Citizen Activists Persuade VT Forest Advisory Committee to Support Herbicide Moratorium

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When Lloyd Gierke of Brunswick, Vermont first appeared in my parents' yard two summers ago waving a letter from Boise Cascade, it felt like a defining moment. Boise Cascade was causal- ly alarming Lloyd to the fact that it had permits in hand from the state of Vermont to proceed with a spray program on their shaving land. Lloyd had water rights on the Boise land. There was, in fact, a wetland on Boise's approved spray site—as later state inspectors determined.

Lloyd Gierke was simultaneously dismayed and resolved: the spraying would not occur. As time has proved, the people of the state of Vermont are with him on this one. As for my own feeling at the time, it seemed the herbicide issue could develop in several different ways. Two summers ago, many of us were flummoxed in our efforts to challenge the Vermont Forest Resource Advisory Council to effectively and adequately address rampant clearcutting in the Northeast Kingdom and associated, statewide issues of forest conserva- tion. Woes to be bicentric. Don't miss the (non) discussion of forest practices? Or would the unfortunate proposal prove to be an effective vehicle to raise political awareness of the values at stake in forest policy?

As the past two years have shown, there is no closing the barn door after the cat is out of the bag. Maine has gone through the awareness-building exercise of the Referendum/Compact campaign addressing the clearcutting which citizens of the state know very well is antithetical to community and environmental well-being. New Hampshire cannot make the most progress on the recommendations of the Northern Forest Lands Council, albeit hovering shy of forceful regulation of the liquidation which is stripping the

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The Way Forward versus Fin-de-Siècle Frittalianism

common that federal legislation can and should address—reform of the Forest Service and industry accountability for starters. Federal action must be taken to address the deeper issues of forest and perhaps human health—air pollution. Federal monies going to states should be tied more closely to environmental criteria. Rather than investing Social Security funds in Wall Street, the Feds should be investing in our communities nationwide—the return is guaranteed.

So too we should recognize that by forging ahead with forest issues we cross borders and build common cause with others who work for sustainability in energy, agricultural and marine ecosystems. Environmentalism gains no ground so long as it conceives of itself as a special interest. The grassroots has radicalized environmentalism at the same time that community and local connection have challenged environmentalism to articulate the public good.

Make no mistake: our spirit, our love of place, is in opposition to the ide- ology of the day which tells us that to have jobs in the timber industry, we must join the global economy, accept technologi- cal imperatives, and swallow the dictates of economic society. It's just a coinci- dence that all of this impoverishes com- munities and ecosystems; prosperity is just around the corner.

We ourselves may not live to see the benefit of what our work to点半 hard just as we might.

—Andrea Whitaker

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Dave Foreman
To Speak in Burlington
March 4, 230 PM

Dave Foreman, founder of The Wildlands Project and author of Confessions of an Eco-Warrior, will speak at a benefit for Wild Earth Journal on March 4 at the Iza Allen Chapel on University Place, University of Vermont in Burlington at 7:30 PM.

Foreman, recognized internation- ally as one of the seminal thinkers in the history of the Wilderness Protection and Restoration movements, will offer "A Wilderness Vision for the Next 100 Years."

If you've never seen Dave speak, don't miss this opportunity. Price is $5 at the door; this includes raffle of Patagonia gear. For more information: contact Morgan Miller at Wild Earth, (802) 434-4077.

Wild Earth is the indispensable journal of Wildlands activists every-where.
Victory on Loon Mountain - Federal Court Rules Against WMNF

by David Carl

Loon Pond and citizens of Lincoln, NH, received a wonderful holiday gift from the United States Court of Appeals for the First Circuit. On December 19, the court ruled in favor of Roland Dubois and RESTORE: The North Woods in a lawsuit challenging the U.S. Forest Service's decision to allow Loon Mountain Ski Area to expand. The court ruled that the Forest Service was "arbitrary and capricious" in failing to review all legitimate alternatives put forth by the public, to allow public involvement, and to protect pristine Loon Pond from pollution and contamination. The case now goes back to Federal District Court for implementation.

In 1986, Loon Mountain Ski Area proposed a large expansion on White Mountain National Forest (WMNF) land near Lincoln, New Hampshire. Initially, the Forest Service thought that only minimal environmental review would be needed. After an outcry from some environmental organizations and federal agencies, the Forest Service ended up publishing three different environmental reviews over a five-year period as each was found to fall short of meeting legal language.

In 1990, the Forest Service brought in a new forest supervisor, Rick Cables, who rammed through a new revised Draft Environmental Impact Statement (EIS). This document contained an entirely new alternative for expansion. This new alternative, Alternative 6, was developed by the Forest Service, Loon Mountain Corporation, and a few New England conservation organizations. The public was not allowed to participate in the development of this new scheme or to comment on it.

On March 1, 1993, the Forest Service approved Alternative 6, allowing the Loon Mountain Ski Area to expand. This proposal gave approval for Loon Mountain to construct over 28.5 square feet of buildings, drain more than one-third of the water in Loon Pond for snowmaking, and significantly widen most of the existing ski trails.

In response, RESTORE formed a coalition with four other groups—Lincoln Coalition of Concerned Citizens (LCCC), National Audubon Society (NAS), Preserve Appalachian Wilderness (PAW), and Pemigewasset River Council (PRC)—that filed an administrative appeal with the Forest Service. The 140-page appeal documented the failure of the agency to abide by numerous federal laws and regulations in approving the Loon Mountain expansion. The Sierra Club and Roland Dubois, a native of Lincoln, New Hampshire who presently lives in Maryland, each filed a separate appeal. All of the appeals were denied by the Forest Service.

The only remaining option for conservationists was to go to court. In early 1995, Roland Dubois and RESTORE filed suit in federal court challenging the Forest Service's handling of the Loon Mountain EIS process. The case was heard in the Federal District Court of New Hampshire and Judge Paul Barbadoro ruled against both RESTORE and Dubois. They appealed to Federal Appeals Court.

The Federal Appeals Court for the First Circuit heard the appeal in early September. Attorney Cindy Hill of Middlebury, Vermont, a long-time conservation activist represented RESTORE. Roland Dubois, a lawyer for the EPA in his other life, represented himself. The three-judge panel asked a number of questions, most directed to the Forest Service and Loon Mountain lawyers. One judge wondered how the Forest Service could claim that the water in Loon Pond was the same as the water in the East Branch of the Pemigewasset River. The judge remembered when the East Branch was terribly polluted while Loon Pond has been a source of drinking water for the Town of Lincoln, New Hampshire. He observed that to claim that they are both the same water defies common sense.

The Federal Appeals Court decision was released on December 19, 1994. According to the Court, the Forest Service had violated federal laws and regulations in the handling of the proposed Loon Mountain expansion. The Court found that the Forest Service excluded the public from the process; that Alternative 6 was a completely new alternative and required appropriate environmental study; that designing Loon Pond and then filling it with river water was inappropriate; and that the Forest Service acted in an arbitrary and capricious manner in approving the Loon Mountain expansion.

This is a significant victory. The Loon Mountain case shows that we can protect our natural environment—if necessary, even from the very federal agencies that manage the land. It also shows that the Forest Service is out of touch with the public and willing to break the law if it interferes with the agency's all-consuming desire to exploit our national forests. This is an agency that needs to be reformed. However, reform will not happen through the courts. It will only happen when the American people tell the Congress that strong action is needed to protect our national forests from Forest Service mismanagement.

Many people helped make this effort successful. People including Paul Beaudin, Will Bishop, and the other members of the LCCC, Pat Schlesinger and David Roberts of the PRC; Jeff Elliott of PAW, Scott Hagan and Grant Kidd of Hogan & Kidd, Attorneys At Law; Cindy Hill, Attorney At Law; and Roland Dubois deserve our thanks. It has been a tremendous (and long) battle, but one that was worth fighting.

The court decision does not end the Loon Mountain expansion saga. The Forest Service may well revive the process by issuing a supplement to the EIS. We can only hope that if the project reappears, the Forest Service will follow its legal mandate and not attempt to bypass the public. In the meantime, celebrate this victory.

David Carl is Associate Executive Director of RESTORE: The North Woods. He can be contacted at: RESTORE, POB 1099, Concord, MA 01742. Tel. 508-287-0320.

Loon Mountain Ski Area Expansion Time Line

November 1988
Loon Mountain Ski Area proposes massive expansion

February 1988
Forest Service convenes Joint Review Committee

Spring 1988
Loon considers dropping expansion plan, AMC and SPNH representatives convince Loon to continue expansion process

May 1988
First Public comment period

February 1989
Draft Environmental Impact Statement (DEIS) released

November 1989
Supplement (SDEIS) released

December 1989
Public meetings held

January 1990
Revised Draft EIS (RDEIS) released

February 1991
More public meetings

June 1992
Forest Service征求s Alternative 6

October 1992
Final EIS released

March 1993
Loon Mountain Ski Area expansion approved

May 1993
Appeals filed with Forest Service

December 1993
Appeals denied by Forest Service

March 1994
Forest Service issues Loon Mountain Ski Area a special use permit

June 1994
Dubois and RESTORE file lawsuit

April 1995
AMC, ASNH, SPNH announce support for expansion

December 1995
District Court rules against Dubois and RESTORE

December 1995
Dubois and RESTORE appeals ruling to Federal Appeals Court

December 1996
Federal Appeals Court rules Forest Service violated federal laws

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Whitney Family Proposes Major Development for Little Tupper Lake

Little Tupper Lake is for sale. On January 9, Mary Lou Whitney announced plans to sell 39 standard piano-key lots as well as construct a hotel, surrounding Little Tupper Lake with a new private ownership. The lake is located in the northeast. (See plan on page 5.) The entire 51,000-acre Whitney tract, of which the proposed Little Tupper Lake development is 15,000 acres, has long been under the Whitney family for acquisition by New York State. Governor George Pataki quickly dispatched his counsel and problem solver, Mike Finnegan, to begin negotiations with the Whitneys for state purchase.

The Whitneys’ selected a fortnight's time to announce their plans. Last November, the voters of New York State approved a $1.75 billion environmental bond act, which included $155 million for land acquisition. Additionally, the 1997 New York Environmental Protection Fund has $30 million budgeted for land acquisition. The Whitneys’ have stated they will sell to whoever is willing to pay their price. Their price is $30 million for Little Tupper Lake.

The Whitney -Vanderbilt family has owned this property for more than one hundred years. Originally they owned over 100,000 acres, but sold 50,000 acres to International Paper Company earlier this century. Whitney Park contain 10 major lakes and 30 smaller lakes and ponds and includes headwaters of the Beaver, Bog and Raquette rivers. Whitney Park forms the eastern section of what the 1990 Commission on the Adirondacks in the Twenty-First Century recommended as the 408,000-acre Oswegatchie Wilderness, which has the same boundaries as Bob Marshall Wilderness advocated by the Adirondack Council since the late 1980s.

The entire Whitney tract is zoned Resource Management by the Adirondack Park Agency Land Use and Development Plan, which allows no more than one principal development for every 42.7 acres. On the 15,000 acres surrounding Little Tupper Lake, a maximum of 217 buildings could be allowed under APA zoning.

Whitney Park is also the missing link for several historic Adirondack canoe routes. Famous paddlers of the Adirondacks, such as W. H. Murray and George Washington Sears, describe canoe trips starting at the southern end of Whitney Park on Pond Lake and advancing northwards through six smaller lakes and ponds, some with interesting navigable streams, others with portages, to Little Tupper Lake. From Little Tupper these canoeists made their way to Round Pond, now owned by IP, and onto the Bog River and Tupper Lake. From there they could paddle to Canton or Saranac Lake. Canoe routes also passed through the property traveling east - west. These began at Long Lake, padding up Big Brook to Slim Pond to Little Tupper. Today many are interested in the Whitney tract to tie together canoe routes that would connect Lake Liie, the Shingle Shanty River, Silver Lake, Lake and Forked Lake, to the Raquette River route.

In addition to the great recreational potential of the property, it’s also an important site for biological diversity. Little Tupper Lake is a shallow lake, 25 feet at its deepest points, and contains a native strain of Little Tupper brook trout. The entire Whitney tract includes vast wetland areas and bogs. The property has been managed for timber production, most recently by Weyerhauser Woodlands, and a network of some 80 miles of roads exists, including many stretches of sturdy 18 wheeler roads. Over the years the property has been cut very hard and also experienced significant blowdown in July 1995.

Several years ago Cornelius "Sonny" Vanderbilt Whitney died. His wife, Mary Lou, inherited his $100 million fortune and Whitney Park. Mary Lou, a fixture at the Saratoga horse races and social scene, attempted to negotiate with New York back in 1993 to sell the property. That at the time the state had no funds for land acquisition and several deadlines issued by Mary Lou were missed. Since then, Mary Lou has formed a liaison with John Hendrickson, a developer from Alaska, who is managing her development proposal. Two weeks after the development announcement, Mary Lou was quoted in the press as saying her phone was ringing off the hook with inquiries about lots on Little Tupper Lake.

The Whitneys subdivided the property in the early 1990s, a few family lots, and at that time the Adirondack Park Agency (APA) stated that the Whitneys would be required to file a master plan detailing their ultimate plans for the property before any more subdivisions would be approved. Last summer, the APA granted the Whitneys a 30-year subdivision on Little Tupper; the Whitneys sold buildings that had long been there. During review of this project the APA, under the leadership of Chairman Greg Campbell, who supported abolishing the APA prior to being appointed as Chairman by Governor Pataki, disregarded the master plan requirements and granted the Whitneys the additional permit. This decision drew heavy criticism.

When the Whitneys announced their new development plans, Chairman Campbell told The New York Times that the new development plan looked to him like a master plan, though it is only for one-third of the property and includes a skeleton of the necessary information. The Whitneys are betting, and they’re probably right, that the APA under Greg Campbell will not strenuously review this project.

Governor Pataki has done a lot in the past year to reassess his environmental credentials. He led the joint efforts between New York, New Jersey and the federal government to buy the 1,800-acre Sterling Forest in Rockland County. He brokered an agreement between New York City and the Catskill watershed communities to put in place a comprehensive program to protect the water quality of a network of reservoirs used for New York City’s drinking water. He brokered a deal to protect the Long Island Pine Barrens and has negotiated the most significant effort to clean up Oonoada Lake, near Syracuse, the most polluted lake in the eastern U.S. Governor Pataki also presided over the doubling of the Environmental Protection Fund, now $100 million annually, and passed the Clean Water, Clean Air Bond Act last November.

During this same time Governor Pataki has deci- demated environment and environmental crimes investigation at the Department of Environmental Conservation and eviscerated the APA. Any positives that Pataki receives for his environmental record in 1998, when he runs for reelection, could be seriously tarnished if he allows Little Tupper Lake to be developed.

Over 42,000 acres of the Whitneys’ 51,000 acres are enrolled in a New York preferential forest tax law program (480), called the Fish Act. This grants the land owners a subsidy by as much as two-thirds to three-quarters off school and property taxes. As part of the program landowners are required to pay a stampage fee to local communities on wood cut from the property (in 1996 Whitney Industries paid $2,100 in stampage fees). There is no reimbursement to local communities for these programs.

Currently, all of the Whitneys’ Little Tupper Lake holding, with the exception of their headquarters compound there, is enrolled in the Fisher program. In 1996, the Whitneys paid $292,675 in school, town, and county taxes on their entire 51,000 acres, which includes some 20 buildings. New York State pays generously on local taxes on its Forest Preserve lands. In 1995, New York paid over $43 million across the Adirondacks in Forest Preserve and other taxes. Generally Forest Preserve land yields between $8 and $12 per acre in taxes annually.

If Little Tupper were to be purchased by the state, this property would produce between $120,000 and $180,000 in local taxes paid by the state. Under the Fisher Act, the Little Tupper Lake parcel produces about $63,000 in local tax revenues. If the state were to purchase the Little Tupper Lake parcel, local tax revenues for these lands would triple. And no services would be required from the local community and more people would be interested in coming to the Long Lake area. Open space protection in the Adirondacks benefits local communities.

The dissolution of Whitney Park is one of the worst things that could happen in the Adirondacks. With Whitney intact the possibility of assembling a new wilderness area or of bringing into public ownership a tract of land that would be a fantastic canoe tripping area is alive. Development kills these dreams. There is much discussion about whether or not the Whitneys are using this development proposal as a pretext for inflating the value of the property. Five years ago an independent appraisal valued the entire 51,000 acres at $25 million; roughly $500 per acre. Today, the Whitneys claim the property is valued at $2,000 per acre, making Little Tupper worth $30 million. By pushing the price into the stratosphere, the Whitneys intend to find out just what the property is worth. This question and what its worth to the people of New York will be answered in the coming months.

Peter Bauer is Executive Director of the Residents’ Committee to Protect the Adirondacks. He can be reached at POB 27, Main St., North Creek, NY 12963; tel. 518-521-4257.

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The Forgotten Nature of New England
by Dean B. Bennett, Down East Books, 1996, 369 pp., $17.55

Twenty years ago I set out to rediscover some of the natural curiosities of the Maine landscape, such as overgrown gorges, rare stands of old-growth trees, and other accidental islands of wilderness which were described in the early exploration literature. My quest was interrupted by the exigencies of work and a young family. Little remains save a file drawer of yellowed notes and some-existing manuscripts.

Happily Dean Bennett has undertaken his own survey of relics of wilderness across New England. Even better he has published the results of his years of adventuring to, as the subtitle of his book says, "search for traces of the original wilderness." While the author is an academic, his book is no abstruse tome. It is, rather, an inspiring collection of first person accounts in which he patiently seeks out examples of our natural history that connect to time before European settlement. The trip is hemic, reverent and transcendental. As he writes near the end of the book, "By the time I had completed my journeys, I had felt the touch of more than a hundred thousand souls. From them I not only gained a sense of connectedness with the rest of nature, I experienced a deep sense of moral responsibility for safeguarding what is left of our original landscape."

There are some minor errors of human history, several obvious references seem to be lacking, and the book is sprinkled with amusing mistakes the copy editor should have picked up. However, the extensive footnotes will be a gold mine for the growing number of students of Wilderness East. It is fashionable today to declare wilderness as merely an outdated human construct. Dean Bennett reminds us wilderness is about real places. Think of this book as a seed catalog. With enough TLC we can germinate these seeds of wilderness and begin to restore some balance to the landscapes in which we live, both those out there and those in here. —Jim St. Pierre

Recreation Fees & Below Cost Treas, Part II
by David Carle

The U.S. Forest Service has announced that it will be implementing a user fee program for the Winnipauk Management Area (WNMF) starting in May 1997 as part of a 3-year pilot program taking place on 100 National Forests. As presently designed, moneys collected from user fees can be used for anything, not just maintaining recreation facilities to subsidizing commercial logging. According to the Forest Service, the WNMF recreation budget is declining. The result is that recreation facilities and services are deteriorating or restricted, yet between 1994-1996 the budget for the below-cost WNMF logging program doubled.

The General Accounting Office of the U.S. Congress has reported that the WNMF lost over $1 million a year between 1992-1994. Recent WNMF documents show that they expect the $1 million subsidy to the timber industry to continue into the foreseeable future. Under the WNMF proposal, money generated from the user fee program can be used to pay for the below-cost timber program. The Forest Service will be picking the pockets of recreatiors to subsidize the timber industry.

The implication of a new fee on the WNMF is taking place without any public input or debate. According to the Forest Service announcement, "the question at present is not whether we should participate in the pilot [user fee] program, but HOW we should participate."

The Forest Service will be holding a workshop on February 22, 1997 at the Kennebec High School gymnasium in Conway, NH from 10 AM to 2 PM to develop specific details to implement a fee pilot program in May 1997.
Citizens Persuade VT Forest Policy Committee to Vote Herbicide Moratorium

by Andreas Whitaker

On December 10, the Vermont Citizens' Forest Roundtable was offered the opportunity to represent public opposition to forest by-herbicides in summary testimony to our Forest Resource Advisory Council. FRAC had just issued a committee report on spraying: four of six members—including three public servants—had voted to support spraying. On the afternoon of the 10th, FRAC heard from Champion International, the lead proponent of spraying, and three Roundtable representatives.

That evening, FRAC also heard three hours of testimony from the public itself in a listening session on the Council's work to date. Of the 40 and more who spoke, 35 opposed spraying. Two nights later, the hearings rippled in Montpelier. There, over fifty spoke in opposition to spraying.

The following week, FRAC met to discuss its recommendations to the legislature. Virtually all FRAC members attested to the potency of the public's comments. Reversing an earlier hearing panel's 2-1 recommendation of spraying with increased review, FRAC voted 13-1 to recommend that the Vermont legislature establish a moratorium on aerial spraying. In their statements, FRAC members Frederic Pratt and Jason Fazen reiterated concerns expressed by the public about water and a cheap fiber mentality. Overall, FRAC took into account just about every argument mounted against spraying.

VT Citizens’ Forest Roundtable

A year and a half ago, a small group of us who were frustrated by the lack of response on the part of forest policymakers—FRAC—to clearcutting, proposed aerial spraying, and wider context issues such as biodiversity and sustainably forestry, felt compelled to organize a platform and conduit for public and ecological concern.

Our objective has been to capitalize on all the good will and good sense that are out there. The goal has been the implementation of forest policy that expresses our cultural environment's core values: a healthy local economy that is supported by sustainable forestry practices and a sustainable forest.

Therefore, we all took great satisfaction in the hearings of December 10th and 12th. All three drew attentive crowds, and the evening speakers collectively articulated for attactive FRAC members a sense of community wisdom and toughness and commitment. For those who knew a bit of the histories and personalities of many attending, listening and speaking, there was an added wealth in the room—this was a representitive cross-section of Vermont attesting to what we are and wish to be.

What Was Said

Public testimony directed FRAC's attention to forest conservation science, acknowledgment of planetary ecological stresses and crises, and the ubiquity of environmental threats. Too often, analysis, a injection of corporate sovereignty over community desires, support for local economies, support for appropriate silviculture, and many personal testimonies as to why we should not allow spraying to occur. People rejected the corporation cry for resterning emotion from this debate—everyone spoke emotionally, in fact, from the heart.

One speaker noted that current forest practices are mining the mineral content of forest soils with each historic wave of cutting—yet can probably do this for only two or three more harvests before a limit is hit. Another noted that contract loggers doing piece work are no more independent than sharecroppers. Someone else rejected the necessity defense of spraying by noting that slavery was once considered necessary to the Southern cotton economy. A logger noted that the state created the wood chip market that is driving clearcutting—and so is suspicion of any decision making other than plebiscite. A loon biology specialist noted that sedimentation of clear water lakes and ponds in such areas as Missisquoi where logging has increased erosion may perpetuate the decline of this important indicator species.

People testified to their own connection to the land in economic and spiritual ways and stressed a cultural commitment to handing future generations an intact, plentiful forest. Many called for common sense above all. Several spoke from personal history of the suffering and agony imposed on friends and family by cancer, noting the ubiquity and complicity of massmade environmental toxins and flatly rejecting industry claims of safe product and safe delivery. A Viet Nam veteran from Enosburg who has been active in veterans' struggles over Agent Orange angrily denounced chemical companies and warned Vermonters 'don't let these bastards into your state—if anything goes wrong, you won't get a nickel.'

Not all the right questions have been asked, said one person, who noted that the symmetry in this debate has been between a selfless citizenry motivated by concern for the environment—and an organization motivated by profit. He also observed that while we have admitted environmental crises around the globe, reductionist science has exonerated chemical after chemical, while the problems multiply. Another pointed to the essential absurdity of cost/benefit analysis where all the costs are borne by society and the benefits accrue to industry.

Many debunked the notion that spraying does not create nonconnoisseur—an argument FRAC's panel had acceded to—and spoke in favor of forest practices based on ecological understanding. Several who have been in the business said Vermonters should not allow Montsuns, Washington and Oregon-style forest practices to take place here. A mycologist said that in the case of spraying, ignoring impact on small things in the forests like mycelium, is like ignoring small men like Hitler or small companies like McDonalds: in Europe, he said, as many as 60% of native mycological species have been eliminated by human activity.

Vermont Herbicide Legislation Update

As we went to press, the Vermont Senate Natural Resources Subcommittee voted 4-2 to recommend SB 28, a bill that institutes a moratorium on ground and aerial spraying of herbicides as a forestry management tool. SB 28 now moves to the full Senate. Over 2,000 Vermonters signed a petition to help support SB 28. Address your letters to the Honorable State House, Montpelier, VT 05602.

Champion International stated at its December 10 appearance before FRAC that it saw "no point" in public hearings on herbicide use in forestry. Such moronic feeling arises from the awareness that the public includes articulate spokespeople for the common good. Here Sherry Belknap, selcectman of Blenheimfield, VT, addresses FRAC on the critical importance of protecting water quality in the Nulhegan Basin where Champion would like to spray herbicides to promote softwoods. Photo © Gustave W. Verderber.

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Lloyd Gierke of Brunswick, VT has spent his working career cutting wood on Champion lands from "Paramecium to South America" (pandh). Vermonters owe a debt of gratitude to Lloyd, whose opposition to Boise Cascade’s plan to spray 180 acres in Brunswick blossomed into a populist campaign. The Vermont legislative and responsible behavior. But FRAC’s responsiveness to public arguments suggests that democracy—surprise, surprise—can work.

What may not be readily apparent to those just joining forestry discussions is the long foreground of December's hearings. Previous public pressure prepared the stage. The very first legislative hearing on forest issues in 1993 established the need for FRAC to expand its membership—which resulted in the appointment of Hub Vogelmann, a key presence on the FRAC herbicide research panel.

Last year at this time, when FRAC conducted its round of four public hearings, its draft interim report simply got pasted by people who felt that clearcutting, liquidation, herbicides and the AMPs had not been addressed. Entering 1996, FRAC took on these issues with a very different approach—again aided by public pressure on the legislature, which mandated study of herbicides and implied a compelling interest in seeing forward movement on clearcutting and liquidation.

The more the public is involved, the better our representatives must become at carrying our values into policy. Better still, we can collectively change cultural institutions through investment of social energies. We can support appropriate scale logging. We can raise understanding of forest ecology. We can buy land together. We can carry out a vision of what we want our rural communities to be.

At the close of St. J’s hearing, it was gratifying to see not a crowd rushing out the door to get home, despite the long drives and icy roads—but people engaged in conversation—FRAC members, wood cutters, everyone. As I moved chairs and tables, I nodded in the direction of one such conversing couple and said to a bystander, “I like to see mycologists talking with bankers.”

Unfortunately, I was misunderstood by this bystander, who was apparently married to the banker (my usual luck in such aides). He thought I was observing some asymmetry in the conversation. So I clarified: when bankers understand mycology, and mycologists understand banking, we will have achieved a significant hurdle on the road to sustainable forests.
MEAD the “Environmentally Friendly” Corporation Will Continue Boise Cascade Herbicide Management Program

by Daisy Goodman

“Ain’t, land and water are precious resources that can be used wisely so they will be available in abundance and suitable for all users, today and in the future. As a forest products company, it relies on these resources for its very livelihood. Without recognizing our stewardship role,” - Mead Corporation Promotional Literature

On November 1, 1996, the Mead Corporation became the proud owner of Boise Cascade’s northeast holdings (Mead T). In addition to hundreds of thousands of acres of clearcut and forested land, as well as the notorious Rumford (ME) Mill, Mead has inherited Boise Cascade’s regional management team and workforce. Not surprisingly, the “new” Mead management has announced that it will continue to use aerial application of herbicides as a brush control method.

Mead has, of course, also inherited growing regional opposition to aerial spraying, and begins its relationship with us in front of the NH Supreme Court. The Court is currently deliberating on an appeal by the Herbicide Project which seeks to clarify the procedure appropriate for an administrative hearing such as the hearing held last August 22 on our appeal of the aerial spray permit granted to Boise.

Mead also inherits a five-year moratorium on aerial spraying in Vermont, which may turn into an outright ban during this legislative season. Mead was relatively few acres in Vermont. Although Mead’s Vice President for Human and Environmental Protection, Russ Krow, told me that he was unaware of the situation in Vermont and New Hampshire, he was “watching the situation in Maine very closely”, where he had been told a referendum on aerial spraying was imminent.

Mead has lost no time submitting an application for permit to spray herbicides by helicopter over 777 acres in Cos Cob by this coming summer. In the cover letter which accompanied Mead’s application, Ernst Von Tobel (former Boise Cascade silvicultural administrator) noted that the early submission would ensure that an appeal of the permit could be dealt with in a timely fashion, so that the product could be used. Mead’s proposed spray schedule is for the early submission was undoubtedly an attempt to avoid compliance with rule changes governing aerial spraying which are scheduled for approval in February, 1997. Because the application was submitted before the new rules took effect, it will be considered under the old system.

Proposed rule changes include input from the Herbicide Project, the Coalition for Alternatives to Herbicides, and the Northern Forest Alliance, groups opposed to the use of herbicide in forestry and utility rights of way. In addition to strict and thorough notification requirements, the revisions include a public hearing requirement for all aerial spraying, and significantly expand the definition of who has standing to appeal an aerial spray permit. Under the new rules, anyone who uses a proposed spray area for recreation, camping, hunting, fishing, or gathering traditional foods or medicines, is potentially adversely affected by spraying and has a right to appeal. If these revisions survive the public hearing and review process and are approved, they will significantly increase the public’s ability to effectively oppose aerial or right-of-way herbicide use. To my knowledge, New Hampshire will also be the first state to include issues of specific concern to the Native American community—namely the destructive effect of industrial forestry on biodiversity, the availability of rare and endangered medicinal plants, and the safety and availability of other wild foods including game.

Proposed to spray 698 acres in the town of Dummer and 79 in the unincorporated township of Dins Grant, New Hampshire. Dummer is close to Berlin, the most heavily populated area in Coos County, and areas targeted for 1997 are heavily used by the local community for fishing, hunting, birdwatching, berrying and other activities throughout the spring, summer, and fall. This is part of the headwaters system of the Androscoggin River, characterized as a wet area. Despite this, and despite its alleged stewardship of “the abundance and suitability of air, land and water for all users”, Mead has added a fourth herbicide to the chemical cocktail used by Boise. The mix now includes a lethal and unpredictable combination of herbicides, surfactants, undisclosed inert ingredients, contaminants and metabolites, each with the potential to develop chemical reactivity with other ingredients. The possibilities are endless—and for the survival of anything resembling a forest ecosystem—hairraising.

One has to wonder why, if herbicides are such a proven and effective means of brush control, industry is continuously risking the safety of the people on early successional plantations. Any one of the herbicides in this year’s “prescription” should be sufficient to cause close to 100% mortality for decidious species in the sprayed areas, and serious damage to a significant area surrounding the target zones as well. Why use a mixture if any one would be sufficient?

CARLON 4, whose active ingredient is triclopyr, is the latest addition to the war on brush in northern New Hampshire. CARLON 4 is probably the most acutely toxic to non-target organisms of the herbicides proposed for use. Triclopyr is a close chemical relative of the controversial herbicide 2,4,5-T. Like 2,4,5-T, it operates by imitating the plant growth hormone auxin, killing the plant by causing disorganized growth. Triclopyr is highly persistent, and has been detected in soils up to two years post spray. It leaches from soil easily, especially in wet areas.

CARLON 4 is toxic to fish, even the manufacturer’s Material Safety Data Sheet admits this. The LC50 (dose level that kills 50% of the population) of its active ingredient, triclopyr, was 1.4 parts per million for salmon. As in the case of the other pesticides with EPA, testing has been limited to the active ingredient, rather than the full formulation. Inert ingredients of Carlson 4 include ketones and ethanol, an active ingredient in some pesticide products which causes genetic damage and abnormal development in mammals.

On the positive side, the tide appears to be slowly turning against aerial spraying in New Hampshire. On the political level, the legislature is starting to pay attention to pesticide issues again, including consideration of a bill to repeal the pre-emption of local control over pesticide use by the state. As it stands now, local communities must rely on state agencies to protect our health and the environment from the effects of pesticides. All aerial spray permits are Continued on page 8
Toxic Artificial Cranberry Bogs Proposed for Washington County, ME

by Nancy Oden

Cherryfield Foods, a Canadian corporation, wants to tear up 1,400 acres of wetlands, uplands, and woods to build artificial cranberry bogs in Washington County, Maine. Governor Angus King is pulling out all the stops to make sure they get their way.

While King and Cherryfield chant "jobs, jobs, jobs" to cover up the ecological and economic destruction this project would wreak, local opposition is educating the public. Through the true story of wildlife habitat destruction, pesticide poisoning, and risk of loss of local jobs in lobster fishing, clam digging, mussel, sea cucumber, sea urchin, baby eel gathering, commercial fishing, guiding sports for fishing and hunting, organic farming, and tourism.

For those jobs promised by King and his corporate cronies, 200 would be seasonal jobs for exploited migrant workers from Mexico, and the other 75 promised "quality" jobs would be for people turning water valves on and off in peat moss ponds to the water.

The Cherryfield plan calls for tearing up 1,400 acres of excellent wildlife and fish habitat, installing water-moving machines and harvesting machines to make fake cranberry "bogs." They'll put insecticides, fungicides, and herbicides in the flooded "bogs." These poisonous "bogs" are near streams and the Machias and Pleasant rivers, critical habitats for the endangered Atlantic salmon.

Back in 1987 a New Jersey outfit tried to build a toxic dump in the same area, saying they could keep the poisons out of the rivers and aquifer with "liners and filters and test wells." It was hogwash then, and it's still hogwash. Water gets into everything and runs downhill, into the aquifer and the ocean.

Neither Cherryfield Foods nor the Department of Agriculture knows what chemicals are in the pesticides, nor what chemicals they break down into, nor how long they stick around. For example, DDT hasn't been used in over 20 years, yet its breakdown metabolite, DDE, is still here harming humans and wildlife.

Opponents feel certain that they are pushing this plan through quickly because of the proposed upcoming citizen's referendum which would ban putting pesticides in Maine's waters.

Governor King has assigned Cherryfield its own team of public bureaucrats to help them get around laws that don't allow contamination of Maine's waters. In addition, the US Department of Agriculture is handling out tens of thousands of dollars in taxpayer subsidies to support a project of this type.

Opponents ask why the governor doesn't give some of that gift "grant" money to independent clean jobs such as small, diverse farms, greenhouses where we can grow almost anything, solar-refurbishing our houses so oil bills don't bankrupt us every winter, planting fruit and nut trees for food and wild breaks, decent public transportation, helping growers change over to non-fossil-fuel gardens so people on farms can help grow their own food, and so on.

These ecologically sustainable jobs would help urban and rural citizens, not foreign corporations.

If Cherryfield Foods really wants to do something constructive, instead of wrecking 1,400 acres of wildlife habitat, they could build cranberry "bogs" in their ruined blueberry fields, where they have sprayed too much Velpar and everything is dead.

To protect Washington County from subsidized toxic development, contact CLEAN: Maine, POB 186, Jonesboro, ME 04949; Tel/fax 207-434-6228.

NH Herbicides

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currently reviewed by a number of state agencies, including the Division of Forests and Lands, Department of Human Health Division of Risk Assessment, Department of Fish and Game, Department of Environmental Services, and the State Entomologist. Indications are that agency reviews, which last year were a quick and easy process, have suddenly become more careful and time consuming. The Department of Fish and Game, in particular, has sustained a certain amount of heat from the public for its easy approval of aerial herbicide permits in previous years. According to Fish and Game officials, the Department is "re-evaluating the process by which aerial spray permits are reviewed."

Industry is doing its best to convince legislators and agencies that chemical management of New Hampshire forests is benign and advantageous. It would be politically naive to imagine that any State agency would betray the interests of the largest corporate landholders in New Hampshire at the insistence of even the noisiest community-based opposition. However, the evidence is in on the environmental implications and acute toxicity of the mixture Mead plans to spray over yet another watershed, and public awareness of these implications is growing. Coincidentally, public confidence in the agencies reviewing the permits is diminishing.

Mead has good reason to try to avoid the increased public participation made possible by the proposed rule revisions concerning aerial spray applications. The local community here in the North Country does not need much convincing that any aerial spray program is a bad idea. The well publicized "mistake" in which Champion sprayed ten acres of forest in Maine under a New Hampshire permit has further convinced the public that state regulation and monitoring is less than infallible. As yet, Champion International has not applied for a permit to spray in 1997. Company representatives refused to discuss the matter with the Herbicide Project, saying only that this information was "confidential."

In fact, public opposition is so strong that an appeal of the Mead permit, in the event that it is approved by the Division of Pesticide Control, seems inevitable, whether or not the Herbicide Project can raise the ten thousand dollars we need to do it with legal counsel and expert witnesses. Local communities are not going to tolerate having our children's lives and the integrity of the natural systems we love put at risk for much longer.

What is going on in New Hampshire is part of a nationwide movement to challenge the right of chemical companies and industry in general to poison the earth for the sake of profit. Most people don't have to be convinced through reading peer-reviewed, scientifically rigorous research. We know that the incidence of environmentally related illness is rising dra-

Heard from the Front

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Update on Proposed Maine Pesticide Referendum

Since the Forum reported on CLEAN: Maine's citizen's referendum to stop aerial pesticide spraying and to stop the introduction of pesticides into Maine's waters (Autumn Equinox, page 3) the Maine Farm Bureau has sued the Maine Secretary of State, saying the ballot question isn't "clear," which, by law, it must be. CLEAN: Maine cannot collect signatures while the ballot question is in litigation.

This delaying tactic has worked so far. CLEAN couldn't collect signatures at the polls in November without resolution of the wording of the ballot question. The Farm Bureau has lost in Maine Superior Court, which said the question is fine. But the Maine Supreme Court is taking longer, although CLEAN expects a ruling any day now.

The ballot question bans aerial spraying of pesticides; it prohibits introduction of synthetic pesticides into a well that supplies drinking water for a residence or school, ground water, aquifer, fresh surface waters, or coastal waters. Violation is a "class A" crime—a felony. It requires a state or local agency that receives an application for an exemption or variance from a law or rule regulating pesticides to give notice to the public of this application and to hold a public hearing in the municipalities affected by the application. It provides that the decision whether to grant the exemption of variance be made by vote of the citizens in the municipalities affected by the application.

You can see why—especially the last part calling for some democracy—the poisioners feel threatened. Imagine people making the decisions that affect their lives! Why, it's virtually unheard of, at least in this era.

Our opponents are paper companies, electric utilities (powerlines), state agencies (roadways and forests), pesticide manufacturers, aquaculture operations (which dump pesticides on caged-fish in coastal waters), and pesticide-using "wild" blueberry, cranberry, apple, potato, corn, and pepper producers.

Even though people agree with us now, we can expect major distortions and lies, to which we must respond. Our most precious asset is the support of Maine's people. As wonderful and necessary as that is, we still need money to make the calls, print the forms, mail out packages of forms, and drive around speaking on signature-collecting.

How You Can Help End Aerial Pesticide Spraying in Maine: Send any money you can spare to CLEAN: POB 186, Jonesboro, ME 04949. Our telephone is 207-434-6228. Thank you for your support. If you can collect some signatures, please let us know.
High Elevation Timber Management Pact Signed in NH

by Jamie Sayen

On October 29, 1996 several major New Hampshire landowners, in partnership with the state & Game Department and the state Division of Forests & Lands, signed a Memorandum of Understanding to cooperate to manage forest land above 2700 feet in elevation. The public/private agreement affects over 33,000 acres of forest in the northern region of New Hampshire.

High elevation forestland is inherently more sensitive than forest lands below 2700 feet in elevation. It has shorter growing seasons, thinner soils, and, in New Hampshire, it is critical habitat for the rare pine marten.

The voluntary agreement took over two years to negotiate. A representative of New Hampshire Timberland Owners Association facilitated meetings between the landowners and state officials. A forest ecologist of the Appalachian Mountain Club was involved throughout the negotiations. Participating landowners are: Dartmouth College, Champion International, Mead Corporation (formerly Boise Cascade), International Paper Company, Hancock Timber Resource Group, Crown Vantage, Wagner Forest Management, and Fred Ford of Columbia, NH.

Key elements of the pact are:
- Forest composition and structure goals: "At least 60% of the area should remain in stands with an average tree diameter of four inches or greater. No more than 30% of the area should be in stands with an average tree diameter less than four inches or without adequate stocking. At least 10% of the area should remain unharvested."
- Access priorities: "(1) winter skidding of wood and no roads above 2700 feet; (2) winter skidding of wood to roads above 2700 feet; (3) summer skidding to roads below 2700 feet; (4) summer skidding to roads above 2700 feet."

Interestingly, stocking standards are essentially the same as those proposed by the Ban Clearcutting in Maine Reference of 1996—an initiative that was fought bitterly by several of the signatories of this agreement.

The agreement discourages, but does not prohibit, clearcutting and whole-tree harvesting above 2700 feet.

Signatories of the pact can make changes in the event of natural "catastrophes" such as insect or disease epidemic, forest fire, or windstorm. Sale of lands "shall automatically release said lands from the terms of the agreement."

The agreement is in effect for five years, and either party "may exercise the right to terminate the agreement by sending written notice to the other party 30 days prior to the effective termination date."

Eric Kingsley, Executive Director of the NH TOA, calls the agreement "the largest cooperative private forest management among exclusively private landowners in the northeast and probably the nation. It shows they are willing and ready to work with government and conservation groups to establish protection of sensitive areas."

The pact is a joint forest easement with the US Forest Service to support the agreement once the negotiations have left center.

Critics of the proposal feel that high elevation lands are too fragile and too unpredictable, whether in public or private ownership, to justify any timber harvesting. They also maintain that if industrial lands had been better managed over the years, there would have been no need for such an agreement. Nevertheless, they acknowledge that such cutting is to occur, any safeguards—even voluntary ones that can be terminated quickly—are better than nothing.

SmartWood Program Certifies NH Firm

In late January the National Wildlife Federation and the SmartWood program of the Rainforest Alliance announced certification of the first forest management company in the Northern Forest region, Northeast Ecologically Sustainable Timber (NEST), based in Dover, NH. The SmartWood program's goal is to reduce the negative environmental impact of logging and ensure sustainable forest management.

Certification requires that forest operations protect local biodiversity and watersheds, minimize damage to remaining forests, prevent overcutting of forests, develop positive relationships with local communities, and conduct forest restoration activities on degraded land, among other criteria. The certification was conducted by the National Wildlife Federation, whose regional office, the Northeast Natural Resource Center, is collaborating with the SmartWood program to make certification available across the region.

Operations that meet certification requirements, as well as companies that process and sell products made of wood from these sources, can use the SmartWood "seal of approval" on their products. This certification mark provides special recognition in the marketplace for wood products that come from sustainably managed forest lands. Certification contracts are renewed on a five-year basis and involve annual audits by the NWF/SmartWood program to ensure compliance.

NEST principal James "Chip" Chapman, a consulting forester with 18 years of experience in New Hampshire forests, led the initiative to become certified. His company currently manages approximately 3,300 acres of land encompassing 19 forested properties.

"Independent certification of my forest management and logging jobs such as that provided by the NWF/SmartWood program gives loggers from my clients a market edge for those who want to buy wood from environmentally sustainable sources," Chapman said.

Under the program, NEST underwent a comprehensive evaluation of company policies that included four days of field work in the forest by a three-person team of regionally-based professionals with experience in forest and wildlife ecology, logging systems, and forest economics.

As the basis for certification of NEST as a "Well-Managed Source" under the NWF/SmartWood program, the independent team prepared a comprehensive report containing findings on 59 separate criteria, ranging from: protection of critical wildlife habitat, forest regeneration, diversity of tree species, logging road construction, inventories of growing stock, management planning systems, and forest products utilization.

James "Chip" Chapman of Northeast Ecologically Sustainable Timber can be contacted at 603-749-9777. The National Wildlife Federation's SmartWood program can be contacted at: 58 State St., Montpelier, VT 05602; tel 802-229-0650.
Comments on the Vermont Compromise on Forest Liquidation Legislation

by Andrew Whittaker

Vermont's Forest Resource Advisory Council will soon be submitting a proposal to the state legislature on the regulation of clearcutting. The implication of its current form is that the Department of Forests and Parks will be drafting rules aimed at curbing liquidation logging on large tracts of land.

FRAC is responding to a public demand for forest policy that addresses today's rash of logging without standards. Four foresters offered a proposal to distinguish forestry and liquidation, and subject the latter to Act 250 review and exempt "forestry" from review. (In its first incarnation, a state wildlife biologist termed the Four Foresters' proposal a "timber production act.") Several environmental groups subsequently met in negotiation with these foresters and sought agreement on acreage and basal area triggers that would somehow delineate forestry from liquidation. FRAC then stepped in and mediated what it considers a compromise position.

Nature of the Problem

The conservation-minded public has agreed—indeed, insisted—that the state of Vermont should control forest practices that are indefensible ecologically or economically.

Clearcuts that dominate a landscape visually also dominate it ecologically and silviculturally. They imply shifts and changes in landscape processes that result in waste and nuisance: economic opportunities are squandered and impacts cross property lines. The worst forest practices also pose a threat to the public trust which owners of forest land uphold (or abrogate): waters, wildlife and the evolutionary potential of forest ecosystems.

Foresters often argue that clearcuts are necessary to restore historic patterns of highgrading. Highgrading, they say, has so diminished forest quality that they must clearcut and "start over." Their argument only establishes that highgrading is yet another form of liquidation—a lessening of productivity that results in extreme and potentially harmful measures, lessened economic values and general waste. Regulation should therefore address high-grading as well as clearcutting.

Objective

To address liquidation therefore requires a policy objective of formulating minimal standards for forest harvests that prevent nuisance, waste and unwarrited harm to public trust. This has long been a goal of Vermont forest policy. The state forest practices Act of 1949 established criteria for cutting practices that largely, and in sum, imply perpetuating forest regeneration, optimal timber growth, water quality safeguards, and soil productivity. This act established standards for the "clearcut" and condemned, and termed the latter "generally recommended" (over the former).

Today, we have a broader understanding of forest ecology. On the economic plane, we know that ecosystem processes safeguard forest productivity: logs and lumber, even water and muskrat life. On the ethical and spiritual plane, we also see the need to protect ecosystem integrity for its own sake. So today's development of 1949's criteria must go beyond a "timber production act."

Therefore, it would be retrograde to pursue in 1997 any objective that weakens the goal of minimal standards in forestry. Part of the development of these criteria ought to be an explicit charge to address the question, what are the ecological and silvicultural limitations on clearcut size? And, below this size, what standards should be observed to avoid undue adverse impacts?

Overall Goal

The Vermont Compromise ought to be that we agree on rulemaking to establish minimal standards in forestry to avoid other means of achieving broader goals

The Unconscious Civilization

by John Ralston Saul

In his inaugural address, President Clinton proclaimed: "Government is not the problem, and government is not the solution." The American people are the solution. Unfortunately, and perhaps unintentionally, President Clinton neglected to identify the problem. If you want to learn about the problem, read The Unconscious Civilization by John Ralston Saul. Saul is Canadian, but much of what he says applies to the U.S. This book has won an award in Canada recently.

Saul has things to say that many will not like to hear. For example, Saul argues that reference to anti-democratic because they lend themselves so easily to the politics of ideology. Increasingly, the ability and willingness of rich individuals and large corporations to enter into these contests and finance powerful media campaigns have meant that the outcomes of these ballot questions are determined by who has the best financed campaign. As a neighbor of mine who taught for a year in Montreal commented to me after November's trying referendum to ban clearcutting in Maine, "I think I prefer democracy."

The marketplace, while useful for some purposes, cannot lead or encourage democracy. The problem is that the ideology of the marketplace has taken hold and made us unable to see reality—for example, who benefits from deregulation and who does not? What is the role of the public good? Is there a disinterested view that represents the benefit of society or is everyone a member of some special interest group?

Some see government as the enemy of the individual. Saul says we can take issue with the notion that less government is better. In fact, we should wonder why we, the citizenry, should put artificial limits on our only force. "The power we refuse ourselves goes somewhere else. Yet no other legitimacy is capable of discontent."

Saul's contention that corporatism has transformed our society from one of individuals to one of groups will ring true to many environmental activists. I would argue that our society functions today largely on the relationship between groups...society is seen as a sum of all the groups...Serious, important decisions are made not through democratic discussion or participation but through negotiation between the relevant groups based upon expertise, interest and the ability to exercise power.

Saul concludes that once groups are established as the source of authority, they require acquiescence. Individualism on the other hand requires participation in society. Corporatism sets about reducing the individual to a state of passivity, a subject of the will of the legitimacies, i.e., whichever groups hold power. Society is based entirely on measurable self-interest and citizens easily take no responsibility for their society, instead finding legitimacy in corporatism. That one assumption about the ultimate authority defines everything else: power, organization, attitudes both public and private, ethics admired or condemned or ignored. Thus, we have an unconscious civilization.

—Reviewed by Pamela Prodan

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of sustainability. While, for instance, long rotations and all-aged stands should be part of a sound forest policy, there are simply too many variables in forest management to mandate them. On the other hand, minimum standards can and should address such topics as the appropriateness of whole-tree harvesting on specific sites and conditions that should guide its application if permitted.

The compromise should not be on who gets shielded from upholding the minimum. A review of states with forest regulations—including Vermont with its AMPs—shows that seldom if ever does a statute exempt through an acreage trigger certain harvests from rule. While such triggers may be used to require permits, plans, or intent-to-harvest notification, they are seldom if ever used to shield an operator or landowner from upholding minimal standards. Vermont would not be either in the middle or front of the pack on establishing workable, effective regulations but at the rear were it to use an acreage trigger in this fashion.

While we may want to discuss what happens at 25 or 40 acres, we should not consider it a compromise of anything other than principle to accede to the demand for no applicability below that figure. These are the gaps to be cleared; triggers for intent to harvest or other negotiable points. But to use them as barriers to rule is counter to custom, precedent and good policy.

Beyond the Minimum
At this point, the question of sustainable forest practices—what they are and how to apply them—is wide open. Many ask, why not a Vermont Forest Practices Act? The answer that higher standards should not be regulatory is by no means widespread. The future may sustain or weaken such an agreement as does exist.

We do need from the 1997 legislature two directives: one on developing rules and regulations to address the worst logging; another on establishing a process to define optimal silviculture and proposing incentives for achieving it. Such optimal silviculture would reflect our best intention to have forests growing high value sawtimber and protecting or restoring forest ecology. Social benefits of such silviculture would include stability, value-added manufacturing opportunities, and an attractive, “high-employment” landscape.

The opportunity for genuine compromise that advances the needs and goals of all who legitimately work in and for the forests of Vermont is for us to agree: minimal standards through rules; optimal guidelines through collaborative process.

Essential Elements of Forest Practices Regulation

Today, as Maine, New Hampshire and Vermont work toward some regulatory framework, resistance and challenge will be strong. Some property rights ideologues believe that there is no such thing as the public interest and that government exists only to protect property. Others who seek high standards in forest management regulation and believe that it inextricably fails to hit the target. Still more focus only on the possessor of vested interests and fail to articulate that which must be done.

Good rule policy can be achieved. Clear intent and objective are necessary. Certain basic elements are key to avoiding or sustaining legal (and political) challenge—and should strengthen other aspects of policy design. Below, I provide my comments to excerpts (printed in bold type) from Paul V. Ellefson et al.’s “Regulation of Private Forestry Practices by State Governments” University of Minnesota Station Bulletin 805-1995. —Andrew Whitaker

According to Ellefson, defensible policy should:

• advance well-defined and legitimate state interests in private forest property;

  Comment: the state of Vermont, in its Forest Practice Act, has elevated a state interest in the maintenance of forest productivity. Although the rules promulgated were voluntary, they establish state interest in: soil productivity; regeneration, water quality, timber growth, species diversity; forest ecology to the extent it supports forest productivity. Criteria also addressed clear-cutting and partial cutting, with the statement that the latter is the preferred method. The federal Endangered Species Act, as well as the recent Nulhegan Basin Mgt. Agreement between Champion and Vermont, both indicate the interest of the people in protection of plants, wildlife and ecosystems.

• complement long and well-defined histories of public policy favoring environmental protection and land-use control;

  Comment: To the above, we could add reference to Act 250, with its intent to address landscape conversions beyond the control of municipalities and its review of logging of above 2500 feet and its general development criteria that developments not unduly impact the productivity of forest soils. Vermont also has Acceptable Management Practices and Wetlands Rules intended to protect water quality from logging impacts, and standards intended to protect deer yards.

• promote the distribution of program benefits among many, widely-dispersed segments of society;

  Comment: the public discussion of herbicides in forestry has established that economic benefits from forests are manifold and that detriment from poor forest practices is felt by the people. Vermont has long recognized that forest stewardship provides benefits that are economic and social cornerstones. This is one major premise of the Current Use program.

• avoid the promotion of severe reductions (diminution) in the value of private forest property;

  Comment: a major problem posed by liquidation practices is that they lower property values. Highgraded lands are being marketed for development since their timber value has been diminished. Forest regulations that addressed liquidation would actually enhance the protection of property values.

• avoid denial of all economically viable uses of private forest property, especially as such might result from standards which require permanent physical occupation of private property;

  Comment: regulations establishing minimum standards for harvests of wood would in no way impact the practice of legitimate economic use of timber land. The enhancement of economic opportunities are in fact a key goal of such regulations.

In 1949, Vermont adopted voluntary rules on logging, pursuant to a 1945 Forest Practices Act. The intent of these rules was, among other things, to protect the productivity of forest soils. Today, industry clearcutters are imperiling forest soils through reckless timber removals that lay soil bare to sun, wind and water. Vermont needs to adopt mandatory rules now. Photo © John McKeith.

The opportunity for genuine compromise that advances the needs and goals of all who legitimately work in and for the forests of Vermont is for us to agree: minimal standards through rules; optimal guidelines through collaborative process.

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Forest Liquidation: Logging as if the Future Didn’t Matter

by Mitch Lansky

You are standing in a recent "timber harvest," that, by state definitions, is not a clearcut. If clearcuts are the problem, how can this be the solution? In front of you are trails every 35 feet with deep skidder cuts. The remaining trees are spindly and sparse. Many are wounded or bent. The yarding area is a muddy mess on both sides of the logging road, making the effective road width more than 100 feet. There are huge piles of slash. It doesn’t look like a forest. It looks wrong.

What we are looking at is not an example of forest management or silviculture. It is the logger’s attempt to maximize short-term income with little concern for the future. It is a tree-mining operation. It is forest liquidation. Liquidation logging is forest gnomes cashing in their chips. They take the goldmine and give others the shaft. While liquidation cuts are often soon followed by sale of the land, this is not always the case. Some very large landowners convert the trees into money without selling the land. The money where it grows fastest—which is not on spindle damaged trees. More likely it will be reinvested out of state—in a pulp mill in Alabama, for example.

Variables of Liquidation

The state has not yet defined when a cut is not a liquidation cut. This is not a simple black and white issue. There is a gray area; it depends on the degree of taking value now and leaving little for the future. The following are the variables that help define liquidation. While severe abuse in just one of these variables can signify liquidation, when abuse shows up in all three variables, the case for liquidation is clear-cut.

• Heavy cutting: Liquidation cuts can be commercial clearcuts or heavy partial cuts. Heavy cutting can lead to a number serious problems:
  - understooping (where there are too few trees left to make efficient use of the growing space, and thus productivity is low);
  - stand check (where the sudden increase in sunlight can actually damage susceptible tree species and lower productivity);
  - windthrow (where shallow-rooted trees lose sheltered protection from the surrounding forest and blow over); and
  - shift in regeneration to shorter-lived, lower-value trees (due to the increased light and disturbance).

• Highgrading: Heavy cutting alone is not necessarily liquidation. Brooks Mills, a landowner in Eddington, cuts fairly heavily, but what he cuts is the junk and what he leaves behind are the very best trees. He is highgrading. Liquidators are high-graders. Highgrading refers to cutting the best and leaving the rest. The "rest" can be:
  - lower-quality trees (damaged trees or trees of poor form);
  - smaller trees (this is typical with diameter-limit cuts that remove all the larger trees); and
  - lower-value species (species that have little market value).

• Stand damage: A sure sign that the logger is not considering the future of the stand is evidence of excessive damage. Damage can occur on many levels:
  - root (compaction and cutting, especially on trails and yards);
  - roots (abruption and severing);
  - trunks (abruption, bark removal, and gouging);
  - limbs and tops (breaking or winding during felling); and
  - advance regeneration.

Consequences

Liquidation cutting has serious silvicultural, social, and biological impacts. These include:

Lowered productivity: While forest mining maximizes short-term financial returns, it sacrifices long-term forest productivity. Damage to soil, poor stocking, and damage to residual trees slow growth as well as create increased susceptibility to wind, insect, and disease problems. With inventory declining and demand growing, it makes little sense to respond to cutting that lowers productivity.

Lowered value: Not only future growth, but also future value declines. A single hardwood tree suitable for pulpwood might be worth less than a dollar, but suitable for veneer or other high-value markets it might be worth more than 100 dollars. Even minor bruises can lead to staining and changes in grain structure that lower value. By taking the best trees of the best species now and damaging residues, the logger ensures that there will be lower value later.

Lowered aesthetics: Sloppy logging, whether partial or clearcut, looks bad. This lowers the value of the land to the community and can severely harm the quality of life of abutting landowners.

Lowered economy: Heavy mechanized partial cuts do not employ many people for the amount of work cut. By ensuring that future values will decline, it means that local employment options will decline. Future wood will be mostly suitable for chips rather than furniture or veneer. There will be less opportunity for high-value-added employment.

Lowered land values can mean lowered local property taxes. Over the last two decades, some towns have had a shift of thousands of acres from softwoods to mixed woods and from mixedwoods to hardwoods. This has led to a loss of thousands of dollars in taxation, shifting the tax burden to others.

Lowered biological values: Damage to the soil, removal of large trees, and excessive opening of the canopy all destroy the value of the forest as habitat for species requiring mature, closed-canopy forests. The insult lasts, because heavy cutting can shift regeneration to disturbance-adapted species, changing the nature of the forest for decades to come. Heavy cutting, and especially poorly designed roads and trails can also lead to siltation and pollution problems in streams and other water bodies.

Occurrence

How widespread is liquidation cutting in Maine? It depends on how you define it. If you set the hurdles low enough, nearly everyone can clear them. Judged by well-accepted silvicultural guides, however, much of Maine logging is marginal or substandard. The worst examples are concentrated on contractor-owned land, industry-owned land, and small-private land. Small-private lands also have some of the best forestry examples.

Heavy cutting: My analysis of a Maine Forest Service (MFS) survey of logging operations in Maine from 1991-1993 (Lansky 1996) found that in partial cuts landowners removed an average of 40% of the basal area per acre. The worst performances were by logging contractors who bought and cut their own lots. They removed an average of more than 60% of the basal area. This means that on half the acres they removed more than 60%—which indicates very heavy cutting.

The former figures indicate how much was cut. But how much was left? In the same study, 43% of all partial-cut acres were left silviculturally understocked (had insufficient trees in the overstory for a manageable stand). On contractor-owned land, all of the sampled partial cuts were left understocked. In contrast, on public lands, none of the residual stands were left understocked.

Stand damage: Studies in Maine of partial cuts using whole-tree harvesting show that stand damage can be quite high. Ostrofsky (1994) estimates that around 15-25% of residual trees commonly are significantly damaged and 30-40% receive some wounding through machine contact or felling of trees. An earlier study by Ostrofsky et al. (1986) found up to 82% of crop trees (trees of good quality that should be left) were damaged or removed in a whole-tree harvest operation in a birch stand where there were no designated skid trails.

Where there are designated skid trails, the closer the spacing of trails, in general the less damage to remaining trees, but the more crop trees that get removed to make trails. When skid trails are 14 feet wide and 40 feet apart, the trails can remove more than 25% of potential crop trees and disturb 25% of the soil as well.

Harvest quality: The MFS logging survey had a rating system for harvest quality that combined assessment of highgrading and degree of stand damage. According to the this survey, "only" 16% (nearly 58,000 acres per year) of the acres partially cut had what the MFS considered to be very poor harvest quality. Another 30% of the acres, however, had low-marginal acceptable stand quality. Thus nearly half the acres cut were low-marginal or worse. If what is
Harvest Quality Ratings

The Maine Forest Service harvest quality ratings went from "1 to "5." Ratings of "1" indicated heavy highgrading and stand damage so that "the immediate future of the stand was dismal." Ratings of "2" showed "low quality." Ratings of "3" indicated "acceptable quality, though with improvement obviously possible," and "4" indicated "very good quality" but with minor problems. Ratings of "5" indicated "top quality work." (Lansky, 1996). Only two sites sampled out of 117 had a rating of "5." Only 23% of the acres rated "4" or higher.

Since the ratings were averages of all the samples of the stand, the numbers were often in decimals. In my analysis of the MFS data, I call ratings of "3" to "3.4" "low-marginal acceptable," and "3.5" to "3.9" "high-marginal acceptable." The ratings were subjective calls by the MFS forester. There were no clear standards that would allow other foresters to consistently come up with the same ratings of the same cuts.

Residual timber: Another telling indicator of the highgrading of contractor-owners is the quality of residual timber. Fifty-six percent of the residual contractor wood was too defective to be sold as sawlogs or even as pulpwood, a sure sign of the future. In contrast, 38% of residual trees were usable as current or potential sawlogs for all landowners.

Species shifts: Over the last few decades, the state has seen a major shift from hardwoods to hardwoods and hardwood quality has been poor. While some of this shift was due to the spruce budworm and to "budworm salvage" (i.e., clearcutting), some of it was due to highgrading. The cut 1982-1995 of red spruce, a tree highly valuable for paper and lumber, was three times the growth. The spruce-fir type fell from 8.3 million acres in 1971 to 6 million acres in 1995. The northern hardwood type went from 4.9 million acres in 1971 to 6.8 million acres in 1995. This creates serious problems for future wood supply.

Shifting in species and quality have been going on a long time. In the pre-settlement forest, the top three hardwood species were beech, yellow birch, and sugar maple (Lotterman, 1977). The top hardwood species now are red maple, sugar maple, and poplar (Griffith and Alleeirch, 1996). A 1972 USDA Forest Service survey of Maine stated, quite bluntly, that "Most of Maine's northern hardwoods have been managed very little, if at all. Most have been harvested by high-grading methods, which removed almost the high-value species or the best-quality trees." (Ferguson and Kingsley, 1972).

Liquidation Economics

What drives the liquidators? Ignorance or incompetence is not a sufficient explanation. Many of the loggers are trained, certified professionals. Often they are operating under intense pressure to even a "management plan." A plea of "temporary insanity" can hardly be made for operations that may ruin the forest. Liquidators tend to be rational people making rational decisions in an irrational system...with devastating results.

Goal: The goal of the system is to maximize money. Money is a "universal solvent"—a forest can be converted into money and money can be converted into trucks, VCRs, or paper mills. Although an acre of forest and a VCR may have the same monetary value, they do not have the same biological value. They are not interchangeable, even if the economic system sees them that way. Ecological and social values are not well measured in a system that only records market values.

A rational player in our economic system will only pursue ecological or social goals to the extent that they do not interfere with the primary goal of maximizing financial returns. Thus, under our current economic system, it is perfectly rational to damage our life support systems if it is profitable to do so. As Captain Ahab summed it up, "All my men are one acre; my notions and my object, mad."

Capital depletion: Forest liquidators calculate the money coming in from their operations as "income." Under a fuller accounting, the damage done to the soil and water, the loss of a stock decline in forest productivity, and the harm to ecosystem processes would be calculated as a cost. Forest liquidation is not a form of income; it is capital depletion. It does not rely on the biological interest or surplus; it draws the system down so that there is less true interest in the future.

Leveraged land: Purchase of large parcels are usually highly leveraged. Often, the value of the timber is greater than the value of the land. The buyer borrows heavily, knowing that he can quickly pay back the loan through liquidating the trees. When woodlands come on the market, leveraged liquidators can outbid buyers interested in longer-term forest.

Ironically, during debate over the referendum, some contractors and their Leveraged, Leveraged Land

Liquidators will buy any wood lot worth cutting. They will buy thousands of acres of former Tribal Lands and lands formerly owned by Diamond International on the market. Liquidation cutting has been widespread on these former Diamond lands, remnants of the leveraged-buy-out of Diamond International by Sir James Goldsmith in 1983. When the Diamond lands first started coming on to the market in the late 1980s conservation organizations and state governments panicked. They feared that the hard parcels would be liquidated and sold to real estate developers. Thus began the six years and millions of dollars spent on the Northern Forest Lands Study and Northern Forest Lands Lands Council. The council never directly addressed the obvious reason why people were selling land (to make money). Instead it came up with complicated schemes to reduce forest land taxes, and emphasized purchase of easements. The problem of liquidation persists—much of it, ironically, on former Diamond lands, now twice leveraged.

leveraged cut: The heavy cutting doesn't just damage the forest. Little of the money from the cut stays locally—it goes to equipment manufacturers, banks, and other creditors, such as paper companies.

The contractors are paid for the value of the wood cut, not the value of the forest left behind. The heavy, debris-induced cutting floods the market with timber produced with many "externalized" costs (i.e., damaged forests and degraded communities) artificially cheapening the wood supply. This is good (short-term) news for paper companies, but bad for other woodcutters and small woodlot owners trying to earn an honest wage.

Liquidated real estate: After the cut, the land has little value for timber. Who wants cut-over land? In some cases, large landowners such as Baskhegan Lands, have bought the land for cheap (less than 1/10th the price Baskhegan got for selling an easement for development rights on land abutting a flowing, assuming that if they want long enough, some wood will grow. Often, however, the land is bought by real-estate "developers." They buy the land cheap and then run jack-in-the-box operations, investing in a houselet in the mythical Maine Woods than a manageable woodlot.

Tax consequences: Most of the larger lots being liquidated are under wood, having overcut their own lands over the last two decades. The contractors have to cut lots of wood to payff debts for their expensive machinery, but there is not enough available wood on cut industry lands. The timber deeds give them a temporary secure wood supply, which they must cut within a few years, but it is a match, not made in heaven.

Sustainable Forestry

The paper companies are associates to the American Forest and Paper Association's Sustainable Forestry Initiative. Members promise to preserve biodiversity, protect water quality, maintain wildlife habitat, ensure reforestation, protect lands of special significance, and minimize the visual impact of harvesting on their own lands. They also promise to ensure that all the wood they buy, even from woodlot owners and contractors, is managed to ensure sustainability. These timber contracts, in contrast, force heavy cutting in the short term. A number of these contracts are under investigation by the Maine Forest Service for possible violations of the Forest Practices Act (an act that is very difficult to violate). The representatives for the Sustainable Forestry Initiative in Maine are: Charles Brown, executive director of the Northern Forest Council, and Geo Flateau, a consultant on ecological issues who is married to Kent Weidemaker, head of the Maine Chapter of the Nature Conservancy.

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Who Are the Developers?
Some unsavory characters and companies are getting the liquidation-speculation game. This includes, locally, the Patten Corp., the firm that has been selling thousands of acres of liquidated former Diamond lands in Penticton—land that isn't even near rivers or lakes. Over the last decade, Patten Corporation was subject to major suits from defrauded purchasers throughout the northern forest region.

A number of large local contractors are using the services of Mr. B. Gregor, a real-estate agent from the Houlton area. Ms. Gregor was recently convicted of fraud and sentenced to prison and home detention. She pleaded guilty to mail and wire fraud, using false names when she sold land she did not own and in sales of land mortgaged to third parties. She also used false names to cheat newspapers from Maine to California that ran her advertisements. Even after her conviction, she has been selling land she purchased from a liquidation cut in nearby Drew Plantation. Apparently, she allowed to sell land that she owns.

The Tree Growth Tax Law (a current-use tax). While this tax is supposed to promote sustainable forestry and deter development, it doesn't do either. In fact, the tax is so low (around a dollar an acre per year or less in some areas) it allows landowners to retain liquidated forests for years with little penalty.

When the land is sold, only the segment converted to a houselot requires penalties for conversion—the rest can stay under Tree Growth. The tax is a subsidy for liquidation. As growth rates decline and stands shift to lower-valued trees and species, the tax goes down. There are no requirements for long-term silviculture for those under Tree Growth.

Liquidation Management Plan
A management plan is now required under the Tree Growth Tax Law. The plan, however, does not have to meet any survivable standards. The Bangor Daily News article in December gave an example of a management plan written up by a forester for a liquidation cut. The contractor, Gupitl Logging, purchased the land with a loan from Georgia-Pacific. The plan, written by forester Gerald Poulin, states that:

"This landowner, who is in the logging business, has an objective of gaining the maximum income possible from the recently acquired assets and operations on this lot... This land is part of a timber deed arrangement with Georgia-Pacific Corp. The terms of this agreement call for the land to be logged, harvested and sold to G-P within a two-year span, so some of the options concerning the timber on the land are limited."

Changing Direction
Maine has many of the "solutions" to liquidation since the 1970s including the Tree Growth Tax Law, the Land Use Regulation Commission, the Forest Practices Act, the Northern Forest Lands Council, and the Maine Council on Sustainable Forest Management. None of these strategies has really worked. None of these initiatives directly attacks the problem. None of them sets clear standards defining the problem, requiring it as a logical step in order to ensure the standards are met. None assures accountability of the landowners, foresters, and loggers. All the initiatives have relied on committees with members conflicting-of-interest (i.e., timber-industry representatives who were giving the regulations).

Part of the Compact was a promise for a study on liquidation. Compact members seemed interested in passing a real-estate speculation tax, similar one in Vermont. A speculation tax would miss liquidation cuts that are not sold in the short-term. It would be vehemently opposed by real-estate interests and, probably, some small woodlot owners. If passed there would undoubtedly be exemptions for various reasons. Under the Compact, each landowner has no standards defining understocking, highgrading, or stand damage. Under the Forest Practices Act, almost anyone who wants to need a credible subdivision board that does not have members with conflicts-of-interest, to set credible standards.

Reaching Standards: To reach the standards, operators need to have the knowledge, skills, equipment, and willingness to make adequate compensation. There must also be accountability of the foresters and loggers.

Knowledge: Key to lowering the negative impacts of logging is having foresters and loggers who are well trained to do so. Avoiding damaging crop trees or seminal areas requires proper timing and planning for layout of trails and yards and marking of trees. Training programs for foresters and loggers must start emphasizing reducing impacts. Public lands and experimental forests can have demonstration areas where foresters, loggers, and landowners can see examples of recommended practices.

Equipment: Good operators can lower impacts with modern different types of equipment, including skidders. Some machines, however, are simply too big and require too much area in trails and yards (25% or more of the stand as opposed to around 7% for low-impact systems) for acceptable partial-cut operations. The Pacific Certification Council rules out whole-tree harvesting systems because, "This practice rob's forests of ecosystems and systems of important short-term ecological capital, and therefore is not ecologically responsible."

Compensation: The economic system needs to reward loggers for good management. Under a piece-rate wage, loggers are penalized for removing small trees and a lot of low-value wood and for taking time to take care. There need to be incentives for quality.

Not all cuts can be money makers for landowners. On sites needing rehabilitation, the cutting should be more as a reinvestment in the future earnings. We need an economic accounting system which can distinguish income from capital depletion. Whether the logging company, the Timberland Bank, or the land money depends to a large extent on markets. Due to market domination by a handful of vertically-integrated companies, wood in Maine is under-valued. Some operators in similarly dominated areas are making even light cuts viable by very carefully selecting each stick of wood for the highest-paying markets (Mc-Cann, 1993). A woodlotist in New Brunswick recently bought a hard-wood mill to assure better paying markets for some forest products.

Accountability: Forests writing management plans for or supervising liquidation cuts are violating their professional code of ethics. Loggers who do liquidation cuts are harming the reputation of their profession. There needs to be some internal policing against malpractice. Abusers should lose their licenses. Professional foresters and logging organizations should attach as much shame to forest liquidation as would fall on a minister caught eating a whore.

Conclusion
Forest liquidation is profitable and it is legal. When I asked forest economist and author of Ethics in Forestry, Lloyd Irland, why liquidation is wrong, he replied, "Because it is wrong." Trying to pass regulations to stanch liquidation, but leaving economic incentives intact that encourage leveraged forestry is like putting your foot on the brakes and the gas at the same time. We need a more comprehensive approach to the problem. Current solutions are not working.

To the extent that forest industry lobbyists have successfully watered off meaningful standards, or even discussion of such standards, they have successfully defended incompetent and malpractice. Protecting short-term profit maximization has hurt the long-term interests of society. As Kerouac said, "You pay through the nose for the short lived shows."

References

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Three New Maine Forest Reform Bills Address Liquidation

Representative Paul Volenik (D-Sedgwick), has introduced three bills in this session that could put an end in forest liquidation while improving economic prospects for woodlot owners and loggers. The philosophy behind the bills is to set clear goals and set up a credible public process to meet the goals. This is in contrast to bills that impose very specific numbers into a very complex issue in a manner that leaves both the public and legislators very confused.

Tree Growth Tax Law

The first, "An amendment to the Tree Growth Tax Law," cites the Maine Council on Sustainable Forest Management's contention that "Public policy should not subsidize activities that encourage less-than-excellent forest management."

The TGTL is a subsidy, and it does reward liquidation cutting and other forms of mismanagement. Although the TGTL requires a management plan, currently there are no standards for this management plan. Having minimum, silviculturally-based standards for management plans would not influence those interested in long-term management, but it would help stop short-term liquidators.

The amendment would require that the management plan specifically address the issues of overcutting, unwarranted clearcutting, understocking, highgrading, stand damage, and pesticide use.

Maine Silvicultural Board

The second bill would create a Maine Silvicultural Board that would have as a mission to set measurable standards concerning the above goals. The board would set minimum standards but also give recommended standards. The makeup of the board would include silvicultural experts from the Bureau of Public Lands, the Baxter State Park Scientific Management Area, the University of Maine, USDA Forest Service, as well as scientists, regulators, and knowledgeable citizens.

Maine Forest Policy Roundtable

The third bill would create a Maine Forest Policy Roundtable that would address key forestry economic and labor issues that were neglected in the Northern Forest Lands Council and the Maine Council on Sustainable Forest Management (MCFSM). The MCFSM identified the following issues which it did not address:

- raw log exports
- workers' compensation
- mechanization
- regional shortages
- piecework pay rates, and
- corporate domination of local communities.

They concluded that these issues "lie beyond the council's mission as given by the Governor, and outside the areas of expertise represented on the council."

The council did not reject the need to address these issues. Indeed, the document stated that, "they are serious issues that must be debated, and where possible, resolved in the public policy arena. While current economic trends do not offer much solace to out-of-work loggers or declining rural communities, Maine's quality of life, the future of rural communities, and the future direction of Maine's economic policy hinge on the outcome of such a debate. This debate should bring to the table as wide a representation of affected stakeholders as possible. It should attempt, at a minimum, to establish a common understanding of the problems, challenges, and barriers to rural prosperity; and beyond, that, general agreement on the policy steps that need to take place. The Roundtable would be such a stakeholder group.

—ML

New on the Northern Forest Bookshelf

Grant, Richard. Tex and Molly in the Afterlife. Avon Books. $24.00. A thinly veiled romp through the craziness of late 20th century Maine in which forest spirits take on corporate forest greed and more.


Platt, David (ed). Penobscot: The Forest, the River and Bay. 1996. Island Institute. $14.95. Depicts in words and graphics the pulse of Maine's greatest watershed, though, despite the title, the forests are given scant coverage.


Scudder, Brent. White Mountain Viewing Guide. 1996. $15.95. How to see great scenery.


Wolf, Donald. Big Dams and Other Dreams. 1996. University of Oklahoma Press. Guides civil engineers, many trained at U Maine, who built the industrial American West, including Grand Coulee, Hoover, and Bonneville Dams; monumental ecologi-cal missteps, though, it is unfair to judge the past by the present. Perhaps some Mainers will atone as great restorers in the next century.

—Compiled by Jim St. Pierre
Maine's so-called Tree-Growth tax law took effect in 1972, when the assault on the Maine woods was raging in full force. As a town assessor, I testified on this scheme at the State's hearing in Orono; I was the only proponent of this measure, although the testimony was full of industry people, including John Sinclair, the legendary Seven Islands manager. Later, Robert Meskers of the tax bureau told me that no other statement, pro or con, was presented at either of the other hearings. My opinion was that the principle involved in the law was the best way of taxing timberland I had seen, but I opposed it because of one fatal flaw—it assumed good faith on the landowner's part. (As a contractor with some of the Maine paper companies, I already had reason to believe they were liquidating the forest.) In avoiding overvaluing well-stocked holdings, it created the incentive to reduce the land tax by reducing (or growing) the stock. Given any opportunity to further avoid a tax, Maine forest owners are certain to help themselves. The industrial owners in Maine's unorgанизed territory, the North woods that were, do this by reporting which of their acres of forest are predominately softwood, hardwood, or mixed. The new tax is in informel conversation, Mitch Lamsky caught me saying, "the cheap bastard's hate to pay taxes." Let me explain: disliking or avoiding paying taxes may be a universal trait in our society, and is not the basis for that characterization. Cheap bastard's hate the forest, export enough spruce, pine, and cedar to sustain 2,500 mill jobs in Canada, bring in 2,000 foreign commuters who displace native workers. That isn't all; our big landowners (down to the size of Roger Milliken, with 108,000 acres) join in the general conspiracy to keep their wood sales from entering the calculations which determine forestland taxes. Here is how it is done. The Tree-Growth tax is based upon the cost of use, rather than on potential use for a more profitable purpose. This statement alone does not define how to keep the land value lower than that for development as house or camp lots. For Tree-Growth purposes, land value is derived from the support of growth of the young tree on an "average acre," "capitalized" as the amount of a savings account which has that amount of income. The U.S. Forest Service provides the growth number in its forest inventory.

How Maine Calculates the Tree Growth Tax
The Tree-Growth taxing formula thus developed in: growth rate (times) weighted stumpage value (equals) value/acre/year, expressed by the following formula,

$$\frac{f_1^3}{f_2} \times \frac{x}{f_3} = \text{Acres/year}$$

which represents the value of the wood grown on the acre last year. Our landowners argued that this annual increment was not all harvestable and should be discounted accordingly: they got a 10% reduction in the annual growth figure. With this discount factor applied to the wood growth, and the suspect MSF weighted conversion factor, the equation now says that the value of the annual growth on an acre of softwood in 1996 is $13. The State doesn't call this the value of an acre of softwood, but figures the amount in a savings account earning, at 8.5%, $13 per year (in other words, divide $13 by 0.085). This sum is $155.

How does one turn the number of cubic feet of wood growing on trees into $/acre? This is one of the occasions where the Maine Forest Service steps in and does a number on the people of Maine; MFS carefully collects sale prices for timber products—logs, pulpwood, veneer wood, chips, but only from small landowners in open market transactions. The value of wood from the company land used in its mills is not reported, nor the price received for, say, the 150 million board feet of logs the Pinegrass must ship to their Canadian mills to support what they told us were "600 jobs." Inter-company sales, like Georgia-Pacific selling its spruce chips first to Boise, and lately, to Great Northern, also do not enter the data base. Only the little fish who sell in the market still dominated by the size of the industrial holdings must report their receipts.

With the current growth figure and only some published stumpage prices in hand, the MFS now turns cubic feet of wood per acre per year into a dollar amount. For cords of pulpwood this is straightforward, but for logs sawn into lumber MFS provides the factor converting cubic feet into the corresponding number of board feet of lumber. Here their pro-industry bias is most operative, but well hidden from public view.

They write the program which tells the State's computer how to calculate land tax under Tree-Growth, using a measure of cubic feet of wood required to yield a unit of board feet of lumber, this factor I found in my 1994 study of log scaling (see Forum, vol. 4 # 3, page 30) ranged around 200 cubic feet of log per 1000 board feet of lumber. By contrast, log requirement in a middle-tech stud or dimension lumber mill sawing seven-inch diameter or larger logs is less than 100 cubic feet; this is the size of most of the logs International Paper and the Pinegrass send to their captive Canadian mills just over the border. Even mills sawing pine lumber need at most 160 cubic feet of log per MBF for six-inch logs, ranging down to 100 at two-feet diameter.

It may be noted that the just-described calculations, known as the lumber recovery factor, neglect the volumes and values of the so-called residues, the slabs, edgings, and sawdust that long ages were wasted. These comprise as much as 60% of the volume of the smallest logs, declining to 25% for two-foot giants. For a paper maker, these "residues" are the better fiber in the tree, with a value greater than the lumber produced. Credit our industrial landowners with capturing this as part of their log price, unreported to the tax authorities as a "stumpage" payment and, therefore, not entered into the land value calculation.

For softwood land, the 1996 mean value across Maine's 16 counties is $155 per acre. Mixedwood (softwood less than three-quarters of the stocking, but greater than one-quarter) mean valuation is $106, and an acre of predominately hardwood is worth $77. Thus, the tax assessed on mixedwood land is two-thirds of that on softwood. Hardwood pays only one-half of the tax on softwood. Thus the incentive to keep our forest owners to report when they have reduced the proportion of softwood in a parcel of land. Most of them have avoided themselves of this boon. And this is how we got a record of what they have done to the forest of Maine.

These bogus values effect a shift of tax to neighbors—someone has to make up the revenue for schools, roads, and other public services. Tree-Growth, as it is known, and similar dodges are not victimless crimes. For example, forest land in Perry, in Washington County would be assessed at $500 per acre with no short or road frontage we were told by a local owner; under the Tree-Growth, this land is valued between $77 and $45 per acre. In Aurora, my home, a Georgia-Pacific contractor with a $3 million USDA government loan paid $300 an acre for land that was assessed at $74. If someone has a lot of land in your town under these scams, you, even if you have a small woodlot steward, are paying the tax he avoids. With declining state support of school cost local property owners are clobbered with a double load.

The law provides that "Municipalities shall be reimbursed up to 90% of the taxes lost." This wesseld-worded bit is honored with only, at most, 20% of the tax shifted; in Eastbrook with half of the town under the Tree-Growth, there have been recent years with no state refund. The refund, of course, is money mostly from the personal income and sales taxes. Ironically, any refund benefits those who avoided the tax as much as those who, in effect, paid three-quarters of their industrial neighbor's tax.

After 25 years, some are beginning to see what a poor deal this version of a current-use tax has been. Belatedly, there is talk of linking the tax shelter to better forestry. Most of the horses have left the barn. Any real solution would require that landowners get the real value of their wood. This would raise timberland assessments to real value. This would stop tax displacement from those with the most property to those with the least.
Seven Islands Softwood Inventory Shows Extensive Forest Degradation

by William Butler

In 1959 Scientific Certification Systems certified timber management operation plans for seven of the Pineries in northern Maine as "sustainable." Seven Islands, the Pinerie forest management firm, admitted that SCS had criticized the plan for not converting too much land from softwood to mixed or pure hardwood stands. Notwithstanding this and other dubious practices, Seven Islands and Pinerie reaped their certification.

Since 1972, industrial landowners have recorded forest type acreages on their lands with the State Tax Assessor's office in Augusta, in accordance with Maine's Tree-Growth tax shelter. Because there is a steep differential in assessed value for softwood, mixedwood or hardwood stands, owners have a substantial financial incentive to tell the tax man what they have in each and report reductions in acreage of the higher-valued softwood or mixed wood stands. (See the related account, "Tree-Growth: the Law of Intended Consequences").

A sampling of the Pinerie-Seven Islands statements is shown. The numbers are only estimates, not measurements, of land, not developed or "unproductive" land. The state tax records omit smaller parcels but, with a coverage of 700,000 acres, certainly represent management that John Cashwell, Seven Islands president, often states at "over a million acres." Significantly, the forest type changes enumerated occur in the "unorganized territory," the half of Maine which lacks local government and, thanks to "just-a-housewife" Mary Adams, contributes nothing to the state's general fund.

The numbers paint an ugly picture of forest degradation occurring in the spruce-fir forest type of which only fourteen years ago there were six million acres. Today, there are only 2.4 million acres in that type in Maine with the highest commercial value with respect to both the spruce and market pulpwood associations. Clearly, the area of Maine's natural hardwoods must yield in comparison to those regions of the South and West.

In my time, space and fir covered a range of one million to six million acres. Ecologically and economically, it is what grew best here. In the US Forest Service Decennial Survey of 1955, spruce-fir is reduced to about four million acres—which says nothing of declines in volume and net growth. As the USFS survey notes, hardwoods have increased to one million acres, the most of any forest type, with 6.4 million acres recorded. The Pinerie figures show how this shift occurred on one ownership.

Seven Islands demoted 240,000 acres of 423,000 acres of softwood reported in 1972. This entailed cutting a great portion of softwood type forest stands formerly at least three-quarters softwood. To do this on a quarter-million acres implies some heavy reversion, which we have indeed witnessed. I once asked Robert Seymour, University of Maine professor of silviculture, how he and his colleagues could endorse the Pinerie certification,
Maine Woods Watch

by Jym St. Pierre

The Maine Woods is the greatest remaining wildland east of the Rockies. However, today this region is under siege. Maine Woods Watch is devoted to documenting the good, the bad, and the ugly affecting the Maine Woods, with an emphasis on opportunities for citizen action to protect and restore the essence of the region, its wildness.

And the Band Played On: For those paying attention to issues concerning the Maine Woods, 1997 is going to look a good deal like 1996. The forest practices debate will kick-up again as soon as the second vote is scheduled on the Forest Compact. "Use wise" extremists continue to dream up new ways to exploit the natural features and resources of Maine's big woods. Local folks continue to feel pushed up against the wall by the shifting global marketplace which is leaving them, and their traditional guardian angels in the forest industry, in an economic backwater eddy. Conservationists continue to fight each other over the scraps of resilient wilderness. The industrial strength debate grinds on over the fate of the landscape in an industrializing landscape. The people's representatives-national, state and local governments-still remain oblivious to the Big Picture. They do not see the Big Problems ruining one of the last Big Places, so they have no clue what Big Solutions to try. Good news is there will be plenty of opportunities to get involved for those who want to help give voice to the woods, waters and wildlife.

Compacting the Forest: Remember Question 2, with its A, B, or C choices, on the November 1996 ballot? The numbers and names have changed, but the issues remain. The ad hoc political action group that brought to the fore the referendum to ban clearcutting and stop overcutting (2A) has morphed into a new permanent organization. The stated purpose of the Forest Ecology Network (FEN) is to "protect, preserve and defend the native forest environment of Maine through public awareness, citizen activism and education." Director Jonathan Carter says FEN believes environmental leadership should not be about compromising away Maine's clean air, pure water and healthy forests in backroom deals. Carol Haas, who chairs the FEN board, does not mince words about the Compact for Maine's Forests, which was advanced by the King Administration to derail the Ban Clearcutting referendum. "The Compact was an expensive and well-executed public relations stunt, which has left too many citizens of this state believing the self-fulfilling prophecy that the heavy hand of corporate money makes it no longer possible for citizens to intelligently determine their own economic, social and environmental future." Haas insists Compact for Maine is not interested simply in exposing the Forest Compact. The group plans to engage the legislative melee expected this winter/spring.

In fact, a lot players are lining up to play blackjack at the forestry table in the Legislature's house of cards. FEN, new home of the 2A campers, has four proposals in the works. Maine's Clearcutting. A second to mandate tough standing standards under the Tree Growth Tax Law. A third to prohibit corporate contributions to ballot initiatives and establish campaign spending limits. A fourth to prevent public officials from using state assets to influence campaigns. (Contact FEN, PO Box 2218, Augusta, ME 04338.)

The Natural Resources Council of Maine, a leader on the Forest Compact (2B), has a bundle of bills in the legislative hopper too, everything from tinkering with the Compact to tackling liquidation logging. (Contact NRCM, 271 State Street, Augusta, ME 04333.)

The none-of-the-above advocates (2C) plan to have their say as well. Senator Vinton Cassidy is introducing a bill to "saw" clearcutting at 50 acres. (Contact Stop the Backroom Deal, PO Box 111, Oakland, ME 04939.)

Before placing your bets please note that this whole legislative gambling operation may be suspended, depending on how the judicial branch rules soon. The Maine Supreme Judicial Court has been asked by the governor whether the Legislature can adopt the Forest Compact or other changes to the Forest Practices Act without giving voters a second whack at the Compact as contemplated by the state constitution.

Water & Weather: While the Forest Compact speculation plays out, what to do about toxics in Maine's waters and air is shaping up as the next big gamble. Since 1990 there has been a 46% reduction in the total amount of toxics released to the environment from Maine sources, including a 25% drop in air toxics in the past two years. Yet there is still a lot of worrisome evidence.

Last April Gov. Angus King announced that seven Maine pulp and paper mills had agreed to clean up their dioxin discharges so that fish consumption advisory warnings could be lifted by 2000. A working group of interested parties was formed. By December the group had fractured. The Natural Resources Council, Maine Peoples Alliance, and other environmental groups as well as the Penobscot Indian Nation pulled out of the stakeholders' council charging that the industry would not honor their commitment to terminate dioxin discharges because they would not agree to stop using chlorine. Industry and its defenders counterattacked with a barrage of op-eds slamming the "eco-sealots" for conducting a "witch hunt" for a deadly problem where none has proven to exist. The industry\'s opponents assert that they have spent $100 million to reduce dioxin discharges to near-undetectable levels. For instance, International Paper Company said in December it had eliminated detectable dioxins from its Jay mill by switching from elemental chlorine to chloroamine dioxide for bleaching. Environmentalists still insist the mills need to change to a totally chlorine-free bleaching process to ensure there will be no dioxin discharges. The issue may now surface in the Legislature or go to public referendum. (Contact MPA, 359 Main Street, Bangor, ME 04401)

Some folks in central Maine are eyeing paper mill waste as a remedy for water quality problems. The Maine Dept. of Environmental Protection, in cooperation with Bowater and Kimberly-Clark paper companies, is advocating paper tailings as a soil additive to increase water-holding capacity. A pilot project is underway in the Sebasco River watershed.

A petition drive to ban aerial spraying of pesticides is still on hold. But organizer Nancy Oden is gearing up to gather signatures. Jon Olson, executive director of the Maine Farm Bureau, says he has sued over the wording of the proposed referendum because it would make putting pesticides in Maine's waters a major crime, whether the act was intentional or not. Oden counters that any pesticide spraying into public water is an attack with a deadly weapon. (Contact CLEAN: Maine, PO Box 186, Jonesboro, ME 04648; Maine Farm Bureau, 4 Gabriel Drive, Augusta, ME 04330.)

All this fuss over environmental protection may be moot if a couple of trends continue: timber prices and climate change. Official complaints about fiber rustling in Maine have doubled every year since 1993. In 1996 more than 700 possible violations were reported. However, only a dozen of them made it to court because of the strict legal test to prove that the tree theft was done knowingly, recklessly or negligently. A new legislative proposal would get rid of the need to prove intent as long as there is proof of theft. As for climate change, "Altitude Leo" McNally, Maine's weather guru, claims that, based on ice core samples from Greenland, in 20 years temperatures will have dropped so dramatically it will be hard to find a deciduous tree in central Maine. Anyone want to place a wager on which gets the forest first, clearcutting, timber theft or climate cooling?

By the way, David C. Smith, who literally wrote the book on the history of logging in Maine, claims his latest research suggests that cold weather two centuries ago was a major cause of the American Revolution. Smith programmed 27,800 data points from 2000 eighteenth century diaries, crunched the numbers, and found that prolonged cold and killing frosts in the great majority of growing seasons during the 30 years before 1776 caused serious food shortages and widespread discontent in New England. Add the desire for a full stomach to the quest for freedom, liberty and justice to the reasons this great nation was jump started.

Plans, Figs, Pipelines, & Power: After years of studies, draft documents, and hearings, the Land Use Regulation Commission (LURC) is creeping toward a final decision on its revised comprehensive land use plan for the Maine wildlands. Facing one remaining tough decision, in late December the commission blinked. On a 4-3 vote LURC members rejected landlanguage that would have set the stage for identifying areas where oil and gas exploration and development of forests could proceed. Even though Management-Natural Character (M-N) zoning was designed to benefit the forest industry by fending off subdivision and development, industry representatives had illegally lobbied some LURC members last summer to dump the concept. The major landowners fear it could lead to wildland set aside with real forestry restrictions. The LURC vote made the use of M-N zoning entirely voluntary; in other words, it left the large landowners to decide for themselves when they should be regulated for their own good.

Ironically, the LURC vote is backfiring. It has shown that the state cannot be counted on to defend the public interest in Maine's wildlands for the long term. Maine's conservation history is replete with examples of federal action being required to nudge state policymakers. Big thinkers realize once again bold action is needed. Supporters of the proposed Maine Woods National Park say the vote strengthens their support. (Contact RESTORE, 7 N. Chestnut Street, Augusta, ME 04330.) At the same time, state conservationists are so enraged by the LURC vote they are planning to push legislation to require the agency to implement M-N zoning. (Contact NRCM, 271 State Street, Augusta, ME 04330.)

A quarter century ago, during the original legisla-
A state investigation of a sloppy logging operation on the Norwich Township, New Hampshire, area has brought to light a new tactic being used by paper corporations such as Champion International and Georgia-Pacific to secure profits. The companies are killing the trees on a lot by lot basis from an independent logger, who uses the cash to help finance purchase of the land. Problem is the logger often has to overcut the lot to make enough for profits. The practice calls into question the commitment of the companies to their own Sustainable Forestry Initiative.

Mad as Hell and Not Going to Take It Any More: The natives are restless. A mob of 75 met in Bangor on December 15 to share stories about frustration and fears of impending doom. Conservationists were the primary target for the collective anger. Robbie McKay, representing Unorganized Territories United, spoke of the new world order forming to take away property and other individual rights. Michael Coffman, self-appointed director of Sovereignty International, detailed his theory of international cooperation to create vast human-exclusion preserves and usurp parental and child-rearing rights. Bob Wight, head of the Maine Conservation Rights Institute, said environmentalists are waging a coordinated global campaign to make the preservation of nature more important than the rights of human liberty, life and property.

Presenting the New LURC Organizational Chart

The Northern Forest Forest

Mid Winter 1997

The Northern Forest Forum
The true problems—including absentee control of most of the land, corruption of officials, corporate wastage, and globalization of the economy—need to be exposed and explained to people. To achieve the purpose of this story, that is really going on most people will understand how to interpret the act to improve their lot in a volatile world. Unless we have thoughtful land reform, meaningful political campaigns can not have the desired effect of government business subsidies soon we could face dangerous warfare between haves and have-nots.

Measuring Up: There is endless chatter about Maine being a baaadz place to do business, mainly because of environmental regulations. A new poll of 400 businesses by the Maine Chamber and Business Alliance, hardly a raging populist, found that 86 percent believe Maine is a good place to run a business and most said environmental regulations are necessary to compete in a clean environment.

Despite all the books and articles written, despite all the conferences convened, despite all the discussions held, most policymakers have yet to grasp the essential difference between sustainable growth and sustainable development, or better yet, sustainable society. Maine is no exception. Business and government here are chasing fewer smokestacks, but they continue to pursue the holy grail of growth. The confusion of priorities is reflected in our vocabulary. The Maine Economic Growth Council issued its 1997 Measures of Growth report in January. The misuse of the word "growth" throughout the document is an intriguing attempt to set quantifiable benchmarks to assess a wide array of economic and social quality-of-life indicators. The report points out that Maine is losing ground in its traditional industries: forestry, fishing, farming. Fun (tourism) and other service sector industries are expanding, but not enough yet to take the slack. And rural northern Maine is lagging much more than the more populated southern part of the state.

One action urgently needed is to address the severe imbalance of private/public and managed/protected land in the state. The Measures of Growth report recommends a goal of increasing conservation lands in Maine by 10% or nearly 100,000 acres by the year 2000. Similarly, a new five-year plan by the Gulf of Maine Council calls for expansion by 10% of protected acreage of regionally significant coastal habitat. These are ambitious and worthy short-term goals, especially since there is precious little money for conservation these days. However, there also needs to be a long-term goal of protecting much more land for conservation, even if for purely economic reasons. Nontechnical studies have shown that protected lands and a beautiful natural environment are one of the most important economic drivers and quality-of-life factors for attracting clean new businesses and residents.

Citizens have a chance to voice the need for a Maine Woods National Park & Preserve and other big public wildlands at upcoming meetings scheduled by the Governor’s Environmental Priorities Advisory Committee. Public comment sessions will be held in Portland on March 17, in Orono on March 18, and in Presque Isle on March 19. The LAPI committee is supposed to come up with recommendations on acquisition priorities by fall. (Contact Mark Desmules, State Planning Office, 38 State House Station, Augusta, ME 04333.)

Citizens also have an opportunity to be heard on how the White Mountain National Forest is managed. The Forest Service is starting the process of revising its ten-year Comprehensive Management Plan for the WMNF, including the 50,000 acres of the national forest located in Maine. Many believe the forest is more valuable today as a sanctuary for safeguarding native biodiversity and a place to recreate than for cutting trees or altering habitats for game species. Indeed, about seven million visitors a year now use the campgrounds, picnic areas and trails in the WMNF. You might want to remind the U.S. Forest Service that their own 1996 Park Reinvestment Planning Act Project program reported that three-quarters of the money and jobs generated by the national forests by the year 2000 will be derived from recreational use, not timber from logging.

Good Work: Just before the holidays three dozen Mainers paid tribute to America's fallen military heroes by laying wreaths at the monument stones in Arlington National Cemetery. The greens were donated by Morrill Worcester of Harrington.

At the urging of sports groups, last year the Legislature authorized a program called "Hunters for the Hungry." In December hundreds of pounds of meat from illegally killed moose confiscated by the Maine Warden Service were donated to soup kitchens in northern Maine. Legislation of game is also accepted for the program. (Call 1-888-4DEERME.)

Volunteers from the Allagash Alliance have begun restoration of historic relics from the Eagle Lake & West Branch Railroad deep in the Allagash Wilderness Waterway. The railway moved pulpwood for Great Northern Paper in the 1920-30s.

Business leaders in Greenville deserve plaudits for working to diversify the region's economy by tapping the ecotourism trend. The community's spring "Moosemania" program, a series of activities around the theme that moose are fun, has been named one of the top 100 events in the country to do by the American Bus Association.

Tom Bradbury of Cape Porpoise has won the first annual Maine Legends Award, with its $5000 grant, for his tireless efforts on behalf of the Kennebunkport Conservation Trust.

The Maine Wilderness Waterways Trust has brokered a deal between S.D. Warren (Sappi) and the U.S. Forest Service. Warren has sold development rights on 6,750 acres under the Forest Legacy Program. With this the land trust has secured permanent protection from development on virtually the entire 10,500 acres watershed of Piscataway and surrounding lakes.

Congress has appropriated $400,000 to start the new Aroostook National Wildlife Refuge at the former Loring Air Force Base. Another $600,000 was earmarked to continue restoration of carriage roads in Acadia National Park. Lake Umbagog National Wildlife Refuge on the Maine-New Hampshire border has added 200 more acres bringing the total protected area there to 7,850 acres.

The Fin & Feather Club of Millinocket has won the elimination of day use gate fees for Maine residents in the Bowater/Great Northern West Branch region. The tradeoff: the Club had to drop its opposition to relocating of the company’s dams.

Motorheads. My dad once told me of a step he made a lifetime ago to the benefit of the Maine Woods. He got off the train at Norcross with an uncle from Millinocket who guided them. They crossed the ice to the far end of Soon Truck Lake to run trap lines for several days. Today most people will not go into the forest without a motor. Snowmobiling, for instance, has become a huge business in Maine, worth $226 million a year. Inevitably as it has grown snowmobiling has attracted some cowboys who think drinking and speeding are part of the sport. People who have a circle of serious reform of government business subsidies soon we could face dangerous warfare between haves and have-nots.

There may be more motorized ski lifts in Maine soon, too. Appalachian Trail advocates are buckling to political pressure applied by the owners of Saddleback Ski Area, to drastically scale back their expectations for a wide AT corridor along the mountain ridge. After a decade of on-off again agitation, Maine State Park Service are willing to allow more development in a pristine bowl on the mountain in exchange for preservation of the alpine zone. A new environmental assessment is being pushed by the public this year.

In the meantime, contact ATC, PO Box 807, Harpers Ferry, WV 25425.

The same sort of yahoos who abuse snowmobiling have been misusing personal watercraft better known as jet skis, in the summertime. The situation has become so troublesome that a Great Ponds Task Force has been proposed banning the machines from waters in and outside of the U.S. In northern Maine, watercraft on lakes are already illegal on lakes under 200 acres.

Scents & Sensibility: A Maine warden service supervisor who unrated on two recruiting during training last summer will not face criminal charges, but administrative sanctions are still possible. The state Attorney General has concluded it was not a case of criminal action. However, the unnamed fish and wildlife warden may be spared for his propriety.

For the first time DNA evidence has been used in a poaching trial in Maine. The Dept. of Fish & Wildlife brought a federal DNA forensic expert from Oregon to testify in a case against Allen Sockabasin, a former Passamaquoddy chief who he made a moose near the boundary of tribal land in eastern Maine. The defendant readily agreed that DNA from the scene matched that from the moose meat in his freezer. He freely admitted that he had illegally killed the animal legitimation on tribal land. The jury decided the state could not prove otherwise and acquitted. In the future the state will be able to bring in its own DNA expert, since funding has just been approved for a new wildlife DNA testing lab at the University of Maine.

Western Maine businesses are more interested in live than dead moose. A local effort to stop the state from licensing the animal was defeated by the state itself. The state has been unable to go on with the hunting zone was rejected.

In a lengthy story in December New York Times science writer William Stueve writes about the potential significance of the fate of the Atlantic salmon here: "Whether the 'aboriginal' salmon has disappeared or not is at the center of a political storm in Maine, where the Federal Government proposes to list what its biologists say is "the last known wild remnant of U.S. Atlantic salmon' as officially threatened under the Endangered Species Act. State officials, arguing that aboriginal salmon are worth more than worth protecting, vehemently oppose the listing." Saying the state couldn’t afford the cost, the King Administration has also nixed a plan to hire a part-time biologist to help restore the struggling salmon run in the Kennebec River. (Contact RESTORE, PO Box 1099, Concord, MA 01742.)

Several paper companies and the National Audubon Society are forming a Maine IBA Committee. That stands for Important Bird Areas. Bowater-Great Northern, Seven Islands Land Company and Champion Papers (Contact National Audubon, PO Box 524, Dover- Foxcroft, ME 04426.)

One wag has suggested initiating an IWA Program. Iniquitous Wolf Areas would be identified.
Massive Logging Project Proposed for WMNF

by David Carroll

The White Mountain National Forest is one of New England's finest natural jewels. Yet the U.S. Forest Service would rather log the forest than protect it. The latest example of this is the proposed Kearsarge North Timber Sale in the towns of Bartlett, Chocorua, and Lincoln, NH. This sale would claim 6.8 million board-feet of timber from a 4,700-acre area. It would include massive clearcutting and road building, and to add insult to injury, the sale would lose vast amounts of money.

The Kearsarge North Timber Sale would devastate this scenic, wild area north of Kearsarge Mountain, which was proposed for wilderness designation during the 1970s.

There is significant opposition to the proposed Kearsarge North Timber Sale, led by the regional preservation organization, RESTORE: The North Woods and a number of hunters to the project. According to the Forest Service, over 150 people sent in comments, the vast majority opposing the logging. Despite the opposition, the Forest Service is moving ahead with plans to log the area.

The Kearsarge North area holds a number of unique characteristics including rare old growth groves. One area in particular, near Shingle Pond, contains a 100-acre grove of old-growth hemlock and northern hardwoods—possibly the largest stand of old-growth hemlock on the WMNF. One of the Forest Service’s proposals is to thin “over-mature” trees in and near this grove, making the stand even-aged. According to Mary Byrd Davis (PhD), editor of Eastern Old-Growth Forests: Prospects for Rediscovery and Recovery (Washington, DC: Island Press, 1996), “thinning would produce a sad and stunted— the antithesis of old growth.” This is an area that should be considered for wilderness protection, not industrial logging.

The Forest Service claims that building roads and clearcutting the forest will help wildlife. The Forest Service even claims that “research has shown edge habitat has not had a negative effect on wildlife populations in the WMNF.” Animals such as raccoons, skunks, blue jays, and cardinals thrive and Black-throated Blue warblers are negatively impacted by these edge species. Apparently, the WMNF is the only place in the world where interior dependent wildlife are not negatively impacted by edge habitat species. The Forest Service failed to provide any references to document their claim.

The proposed Kearsarge North Timber Sale will also lose taxpayers money. A recent study by the U.S. General Accounting Office showed that the WMNF logging program lost an average of $1 million per year from 1992-1994. The WMNF projects another $1 million loss in its timber program this year if the Kearsarge North sale is allowed to proceed, it could cost taxpayers over $340,000. Americans would be subsidizing the destruction of their own forest!

At one of the Forest Service public meetings about the proposed Kearsarge North Timber Sale, an agency biologist distinctly explained the way the Forest Service does business. She said that the purpose of the Forest Service is to log, grave, and mine the national forests. Within these activities they then manage for wildlife and recreation. If the people want a different kind of management, don’t look to the Forest Service.

The White Mountain National Park— it does have a nice ring to it.

David Carroll is Associate Executive Director of RESTORE: The North Woods. He can be contacted at: RESTORE, POB 1099, Concord, MA 01742. Tel. 508-287-0320.

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Energy Resources Under Scrutiny in Maine

Regulators Consider Abandoning CMP’s Pro-Conservation Rate Structure
by Pamela Prodan

Kennebec Appeal Rescheduled
After three attempts to schedule Friends of the Boundary Mountains’ (FBM) appeal of Kennebec Windpower’s site permit, the Maine Department of Environmental Protection (DEP) now has set a date of February 26—over a year after the appeal was filed. The Board of Environmental Protection will rule on Kennebec’s financial and technical capacity as well as land impacts from the project. Last summer, Kennebec claimed that the appeal could not go forward until Kennebec either sells the Boundary Mountains project or wrings up its bankruptcy proceedings. However, FBM and the DEP believe that the permit itself is not a proper interest in the bankruptcy case, and even if it were, the state can decide the appeal under its regulatory power.

Although DEP has not issued a draft order yet; DEP staff told me that DEP agrees with Friends of the Boundary Mountains that Kennebec does not have the financial capacity required to hold the permit. On the avian issue, FBM’s expert witness, Colby College professor Herb Wilson, an ornithologist who used data from Kennebec’s own avian study, submitted written testimony estimating that nearly 47,000 songbirds would be at risk of encountering a turbine each fall on the one ridge-line Kennebec studied. Dozens of similar ridge- lines exist throughout the project area. The Department of Inland Fisheries and Wildlife agrees that thousands of birds would encounter turbines, but so far has not said outright that it opposes the project.

Maine Project Priced at $25,000
At least two developers, including EnergyWorks, a joint venture created by the industry giant, Bechtel, have expressed interest in Kennebec’s Maine project and contacted the Maine Land Use Regulation Commission in past months. In December, Bechtel decided not to buy the project. In bankruptcy papers filed last summer, Kennebec officials estimated the value of the Maine project at $25,000. This was a much lower figure than given to other, smaller, Kennebec projects. For example, Kennebec valued a project in Wyoming at $100,000. In December, a company called SeaWest bought the Wyoming project for a total of $3.5 Million, the last $400,000 to be paid if the project is ever built up above 68 MW. The Boundary Mountains project is 210 MW.

However, there has been no activity on Kennebec’s LURC final development plan by Kennebec, but LURC Director John Williams sent a letter to Kennebec in January reminding the company of its February 28 deadline for filing a final development plan or a request for a six-month time extension. Williams indicated a demonstration of financial capacity would have to be submitted with any request for an extension.

Restructuring Unfolds
After several Ratepayer Roundtable meetings, a coalition of consumer and environmental groups have developed a list of requirements that they think are needed in order for utility deregulation to proceed. I participated in discussions and supported recommendations that would protect consumers and tend to favor smaller, decentralized energy projects, including:
- customer disclosure of price and source of generation;
- net metering for residential renewable energy installations;
- distributing utility must pursue demand side management or distributed generation if either is a less cost- effective alternative than building additional transmission capacity;
- renewable purchase requirement of small-scale, sustainably managed renewables by all power providers;
- promotion of distributed renewables such as rooftop solar panels.

Unfortunately, not all these suggestions were ultimately adopted by the whole Roundtable, which included participants representing industrial consumers and PURPA-scale independent energy producers (biomass and hydro plants up to 80 MW capacity). Environmental groups were ready to agree, but the industrial interests and independent producers especially resisted incorporating any language that would condition support for renewables upon the sustainable management of the resources used.

One proposal developed by a renewables subcommittee would have entailed
- all existing facilities defined under PURPA standards, with the understanding that, to retain renewable status, projects must move toward a definition of sustainability;
- new renewable resource facilities that meet certain definitions of sustainability (as yet undefined).

The Public Advocate is transforming the final Roundtable document to legislative format which will be presented as an alternative to other legislative initiatives drafted by one or more utilities and by the Maine Public Utilities Commission.

Maine Yankee and Other Nuclear Uncertainties
With all the problems at nuclear plants in Maine, Connecticut and Point Lepreau, New Brunswick, Jim Conner of the Maine State Planning Office told me that he had expected that one or more of Maine’s idle biomass plants might be started up. The plants’ contracts with utilities were bought out when the price for other sources of power dropped in recent years.

However, Conner said that New England utilities that lost their nuclear resources opted to purchase replacement power from Hydro-Quebec. It’s an open question whether the idle biomass plants will operate before Canadian natural gas is likely to be cheaper, though not cleaner burning, energy source, becomes available to the region.

Fiber Farming in Maine
Ted Johnston, formerly with the Maine Forest Products Council, is now a lobbyist for the Industrial Energy Consumers Group. The IECG, which focuses on electric energy issues, is a trade group dominated by large forest products manufacturers such as paper companies. Johnston has been brought on board to do outreach to sawmills and smaller users. Johnston would like to see abandoned potato farms in Aroostook County planted to poplar to provide fiber for pulp and biomass. There is also a good market now for poplar veneers and saw logs in Quebec. Johnston maintains that monoculture poplar will not create a problem with disease and pests because it is a fast-growing crop. Potato beetles have ignored that theory, though.

Natural Gas Pipeline Opponents Organize
The No New Corridors Citizens Coalition has proposed an alternate route to the gas pipeline route now proposed by Maritimes and Northeast of Boston. No New Corridors’ route would require little if any taking of private property, unlike the 40 mile swath of new right-of-way Maritimes has proposed from Lisbon to Wiscasset.

The citizens group’s alternative uses existing utility rights of way and is two miles shorter than the one proposed by the Boston-based developers. Central Maine communities are upset that the pipeline route diverges from Central Maine Power (CMP) utility rights-of-way to cut through woods, stands, farms and near to homes. The company had promised to use existing rights-of-way when it first proposed building the pipeline.

An engineer with Maritimes and Northeast told attorney Polly Reeves, statewide coordinator for No New Corridors, that the company had walked parts of the citizens’ proposed route multiple times in the field. However, according to a January 16 story in Capital Weekly, an Augusta community newspaper, spokesmen for the company admitted that nobody from the company had ever examined the company’s own route on the ground. According to Capital Weekly, a Maritimes representative even characterized its own proposed route as “a line drawn on a map by an engineer.”

Complaints about Maritimes’ refusal to be forthcoming with information are common. Employees in Augusta are not allowed to speak to the press. Staff Regulatory Representative Scott Cowger told Capital Weekly that the company had not returned his calls made weeks previous. The former State Senator Sharon Toot said that she was the company offered to meet with her, yet during the meeting never even told her that the pipeline was proposed to go
through her legislative district. For more information, contact: No New Cones, c/o Polly Reeves, RFD 2 Box 427, Gardiner, ME 04345.

Liability Sought To Be Restored
Representative Scott Carper, a freshman Democrat from Hallowell, is introducing a bill to repeal a law passed last session that reduces liability for gas pipeline owners in case of an explosion or fire from a pipeline. The new law shifts the burden of proving negligence to the injured party. Before, the company would have had to prove that it was not negligent. Apparently the gas industry initiated the change in anticipation of building new pipelines through Maine.

Two Pipelines Proposed
The Portland Natural Gas Transmission System (a pipeline proposed to pass through western Maine, New Hampshire and Vermont) and the Maritimes and Northeast pipeline directly affect 80 Maine municipalities, not including lateral lines. Central Maine Power Company has bought an equity interest in the Maritimes and Northeast pipeline in exchange for the use of its power lines rights-of-way. CMP has applied to the Maine Public Utilities Commission to install and maintain gas lines in 42 communities, which would require building smaller lines from either the main large high volume pipeline or the lateral lines the pipeline company is planning to construct to serve the large paper mills. Pipeline companies cannot build local distribution lines but can sell to large industrial customers.

Portland Transmission and Maritimes and Northeast have remarkably similar public relations strategies. Last week when I called the Portland Transmission office they asked if I was from the media and so they could direct my call accordingly. I was calling as a member of my town conservation commission, so I never found out how they treat the media. Just like Maritimes and Northeast, Portland Transmission originally promised it would go on existing rights-of-way, but now proposes to cut through the southeast corner of the Nash Stream State Forest in rural New Hampshire. The federal Natural Gas Act appears to preempt any state and local attempts to impose siting and design requirements on interstate natural gas pipelines, although FERC is supposed to take those views into account before issuing a certificate of public convenience and necessity.

Environmental Impact Statements are expected to be issued next year for both pipelines. No mainstream group has yet come out in opposition to either project. Appalachian Mountain Club's Tom Steinbach is concerned about local environmental impacts since the Maritimes and Northeast line runs through the Down East Lakes Wilderness and the Portland pipeline crosses the Appalachian Trail. Conrad Schneider of the Natural Resources Council of Maine agrees with my concern that natural gas may not replace, but could instead add to, other types of energy consumption in Maine. But apparently both groups endorse importing natural gas, a fossil fuel, which they say is a way of improving air quality. No one seems to be asking whether both pipelines are needed.

Stump at Garden Party
In January, Bangor Hydro-Electric Company President Robert Briggs told legislators on the Energy and Utilities Committee that he is the stump at the garden party for vocally opposing the Maritimes and Northeast Pipeline. Briggs is concerned about losing industrial customers to the gas pipeline. Bangor Hydro has been banking on building load to boost its sagging profits, but expected growth has not materialized and sales are flat. The company says it may have to cut dividends to shareholders and lay off workers for a rate increase soon. Bangor Hydro now has a rate for electric heat of five cents per kilowatt hour, claiming it still can make a profit. It is also promoting electric heat to manufactured home builders. Electric heat has long been criticized as one of the most inefficient and wasteful uses of electricity ever invented.

PUC May Abandon Inverted Block Rates
The Maine Public Utilities Commission is investigating four cases dealing with Central Maine Power Company's rate design. One issue is whether it would be beneficial to change CMP's rate design with respect to so-called declining block rates. The present design, using inverted block rates, reflects the reality that there is only a finite plant capacity for producing electrical energy, and users over a certain amount create the demand for construction of new facilities. Accordingly those users should pay for demanding that extra capacity. With inverted block rates, above a certain usage level, the rate per kilowatt hour goes up. With declining block rates, on the other hand, the more electricity consumed, the lower the rates. Some argue that inverted block rates are counter intuitive by using the analogy that it costs less per pound if you buy a bigger box of cookies, but a better analogy would be that of a cow—the producer milks easily up to a point, but beyond that point, to increase production, even by a small amount, you need to buy another cow.

Changing from the inverted block rate structure has serious consequences for energy planning. If energy consumption is promoted through rates, new plants will need to be built and environmental impacts from energy generation will increase. The inverted block rate structure sends the signal that it is appropriate to conserve our limited natural resources and use only what we need.

Pamela Prodan Coordinates the Renewable Energy Assistance Project (READ) of the Northern Appalachian Restoration Project.

NH Legislature Ponders Ban On Bear Baiting & Hounding
The New Hampshire Senate has introduced legislation to protect black bears from cruel trophy hunting practices. Senators Bert Cohen and Katherine Wheeler have introduced SB 52 to ban the use of dogs to hunt bears, and SB 57 to ban the use of bait to hunt bears. These bills were heard on January 30.

Trophy hunters are currently allowed to litter forests with piles of meat and carcasses to lure bears within point-blank range. They are also allowed to unleash pack of dogs to chase a bear out of a tree, and then follow the dogs and shoot the exposed bear off the tree branch.

Please tell your elected officials that SB 52 and SB 57 would not end bear hunting, but would simply end these two disgusting practices. Because these practices are cruel, unsporting and damaging to the environment, voters in Colorado, Oregon, Massachusetts, and Washington have banned them in the past few years.

Please contact your State Senator and State Representative immediately, and ask them to support SB 52 and SB 57. Write them at: The Honorable State Capital, Concord, NH 03301. Or call the Legislative switchboard to be connected to their offices: 603-271-1110.

Don't forget who your Senator or Representative are, or if you would like to get more involved, please call Giny Mead At The Fund for Animals New Hampshire office, 603-788-3750.

NB Nuc Plant Leaking Heavy Water
The Point Lepreau, New Brunswick nuclear power plant, which lies within 30 miles of the Maine border, was shut down in mid-January due to a leak of radioactive heavy water somewhere in the reactor. The leak had been increasing in size for two weeks prior to shutdowns.

Recently the Atomic Energy Control Board of Canada warned that there is no "culture of safety" at the plant.

This 13-year-old nuc plant has had a long history of problems, including: corrosion in pipes that carry radioactive heavy water in the reactor core (a problem that apparently plagues other Canadian nuc plants with the same design), loose screws and pieces of wood floating somewhere in the reactor. The wood and 30 metal screws were lost after a wooden hatch cover was accidentally sucked into a pump in the reactor. Some of the trap-door material was recovered, but not all of it.

A Democratic Party leader Elizabeth Weir disputed claims from the power plant that it was "not a crisis." The question is, are we leading up to something where we're dealing with the China syndrome? she asked.
by David Orton

In the Winter Solstice 1996 issue of The Northern Forest Forum, I outlined a case against the Sable Island natural gas project. The proposal calls for the extraction and transmission during 25 years of over three trillion cubic feet of natural gas from an area containing approximately 30 production wells, situated in the vicinity of Sable Island, off the coast of Nova Scotia. This natural gas, it is stipulated, is the source of a deposit of natural gas discovered in 1936, and the first to be discovered in Nova Scotia. The project is also situated within the Sable Island National Wildlife Area, a protected area that is home to a variety of wildlife. The proposal calls for the construction of a pipeline and associated facilities, which would disrupt the natural habitat and wildlife in the area.

Maritime and Northeast Pipeline Project

To Solve Greenhouse Effect Engineer Says Bomb Earth With 200-MPH Trees

A student working on a doctorate in mechanical engineering at the Massachusetts Institute of Technology has figured out the solution to the greenhouse effect—bomb the Earth with trees!

Moshe Alamaro wants to replace the forests that covered the Earth prior to the industrial revolution by using military transport planes to drop seedlings on remote, unhabited areas. He developed a seedbody-emulsion tent that is capable of catalyzing a starch and biodegradable material that is strong enough to withstand a 200-mph impact with Earth. He believes that electric power companies will pay him with money saved from carbon dioxide tax credits.

Sable Island Natural Gas Update

The Natural Resources Council of Maine declared its support for the Sable gas project and the pipeline through Mains. However, several communities along the pipeline route have expressed their opposition to the project. The Natural Resources Council of Maine has also expressed concern about the potential impact of the pipeline on the environment and wildlife in the area.

Formal Hearings

In 1997, the project faced a formal court hearing to determine whether the pipeline and associated facilities can be constructed. The hearing was held in a courtroom in Halifax, and the project was represented by a team of lawyers and experts. The project was opposed by local residents and environmental groups, who argued that the pipeline would have a negative impact on the environment.

Sable Island Pipeline Project

The pipeline is designed to transport natural gas from Nova Scotia to the mainland of North America. The pipeline consists of two main segments: the Sable Island Offshore Energy Project and the Maritime and Northeast Pipeline Project. The Sable Island Offshore Energy Project is located offshore of Nova Scotia, while the Maritime and Northeast Pipeline Project is located onshore.

Control

The Canadian section of the pipeline in Nova Scotia and New Brunswick will be located in PanEnergy offices in Boston, with a back-up computer facility in Passumpsic, New Jersey.

To contact the North Shore Anti-Pipeline Group write to: Citizens Against the Sable Island Pipeline, P.O. Box 874, New Glasgow, Nova Scotia, Canada B2H 5K7.

The Natural Resources Council of Maine has declared its support for the Sable gas project and the pipeline through Mains. The council has also been in discussions with local communities and environmental groups to ensure that the project is constructed in an environmentally responsible manner.

November 1996, the Natural Resources Council of Maine declared its support for the Sable gas project and the pipeline through Mains. The council has also been in discussions with local communities and environmental groups to ensure that the project is constructed in an environmentally responsible manner.

 Opposition Building

Opposition to the Sable Island pipeline has been building, particularly in rural Nova Scotia. There is also growing interest in the loosely defined environmental community, with a range of positions being put forth from outright opposition to support for the project. (For example, at a press conference called by Maritimes & Northeast Pipeline in Bangor, Maine in
Joint River Commissions Release Draft Connecticut River Corridor Management Plan

From a press release from the Connecticut River Joint Commissions:

In late December the Connecticut River Joint Commissions (CRJC) released their draft Connecticut River Corridor Management Plan. The plan represents four years of effort by the Commissions and their five local river subcommittees. All of the plan’s many recommendations are the result of consensus reached among a wide variety of interests.

This exceptional grassroots planning effort stems from the Connecticut River’s designation into the NH Rivers Management and Protection Program in 1992, when the Commissions mobilized hundreds of valley residents and local officials to successfully nominate the Connecticut River into the program. This empowered valley citizens to work together to create their own plan to care for the river, tailored to their region’s own needs and stretch of the river, in lieu of the NH statewide Comprehensive Shoreland Protection law, which went into effect on other rivers.

While the NH River commission was charged by the NH Legislature with developing this plan, the CRJC elected to delegate this responsibility to local people appointed by their riverfront towns, in order to ensure that the plan would best respond to local concerns. The State of Vermont urged citizens from its riverfront towns to join their New Hampshire counterparts in the planning process. Five local river subcommittees have been at work up and down the river since January 1993 to identify problems, opportunities, and recommendations for a wide array of topics ranging from recreation to water quality to agriculture, with the active support of the Commissions.

“The is not an agency plan, or something created by bureaucracy from beyond the valley,” said Adair Mulligan, CRJC Communications Coordinator, who managed the work of the five local subcommittees. “This plan is the creation of your neighbors.”

The draft Connecticut River Corridor Management plan represents the Commissions’ riverwide overview, synthesized from the conclusions of their five local counterparts, with the addition of the Commissions’ perspective based on their own years of work within the valley. This riverwide statement is intended to focus the attention of appropriate federal and state agencies on local needs identified by the subcommittees, and to encourage towns to take action to benefit the river and sustain the public value it represents to their citizens.

The plan is an advisory document only, and does not supplant local authority. Any local actions stimulated by the plan will take place through the conventional channels of planning boards or commissions, local public hearings, and town meetings. Publication of the river plan is expected early this spring.

Editor’s Note: At the public hearing held on January 27, there was strong public support for strong river corridor protection actions. Below we print a summary of the comments offered by the Connecticut River Watershed Council.

Although the comment period has now passed, if you desire a copy of the plan or further information, contact Adair Mulligan, Communications Coordinator, (603) 795-2104, or Sharon Francis, Executive Director, (800) 826-4800.

Connecticut River Watershed Council Comments on Draft Management Plan Of Connecticut River Joint Commissions


The Connecticut River Watershed Council (CRWC) applauds the three-year effort of the Joint Commissions and Local River Subcommittees to develop the draft plan. In particular, the Subcommittees’ diligence in defining the special character of their five reaches, identifying their locally significant resources, and describing the importance of the place that embraces their lives and livelihoods is exemplary. In fact and in substance, the Local Subcommittees have given the Joint Commissions and residents of the Valley a grassroots mandate for a strong River Corridor Management Plan.

As our comments discuss in detail, we believe the plan as presented is incomplete. It presents hopes and desires we all share, but lacks the substantive standards, measures, and policies necessary to protect the values identified by the Local Subcommittees and to fulfill the responsibilities of the NH Rivers Management and Protection Program. The task now is to add the needed specifics to assure the Plan achieves what we all want—a Connecticut River that grows better with age. We offer our shared and the actions that individuals and communities can take to protect the river.

We urge the Joint Commissions to extend the public review and comment process (which ended on January 27), and to hold hearings or “listening sessions” in each of the Local Subcommittee regions.

A Summary of Comments Submitted by CRWC:

• Applauds the Local Subcommittees and Joint River Commissions for identifying both the values of the River we want to protect and the actions we can take to protect them.

• Stresses the importance of the Plan created by designation of the Connecticut River under the NH Rivers Management and Protection Program which exempts the Connecticut from significant state protection and places the principal responsibility for protecting the River on the communities and residents of the Valley.

• Points out the need for the Plan to apply equally in Vermont and New Hampshire for the River to be protected.

• Identifies five principal goals presented by the Plan and urges their adoption by all communities: protect the ecological integrity of the River; conserve rural and scenic quality of the Valley; support farming and forestry; maintain the outdoor recreation economy; and explore heritage tourism, achieve river protection and appropriate economic development through bi-state, local action.

• Identifies key river issues not specifically addressed in the Plan: bi-state participation, water quality standards, tributary and wetland protection.

• Urges transformation of the Plan’s “opportunities” into statements of action.

• Identifies additional actions needed to ensure the River is protected, e.g., require proper use and storage of road salt, require developers to have stormwater management plans, maintain development patterns of compact village settings.

• Challenges several points of view in the Plan, expressing support for the international effort to restore Atlantic salmon to the Connecticut River and explaining why landowners willing to sell land for the Conte Refuge sometimes need and benefit by the legal process of eminent domain.

• Underscores key actions needed to protect the River: bi-state action, minimum standards adopted by every riverfront community, protection of riverside forests and vegetated buffers, appropriate siting of development out of the floodplain, continuation of farming, education of landowners, community leaders and the public about the River and why to protect it, and local commitment and action to protect the River.

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Time for Marine Reserves in the Gulf of Maine

by Ron Huber

From the uppermost Bay of Fundy to Cape Cod Bay to Georges Bank, there is no place within the Gulf of Maine off-limits to commercial and recreational fishing. No place where the natural lifecycle of fish and shellfish may take its course unimpeded by human intervention, where natural ecosystems or undisturbed habitats for scientists to use as baselines exist. The "end of nature" has occurred, with a vengeance in the Gulf of Maine.

The result of this intensive exploitation of the Gulf's fishes and shellfishes has been a steady deterioration of the marine ecology of the region. Georges Bank, the 15,000 square mile submerged plateau separating the Gulf from the Atlantic Ocean, once supported the North Atlantic's greatest population of large predator boxy fishes. Under the steady assault of the commercial fishing industry, these fishes, once numbering in the tens of millions, have declined to near "commercial extinction" levels.

Similarly, the marine ecology of the Gulf's nearshore waters has changed, with fish populations but a shadow of their former abundance.

Faced with a collapse of such magnitude, the US and Canadian governments have been forced to shut down commercial fisheries across broad swathes of the Gulf of Maine. The closures are temporary, however, (and in some cases, seasonal). Should the fishes and shellfishes that filled these area return in exploitable levels, the same sad cycle may begin anew.

Existing marine protected areas have done nothing to stem the tide of depletion. Neither of the Gulf of Maine's two marine protected areas, Stellwagen Bank National Marine Sanctuary and Massachusetts' state-managed Ocean Sanctuaries, are allowed to prohibit or even regulate commercial and recreational fishing anywhere within their boundaries.

But the principles of conservation biology have begun percolating down into the marine sciences. Government decisions regarding the future of the Gulf of Maine are beginning to hear the call for the designation of Non-Extractive Reserves (NERs), geographic locations where the marine ecosystem will be free of extractive human exploitation.

NERs exist around the globe, from Belize to New Zealand to South Africa. Unsurprisingly, managers of these marine refuges note marked increases in fish and shellfish abundance and species diversity, and that these areas also serve to replenish nearby areas, through out-migration from refuge to surrounding waters where fishing is allowed.

Conservation and environmental activists achieved a major legislative victory on this issue in Congress this year, however, pushing through amendments to US fishery law that, for the first time, require the designation of "essential habitat" for commercially sought after species, and a requirement for both industry and its regulators take a hard look at the impacts of fishing practices on these habitats, and come up with ways of eliminating those impacts.

Whether the political will exists to heed the call to reform fishery practices and protect critical areas of our submerged public lands in the Gulf of Maine from exploitation remains to be seen. The political establishment is as much in thrall to the commercial fishing industry as it is to the forest products industry. The major marine fishery regulatory body closely resembles the system envisioned for Maine's forests under the Compact for Maine's Forests, with industry-dominated Fishery Management Councils calling the shots on fishing practices and harvest quotas.

The result of this co-management scheme are well known: empty seas and bankrupt fishing communities.

In his "State of the State" address on January 28, Maine Governor Angus King revealed a "Jobs from the Sea" initiative that would, he said, make the Maine Department of Marine Resources "a catalyst for change", including the highly laudable goal of coordinating the region's public and private marine research institutions into a "far flung virtual laboratory stretching from Calais to Kittery."

Coordination of the scattered marine science institutions of the region is sorely needed; but just as the energies of the region's forestry-related scientific community have been harnessed largely toward retirement of inappropriate forest practices and paper bleaching technologies, unless the goals of marine science are to transform humankind's relation with the wild Gulf from one of maximum exploitation to a more ecologically respectful interaction, the net effect of coordinating Maine's marine sciences community may well be an increase in the rate of "virtual commercial extinctions", the same inappropriate fishing technologies are merely shifted from overexploited species to those considered "underutilized."

"Jobs from the sea are within our grasp!" King exclaimed, calling the Gulf of Maine "a field as fertile as the plains of the Midwest." The Governor should be mindful that earlier this century, over enthusiastic government boosting of "scientific" mariculture farming turned much of the Midwest into a dust bowl.

In the end, it will be up to informed citizens to bring ecological sanity to the management of the Gulf of Maine, by becoming involved in the drive for non-extractive reserves, and by making sure that reforms in US federal law requiring the designation of essential fish habitat and the evaluation of fishing practices are carried out. While the damage already done to the Gulf of Maine's marine ecosystem is severe, the experience elsewhere around the globe has shown that even badly damaged marine ecosystems can recover, if given the opportunity.

Ron Huber coordinates the Coastal Waters Project of the Northern Appalachian Restoration Project. He can be contacted at: CWP, POB 94, Lincolnsville, ME 04659, Tel. 207 789-5310.
Major Culprit in Marine Habitat Loss: Mobile Bottomfishing Gear
by Ron Huber


The Plan calls for member states and provinces to commit to "maintain and enhance marine environmental quality in the Gulf of Maine, and to allow for sustainable resource use by existing and future generations." The Plan also identified seven high priority objectives, one of which is "To promote the protection, restoration and enhancement of fish and wildlife habitat within the Gulf of Maine region." To carry out this objective, in 1994 the Gulf Council created a Habitat Committee, which was given a mission to "identify and support an integrated approach to the protection, restoration and enhancement of fish and wildlife habitats and sustainable use of living resources in the Gulf of Maine.", The Committee recently released the results of a survey on the potential of a Marine Protected Areas program for the Gulf of Maine. The survey should emphasize both long term protection of the ecological integrity of the Gulf and restoration of its commercially exploited species. Several survey respondents suggested that designation of highly protected "core areas" where fishing would be prohibited would be critical in carrying out this objective.

"Politics" was cited as the greatest obstacle to Gulf marine protected area designation. Many respondents believed environmental policymakers have little interest in comprehensive protection of the marine environment, and tend to focus on terrestrial environments rather than marine ones, despite the value of the Gulf marine ecosystem.

While most respondents believed a consensus-based approach to marine protected area identification, designation and management, involving all stakeholders was desirable, most also believed that achieving consensus between commercial fisheries and conservationists on protection of marine habitats would prove extremely difficult, given the commercial fishing industry's institutionalized right of open access/open exploitation.

A further obstacle to the designation of marine protected areas cited in the survey results was a perceived lack of baseline data to determine the best locations of marine protected areas. Almost half of the respondents believed that current understanding of the Gulf of Maine's habitat structure, habitat locations, species' migratory patterns and harvesting and pollution impacts was inadequate to the task of identifying, designating and managing marine protected areas.

On the question of appropriate management structure for Gulf marine protected areas, 82% advocated a decentralized management structure that included local communities and other stakeholders in the decision-making process, at all levels from designation to determination of permitted activities. Many believed that such "co-management" would give local community members a personal stake in the successful long-term management of the area. Nearly half of the respondents also believed that marine protected areas should be administered by existing agencies, rather than under a newly created one.

The survey report concluded with four recommendations:

1. Hold a workshop on Marine Protected Areas in the Gulf of Maine.
2. Define and locate critical habitats. Various definitions already exist, from the National Marine Fisheries Service's new definition of "essential habitat": "waters and substrate necessary to fish for spawning, breeding, or growth to maturity", to the National Marine Sanctuary Program's definition of marine habitat "courtship, breeding, nesting, nursery, migrating, staging, resting, or feeding areas." These and other definitions should be examined, adapted to the Gulf of Maine and used to locate critical marine habitat.
3. Establish an advisory committee. The report recommended that a committee be convened to develop a comprehensive proposal for designing and implementing Marine Protected Areas that would be applicable across state, provincial and national boundaries throughout the Gulf region.
4. Develop a pilot protected area. Lastly, the report recommended designation of an "experimental" marine protected area which would "help build consensus, demonstrate the effectiveness of the concept, and facilitate an information exchange." Such an experimental site could be used to learn more about size and other requirements that would be applicable to further designations.

Copies of the report "Marine Protected Areas in the Gulf of Maine: A Survey of Marine Users & Other Interested Parties" are available free from:

Maine State Planning Office
38 State House Station
Augusta ME 04333
Tel (207) 287-2561
Fax (207) 287-6409
The Gulf of Maine Marine Reserve Complex—An Oceanic Wilderness Proposal

by Ron Huber

It is time to establish a Gulf of Maine Marine Reserve System for the Gulf of Maine. The reserves within the system would ultimately encompass more than 3,000 square miles of submerged plateaus, banks, marine canyons and other marine habitats in a ecologically and biogeographically representative and interconnected network from Minas Basin in the upper Bay of Fundy, along the coastal waters off Maine and New Hampshire, and offshore to the submerged plateaus—Jeffreys Ledge and Georges Bank. These reserves would be "non-extractive," i.e., off limits to extractive industries of any kind, from commercial and recreational fishing to oil and gas extraction and sand and gravel mining.

Surveys of Gulf of Maine marine stakeholders, academic research, and the experience elsewhere around the globe show strong support for the establishment of non-extractive reserves, areas where marine life is allowed to exist untrammeled by extractive industries, as a vital part of the restoration and continued functioning of the Gulf of Maine's marine ecosystem. Serving both as ecosystems in their own right, and as core areas that can replenish neighboring, and sometimes distant, reaches, non-extractive reserves (NERs) have been and continue to be created around the globe, with the active support of mainstream political parties, fishing interests and the general public.

But just as proponents of ecological reserves in the Northern Forest face seemingly intractable resistance from the political and industrial establishment and some mainstream environmental organizations, so do those favoring the designation of marine protected areas in the Gulf.

Entrenched fishing interests cling to a mindset that the submerged lands and wild biota of the 30,000 square mile Gulf—public resources all—are nonetheless to be managed solely as their domain. Elected officials and moderate regional conservation organizations, mindful of the "jobs, jobs, jobs" mantra, and hobbled by the endless deck-chairs-on-the-Titanic rearrangements of state and federal fisheries management, dismiss marine reserves as politically impossible. "Wise use" groups, too, are poised to strike against what they perceive as a new front in the "green conspiracy."

Nonetheless, the first ripples of the wave to create true marine reserves in the Gulf of Maine have appeared. At the beginning of the 1990s, the governments of Maine, New Hampshire and Massachusetts, and the presidents of Nova Scotia and New Brunswick, becoming aware of the rapid decline in the Gulf's marine life, created the Gulf of Maine Council on the Marine Environment (GOMCME). A priority objective of GOMCME is "to promote the protection, restoration and enhancement of fish and wildlife habitat within the Gulf of Maine region." In 1994 it established a marine habitat committee. While the committee has recommended the designation of an "experimental" marine protected area to "help build consensus, demonstrate the effectiveness of the concept, and facilitate an information exchange," we believe that for the following reasons, a single "experimental" marine protected area in the Gulf of Maine would be too little, too late:

The extent and physiography of the Gulf of Maine's seafloor, the submerged archipelagoes of ledges, plateaus, seabottoms, shoals and canyons dotting the Gulf of Maine have been laid waste by a combination of inappropriate, habitat-destructive fishing technology and unrealistic and unsustainable fish and shellfish capture levels based on political expediency and short term economics. Once supporting a seemingly inexhaustible cornucopia of marine life, much of this area is now a watery desert. Because of the complex way that water moves through the Gulf, a significant percentage of these areas is biologically isolated, and unlikely to replenish for the foreseeable future.

The Gulf's existing so-called "sanctuaries" have failed to protect or even maintain biodiversity. Neither the Stellwagen Bank National Marine Sanctuary off Cape Cod, nor the Ocean Sanctuary system of Massachusetts, sets any restrictions on commercial or recreational fishing. The same destructive mobile bottom fishing gears that have "deserted" much of the Gulf's seafloor continue to ply back and forth across these "sanctuaries."

The waters and submerged lands of the Gulf of Maine, and the biota that use them are public resources. There need be no courting of 'willing sellers,' no requirement that vast sums be raised or taxed to purchase these areas. Designation processes exist that are open to public initiatives.

Habitats and species assemblages vary dramatically across the Gulf, from seaweed and vast submerged plateaus, home to the great schools of Atlantic cod, to the sandy plains where dwell monkfish and other denizens of the deep. From mudflats rich with burrowing clams and seaweed to placid coves with help and eelgrass. Unless extraordinarily large, a single "experimental" marine reserve will host but a fraction of the Gulf's diverse communities, and will offer only limited information useful to fisheries managers around the Gulf.

A far better approach is to create a network of marine reserves, interconnected as much as possible by prevailing currents and natural migratory pathways, as well as to the freshwater and terrestrial environments they are ecologically joined with.

We believe that such a reserve system should include areas of the Bay of Fundy, the nearshore waters off Maine and New Hampshire, and Jeffreys Ledge and Georges Bank offshore. In addition, existing sanctuaries in Massachusetts should be modified to include large non-extractive reserves within their boundaries.

Each of these areas has environments and species assemblages that vary greatly from each other and experience various human and natural disturbance and disturbance. The description of areas beyond should be taken as a general blueprint

Shelf and Basin Structure of the Gulf of Maine and Bay of Fundy. Continental shelf out to 100 meter depth is indicated. Note that Georges Bank and Jeffreys Ledge are extensions of the continental shelf. Parts of Georges Bank are only 50 meters deep. Most of the Gulf's primary production takes place on the shelf and offshore banks. Shaded areas indicate seasonal and year-round groundfish closures.
Bay of Fundy

Minas Basin: the easternmost arm of the Bay of Fundy, an important stopover for millions of Semipalmated Sandpipers and other shorebirds, is a Western Hemisphere Shorebird Reserve. Protection, however, extends only to the low tide line. As the shrimp species they feed upon are dependent on an overall healthy marine environment in the area, reserve status should be studied for more of all of the entire basin. The mouth of the basin was once a significant haddock spawning ground.

Grand Manan Basin: east of Grand Manan Island, near the mouth of the Bay of Fundy is the largest courting and summer feeding grounds for the endangered Northern Right Whale as well as for less endangered humpback whales.

Gulf of Maine Coastal Waters

Cobscook Bay: Located along the Maine-New Brunswick border, Cobscook Bay, like the Minas basin, is renowned for harboring vast numbers of migrating shorebirds, ducks, geese and eagles. Almost entirely landlocked, and comparatively sheltered from winter storms, Cobscook Bay has immense tidal mud- and sand-flats and New England’s largest reed grass meadows. In the outer bay, high velocity channels and rocky outcroppings support large help forests. Throughout the bay, the rich nutrient base supports a highly productive planktonic community.

A very rich diversity of marine animal life inhabits Cobscook Bay, from soft shell and razor clams and mussels to a dozen species of marine worms in the intertidal zone to scallops, mussels, sea urchins, crabs and lobsters in subtidal rock areas. There are significant herring spawning areas in Cobscook as well, and Atlantic Salmon transit the bay enroute to their spawning areas in the Dennys River. There is intensive interest in protecting the natural landscape surrounding Cobscook Bay. It is only reasonable that the waters of this important bay receive the same treatment.

Midcoastal Maine: This reserve study area would include NOAA’s 1985 proposal, now dormant, for a Midcoast Marine National Sanctuary, but would be expanded out to include the submarine canyon complex to the southeast. The edge of the continental shelf comes closer to the shore here than in any other area of the Atlantic coast. The canyons within the study area serve as migratory routes and as regions where nutrient rich waters upwell from the depths of the Gulf of Maine basin. The area supports a very rich assemblage of estuarine and marine species, including some of the most biodiverse areas of the eastern seaboard.

Jefreys Ledge: Jefreys Ledge is a 20 mile long by four mile wide submerged bank roughly 50 miles offshore southern Maine and New Hampshire. The surface of Jefreys Ledge is rocky on the shallower areas, with sand and gravel on its outer slopes. Depths range from 130 feet to 200 feet, dropping off to 300 feet and more as it slopes into the Gulf basin.

Because the prevailing currents on Jefreys Ledge travel from north to south along its long axis, following the general counterclockwise flow of water around the Gulf of Maine, the Ledge was formerly one of the richest haddock grounds of the United States. Intensive commercial fishing has degraded the area to the extent that the offshore trawling industry recently offered to refrain from exploiting it, in exchange for continued access to more inshore waters, a proposal met with much misgiving by the existing inshore fishing industry.

George Bank: In the early 1980’s, the National Marine Fisheries Service, supported by the Conservation Law Foundation and some elements of the fishing industry, nominated the 8,000 square mile George Bank, a vast submerged peninsula that forms the southeastern boundary of the Gulf of Maine, for National Marine Sanctuary designation. This was a response to plans to develop George Bank as an oil and gas production region. The sanctuary proposal was withdrawn under pressure from the oil industry and its political patrons, but conservationists succeeded in keeping oil and gas exploitation off George Bank as well.

Once the richest cod and haddock habitats of the US Atlantic coast, George Bank, like most other productive areas, has been relentlessly impacted by mobile bottom fishing gear, which has stripped away much of the low relief bottom habitat necessary for the survival of juvenile groundfish.

The reserve study area would include areas of George Bank under both US and Canadian jurisdiction. The Canadian section possesses large areas predominately by a rock and gravel seafloor historically considered to be highly productive cod spawning areas, while much of the American portion of George Bank is characterized by sandy/muddy areas preferred by cod and its suite of ecological co-habitants. Halibut, mackerel, swordfish and other oceanic fishes also range across George Bank, in addition to Humpback and Right whales. Reserve study areas should include large portions of the Bank under both jurisdictions.

Jewels in the Crown

The above areas are only suggestions; however, each study area should be seen as a “Jewel in the Crown” of the Gulf of Maine for their high productivity and biodiversity. As mentioned above, the push for protected marine reserves has only begun in the Gulf, and will require a concerted effort by those who would see the Gulf regain its former glory.

How You Can Help: Contact Coastal Waters Project, POB 94, Limonville, ME 04849, tel. 207-789-5310 to find out more about how you can help establish an Atlantic Marine Reserve System for the Gulf of Maine.

ME Legislature to Ponder Marine Reserves

A bill introduced into the Maine Legislature by Representative Paul Charrard directs the Maine Department of Marine Resources (DMR) to study the desirability of establishing marine reserves in state waters.

The bill expands the DMR’s Fisheries Management Research Program (which focuses primarily on lobster research), by directing the Commissioner for Marine Resources to establish a study of ecological marine reserves in Maine waters. The bill specifically calls for investigations of habitat requirements of fin- and shellfishes managed by the state, and asks DMR to delineate potential marine reserves with significant areas in Maine state waters.

While the idea of non-extractive, or “no-take” marine areas has received little attention here, it is taken very seriously in other parts of the world. In New Zealand, Japan, Australia, South Africa, the Philippines and elsewhere around the world, large marine reserves in favor of marine ecosystems are left undisturbed by fishing and other extractive industries. These have been shown to serve as refuges for spawning and larval and juvenile fish and shellfish, to restore natural biodiversity at the species and community level, and to increase the abundance of marine biota outside the reserves through emigration.

“Traditional” state fisheries management eschews marine reserves in favor of allowing commercial and recreational fishing to take place throughout state waters. In theory, limits on size, season, and catch restrictions have long been "excessive population", while leaving the reproductive capacity intact. In practice, Maine has experienced sharp declines in species after species to the point where commercial fisheries in Maine coastal waters are practically non-existent. "Innovation" in state fisheries management typically consists of finding markets for, and directing fishing pressure onto, previously unexploited species such as sea cucumbers, and anglerfish. Such management is in effect "mopping up the survivors."

Because DMR’s budget, like those of other natural resource agencies, is likely to be funded at existing or reduced levels, the bill directs the Commissioner to seek funding for the study from sources outside the state government, including the Gulf of Maine Council on the Marine Environment.

As of press time, the bill had not yet received its LD #, nor has a date been set for hearing by the Maine legislature’s Marine Resources Committee.

For more information, contact Ron Hober at the Coastal Waters Project at 207-789-5310. Address: POB 94, Limonville, ME 04849.

Mid Winter 1997

The Northern Forest Forum
Appropriate Fishing Technology

US Fisheries Regulators Tiptoe Toward Ending 'Marine Equivalent of Clearcutting'
by Ron Huber

Since the 17th century, concerns have been raised about the use of mobile bottomfishing technologies that damage or destroy fish habitat in the course of operation. But until very recently, open discussion of the impact of mobile gear, especially the otter trawl, on "drags", (the primary groundfish fishing device in the Gulf of Maine) has been taboo in US fishery management and scientific circles.

Now, however, under pressure from fish conservation advocates, the continued use of this technology is finally being questioned. The surprise is that it has taken so many centuries to do so.

Cabot Martin, president of the Newfoundland Inshore Fisheries Association, calls otter trawl fishing "the marine equivalent of clearcutting." Newfoundland's traditional inshore cod fishery uses fixed traps extending out from shore, to coastal cod. AFTER they spawn, when they migrate from offshore to coastal waters in pursuit of capelin, a small fish that spawns onshore. Undersized fish and unwanted species can be released unharmed. But when the Canadian federal government subsidized large-scale otter trawling in the northern cod's offshore spawning grounds, Newfoundland cod trawlers saw their spawning grounds disappear.

In his book, No Fish and Our Lives, Martin vividly describes the operation of the modern day otter trawl: "Along the bottom of the ocean, home to so much sea life which cannot move or can move only slowly, comes the trawl net, some 90 feet in width and 150 feet in length. The head rope moves like a ghost, suspended some 15 feet off the bottom by a necklace of large floats; the foot rope of cable, chain and heavy rubber rollers grind along the sea floor like some giant mowing machine. Off to each side come the trawl doors, some six feet in width and 10 feet in length, grazing the sea floor like two D9 trawler blades. Between them and the trawl mouth are two heavy steel brackets, each 200 feet long, which sweep across the sea bed setting up a bell-ringing cloud of mud, forcing all that can move to flee back into the path of the oncoming trawl net."

"And forth and back and forth, back and forth the fleets of trawlers go, until it is time to move on, leaving a watery desert in their wake."

Seascape, starfish, shellfish, sea worms, sea cucumbers, small fish, big fish, good fish, trash fish, anything that swag or catch, all of them are uprooted or driven into the giant vacuum cleaner of the "cod end" as this monstrous device tears its way along, sifting the fields of the sea.

Martin believes that trawling on spawning cod stocks is the leading cause of the near destruction of this species. "Surely it is only a matter of time," Martin writes, "before someone will ask the simple question: "Does trawling on spawning stocks hurt the spawning process and should not spawning fish be left in peace to replenish the stock?"

"Does dragging such immense contrap- tions along the seabed, tearing up all before it, hurt the environment and thus ultimately, our commercial fish stock?"

Until very recently, federal fishery law not only paid no attention to the habitat requirements of the marine species under their jurisdiction, it all but ignored the environmental consequences of otter trawling.

The primary legal tool used to reg- ulate the commercial fishing industry in US jurisdictional waters (those waters between the 3 mile limit of state juris- diction and the outer edge of the 200 mile US Exclusive Economic Zone) is the Magnuson Fishery Conservation and Management Act.

Under the Magnuson Act, eight fishery management councils were cre- ated to set quotas and fishing technol- ogy limits around the US coasts. Made up primarily of commercial fishing interests but also including representa- tives of state and federal governments, each Council creates "fishery manage- ment plans" which set quotas and fish- ing technology restrictions for capturing commercially desired fish and shellfish species within their jurisdiction. These plans are then reviewed by the Commerce's subagency, the National Marine Fisheries Service.

The New England Fishery Management Council's area of jurisdiction encompasses the federal waters offshore of Maine, New Hampshire, Massachu- setts, Rhode Island, and Connecticut. The council and out. Jurisdiction over Georges Bank, the 15,000 square mile sub- merged plateau that separates the Gulf of Maine from the North Atlantic, is split between the U.S. and Canada.

While the Councils were created to provide for better management of the commercial fishing industry, the New England Council's record is largely one of dismal failure. Statistical modeling of fish abundance based on reported catch- es and government travel surveys con- tinues to be the basis for deciding the size of annual fishing quotas. The mod- els ignore the habitat, dietary and other ecological imperatives of marine species, in effect assuming that as long as their populations are not reduced to zero, marine fishes and shellfish populations will "thrive" automatically.

The tremendous decline of cod, haddock and flounder populations off the New England coast took place under a series of management plans written by the New England Fishery Management Council, and signed off by the National Marine Fisheries Service. Dominated by trawler interests, the Council has always fought against any reduction in the use of mobile bot- tom fishing gear in New England waters, or even an examination of its impact. The near "commercial extinc- tion" of the cod and yellowtail flounder off the New England coast has finally forced the federal government to close large areas to bottomfishing. However, once those areas show signs of recovery, trawlers anticipate resuming their activ- ities.

But now, thanks to a determined effort by a coalition of conservation and environmental groups organized as the Marine Fish Conservation Network, the New England Council's decision- makers will have to both pay more attention to the habitat needs of the species under their jurisdiction, and also begin examining the impact of trawling on the marine environment.

The Network, whose New England membership includes Coastal Waters Project, Conservation Law Foundation, Maine Lobstermen's Association, New England Aquarium, New England Coast Conservation Association, Massachusetts Audubon and Maine Marine Federation, this year succeeded in adding most of their laundry list of marine habitat protection elements to the Act, which was up for reauthorization. Properly enforced, these changes to the Magnuson Act could result in the protection and restoration of fish habitat that would otherwise require the creation of marine no-fishing reserves.

The Network's amendments include a hitherto absent definition of "essential fish habitat": "waters and sub- strate necessary to fish for spawning, breeding, or growth to maturity." The Magnuson Act humps together fishes, mollusks, crustaceans, echinoderms (starfish and sea urchins) and other marine species (excluding marine mam- mals, sea birds and sea turtles) as "fish."

With this definition in place, the Network's other habitat-related amend- ments require fishery management councils to:

• Identify "essential fish habitat" for spe- cies under fishery management plans.

• Minimize adverse impacts on this habitat caused by fishing.

• Identify actions that should be under- taken to encourage the conservation and management of essential fish habitat.

The amendments also require the Secretary of Commerce, acting through the National Marine Fisheries Service, to establish guidelines to assist the councils in describing and identifying essential fish habitat, and require ALL federal agencies to "consult with the Secretary of Commerce with respect to any actions authorized, funded or pro- posed to be undertaken that may adversely affect essential fish habitat identified under the Magnuson Act."

The National Marine Fisheries Service is presently developing the new guidelines as a proposed rulemaking, with a December 9, 1996 deadline for public comments.

New Brunswick, Nova Scotia Could Designate Marine Reserves
by Ron Haber

Both New Brunswick and Nova Scotia have laws on the books that authorize the creation of ecological reserves. While to date neither province has applied their respective laws to their marine environments, a reading of their laws leads to a conclusion that designating marine reserves is within their purview, and that, while the requirements are stiff and public participation in the designation process is limited (particularly in Nova Scotia), potential efforts on the part of determined citizen groups could lead to marine reserve designations.

New Brunswick's 'Ecological Reserves Act'

Passed into law in 1975, New Brunswick Ecological Reserves Act (Revised Statutes of New Brunswick, Ch. E-1.1) establishes a two-tiered ecological reserve system: "managed ecological reserves" and "wholly protected ecological reserves." The former are "established for the monitoring and scientific guidance of the evolution of nature," while the latter are "established for the absolute protection of a territory in a natural state."

The Act's purpose is to "reserve areas, for ecological purposes, (a) that are suitable for scientific research and educational purposes and other aspects of the natural environment; Subject to moderating regulations, the New Brunswick Ecological Reserves Act prohibits a broad spectrum of human activities in ecological reserves. Under the Act: "...no person shall hunt, fish, trap, conduct forestry, agriculture or mining operations, conduct exploration or boring, prospecting, leveling or construction work in an ecological reserve; and in general, works of a nature that may alter any part of the terrain or of the vegetation and any acts of a nature that may disturb the fauna or the flora are forbidden." An additional prohibition bars the introduction of nonindigenous animal or plant species into ecological reserves.

The reserve designation process is fairly straightforward: "Any person" may petition the provincial environmental council for the establishment of an ecological reserve. The council reviews the proposal, and notifies the provincial Minister of Natural Resources and Energy. A public hearing follows, which must be announced in daily and weekly newspapers in the region. Following the hearing, the Minister issues a recommendations to the Provincial Lieutenant-Governor whether the ecological reserve should be established. The LG may then order the establishment of the reserve, setting forth a management plan, and establishing, in the case of a "managed ecological reserve" what activities may take place for the "monitoring and scientific guidance of the evolution of nature".

Nova Scotia's 'Special Places Act'

Enacted in 1980, the goal of the Act (Revised Statutes of Nova Scotia, Chapter 438) is to preserve "archeological, historical and paleontological sites, and ecological sites."

Concerning the latter, the Act provides for: "the preservation, protection, regulation, acquisition and study of ecological sites which are considered important parts of the natural heritage of the Province". Site designation is limited to those locations that: (c) are suitable for scientific research and educational purposes, "Special Places" may be established on private or Crown (public) lands, including submerged lands. This would appear to give the province the opportunity to create marine protected areas in the Bay of Fundy.

Nova Scotia's ecological site designation process is carried out by the Minister of Education, with the advice of an advisory committee chaired by the director of the Nova Scotia Museum, and composed of representatives of the provincial departments of Education, Environment, Lands and Forests, and Mines and Energy, a representative of the Union of Nova Scotia Inland Fish and "any other public or private entities that the Minister of Education deems advisable."

Apart from these private entities that the Minister "deems advisable", the law does not appear to contain any provisions for public participation during either the designation or regulation-writing processes.

Prior to site designation, the Minister of Education, with the assistance of the advisory committee, must create a management plan, containing "information regarding the purpose of the site and information and regulations which will assure the protection of the site."

Prohibitions on a Nova Scotian ecological "special place" site include a ban on "any activity which may alter any part of the terrain or of the vegetation or carry on any acts which may disturb the fauna or the flora within the designated site."

Exceptions are made for ecological research, which may be permitted by permit.

Environmental agencies from both provinces have expressed interest in the potential for a Gulf-wide marine protected areas program.

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Hibernation
by Michael Phillips

There are times when a fella doesn’t have an awful lot to say about local economy. Or about good stewardship of the woods. Or inspiration for you name it. Call it the inevitable ebb and flow of believing you can affect some good in this world. All of us know such times when you wonder if anybody else out there is even listening. Once you’ve got that kind of attitude, it’s best to tuck your tail between your legs and hibernate like a grouchy old bear ought.

Winter is a fine time for laying low. There’s a spirit of rest on the land. The trees stand bare in the ice cold air; the deer yard up to conserve their energy. The past year isn’t so much forgotten as left to be. Pressures to put up the harvest, fill the woodshed, fence in the new pasture are all let go. With a cheery fire blazing and a good book in hand, you can doze early in the evening and get up late the next morning. And if it weren’t for a certain editor calling about writing a local economy column, there’s time for a sound afternoon nap as well.

Too often we get burnt out in pursuit of our ideals and beliefs. Sharing a sunset with a friend, a brief hike alone in the woods, meditatively hoeing down the long garlic row, all help keep the soul on an even daily keel. Being with the people we love is as vital as being on the front lines of passionate activism. Such ‘balance in the every day’ is integral to effective living. But we also need the ‘balance of the year’ that winter offers. A time for renewal and rebuilding optimism.

As the days start to lengthen, there’s a stirring in the sap of our being. It starts out slowly. Maybe there is time to attend that meeting on stopping herbicide spraying (actually, not so much a question of time as realizing such things do make a difference). A goodly thaw gets the chickadees declaring their spring territoriality. Tree buds aren’t yet swelling but the ethereal spirit has awakened. We too want to bound forth . . .

There are connections to be made for planning a North Woods ‘green business’ network. Buds are swelling; geese are honking overhead; spring peepers have begun their incessant symphony of romance. There are even ideas for future “Every Person’s Need” columns. Perhaps people will yet grasp the fact that a Walmart economy drains us all.

Down in Pennsylvania, folks give a lot of attention to a certain groundhog found in the fields around Paxatawny. Ol’ Phil reckons on seeing a shadow (about the length of the two full pages this column ordinarily fills) and then nose dives back down into the warmth of his burrow to hibernate some more. Six more weeks of winter are predicted with the sighting of that shadow. There’s no telling what the shadow of a grouchy old bear from Lost Nation is worth.

While dreaming of hibernating, the old bear from Lost Nation is currently at work on a book on organic apple growing.