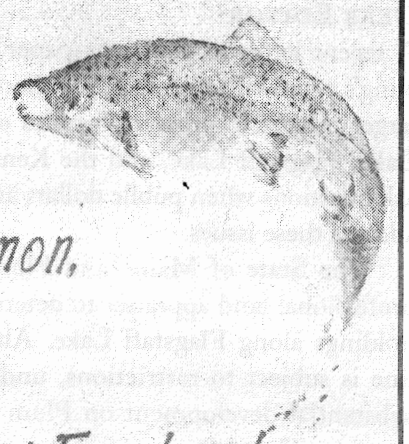
Some people die in the manner in which they lived and thus it seemed to several of George's friends who valiantly attempted to rescue him during the height of intense wind, rain and lightning. As a native Iowan farmboy, George knew the force of Nature, yet his enthusiasm for the elements had led him to pitch a tent on a raft where he could sleep in proximity to the water. The sudden and ferocious storm which struck about 3 AM swept his tent into the water where he drowned. I had met George Miller one night previously when he had prepared dinner for ten friends and led us in spontaneous grace and conversation. He left the impression of a person whose life here at this time could only be extinguished by a storm of such magnitude.—A.W.

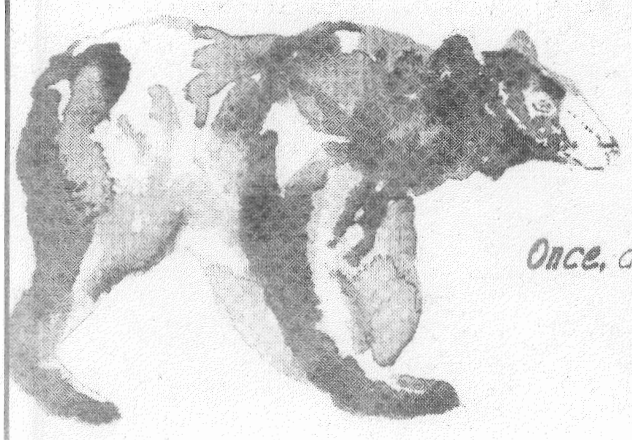


David Briars, top right, with other dubious onlookers during Monsanto testimony on aerial spraying.



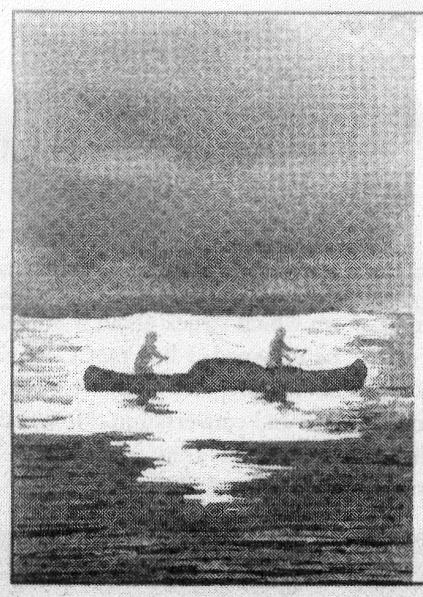
For those who long to hear the howl of the wolf
echo through a 200 year-old ancient forest,
to float down a clear river teeming with native salmon,
to live in harmony with wild nature
--all without stepping outside of New England,
join us and RESTORE: The North Woods.





The Great North Woods:

Once, a great wilderness, stretching from the Atlantic Ocean to the Great Plains.
Then, a region seriously damaged by industrial development.
Today, a land where wild nature is struggling to return.
Tomorrow, America's first restored wilderness.
This is our vision for the North Woods.
Together, we can make it a reality.



Creating a Maine Woods National Park
Protecting Endangered Wildlife
Preserving Wild Forests

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The North Woods

R E S T O R E:

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Watercolors by Rod MacIver

To become a member, please tear off this form and send it to the following address:

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P.O. Box 1099
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978-287-0320
restore@restore.org

❑ Restoring	$500
❑ Rewilding	$250
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❑ Protecting	$20

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