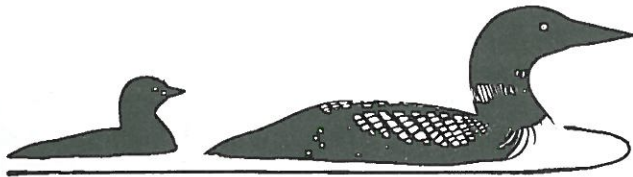


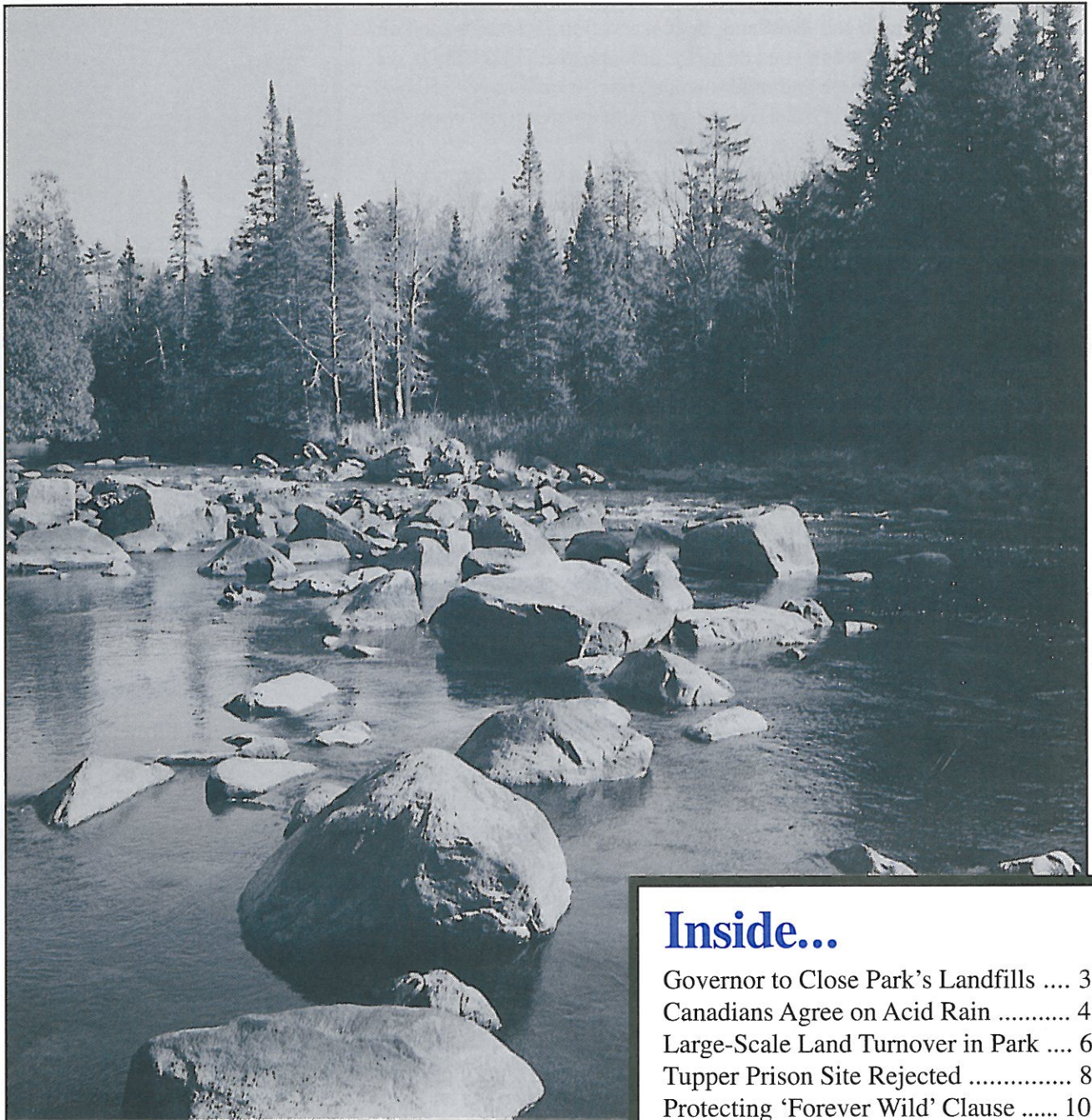
# Adirondack Council



Newsletter/Winter 1998

*Member Organizations: Association for the Protection of the Adirondacks, Citizens Campaign for the Environment, National Audubon Society, National Parks & Conservation Association, Natural Resources Defense Council, The Wilderness Society*

## 350,000+ Acres of Your Park At Risk!



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Dear Members and Friends,

The announcement of a deal for state acquisition of Little Tupper Lake, along with an end to the importation of solid waste into the Park and word that a huge prison would not be sited in the Park, was a wonderful way to close out 1997. But 1998 promises great opportunities for Adirondack Park protection as well.

Champion International, Whitney Industries, Domtar Corporation, National Lead, International Paper... this is not just a who's who of owners of large tracts of land in the Adirondacks. It is also a list of owners who want to sell their land, or conservation easements on their land, today. In fact, when you add up the acreage available today in the Adirondacks from these and other owners, the list totals over 350,000 acres. If you also add in other ownerships with an uncertain future, the total amount doubles to over 700,000 acres.

This is an important time for land conservation in the Adirondacks. Ten to twenty percent of the private land in the Adirondacks is likely to change hands in the next three to five years. What will happen to these lands? Will they become fragmented, converted to other uses or subjected to over-cutting in the rush for short-term profits? Or will the state step in to acquire critical parcels for the Forever Wild Forest Preserve and to protect the vast stretches of working forests so that they remain assets to the economy, opportunities for recreation and habitat for wildlife?

With the Environmental Protection Fund and the Clean Water/Clean Air Bond Act in place, New York can make the right choice.

During his first term, Governor Pataki has repeatedly expressed his passionate commitment to the preservation and protection of the Adirondack Park. Now, he can make it happen. River corridors and pristine lakes can be added to the state-owned Forest Preserve for the enjoyment of generations to come. Large sections of the working landscape, the managed forests of the private lands of the Adirondacks, can be stabilized for forestry, recreation and habitat.

The Adirondack Council is working with local, state and national organizations to ensure that the State of New York takes advantage of a once-in-a-lifetime opportunity to secure the future of the Adirondacks. With your help, we can realize our best hopes. The time to act is now.

Sincerely,

Timothy J. Burke  
Executive Director

**Late-Breaking News**

On January 8, embattled Adirondack Park Agency Chairman Gregory Campbell announced that he would resign from his post to join the staff of the Empire State Development Corp. No successor had been announced at press time.

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**Our Mission**

The Adirondack Council is an 18,000-member, privately funded, not-for-profit organization dedicated to protecting and enhancing the natural and human communities of the Adirondack Park through research, education, advocacy and legal action.

# Clean Water/Clean Air Bond Act Grant To Pay for Closure of Park Landfills

**G**ov. George E. Pataki has announced plans to fund the closure of all municipal landfills in the Adirondacks, putting a stop to the importation of trash into the Adirondack Park. The announcement draws nearer to a close the turmoil that has surrounded the management and operation of the Essex County Landfill.

Over the past few years, Essex County officials have refused to work with other municipalities that are without landfills. These other towns and counties were facing solid waste problems and looking to either find a place to haul their solid waste or to construct their own facilities. Instead, county officials turned over operation of the facility and all of the county-owned equipment on the site to a private landfill operator. Almost immediately, the new operator began to haul trash into the Park from outside the Blue Line. This prompted the Governor to comment that he took a "dim view" of trash importation into the Park.

In exchange for turning over the landfill operation to the private operator, the only financial compensation that the county received was in the form of a cut-rate tipping fee. No lease payment was made to the county to cover the county's multi-million-dollar construction bond. By contrast, neighboring Clinton County recoups its costs and actually makes a profit under its lease arrangement with another private landfill operator.

Soon after the private operator took over the reins of the Essex County Landfill, the operator and the county were hit with multiple citations by the Department of Environmental Conservation for exceeding the 95-ton-per-day dumping limit allowed under the facility's operating permit. This matter is still pending.

"The Governor has backed up his policy decisions with a commitment

of state funds," the Council told the press December 15.

"He could have thrown up his hands and declared there was nothing he could do to protect the Adirondack Park from becoming a dumping ground for the rest of the state and beyond. Instead, his administration found a solution that would protect the Park's resources and save Essex County from the consequences of its own poor decisions."

## **Bail-Out Plan Revealed**

Under the bailout plan, Essex County will receive \$6 million to \$7 million to pay-off and close its landfill in the Town of Lewis and build a

transfer station so its waste can be shipped out of the Park for disposal.

Hamilton County learned last summer that it would receive \$1.8 million to close and cap its landfills in Lake Pleasant and Indian Lake. In his announcement, the Governor noted that Hamilton County will get another \$2 million to \$3 million to construct transfer stations so it can ship its waste out of the Park.

Essex and Hamilton counties lie entirely within the Adirondack Park. The other 10 Adirondack counties all encompass lands outside the Park where municipal waste disposal facilities are located.

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## Park Agency Strives to Revise Its Rules and Regulations

**I**n the latest step in its rules and regulations revision process, the Adirondack Park Agency last fall held public meetings at several locations throughout the Park and in two places outside the Blue Line to explain what the process entails and what roles the public can play.

On December 11, the Agency commissioners met to review and finalize language for the first phase of the project.

### **On the table are ten possible revisions dealing with:**

- Memoranda of understanding between government agencies
- Gifts of land to family members
- Conceptual review of projects before applications are filed
- The need to include survey maps with subdivision applications
- Expiration of permits
- The number of commissioners' votes needed to reconsider an APA action
- Issuance of general permits
- Lot counting (for determining jurisdiction over subdivisions)
- Determining when a project is "in existence" when partially completed
- Determining what constitutes a "pre-existing subdivision," which is exempt from agency review

These ten items will now be redrafted to incorporate new language hammered out by the agency commissioners after hearing comments from the Governor's Office of Regulatory Reform staff and representatives of the Technical Advisory List (of which the Council is a member).

There will be several more hearings and other opportunities for the public to comment on the proposed final drafts before they are adopted.

The goals of the revision process are to clarify regulations, expedite operations, simplify procedures, introduce more consistency and predictability into the process and improve agency regulatory, advisory and educational functions.



# Canadian Acid Rain Scientists Back Need for New Federal Bill



*Acid rain research scientist Bill Hayes takes a water sample from atop Mt. Skylight in the southern High Peaks Wilderness. Photo by Gary Randorf.*

**A** new study completed by Environment Canada confirms the Adirondack Council's findings that Midwestern utility plants must cut their smoke-stack emissions far beyond what is called for in the current federal acid rain program before the ecosystems of the northeastern U.S. and southeastern Canada can hope to recover.

At the same time, new evidence has been discovered showing that loons and other waterfowl are being contaminated by mercury due to acid rain. Adding insult to injury, pesky black flies seem to thrive in acidic waters.

Guy Fenech, a Senior Science Advisor at Environment Canada told a group of more than 100 scientists, policymakers and advocates gathered in Saratoga Springs in November that 95,000 lakes in southern Ontario and Quebec are being damaged by acid rain today. Without substantial reductions in both sulfur-dioxide and nitrogen-oxides, the condition of those lakes will only get worse, he noted.

Most people thought the acid rain problem in North America was solved when the Clean Air Act Amendments of 1990 were approved by Congress and when the Canadian and U.S. governments signed a treaty on acid rain emissions, he said. But the emissions reductions called for at coal-burning power plants in both the U.S. and Canada were too modest and must be adjusted, he said. Canadian officials are currently discussing the

nation's options, including whether the treaty with the U.S. should be renegotiated.

The current U.S. acid rain program is expected to reduce nationwide sulfur-dioxide emissions from utility plants by 50 percent below 1990 levels by 2005. It does not address nitrogen-oxides.

Since so much of the coal-fired utility emissions harming the Adirondacks comes from the Midwest, the Park is only expecting a 39 percent reduction in the deposition of sulfur-dioxide in its forests and waters. As a result, the U.S. Environmental Protection Agency predicts that 43 percent of all 2,800 lakes and ponds in the Adirondack Park will be too acidic to support their natural ecosystems within 50 years. Tens of thousands of miles of rivers, brooks and streams are expected to reach critical acidity levels each spring by the same date.

Fenech said reductions of 75 percent below 1990 levels would be needed in both sulfur- and nitrogen-oxides to curb the damage to forests and aquatic resources in both countries.

Fenech's comments came in mid-November during his keynote address at an international acid rain conference (*The Adirondacks and Beyond*), sponsored by the SUNY College of Environmental Science and Forestry and co-sponsored by the Adirondack Council and several other organizations.

Fenech expressed his support for the acid rain control

bill sponsored by Senators Daniel Patrick Moynihan and Alfonse D'Amato and Congressmen Gerald Solomon, R-Glens Falls, and Sherwood Boehlert, R-Utica. The bill (S.1097/H.R.2365) would require 70 to 75 percent reductions in both major components of acid rain, based on 1990 levels.

#### **Advancing Federal Legislation**

In an effort to move the bill forward, the Adirondack Council and its member organizations gathered with other interested advocates at the Saratoga conference to create a new coalition to fight acid rain throughout the Northeast. Roughly 20 representatives from various New York-based organizations were on hand for the initial meeting and expressed interest in working together to pass the bill. The group will continue to meet and work out a collective strategy for bringing in new support from the rest of the affected areas of the East Coast and Mid-Atlantic region.

Meanwhile, Congressional sponsors from New York are seeking the support of the rest of the state's delegation, as well as representatives from Georgia to Maine. Most of the Eastern Seaboard is harmed by acid rain or one of its components, such as nitrogen-oxide pollution.

In an effort to encourage New

York's delegation to fight for new acid rain control laws, Adirondack Council member organization Citizens Campaign for the Environment presented the four sponsors with a petition carrying more than 100,000 signatures of New Yorkers who want Congress to finish the job of halting acid rain's destruction.

#### **Mercury Monitoring Needed**

In Albany, the Council has asked the NYS Dept. of Environmental Conservation to fund the creation of a mercury monitoring network across the state. The program proposed to the Adirondack Council by the National Atmospheric Deposition Program would establish five mercury testing sites at strategic locations, downwind of major emissions sources.

The entire five-year study envisioned by NADP would cost less than \$330,000.

Adirondack Council members may recall that the Council worked with members of Congress to reinstate the funding for NADP's acid rain monitoring program last year.

Mercury poisoning has become a far-too-common occurrence in the Adirondacks in the past decade. In the 1980s, there were less than a handful of lakes in the Adirondack Park with significant mercury levels.

At the Saratoga conference, state officials estimated that more than 100 Adirondack lakes now have mercury concentrations greater than one part-per-million. More than a dozen of those have been flagged by the state Health Department in the 1990s as having fish that are too contaminated for human consumption.

#### **Same Smokestacks Responsible**

Mercury is a trace element in many coal-fired smokestack emissions. It can also be leached out of decaying organic matter by acidic water. Consequently, the Adirondack Park suffers from both methods of contamination.

Aside from causing nerve and brain damage in humans, mercury has dire health consequences for nearly every form of life within the Park's lakes and ponds, as well as for the birds and other wildlife that eat fish and other aquatic animals. DEC officials report finding elevated mercury levels in dead loons brought to DEC's pathology lab from the Adirondacks.

#### **Black Flies Love Acid Rain**

Ironically, as acid rain is wiping out fish populations and harming other species the people of the state are trying to protect, it appears to be helping the black fly population survive. Environment Canada reports that a long-term study of conditions at Algonquin Park in Ontario showed that black fly emergence has increased 100 times or more over the past 50 years due to acidity in their breeding streams.

Black flies swarm in huge numbers and create a springtime annoyance that can spoil a trip outdoors in May or June. Many tourists avoid the Adirondacks altogether during those months. Black flies lay their eggs in fast-moving streams, where they cling to rocks and filter the passing water for food until emerging from the streams as adults.

According to the report, black fly larvae are far more resistant to acidic conditions and heavy metal contamination caused by acid rain than fish and other aquatic organisms that eat them and compete for habitat.



*Gull Lakes in Hamilton County are critically acidified and nearly devoid of life.  
Photo by Gary Randorf.*



# Champion International Announces

*Champion is Just the Latest Domino to Fall in an Unpre...*



*The lands at left belong to Domtar Industries of Canada, which is seeking a conservation easement on all 105,000 acres of land it owns in the northeastern Adirondack Park. Photo by Gary Randorf.*

*Governor E. Pataki... the model of the Adirondack Park if he... best of his... century of... round-out... Forest Preserve and protection stretches... Adirondack from fragmentation and development*

**O**n December 22, Governor George E. Pataki announced that the state had formally agreed to purchase Little Tupper Lake from Whitney Industries, along with the nearly 15,000 acres of land surrounding it, including nine more ponds, for a price of \$17 million. At the same time, the Adirondack Land Trust announced it had secured a 10-year conservation easement on the remaining 36,000 acres of the Whitney Estate, precluding its development or conversion to non-forest uses. The land trust paid \$3 million for the easement.

When completed in June, the deal will make Little Tupper Lake part of the Adirondack Forest Preserve and will bring the proposed Bob Marshall Great Wilderness one giant step closer to reality. The Adirondack Council first proposed the creation of "the Bob" in 1990. Seven years of patience and hard work have paid off. But many challenges still lie ahead.

For more than a century, the large private holdings that account for about sixty percent of the private land in the Adirondack Park have remained relatively stable. But that stability is being threatened by an ever-accelerating trend toward land fragmentation and divestiture.

We are now faced with a situation in which the owners of more than 350,000 acres of forests, farms, lakes, mountains, and river corridors are either seeking to sell their holdings or sell the development rights. This situation presents us with an unparalleled opportunity to secure lasting protection for a significant proportion of the Park's private lands — including some of the "crown jewels" that have long been sought for addition to the State Forest Preserve. But it also presents us with a monumental challenge and an awesome

responsibility. For if we fail to move quickly and decisively to gain the protection these lands deserve, the Adirondack Park may be irreparably damaged, forever destroying its promise to become a world model of integrated land use and wildland conservation.

When Diamond International Corp. placed all of its 96,000 acres of Adirondack land on the market in 1988, the state had the opportunity to make the largest single acquisition in the history of the Park. State negotiators were slow to mobilize in response to this challenge and the land was sold to a speculator from Georgia. The spectre of this loss sent shockwaves throughout the region. Eventually, the state bought 15,000 acres for the Forest Preserve and protected another 40,000 acres through conservation easements, but it did so at great cost. And the turmoil of this process caused many to vow that next time we would be ready with both the money and the will to act on behalf of the best interests of the Park and all its constituents. The next challenge was not long in coming.

**W**ithin a short time, 20,000 acres of land along the Raquette River came on the market from International Paper Co., along with private offerings of 14,500 acres around Follensby Pond at the edge of the High Peaks Wilderness and 51,000 acres of the Whitney tract in the heart of the proposed Bob Marshall Great Wilderness. Despite the Diamond fiasco, the state lacked the money and the will to take advantage of this windfall. Thanks to the generosity of IF however, the Raquette River land was gifted in part to the state and to a conservation organization. Both the Whitney and Follensby tracts were taken off the market — at least temporarily.

We didn't lose those lands to fragmentation and speculation, but it was a Pyrrhic victory. A \$2.1-billion environmental bond act failed

# Sale of 141,000 Acres in Adirondacks

## Over 350,000-Acre-Plus Sell-Off of Private Adirondack Land

For George  
can become  
an architect  
of Adirondack  
land makes the  
once-a-  
portunity to  
incomplete  
serve areas  
of enormous  
of private  
Adirondack forest  
management  
development.

*Deer River Flow, at right, is being offered for sale by Champion International, along with the remainder of its 141,000 acres in the northwestern Adirondack Park. Photo by Gary Randorf.*



at the polls in 1990, and the protection battles left the Adirondack environmental community smarting from its losses, due in part to the state's lack of a focused land protection plan for the Park. We all knew there were more dominoes to fall, and we didn't have long to wait.

In rapid fire succession, a number of new challenges appeared. Champion International Corp. declared that 95,000 of its 145,000 Adirondack acres were "non-strategic" and were likely to be sold. Domtar Industries offered to sell a conservation easement to the state on its entire 105,000 acres in the Park. And the Whitney family began selling off portions of its holdings.

Faced with the reality of a major sell-off of Adirondack lands in the making, the Adirondack environmental community hailed the creation of the state Environmental Protection Fund and passage of the Clean Water/Clean Air Bond Act as much-needed weapons in the fight to save the Park. Coupled with the statewide Open Space Conservation Plan, these weapons gave us the arsenal we needed to meet the challenges head-on.

When the Whitney family proposed to sell 15,000 acres of its lake-studded back country for development last year, we were ready. When Champion International announced last October that it was selling all of its 144,500 Adirondack acres, almost all of which lies in the Park, we were not caught off guard.

When all the current land and easement offerings of environmentally and recreationally important Park lands are totaled, no less than 350,000 acres are now available. But there is more to this sea change in Adirondack Park ownership than is reflected in raw acreage statistics.

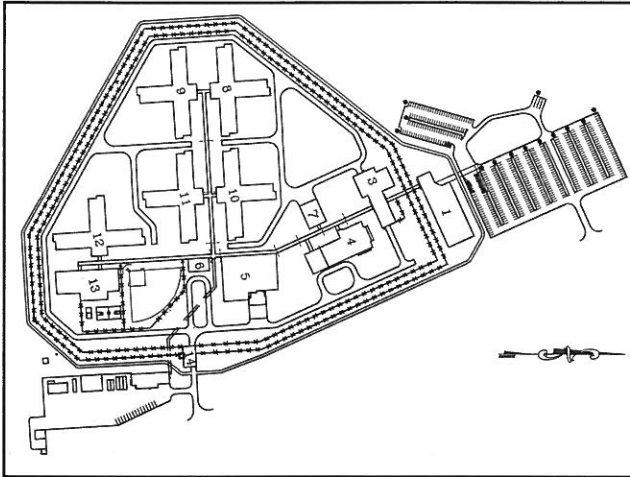
The Champion lands, for example, contain thousands of acres of low-elevation boreal forests dominated by spruce and balsam flats, bogs, coniferous swamps, and vast alder thickets flanking river systems of inestimable recreational, watershed, and ecological value. Very little of this type of boreal habitat is protected in the Forest Preserve. Protection would help to sustain healthy populations of at least 90 percent of the birds classified as "Adirondack specialties," many of which are rare or threatened, such as the spruce grouse, three-toed woodpecker, and the bay-breasted warbler. Most of these species and habitats can be sustained, along with sensitively-managed "working forests" that help provide jobs and a flow of forest products, through conservation easements. But some of the most ecologically and recreationally important lands, such as the major river corridors and their associated wetlands on Champion, should be purchased by the state in fee.

Other Adirondack priority land protection projects include tens of miles of undeveloped shoreline on Lake Champlain, Lake George, Blue Mountain Lake, and a score of other lakes and ponds throughout the Park. Private land in-holdings in the High Peaks Wilderness, the proposed Bob Marshall Great Wilderness, and numerous Wild Forest areas are also included. Productive forests in unbroken tracts of tens of thousands of acres and the headwaters of several major river systems, are noteworthy, as well.

**No previous generation was asked to face the challenge now before us — the task of securing lasting protection for a large group of private lands that will define the character and integrity of the Adirondack Park in the next century and beyond.**

# Corrections Department Balks at Tupper Lake Prison Site

*Two Principal Aquifers Lie Beneath Chosen Location in Adirondacks, Runoff From Parking Lots Cited as Well*



At left is a map of the proposed prison facility as it would have been constructed at Tupper Lake. At right is a photograph of the site taken by the Adirondack Council in October 1997 after it received reports that the Corrections Department had authorized extensive bulldozing of the property, owned by International Paper Co., while testing soils and marking boundaries. The Council reported the apparent violation of the Adirondack Park Agency Act to the APA. On January 12, the APA announced it had found no violation at the site. Photo by Gary Randorf.

On Friday, Dec. 19, at 4:15 p.m., the NYS Dept. of Correctional Services announced that it had abandoned its plan to build a 1,500-bed, maximum security prison near the Village of Tupper Lake. The decision came one day after the Associated Press uncovered a confidential memo showing that the construction and operation of the proposed prison would have caused harm to two principal aquifers (underground water supplies), to wetlands, Haymeadow Pond and Tupper Lake.

The memo was written by the Dept. of Environmental Conservation's top attorney and sent to DEC Commissioner John P. Cahill. As the resolution on Page 9 will show, the Adirondack Council's main concerns over the proposed prison centered on ensuring that a thorough review was performed. That review revealed problems.

As the controversy continued to build over the maximum security prison proposed for Tupper Lake, many of our members have asked for the position of the Adirondack Council. At the September, 1997 meeting of the Adirondack Council Board of Directors, the members of the board adopted unanimously a resolution which guided staff actions. (The entire resolution is reprinted at right.)

When the Council noticed that the site near Tupper Lake had been heavily bulldozed before the Adirondack Park Agency had even received an application from

Corrections officials, the Council took photographs and filed a complaint with the APA.

### Chronology of events

**August 10:** NYS Legislature approves the construction of a new maximum security prison somewhere in Franklin County. State Corrections officials tell Tupper Lake local officials that their town has been chosen for the new facility.

**October 8:** Adirondack Park Agency receives briefing from state officials on proposed new prison at regular monthly meeting.

**October 9:** Dept. of Correctional Services (DOCS) submits application for proposed prison in Tupper Lake to the Adirondack Park Agency. DOCS announces it will begin looking at sites outside the Adirondack Park.

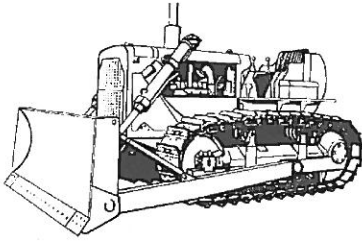
**October 24:** Adirondack Park Agency (APA) determines that the application is incomplete in that it lacks a draft environmental impact statement and other necessary data. APA issues 19-page additional information request.

**November 5:** Adirondack Council calls on APA to investigate potential violations of APA site-preparation rules based on aerial photos the Council took of the proposed Tupper Lake site showing extensive bulldozing. Council submits aerial photographs to APA.

**November 6:** Staff at the APA announce intent to make site investigation to explore concerns raised by the Adirondack Council.



**November 12:** Local officials in the Town of Malone announce that the DOCS has chosen their town as a back-up location in case APA denies the request for a permit at Tupper Lake. Malone is in northern Franklin County, 20 miles north of the Adirondack Park boundary. It already contains two state prisons and officials note that the town has level farmland in the same vicinity, where a third could be built.



**November 13 & 14:** Regular monthly meeting of the APA. No new information received on application from DOCS correctional services.

**November 19:** Sierra Club Atlantic Chapter endorses Adirondack Council call for site investigation. Club announces its outright opposition to new prisons in the Park.

**November 29:** Crowd of more than 1,000 local prison supporters attend a pep rally for the facility at Tupper Lake High School.

**December 5:** Enforcement staff of APA meets to make formal decision on potential violations at site. No decision announced.

**December 11:** Regular monthly meeting of the APA. No new information on prison application received.

**December 18:** DEC memo, revealing aquifers under proposed site, is uncovered by reporters.

**December 19:** DOCS announces plan to move proposed prison to Malone, 20 miles north of the Park.

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*The Adirondack Council wishes to thank all of its members who wrote to Gov. George E. Pataki to insist that the APA's review of the prison siting plan was thorough and that all viable sites, both inside and outside the Park, were explored before a decision was made.*

## Adirondack Council Board of Directors' Resolution on Proposed Tupper Lake Prison

**WHEREAS**, the Adirondack Park contains a total of 6 prisons: one state and one federal in Ray Brook, 3 minimum security state facilities in Moriah, Lyon Mountain and Gabriels and the maximum security state prison in Dannemora; and

**WHEREAS**, the legislature recently approved a capital projects budget for 1997-98 that contains \$130,000,000 "for the development of a new 750 cell maximum security facility to be located in the County of Franklin;" and

**WHEREAS**, the Dannemora prison was built prior to the Civil War and no maximum security prisons have been built in the Adirondacks since the creation of the Adirondack Park in 1892; and

**WHEREAS**, this project would be one of the largest developments ever proposed in the Adirondacks; and

**WHEREAS**, a proposal of this scale may be inconsistent with the character descriptions in the APA private land use and development plan; and

**WHEREAS**, any proposal for a development of this magnitude in the Adirondack Park deserves careful scrutiny under the State Environmental Quality Review Act and by the Adirondack Park Agency; and

**WHEREAS**, the construction of this facility could potentially have serious deleterious effects on the environment and character of the Adirondacks; and

**WHEREAS**, the State Department of Corrections has proceeded with site preparation in violation of the spirit of the State Environmental Quality Review Act and the Adirondack Park Agency Act;

**WHEREFORE BE IT RESOLVED**, by the Board of Directors of the Adirondack Council that the New York State Department of Corrections must carry out a comprehensive site selection process under the State Environmental Quality Review Act, including ample opportunities for public input by New York citizens and citizens of Franklin County; and

**BE IT FURTHER RESOLVED**, that the Adirondack Council expects the Department of Corrections to thoroughly explore siting options in Franklin County outside the Adirondack Park and to conduct an exhaustive analysis of the different environmental impacts of siting a prison in the Park as opposed to outside the Blue Line; and

**BE IT FURTHER RESOLVED**, that the Adirondack Council expects the Department of Corrections to conduct a cumulative impact assessment of all recent prison sitings in the Park; and

**BE IT FURTHER RESOLVED**, that the Department of Corrections should not select a site inside the Adirondack Park unless it can clearly demonstrate that siting of this prison will not adversely affect the environmental quality or rural character of the Adirondack Park; and

**BE IT FURTHER RESOLVED**, that, should the Department of Corrections propose a site in the Adirondack Park, the Department must apply to the APA for a permit under the terms of the Governor's Executive Order; and

**BE IT FURTHER RESOLVED**, that the Adirondack Park Agency must conduct the same level of review for this project as it would for a proposal from a private developer; and

**BE IT FURTHER RESOLVED**, that the Agency cannot approve the development of this prison within the Adirondack Park unless it finds that there will be no undue adverse impacts on the natural resources of the Adirondacks and that all identified impacts are mitigated to the extent necessary to protect the natural resources and character of the Adirondack Park.

*Adopted at the September 26, 1997  
Board of Directors' meeting in Albany*

# Open Space Conservation Plan Flawed

## *Council Dislikes Blanket Exemption from Forever Wild Clause on Land Swaps*

In mid-November, Governor Pataki released a draft of the second update of the statewide Open Space Conservation Plan for public comment. The plan was originally produced in 1992, as required by law. It is revised and updated every three years to reflect changing land conservation priorities, new policies and legislative mandates. It also contains input from nine regional advisory committees, including one on which the Adirondack Council has served for the past seven years.

Commenting on the plan in a statewide press release, the Council commended Governor Pataki and the Dept. of Environmental Conservation for their continued commitment to preserving the special resources of the Adirondack Park. "We are especially pleased that the Open Space Plan continues to emphasize Whitney Park and the Champion-owned river corridors as critical additions to the Adirondack Forest Preserve," the Council said. "The addition of several new projects in the Adirondacks to the Plan is beneficial as well."

Nonetheless, the plan contains what we believe to be some serious defects which should be eliminated. And it would be greatly improved with some relatively minor additions and revisions.

Responding to the plan at public hearings and in detailed written comments, Council representatives objected strenuously to a recommendation in the draft plan that would give state officials blanket permission to sell or exchange Constitutionally protected Adirondack and Catskill Forest Preserve lands in transactions with private parties.

"If this proposal is approved as it is written, we can cross the word 'Forever' off of the Constitution's 'Forever Wild' clause," the Council commented.

Currently, land swaps in the Adirondack and Catskill Forest Preserves must be handled one-at-a-time as an amendment to the Constitution. Each exchange is considered carefully and must be approved by the voters. Amendments reach a statewide ballot only after having been passed by two separately elected Legislatures or through a Constitutional Convention.

Essentially, the plan calls for a blanket amendment to allow the state to swap any "isolated" Adirondack or Catskill public lands — of any size — with private parties. There are very good reasons why that is now illegal, and we believe it should continue to be illegal.

The Open Space Conservation Plan could be vastly improved by expanding the list of Adirondack Park projects to include certain "generic" categories that are not limited to any specific ownership. Listing lands in the plan is important because it qualifies them for protection through the use of the state's Environmental Protection Fund and the Clean Water/Clean Air Bond Act. Protection of such lands might best be achieved by buying them and adding them to the Forest Preserve. But many open space

lands would be adequately protected through the purchase of a conservation easement that would prevent them from being developed or being damaged by unsustainable or abusive timber harvesting. In some cases, easements also allow public access for recreational purposes.

For example, the plan now lists "northern flow" river corridors, including all the major rivers on the Champion lands. But the Park contains hundreds of miles of lands along its system of Wild, Scenic, and Recreational rivers, and the plan should list those as well. The plan would also be strengthened by listing

all lands located in the regionally significant scenic vistas identified by the Adirondack Park Agency on its Land Use and Development Plan Map.

Public comment on the draft plan closed on December 24, and the Governor could approve the final plan in early 1998.

"The lands of the state, now owned or hereafter acquired, constituting the forest preserve as now fixed by law, shall be forever kept as wild forest lands. They shall not be leased, sold or exchanged, or be taken by any corporation, public or private, nor shall the timber thereon be sold, removed or destroyed."

*Article 14, Section 1, NYS Constitution*

## Voters Support 'Forever Wild' In Statewide November Ballot

When voters overwhelmingly rejected a ballot proposal that would have paved the way for a NYS Constitutional Convention last November 4, more than three-quarters of the voters were concerned about the potential for losing the wild-land protections embodied in Article 14, Section One, also known as the "Forever Wild" clause.

On October 6, the Gannett News Service commissioned a poll by the John Zogby Group and asked 712 likely voters whether it would be a good idea to weaken the Forever Wild protections. Of those polled, only 12 percent said the idea was "excellent" or "good." A full 77 percent said the idea was "fair" or "poor."



# DEC Probes Another Illegal Dam at Raquette Lake

The NYS Dept. of Environmental Conservation is still investigating a violation of state conservation laws at Raquette Lake, where for two consecutive years people have built an illegal dam where the lake flows into the Raquette River.

Last summer, DEC officials cited and fined a local tour boat operator who had constructed the illegal dam at the lake's outflow in an effort to keep water levels high during the tourism season. Stones and bed mattresses were used to raise the water level in the lake during dry summer months. Water flow to the river slowed to a trickle, endangering fisheries and other aquatic life downstream. The Raquette is the second-longest river in New York. Raquette Lake is its source.

This summer, yet another dam was constructed at the same location, but DEC officials said they were still attempting to discover the identities of all of the parties involved. Stones, logs, fabric and sawdust were used to raise the dam this time. In both cases, DEC officials removed the new material to allow the river to return to its normal flow.

DEC's Assistant Regional Attorney Steve Brewer in Ray Brook said DEC is attempting to determine the exact boundary between the state's Forest Preserve lands and the private lands at the lake's outlet. He said it appeared that the line ran along the crest of the illegal dams, but an official survey would be needed to settle the matter. Private individuals and corporations are barred from constructing permanent, private facilities on public lands in the Adirondack Park.

If the dam is on private land, Brewer said the Raquette Lake Transportation Co. owns an easement at the outlet that allows the company to maintain a dam.

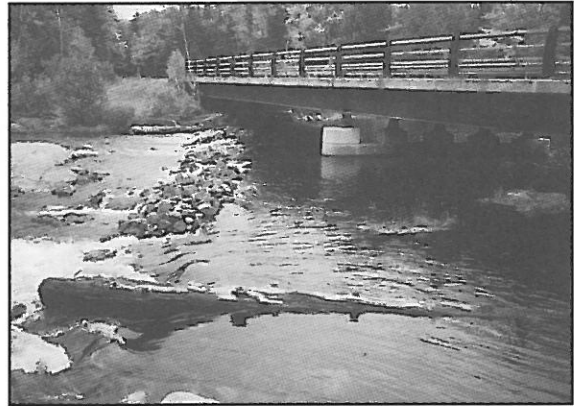
In either case, it is illegal to construct or reconstruct any dam without first obtaining a permit from DEC, he noted. DEC issued no such permits in 1996 or 1997.

## ***Governor, Council Give FCC Static Over Television Tower Plan***

The Federal Communications Commission (FCC) has proposed preempting local and state land-use laws nationwide as they pertain to the siting, placement and construction of broadcast station transmission facilities. The driving force behind this proposed preemption is the advent of digital television (DTV).

In 1978, the Adirondack Park Agency realized the potential problems presented by the burgeoning number of large communications towers proposed to be placed on Adirondack mountaintops. It adopted a policy that required new communications towers to be consolidated with existing towers and sites. The proposed federal preemption would allow broadcast companies to "speed the deployment" of this new technology by running roughshod over existing local and state zoning. The industry's ambitious timeline for complete nationwide coverage by DTV is 2005.

The Council, the Adirondack Park Agency, New York Gov. George E. Pataki and Vermont Gov. Howard Dean are just a few who have expressed opposition to this blanket exemption.



*Stones, sawdust and other materials were piled along the outlet of Raquette Lake this summer by someone intent upon keeping the lake's level high, at the expense of the people, plants and animals that rely on the water downstream. The debris was removed by DEC. Photo by Gary Randorf.*

## **Raquette Lake Electric Power Cable Approved**

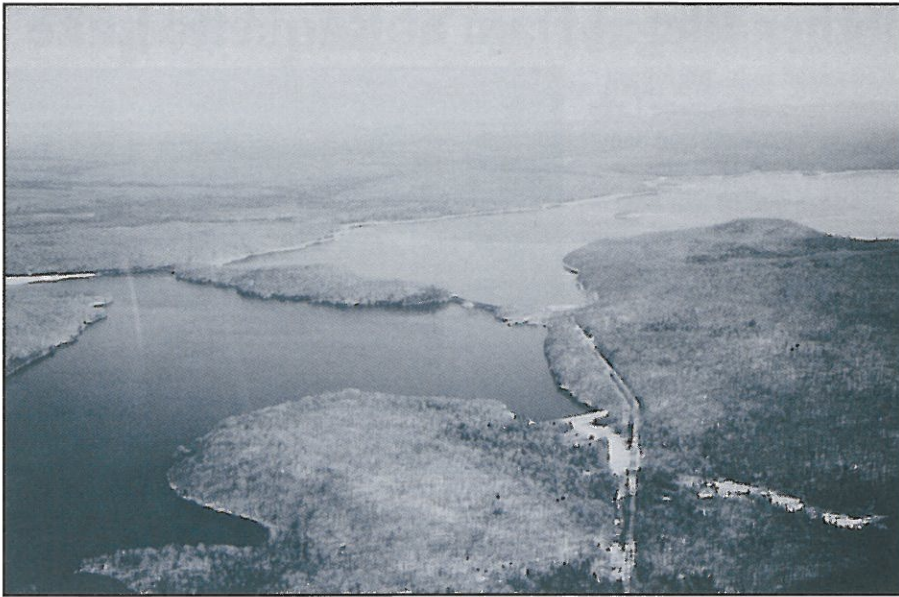
The NYS Dept. of Environmental Conservation is preparing a permit to allow the owners of a new home on Raquette Lake to string an electric power cable across the bed of the lake, following a court-approved settlement of the family's 1994 lawsuit.

However, the ban on all other new, permanent facilities across Forest Preserve lake bottoms remains in place, according to the DEC and NYS Attorney General's office.

In 1995, then-DEC Commissioner Michael Zagata asked Attorney General Dennis Vacco whether DEC could approve a permit for electrical cable on a state-owned lake bed. Vacco said such a permit would violate the NYS Constitution's "Forever Wild" clause. Permanent, private facilities are not allowed on public property in the Park, he noted.

However, the family at Raquette Lake said it had been told by DEC's Region 5 staff that the permit would be approved. The family reported that it had already spent \$100,000 constructing the all-electric home and guest house, and an additional \$33,000 on cable construction before the Attorney General's ruling.

A spokesman for the Attorney General said the Raquette Lake cable was allowed only because of the special circumstances of the case and that the settlement would have no impact on the state's policy against such installations. DEC is still reviewing the status of existing underwater cables and facilities on state-owned lake bottoms such as Lake George.



*Blake Falls Reservoir, left, and Stark Falls Reservoir, both owned by Niagara Mohawk Power Corp., are part of the hydro-power license negotiations along the Raquette River. During the negotiations, the Adirondack Council played a vital role in shaping the future of the river's ecosystems and NiMo's management of its portions of the state's second-longest river. Photo by John F. Sheehan.*

## Raquette Hydro License Negotiations Completed

For the past year, the Adirondack Council has worked with the Niagara Mohawk Power Corporation, statewide environmental and sporting organizations, state and federal natural resources agencies, and other interested parties to craft an agreement for the licensing of hydroelectric facilities on the Raquette River.

Many of the licenses NiMo held for the facilities have already expired, while some are due to expire soon. All of those licenses had a life-span of 20 years or more.

Recently, a tentative agreement was reached on the Raquette River licenses and now the negotiating team is putting the final touches on the settlement. If it is accepted by Federal Energy Regulatory Commission (FERC), the settlement will govern the operation of the power dams on the Raquette River and will shape the future of the river for the life of the new license. The new licenses are expected to have a 30-year-plus lifespan.

A wide range of environmental issues were examined

in the licensing negotiations on the Raquette River. The final agreement is expected to:

- Establish minimum flows in the original, natural portion of the river, restoring ecosystems which were disturbed by the power generating facilities.
- Allow for fish passage around the dams and generating facilities which will protect fish populations.
- Minimize reservoir fluctuations which will help protect the habitat and survival of fish, waterfowl, amphibians and mammals.
- Expand recreational opportunities for the public along the Raquette River corridor.
- Protect important lands along the Raquette River that have been identified in the Council's 2020 VISION research documents.

This year, the Council expects to begin negotiations with other interested parties in negotiations on the licensing of facilities on the Hudson and Sacandaga rivers.

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