

Keeping an eye on easements

Jenkins looks at pros and cons

By PHILIP TERRIE

Ecologist Jerry Jenkins has emerged as one of our most articulate advocates for a rigorous application of science to understanding the Adirondack environment and planning for its future. Now, with his characteristic thoroughness, precision and stylistic panache, Jenkins has teamed up with the Wildlife Conservation Society and the Open Space Institute to produce a report on conservation easements.

Conservation Easements and Biodiversity in the Northern Forest Region builds on Jenkins's previous work (*The Adirondack Atlas*, 2004, and *Acid Rain in the Adirondacks*, 2007) and expands his ken to the entire Northern Forest region, which stretches from New York's Tug Hill to northern Maine.

In the early 1990s, all across the Northern Forest, wood-products companies like International Paper, Georgia Pacific and Domtar Industries, searching for ways to trim overhead, began rethinking their ownership of vast holdings of forestland. This was part of a complex set of circumstances involving, among other things, changing patterns of global trade and competition from Asian paper manufacturers. One way to cut costs was to reduce property taxes, and the only way to do this and still have a local source of pulp was to sell, in the form of a conservation easement, development rights or public-access rights or both.

Basically, a conservation easement means that the owner keeps title to the land and the logging (or farming)

rights but surrenders the opportunity to subdivide and develop and often agrees to allow the public access for recreation. In return, the owner benefits from a reduction in taxes. When properly executed, this arrangement protects open space, saves logging jobs, provides new recreational opportunities and lowers the owner's taxes. In the Adirondacks and elsewhere, the state agrees to cough up the difference in tax revenue to the towns and counties. This makes sense because the easement achieves much that's good for the public.

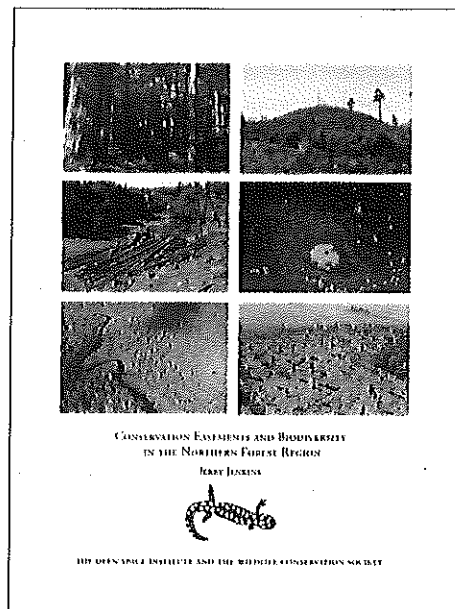
In the early 1970s, Gov. Nelson Rockefeller's Temporary Study Commission on the Future of the Adirondacks recognized easements as critical to the future of protecting open space. But New York law was unclear as to how easements would work and how they would affect local taxes. In 1983, the legislature passed a new easement law, one important provision of which was an acknowledgment of the importance of private groups in raising money and negotiating for purchase of easements (vital because the law governing any use of state funds was complex, requiring numerous time-consuming steps). When huge swaths of woodland became available for easements in the 1990s, the state, teaming with private organizations, was ready. In the Adirondacks, conservation easements now protect hundreds of thousands of acres that had been owned by International Paper, Champion International and Domtar Industries. Much of the critical Finch, Pruyn lands purchased last year by the Adirondack chapter of the Nature Conservancy will also be protected by easements.

The entrance of the conservation easement onto the Adirondack stage means that Adirondack lands now fall into three broad categories: Forest Preserve, unencumbered private property (which ranges from undeveloped forest in the backcountry to homes and businesses in the

hamlets) and easement lands. And among the easement lands there is a wide variety of legal arrangements. Some easements provide for public access, while others do not. In the case of some lands, public access is permitted during certain months and not in others. For example, the Boy Scouts have exclusive use of McRorie Lake in the town of Long Lake in July and September, but the public can use the property the rest of the year. Since 1892, the Adirondack Park, with its unusual mix of private and public lands, has been an unusual place. With widespread conservation easements, it has become even more so.

You'd think that the value of the conservation easement would be clear: You buy certain rights from the owner of a piece of property, you assume that since development is not happening, the land and its diversity of species are protected, and you move on to the next easement opportunity. But as Jenkins explains, it's not that simple. There's a "striking gap between theory and practice." A working forest, that is, one where logging operations, however green in design, continue, is still a working forest, with inevitable disruptions of natural processes. Those whose interest is in maximizing profit and protecting jobs do not necessarily have biodiversity at the top of their agenda. A working forest is not necessarily a bad thing—in many respects it's a very good thing—but biologists must be more explicit in stating and describing their goals for any forest subject to an easement that allows logging. So far, throughout most of the over 2 million acres of easement-protected lands in the Northern Forest (and about 500,000 acres in the Adirondack Park), follow-up biodiversity studies have not been completed or even called for.

Those with knowledge of what's out there in the woods—loggers, for example—are not aware of, and often don't have the time and energy for, conservation goals. Biologists generally survey the land and its assets at

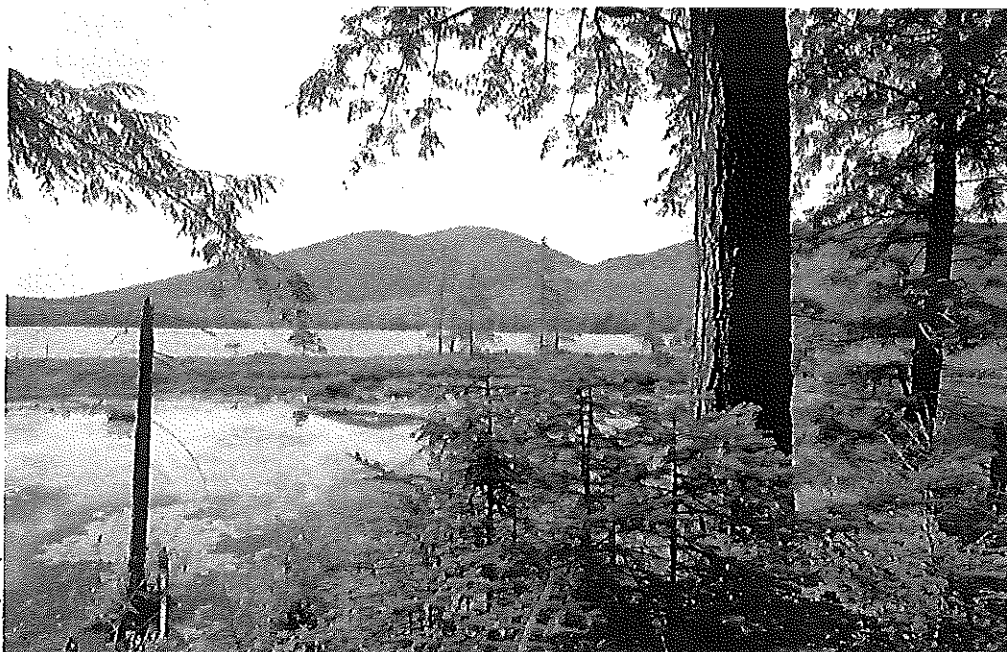


Conservation Easements and Biodiversity in the Northern Forest Region

By Jerry Jenkins

Softcover, 108 pages

The Open Space Institute and Wildlife Conservation Society released the report this year. Digital copies can be downloaded from the Web site of either organization. Free print copies can be obtained by calling OSI at 212-290-8200 or WCSS at 518-891-8872.



Formerly owned by Finch, Pruyn & Co., Pickwacket Pond is now protected by a conservation easement.

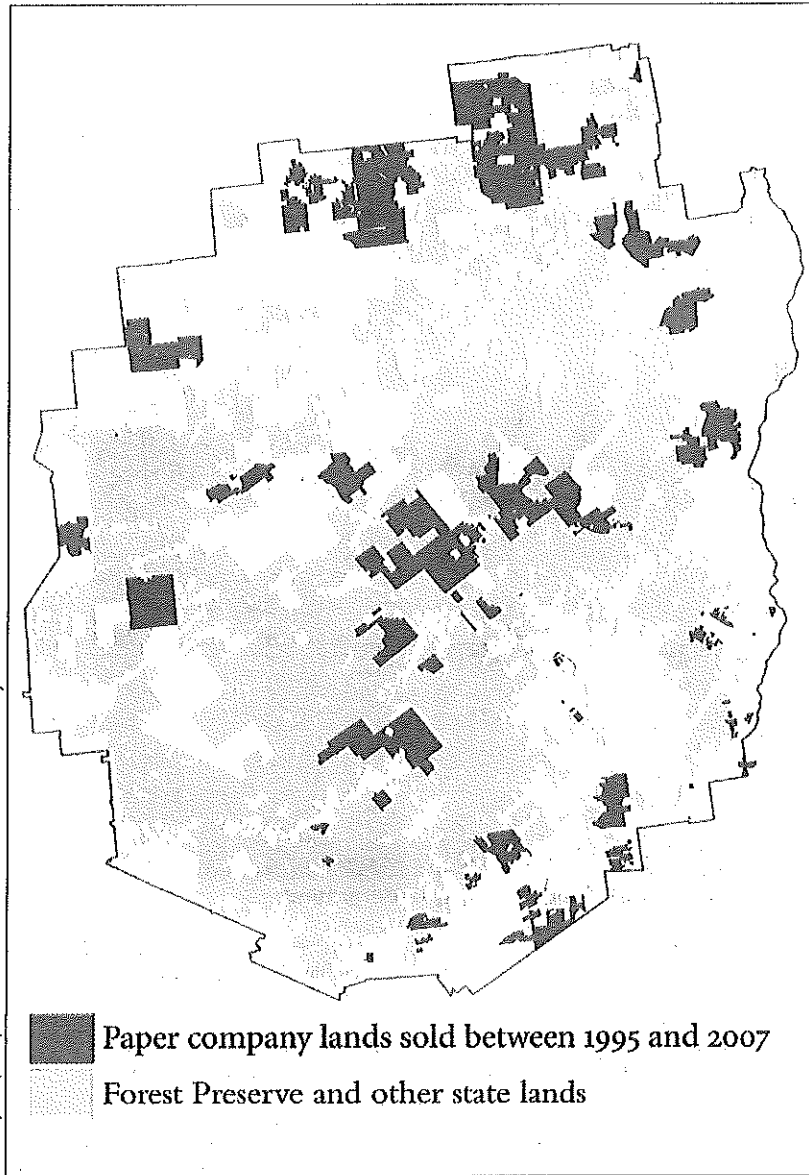


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Adirondack
EXPLORER

Courtesy of Open Space Institute and the Wildlife Conservation Society



Most of the Adirondack timberlands sold in recent years are protected by easements that prohibit development but allow logging to continue.

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the time an easement is being contemplated, but their goals are not always considered high priority by foresters. The foresters are good at what they do and can follow a harvest regime that faithfully satisfies the criteria of those who designed it. But what the easement actually accomplishes, in terms of protecting biodiversity, is seldom precisely measured.

Jenkins proposes that in the future easements should include a "separate biodiversity management plan." These plans should stipulate precise management goals for "protecting waterbodies, ensuring sustainability, and keeping a balanced age distribution [of trees]." In addition, where there are opportunities for recreating the old-growth forest conditions that existed before the onset of Euro-American manipulations, Jenkins suggests that harvests might be limited or, in certain key parcels, prohibited altogether.

This report is presented with the same precision—in the prose, charts, maps and drawings—that have typified all of Jen-

kins's work. For many readers, the chief value will lie not so much in the technicalities of how to design a better easement (though these are crucial) but in the succinct description of the Northern Forest and the elegant, accessible explanations of biodiversity, the relationship between it and logging, and forest restoration. The author's training as an ecologist shows in his careful narrative of the complexities of forest succession and the seemingly infinite array of creatures and plants that live, sometimes precariously, in the Northern Forest. Color photographs illustrate the varied ecosystems of the region, from alpine summits and mixed forests to bogs, lakes, floodplains and fens.

In the last two decades, the conservation easement has become one of the most valuable tools available to the environmental community. This report shows how they work, why they are important, and how they can be better designed and implemented. ■

The historian PHILIP TERRIE discusses easements in more detail in his new edition of Contested Terrain, published by Syracuse University Press.

We bake our bread
the oldest structure
It is a welcome meal
and travellers see
Champlain Valley

For
The Old Feed Store

Between

Paddle

