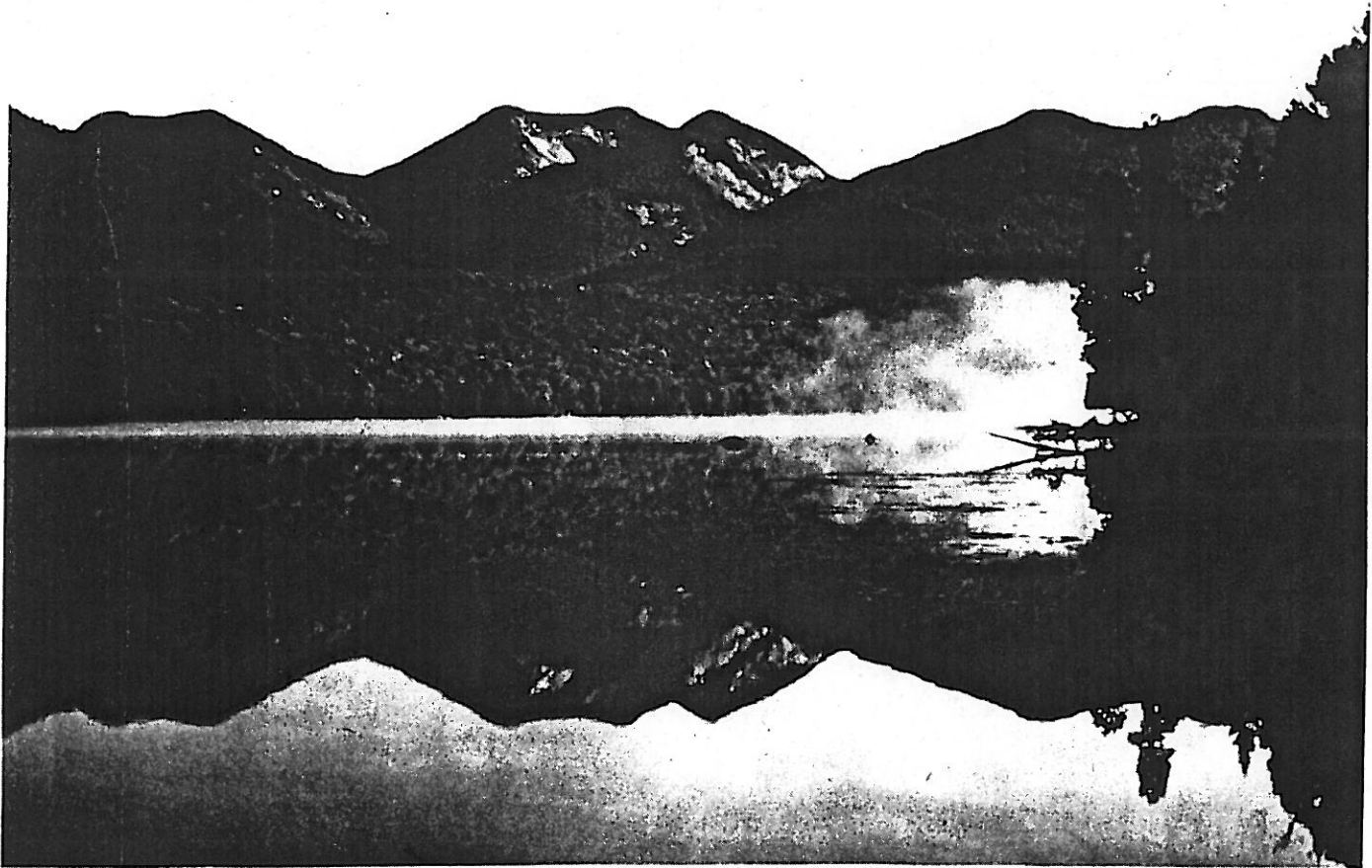


# **STATE OF THE PARK - 1985**

**A Review of Last Year's Actions and Trends**

**in the**

**Adirondack Park**



**GEORGE D. DAVIS**

**January 1985**

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This report was prepared for the WILD WINGS FOUNDATION by George D. Davis, a land use and natural resource management consultant. It was edited by Richard Beamish. Photographs are courtesy of Gary Randorf (covers and pages 6,

14 and 15) and George D. Davis (pages 12 and 13). Illustrations were prepared by Anita L. Davis (page 9), Anne Lacy (page 4) and Andrea G. Riner (pages 8 and 10). The manuscript was typed by Donna Beal.

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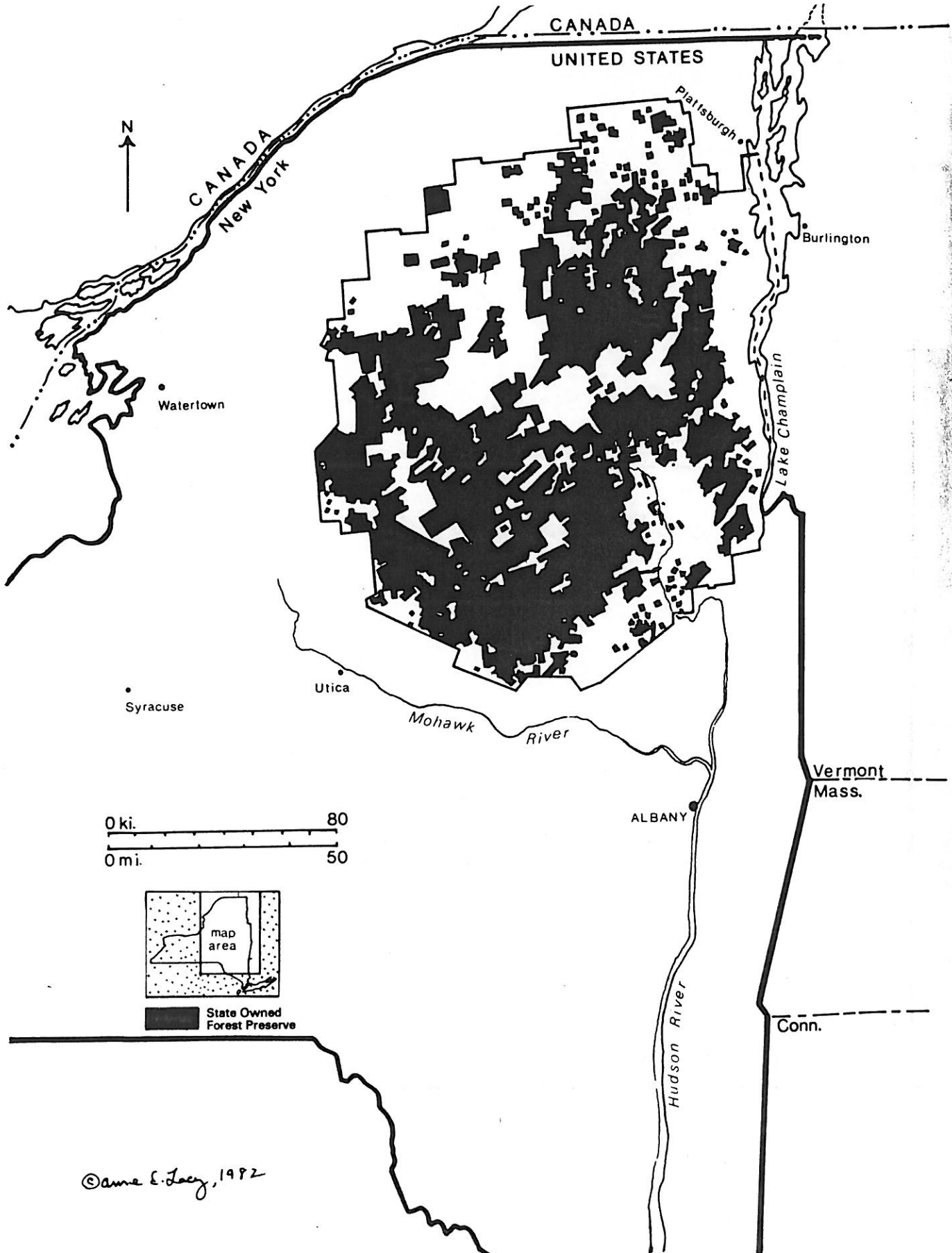
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# ADIRONDACK PARK LOCATION AND OWNERSHIP



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## INTRODUCTION

This is the third annual report on the state of the Adirondack Park. These reviews are intended to measure how effectively New York State is protecting the Park and its resources, and to identify the need for new programs and directions. It is hoped that these annual reports will act as an "environmental barometer", measuring the environmental quality of the Park and warning of detrimental changes in time for corrective action.

This report cites specific state actions--or the lack of them--in the past year that affect the Adirondack Park and reflect favorably or unfavorably on the state agency involved.

Significantly, 1984 marks the end of the first century of the Adirondack Forest Preserve. This report therefore reflects on a Park that has been blessed with 100 years of the "forever wild" protection afforded the state lands within the Adirondacks.

The agencies with primary responsibilities in the Park include:

- (1) *Adirondack Park Agency*, an 11 member commission (with a staff of about 50) appointed by the Governor for four year terms. The Agency regulates the use of the 3,600,000 acres of private land, develops general policy for the 2,400,000 acres of state owned Adirondack Forest Preserve, promotes economic development compatible with the Park, and serves as a forum for developing public policy for the Park as a whole;
- (2) *Department of Environmental Conservation*, which is charged by law with the care, custody and control of the Adirondack Forest Preserve; and,
- (3) *Department of Transportation*, which has responsibility for over 1100 miles of state highways within the Park.

Other agencies that occasionally undertake action significantly affecting the Park will also be cited, as will the state legislature and the Governor.

## THE PARK

In size, diversity and ownership pattern, the Adirondack Park is unique in the United States. It is our largest park by far outside of Alaska, encompassing one-fifth of the total land area of New York State and including an extraordinary blend of forest and farmlands, towns and villages, mountains and valleys, nearly three thousand lakes and ponds, and some 30,000 miles of rivers and streams. The Park is home to 125,000 permanent and 90,000 seasonal residents. Some 40 percent of the Park is state forest preserve; the remaining 60 percent is privately owned. The public and private lands are intermingled in a 9000 square mile patchwork pattern, a "crazy quilt" ownership arrangement that inextricably links the destiny of the public and private lands.

Yet the Adirondack Park cannot be characterized solely in numerical, physical, and biological terms. It is also living proof that human beings can exist in harmony with nature. It stands for a century of foresight and determination by New Yorkers that future generations will enjoy a superb natural heritage.

There is nothing comparable to the Adirondack Park anywhere else on earth.

## THE YEAR IN REVIEW

This year's State of the Park report highlights six actions not only critically important in their own right but also reflecting official attitudes that may augur well or ill for the future of the Adirondack Park. Other specific actions will be briefly noted as in previous years.

### ACID RAIN

The Governor and State Legislature are to be commended for their strong stand against the ominous threat of acid rain to our forests, soils, and water, as well as to human health. Decreasing soil productivity, forest decline, loss of all forms of life in many waters, and human health problems caused by chemical imbalances and heavy metals leached from the environment, have all been linked to increasing acidity in rain and snow.

Governor Cuomo has taken a leadership position in urging national legislation to reduce the sulfur dioxide and nitrogen oxides emissions, primarily from power plants and vehicles, that cause acid rain. The Governor also signed into law legislation sponsored by Senator John R. Dunne and Assemblyman Maurice Hinchey making New York the first state in the nation to limit such emissions, thus setting an example and sending an important message to Washington.

Attorney General Abrams, with support from the Department of Environmental Conservation, has been a strong advocate of acid rain control and deserves credit for initiating legal action to force the federal Environmental Protection Agency to act responsibly in dealing with acid rain under the Clean Air Act.

The Adirondack Park Agency has been the most consistent of our state agencies in speaking out on the need for both national and state action on acid rain. The Agency has called for a Class I air quality standard for the Adirondack Park comparable to air quality protection afforded national parks and wilderness areas. It has also taken issue with its sister agency, the Department of Environmental Conservation, requesting the Department to stop granting "special limitations", a euphemism for allowing polluting industries to burn fuel with a higher sulfur content than ordinarily permissible.

Specifically, the Agency opposed the Department's renewal of a special limitation to allow Long Island Lighting Company to resume emission of 90,000 tons of sulfur dioxide annually. The Agency, in an effort to insure that the effects of increased acid rain producing pollutants be properly considered, participated in Department proceedings considering a request from Central Hudson and Gas to convert an electric power plant from oil to higher sulfur content coal.

The Department of Environmental Conservation also undertook several positive steps to curb acid rain and to develop the data used by the Governor and Attorney General in their actions. The Department refused to renew a "special limitation" permit that had allowed high sulfur fuel to be burned in 20 upstate counties.

Governor Cuomo, Attorney General Abrams, the Legislature, Adirondack Park Agency and Department of Environmental Conservation are to be congratulated for their actions to reduce acid rain in New York State and are urged to continue their good work until national controls are enacted.



## APPROPRIATE USES OF THE ADIRONDACK PARK

The *Adirondack Park Agency*, following personnel changes made in 1984, has begun to display the leadership expected of it as the primary Adirondack Park advocate in state government. The appointments of Herman "Woody" Cole as Chairman and Thomas A. Ulasewicz as Executive Director appear to be positive changes. The Agency has been strengthened by the addition of natural resource specialists to the staff and by heightened staff morale. As the year progressed, the Agency showed increasing sensitivity to protecting those values that make the Adirondack Park unique.

During 1984 several Agency actions, noted later in this report, exemplified this increasing sensitivity. One action, in particular, typifies what is hoped to be a trend and deserves special comment here.

In a near unanimous (9-1) decision, the *Park Agency* rejected an application for an all-terrain vehicle racetrack in the geographical center of the Park on the outskirts of the community of Long Lake. The noise from this racetrack would not only have affected the environmental quality of surrounding residential areas but would have shattered the natural tranquility of a key segment of the popular Old Forge-Saranac Lake canoe route and would have equally disrupted the western flank of the High Peaks Wilderness through which the Northville-Placid hiking trail passes.

A broader issue was also involved. If all potential land uses are allowed within the Park, the Park would eventually lose much of its special quality and diversity. An all-terrain vehicle racetrack, with its high level of noise, epitomizes the kind of land use that contradicts the purpose, and undermines the unique character, of the Adirondack Park. For a century the Adirondacks have provided a sanctuary where tranquility, wildness and natural beauty combine to provide a valued way of life for Park residents and a strong attraction for visitors from a more hectic urban-suburban setting. Few new activities threaten the Adirondack ambience more than the intrusive roar of racing motors. The *Adirondack Park Agency* has recognized the basic incompatibility of such a use and the importance of protecting both the economy and the natural resources of the Park from excessive and unnecessary mechanization.

Following the racetrack decision, *Agency Chairman Cole* appointed a committee to help determine Agency policy on the broader question of all-terrain vehicle use elsewhere in the Park.

Now that the Agency has taken this important first step to define appropriate uses for the Park, it is hoped that the Agency will remain vigilant to other proposed actions that could degrade or destroy the natural attributes of the region. Unfortunately, the *Adirondack Park Agency Act* fails to define in any useful way those uses that are compatible or incompatible with the Park's character, except for the most restrictive resource management zone. Revision of the Act, to address appropriate land uses, may be necessary.

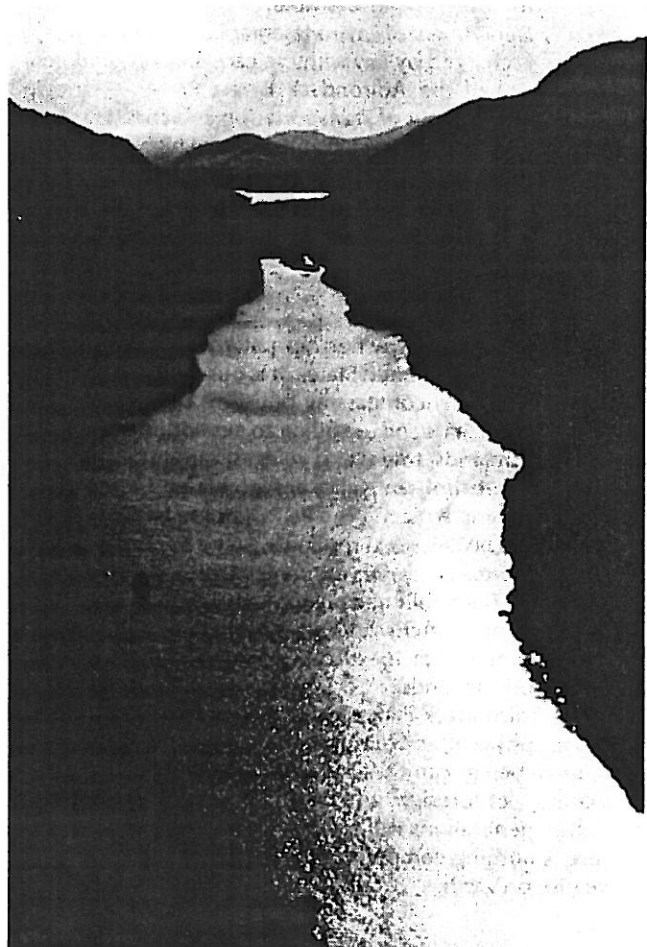
## CONSERVATION EASEMENTS

Conservation easements offer one means of protecting both the open space character of the Adirondack Park and the economy of the area. They are a device for insuring good stewardship of private lands that cannot (or should not) be acquired by the state.

Conservation easements may be individually tailored to any specific property. Therefore, a precise definition of conservation easement is difficult. In general, however, a conservation easement is a legal agreement through which a private landowner voluntarily gives up some property rights, usually all or part of the right to place more buildings on the land. Because a conservation easement affects land regardless of its owner, its restrictions continue in perpetuity. For instance, an owner of 500 acres might give or sell to the State of New York a conservation easement that precludes any additional structures on the land. Or the easement might allow only five more houses to be built. Similarly, a landowner might agree to restrict future road building or timber harvesting through a conservation easement given or sold to the state.

The advantage to the property owner in agreeing to restrict future development may be a cash payment from selling the conservation easement to either the State of New York or to a not-for-profit conservation organization. Or, if the landowner donates the easement, the benefit may be a significant charitable income tax deduction. A landowner might also receive a reduction in property taxes.

In the Adirondack Park, conservation easements offer an opportunity to preserve land as open space in happy contrast to the present reliance exclusively on limited state acquisition and regulatory legislation that is continually subject to change



*The privately owned Ausable Lakes are protected from development and timber harvesting by a state owned conservation easement.*

by the state legislature. Conservation easements could also help preserve the two economic mainstays of the Park: tourism and the forest products industry. Furthermore, property tax revenue impacts on local governments are limited since New York State pays the difference, if any, in tax assessment reduction resulting from easements held by the state.

The time is now propitious for the state to launch an aggressive easement acquisition program based on clearly defined objectives and an educational effort to help landowners better understand how conservation easements can benefit them. The state, particularly the *Department of Environmental Conservation*, has been reluctant to advocate conservation easements under the misguided belief that state money should not be used for easement purchase unless public access is assured. This concern overlooks the primary objective of conservation easements: to preserve open space and a natural environment in perpetuity. Public access is a desirable goal. But maintaining future options and open space is of greatest immediate importance. Once an easement is publicly owned, the undeveloped land will exist for future (if not present) access. It will also be available for full ownership someday should the state decide the land is necessary for public purposes. Public access can and frequently will be part of a conservation easement--but such access should be viewed as secondary to the long range objective of preserving open space and natural values for the benefit of future generations.

To their discredit, the *Governor* and the *State Legislature* in 1984 diluted the Conservation Easement Act of the previous year by making the extinguishment of easements easier--that is, to make them susceptible to reversal at a later date through government action. Because conservation easements are a practical method of protecting the natural, open space character of much private land in the Park, any weakening of the easement law threatens the Park's unique character. It also increases the need for state land acquisition and regulation rather than the politically more acceptable use of easements.

To its credit, the *Adirondack Park Agency* took an independent stand, urging that the proposed amendments to the Conservation Easement Act be reconsidered to avoid weakening the law.

To their credit, the *Department of Environmental Conservation* and the *Attorney General* intervened as "friends of the court" in the New York State Court of Appeals case of *Adirondack Mountain Reserve v. Board of Assessors of North Hudson and Keene*. This case involved a lawsuit by a landowner who gave the state a conservation easement restricting development and timber harvesting on some of the most wild and beautiful private land in the Adirondacks. In addition, the easement provided public access across the land to the High Peaks Wilderness. The towns responded by raising the landowners assessment rather than lowering it! After the landowner sued, the *Attorney General* and *Department of Environmental Conservation* joined the suit to uphold the public policy of open space preservation through easements and to assure that the landowner receives fair tax treatment. (Unfortunately, the Court, based on facts specific to this case, upheld the towns.)

In early 1984, another serious threat to the natural character of the Adirondack Park loomed large when Paul Smith's College, owner of approximately 20,000 forested acres adjacent to the state-owned St. Regis Canoe Area, felt compelled to subdivide its land for financial reasons. The College was not eager to part with its lands but believed it had no other option until

learning of the recently enacted Conservation Easement Act. It then turned to the state to see if provision could be made to preserve the lands while providing some ready cash for the College.

To its credit, the *Department of Environmental Conservation* began serious negotiations with Paul Smith's College that appear to be headed toward state acquisition of some of the lands as forest preserve and the purchase of a conservation easement on much of the additional acreage. **It is hoped that this is the beginning of an increasingly active state easement acquisition policy that will further both public and private interests in the Park.**

## FOREST PRESERVE ACQUISITION

Most forest preserve acquired by the state in the Adirondack Park has been purchased with money from publicly approved bond issues. The latest such initiative, passed by the voters in 1972, authorized \$44,000,000 to buy additional Adirondack Forest Preserve. In the mid-1970's the state undertook (under DEC Commissioner Peter A. A. Berle) an aggressive acquisition program designed to purchase key private tracts to protect and enhance the public portions of the Adirondacks. At that time, the state acquired thousands of acres of forest preserve, including the Main Range of the High Peaks and Lake Lila, now the largest lake in the entire preserve. Since then, however, the state's forest preserve acquisition program has lost its sense of urgency and direction.

Acting on its own initiative, without any statutory authority to do so, the *Department of Environmental Conservation* opted to stretch the bond issue acquisition funds over a 20 year period, at the risk of severely reducing the acreage, due to rising land prices, that could be acquired. This dangerous and arbitrary policy has also precluded the opportunity for public approval of another bond issue in 1985, in conjunction with this year's Forest Preserve Centennial.

The *Department* has failed to justify its "go-slow" approach to adding to the public estate in the Adirondacks, a policy which appears to contradict its mandate from the voters. When the question was put to one DEC official it was explained that the acquisition program was being diluted and dragged out for the purpose of retaining key staff who would have no permanent position once the bond issue funds were spent.

Another official suggested that by hoarding the acquisition funds over two decades, the Department would be waiting and ready when the most desirable properties eventually come on the market. Yet the statistics presented later in this report show clearly that it is not the "desirable" properties that are being purchased.

Of equal concern, the acquisitions sought by the *Department of Environmental Conservation* have increasingly reflected a short-sighted intent to round out administrative boundaries and ease administrative burdens rather than acquire those key parcels of private lands that would add significantly to the ecological and aesthetic appeal of the publicly-owned forest preserve.

In 1984, the *Department of Environmental Conservation* gained title to 30 parcels of property totaling 8313 acres at a cost of \$1,594,130. These purchases expanded the Adirondack Forest Preserve by a paltry three-tenths of one percent. One excellent acquisition (the 2616 acre Big Range inholding in the Siamese Ponds Wilderness) accounted for 31 percent of the

total acreage acquired and 23 percent of the total funds expended. The remaining purchases averaged only 196 acres each. At today's rate of expenditure, the \$44,000,000 approved by the voters in the 1972 bond issue for additions to the forest preserve, will not be used until 1995, 23 years after the voters authorized their use.

An analysis of the 30 parcels purchased in 1984 shows that 20 parcels serve principally administrative purposes, while only 10 reflect primarily the public interest in enhancing the forest preserve. Only one of the 30 purchases could be considered a truly outstanding addition to the preserve. Fortunately, many choice private parcels totalling tens of thousands of acres and truly worthy of forest preserve protection are still affordable and available; but the *Department* must sit down with property owners and negotiate. To date the *Department* has failed to be sufficiently aggressive in pursuit of these key acquisitions.

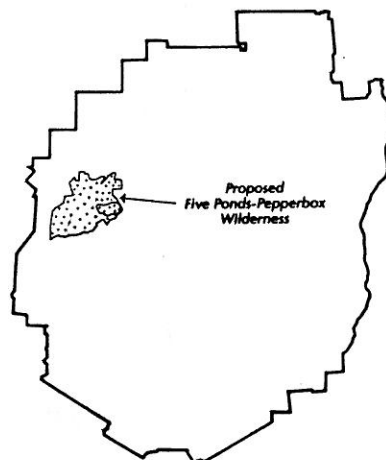
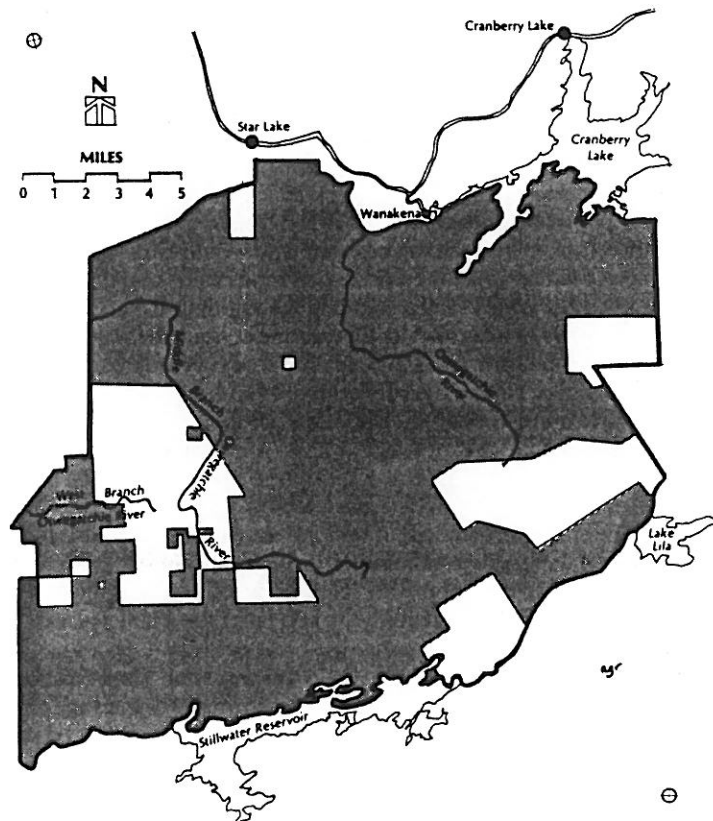
To take just one example: In 1984, the *Department* had an opportunity to purchase nearly 13,000 acres, including two state-designated Wild Rivers, that would have consolidated the Pepperbox and Five Ponds Wildernesses. The *Department* belatedly showed an interest in acquiring these lands—but their effort proved to be too timid, too little and too late. The most vital portion of the parcel (the only triangular tract on the map that follows), centrally located in the potential consolidated wilderness in the headwaters of the Middle Branch of the Oswegatchie River, was sold to a private hunting club. Perhaps the remainder of the parcel can be acquired by the state but this will happen only if the *Department* gives a high priority and a new direction to its acquisition program.

The present condition of the *Department of Environmental Conservation's* forest preserve acquisition program is at best

disappointing and at worst deplorable. What is supposed to be a program to acquire priceless parcels—the crown jewels of New York State's natural heritage—for the benefit of all the people of the state has become routine and uninspired. New Yorkers did not vote in 1972 to ease the *Department's* administrative burdens. For their unyielding, century long commitment to the forest preserve the public deserves an enlightened and systematic acquisition program; a program that will extend the boundaries of state owned wilderness and primitive areas to encompass ecologically-coherent watersheds. They deserve to add to their forest preserve—to round out the preserve—such splendid acquisitions as Boreas Ponds, OK Slip Pond, the Upper Sister Lake watershed, Preston Ponds, and the headwaters of the Middle and West Branches of the Oswegatchie River. They deserve a carefully conceived program of forest preserve acquisitions that will protect the scenic backdrop along roadways that attract and delight Adirondack Park visitors. The public deserves an acquisition policy that will protect such eminently canoeable waterways as the Bog, Marion, Raquette, Moose and Hudson Rivers, along with many other still undisturbed river and lake shorelines. They deserve permanent forest preserve protection of other rare and fragile resources such as Sevey's bog and the Madawaska wetlands.

To his credit, *DEC Commissioner Williams* has committed his *Department* to one or more major forest preserve acquisitions during the forest preserve centennial year. **But the Commissioner must also restore credibility to the *Department's* overall acquisition program. He should use the forest preserve centennial year as an opportunity to focus on acquisition needs and to infuse the moribund acquisition program with the initiative and direction it so sorely needs.**

## POTENTIAL CONSOLIDATED FIVE PONDS-PEPPERBOX WILDERNESS



The essence of Bob Marshall's Five Ponds Great Wilderness vision could be created during the 1985 Forest Preserve Centennial. Existing forest preserve in the area (shaded)—which includes the Five Ponds and Pepperbox Wildernesses, all of the Wilderness Lakes and Buck Pond Road Primitive Areas, a portion of the Lake Lila Primitive Area, and scattered parcels of the Oswegatchie Wild Forest Area—makes up 82% of the proposed wilderness. Of the area in private ownership, 23% is protected by restrictive conservation easements and 53% is presently or soon will be for sale. Since the State Department of Environmental Conservation has adequate funds available from the Environmental Quality Bond Act for the purchase of the lands now for sale, it is entirely conceivable that a Five Ponds-Pepperbox Wilderness could be established during the Forest Preserve Centennial as a fitting tribute to Bob Marshall and an everlasting legacy to future generations of New Yorkers.



### FOREST PRESERVE CLASSIFICATION

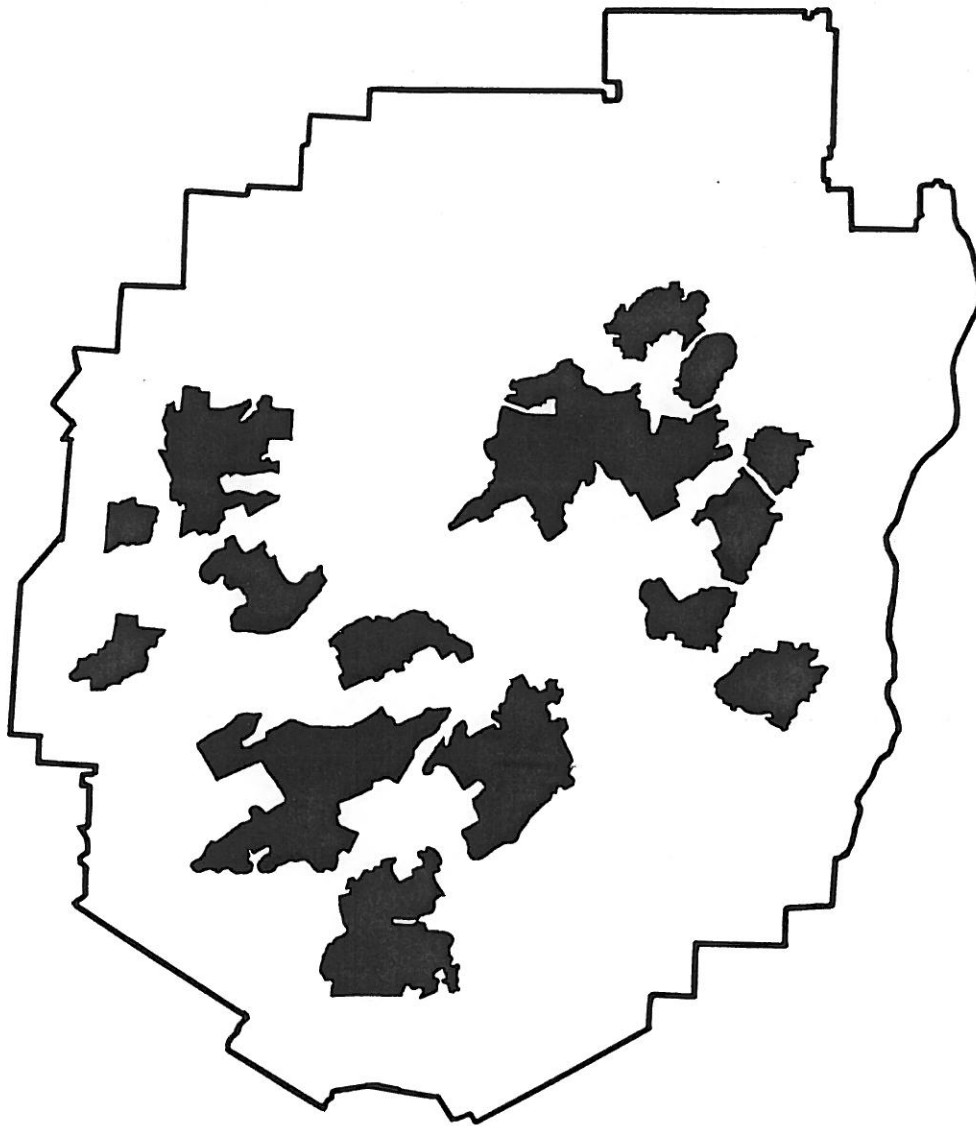
In an alarming change from past practice, the *Adirondack Park Agency* in early 1984 appeared to retreat from its traditional commitment to protecting and enhancing the wilderness component of the Adirondack Forest Preserve. What is wilderness, and why is this lapse by the Agency of such concern to conservationists?

All of the Adirondack Forest Preserve is constitutionally protected as "forever wild" land. Nearly half of these lands are additionally classified by the State Land Master Plan as Wilderness, a classification that prohibits all uses of motorized vehicles and equipment. Contained in 15 separate parcels and

totaling about a million acres, these lands are the wildest, remotest, most pristine portions of the Park. They are also an exceedingly rare and precious resource in our industrialized society. These Adirondack wilderness areas comprise one-third of all publicly protected wilderness east of the Mississippi River.

Less than one percent of the eastern United States remains in its wilderness state. By its very nature, wilderness is a resource that is easily diminished but seldom expanded. It is a tribute to the foresight of our ancestors that we have, in the Adirondack Park, lands as diverse, wild and beautiful as any wilderness in the nation. It will speak well for our generation if we preserve what little wilderness remains and enlarge it in those very few places where wilderness expansion is still possible.

### WILDERNESS IN THE ADIRONDACK PARK



*Less than 18% of the Adirondack Park is designated as wilderness where no motorized vehicles are allowed.*

Any decreasing commitment by the *Adirondack Park Agency* to protecting and enhancing the wilderness resource should be viewed with grave concern by anyone concerned about the future of the Adirondack Park.

A disturbing change of direction by the *Adirondack Park Agency* became evident during the classification process for the Perkins Clearing land acquisition immediately adjacent to, and bordered on three sides by, the incomparable West Canada Lake Wilderness. The following diagram shows the location of Perkins Clearing in relation to the West Canada Lake Wilderness.

The record clearly indicates that the state acquired this land to round out the West Canada Lake Wilderness at its most vulnerable point. There was strong public support for such a wilderness classification during the public hearing process. Disregarding this unequivocal expression of public and administrative intent, the *Adirondack Park Agency* wavered through weeks of deliberations. When the Agency finally made its decision, it did add approximately 85 percent of the Perkins Clearing tract to the West Canada Lake Wilderness. But even this unnecessary and damaging compromise was opposed by several Agency commissioners who saw no validity to classifying any of this tract as wilderness.

The Agency next demonstrated a fundamental misunderstanding of the wilderness concept and a disregard for the provisions of the State Land Master Plan prohibiting motorized activity in wilderness. On a motion of *DEC Commissioner Williams*, the Agency voted to allow aircraft landings for up to ten more years on Whitney Lake in the very heart of the newly-constituted West Canada Lake Wilderness! A lawsuit by the Adirondack Council was brought in late 1984 to overturn

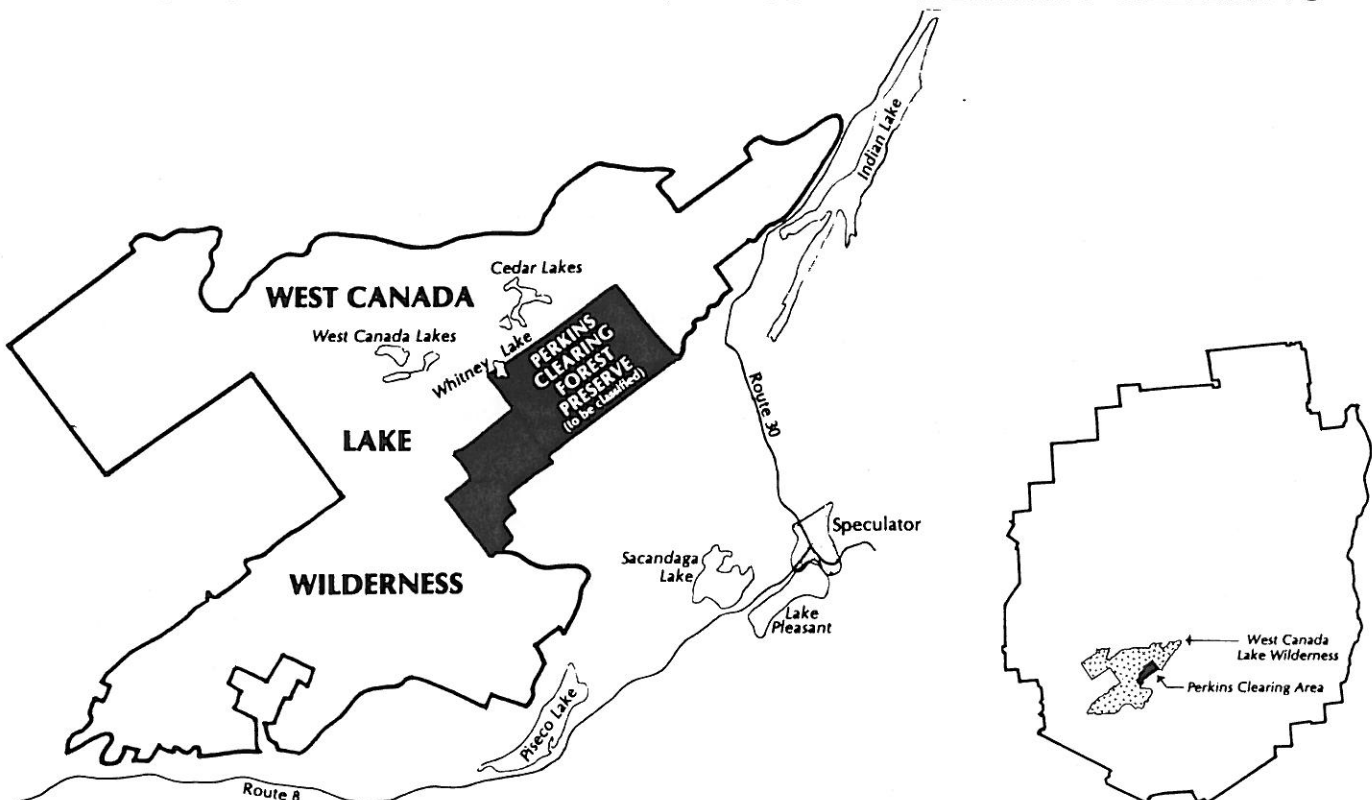
the Agency's decision and to help ensure that such actions will not be repeated. If the Whitney Lake decision is upheld, the risk is apparent; all wilderness in the Adirondack Park will be more vulnerable to mechanized intrusion.

The Governor, who must approve all forest preserve classification recommendations made by the Agency, has still not acted on these recommendations--presumably because the Agency was so uncertain and unknowledgeable in developing them.

Further misunderstanding of the wilderness resource and its management was demonstrated late in 1984 when the *Department of Environmental Conservation* recommended that four recently acquired parcels of forest preserve be classified as non-wilderness. And yet these parcels, logically classified as wilderness, would help create manageable boundaries for the Five Ponds Wilderness, High Peaks Wilderness, and Siamese Ponds Wilderness. The *Adirondack Park Agency*, whose authority includes the final recommendation to the Governor for forest preserve classifications, originally accepted the *Department's* recommendations, though subsequently classified one of the parcels as wilderness and postponed decisions on the others as a majority of Agency commissioners could not agree--once more indicating a lack of wilderness understanding or commitment.

Until 1984, the *Adirondack Park Agency* had been the state's most stalwart advocate of wilderness preservation. **Along with its responsibility to regulate the use of private Adirondack lands, the Agency should continue to demonstrate unswerving leadership in the preservation of all of the Park's public resources, including its unique and irreplaceable wilderness component.**

## WEST CANADA LAKE WILDERNESS AND PERKINS CLEARING



## STATE AGENCY STEWARDSHIP

If the Adirondack Park is to retain its parklike character, all significant land uses should be subject to similar regulation, whether undertaken by government or private interests. It is equally important that all state agencies working within the Park proceed with a clear understanding of what the Park represents and how it differs from other areas of the state.

The Adirondack Park Agency Act gives the Agency regulatory control over much of the private development in the Park, but only advisory authority over state-agency development in the Park. This dual standard is a continuing irritant to residents of the Park as well as a serious threat to the Park's natural integrity. New electric transmission lines, administrative facilities, a proliferation of prisons, and other state-sponsored activities have often clashed with the natural attributes of the Park in a manner that would be prohibited by the Adirondack Park Agency were such incompatible land uses proposed by private landowners.

To its discredit, the State Senate failed to pass a bill in 1984 that would have eliminated this double standard, even though Governor Cuomo and the State Assembly supported such legislation. As a result of Senate inaction, state agencies and authorities can continue circumventing the state law (APA Act) designed to insure only compatible development of the Adirondack Park.

Meanwhile, state agencies continue actions and policies that may or may not be corrected by eliminating the dual standard. Roadside signing is one such example. Properly used signs can aid both the visitor and the resident in the Park. But improperly used signs can detract from the Park's character. More than 50 years ago, an Adirondack Sign Law was passed by the state legislature. This farsighted action was the first substantive sign control law in the nation and the first significant state regulation of private land use in the Adirondack Park. It restricted the location of outdoor advertising by private entrepreneurs largely to their own premises. The result is immediately obvious to any motorist entering the Adirondack Park; roadside billboards suddenly disappear and the natural beauty of the Park may be fully appreciated. As with the Adirondack Park Agency Act, however, the Adirondack Park Sign Law does not apply to signs posted by state agencies.

To its discredit, the *Department of Environmental Conservation* is not moving forward on much needed revisions to the Adirondack Park Sign Law rules and regulations. The *Department* long ago proposed excellent new regulations but has not given any priority to refining and adopting them. The *Department of Transportation* has wavered on its signing policies but has agreed to follow the draft *Department of Environmental Conservation* sign regulations once they are implemented.

To their discredit, the state-sponsored *Olympic Regional Development Authority* (ORDA) and the *Department of Transportation* have placed excessive signs at ORDA facilities. At one ORDA facility, the Olympic ski jump just south of Lake Placid, 58 individual signs exist on a section of state highway less than one mile in length! Compounding the visual blight and adding insult to injury, many of these signs have been erected in a land use area designated by the state legislature as critical to the natural beauty and open space attributes of the Park (being adjacent to the lovely Ausable River, a unit of the state's Wild, Scenic and Recreational Rivers System).

**Through legislation or by an executive order from the Governor—or preferably both—it is essential that all state**

**agencies respect and honor the natural integrity of the Adirondack Park just as private landowners are now required to do by the state itself.**

## OTHER SPECIFIC ACTIONS AND INACTIONS

Over time, the cumulative effect of individual actions can degrade and forever diminish the natural qualities of the Park. The past year has seen a continuing erosion of certain Park values, as well as some positive steps toward better protection of the Park's resources.

### THE FOREST PRESERVE

*Condition: Good*

*Trend: Stable*

The state's wavering commitment to the forest preserve, as evidenced by an aimless acquisition policy and recent disregard for wilderness values, has been noted. Other 1984 actions that deserve comment are listed below.

To their credit:

—The *Department of Environmental Conservation*, after years of delay, has set a firm schedule for the removal of existing structures and facilities in wilderness and primitive areas that significantly detract from the basic purpose of such areas. Immediately after this schedule was developed in late 1984, its implementation began with the removal of the outdated Fort Noble Mountain fire tower and observer's cabin—an act that will allow the addition of 450 acres to the West Canada Lake Wilderness.

—The *Adirondack Park Agency* is striving to eliminate or curtail the so-called "inconsistent acquisition doctrine". This "doctrine" appears to subvert the plain meaning of Article XIV of the state constitution—the "forever wild" clause—by allowing a state agency to acquire Adirondack land and manage it for uses inconsistent with the constitution by merely declaring, at the time of acquisition, that the land is being acquired for a purpose inconsistent with the forest preserve. Although the constitution can be amended only by a vote of the citizens of the state and not by either legislation or a state agency's whim, many state agencies have long felt their hands are tied by the constitution and have been determined to find methods to circumvent it. The "inconsistent acquisition doctrine" has provided state agencies with exactly the tool they desire. The *Park Agency* should be commended for its efforts to curtail the use of this "doctrine" by state agencies until such time as a court clearly defines the constitutional prohibition against the state acquiring lands in the Adirondacks as other than forest preserve.

—The *Adirondack Park Agency* protested a New York State Police proposal to construct a 100 foot communications tower on forest preserve. After a faulty legal opinion that the project was constitutionally permissible, the *Department of Environmental Conservation*, late in 1984, came out in opposition to the tower as a matter of policy. The tower would protrude from the summit of Black Mountain which overlooks, and is dramatically visible from, a spectacular reach of Lake George. Dominating its

natural surroundings, such a facility would blatantly violate the "forever wild" character of the forest preserve. This mountaintop development would set a precedent that could undermine the constitutional protection afforded the public lands of the Adirondack Park.

—The *Department of Environmental Conservation*, after 12 years of foot-dragging, has demonstrated a renewed commitment to the completion of management plans for the major units of the forest preserve as mandated by the Adirondack Park State Land Master Plan. The purpose of unit management plans is to insure wise use of these wild and fragile public resources. Commissioner Williams has given high priority to the production of unit management plans. A streamlined process has been developed for their completion, and one of the first of these plans (for the Pepperbox Wilderness in the west central Adirondacks) is exemplary for protecting this beautiful, pristine place in its true wilderness condition.

—After decades of ignoring a serious private trespass on publicly-owned forest preserve, including a house, barns, garden and other private development in the vicinity of the Indian Lake Dam, the *Department of Environmental Conservation* ordered the illegal facilities be removed by the end of 1984. (These facilities had originally been allowed on the state lands some 75 years ago in a governmental decision that was soon determined to be illegal by the Attorney General. The Attorney General's determination was ignored for three generations.)

To their discredit:

—The *Office of General Services*, working closely with the *Governor's Office*, has been vigorously pursuing an unconstitutional sale of forest preserve land on Upper St. Regis Lake, adjoining the St. Regis Canoe Area (the East's only designated canoe area) in Franklin County. This 207-acre parcel of land, a small portion of which contains the extensive Camp Topridge development, was bequeathed the state by its owner, Marjorie Merriweather Post. This splendid property includes two essentially undeveloped ponds and old-growth stands of hemlock, white pine and northern hardwoods.



The still pristine Lower Spectacle Pond and the hemlock and pine studded esker overlooking it are proposed for sale by the state despite their forest preserve status.

The state constitution stipulates that all lands acquired by the state in the Adirondack Park must be added to the public forest preserve. The constitution further decrees that forest preserve cannot be sold or otherwise disposed of. Yet the *Office of General Services*, citing the "inconsistent acquisition doctrine" and with the *Governor's* backing, seems determined to sell this priceless parcel based on the legally dubious claim that it cannot be considered forest preserve regardless of what the constitution states because (1) it was a gift to the state and (2) the land is at least partially developed. At the end of 1984 the *Office of General Services* had apparently abandoned its plans to sell all of the property but still insisted that a substantial portion would be sold.

—The *Department of Commerce*, in late 1984, announced opposition to any further forest preserve acquisition in the Adirondacks, then conceded that a few modest exceptions might be allowed. It is hoped that the *Department of Commerce's* regressive view of the public interest in the public lands of the Adirondacks in no way reflects Governor Cuomo's position. The *Department* did not attempt to explain what would happen to the remaining \$17,000,000 of the \$44,000,000 approved by New York State voters (in the 1972 Environmental Quality Bond Issue) for additions to the Adirondack Forest Preserve.

## THE PRIVATE LANDS

Condition: Fair

Trend: Stable

Most Adirondack Park landowners continue to be good stewards of their land, as evidenced by the natural beauty that has survived to the present day. At the same time certain private activities, such as commercial strip development along scenic highway corridors, conflict with and degrade the Park's natural qualities.

To its credit:

—The *Adirondack Park Agency*, empowered by the state legislature to amend the Adirondack Park Land Use and Development Plan Map regulating the type and intensity of private land uses, has improved the map amendment process to better reflect the natural capability of the land to withstand development. The *Agency* is also taking care to ensure that proposed changes in the various land use areas depicted on the map will not jeopardize the Park's open space character. The success of this improved process was seen last year in *Agency* denials of inappropriate map amendments in the Towns of Saranac, Essex (withdrawn before denial) and Harriets-town. The proposed map change in Saranac would have resulted in roadside strip development and allowed residential development on soils incapable of absorbing septic tank effluent. The map change in Essex would have irreparably diminished the unique historic character of the town and led to degradation of water quality in Lake Champlain. The map change in Harriets-town would have permitted residential development to compromise the biological integrity of a rare, lovely and exceedingly sensitive Adirondack ecosystem known as the Bloom-ingham Bog.

The *Agency* also acted favorably on several requests

for map changes that increased allowable development on deep soils and moderate slopes, in areas not essential to preserving the open space character of the Park.

—The *Adirondack Park Agency* relied largely on aesthetic considerations in approving specific siting for a single family dwelling near the extraordinary scenic vista at the intersection of Route 73 and the Adirondack Loj Road, a few miles southeast of Lake Placid. The Agency succeeded in balancing the landowner's desire to build a house on his property with the public's concern for protecting the dramatic view, from the roadway, of Mount Marcy, Mount Colden, the McIntyre Range and Indian Pass. A location was found for the house that in no way intrudes on the public's view and fully satisfies the owner's needs.

### STATE AND FEDERAL STEWARDSHIP

Condition: Fair

Trend: Declining

Two dangerous inactions by state agencies were discussed earlier in this report under STATE AGENCY STEWARDSHIP. Other 1984 actions that deserve mention are described below.

To their credit:

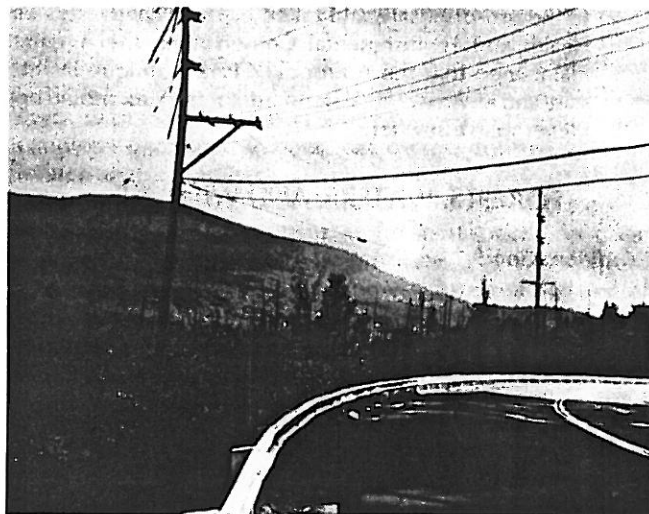
—The *Adirondack Park Agency* has submitted a proposal to the Governor for an interpretive center for the Adirondack Park and is currently pressing for capital construction funding. Such a center (the kind of educational facility that our national parks have in abundance) is urgently needed to assist both residents and visitors in their enjoyment and understanding of the diverse natural resources of the Adirondack Park. **Initiating a major Adirondack Park interpretive program should be one of the state's highest priorities in 1985.**

—The *Adirondack Park Agency* prevailed upon the federal *Department of Energy* to exclude the Adirondack Park from further consideration as a national nuclear waste depository. The Department had identified the Adirondacks as a choice dumping ground because of its suitable rock formations, but the Agency made a convincing case that the Adirondack Park should be viewed in the same manner as our national parks. The Department subsequently excluded the 6,000,000 acre Adirondack Park from further consideration. The significance of this action is demonstrated by the fact that the Adirondacks constituted over 90 percent of the lands in the northeastern United States removed from the original list of potential depository sites.

—The *Public Service Commission* determined that a major electric transmission line known as Marcy-South should not be allowed to impinge upon the Catskill Park as the New York State Power Authority proposed. This action by the *Commission* is a welcome example of government recognition of and deference to the special character of the Adirondack and Catskill Parks. Ironically, the Department of Environmental Conservation had been promoting a route for this gigantic transmission line that ran directly through the Catskill Park.

To their discredit:

—The *Public Service Commission*, while showing sen-



Electric and telephone utility lines blight scenic roadsides throughout the Park.

sitivity to the beauty of the Park when considering the location of new electric transmission lines, has done next to nothing to reduce the destructive visual blight of the many existing utility distribution lines throughout the Park.

—The *Adirondack Park Agency*, *Department of Environmental Conservation* and *Department of Transportation* continue to do nothing to protect the 40 designated scenic vistas along the Park's highway system or to provide parking facilities where appropriate. Nor has the *Adirondack Park Agency* designated especially scenic county roads as travel corridors, despite its clear authority to do so and the equally clear need to protect the Park's scenic resources along many such roads.

### AIR AND WATER QUALITY

Condition: Good

Trend: Declining

The fresh air and pure waters of the Adirondack Park, long a lure to vacationing urban dwellers, are also basic to the Park's economy and the quality of life of those who reside here permanently or seasonally.

These two resources are now threatened both by activities within the Park and many miles distant. Specific actions by New York State to combat acid rain were discussed previously. Other 1984 actions that deserve mention are listed below.

To their credit:

—The *Department of Environmental Conservation* has undertaken a major acid rain research effort and has identified particularly hard-hit areas in the Adirondacks.

—The *Adirondack Park Agency* refused to permit the disposal of low level radioactive waste in the Saranac River by Bionique Laboratories. The Agency acknowledged that there was at present some low-level radioactive waste disposal in the Saranac River, as well as other Adirondack water bodies. But it resisted further dumping of radioactive waste no matter how minute. Contrary

to the pro-disposal stand taken by the Departments of Health and Environmental Conservation, the Agency maintained that the Adirondack Park is unique in the state and environmental standards for the Park should be higher than elsewhere.

### FORESTS, WATERS, AND WILDLIFE

Condition: Good

Trend: Improving

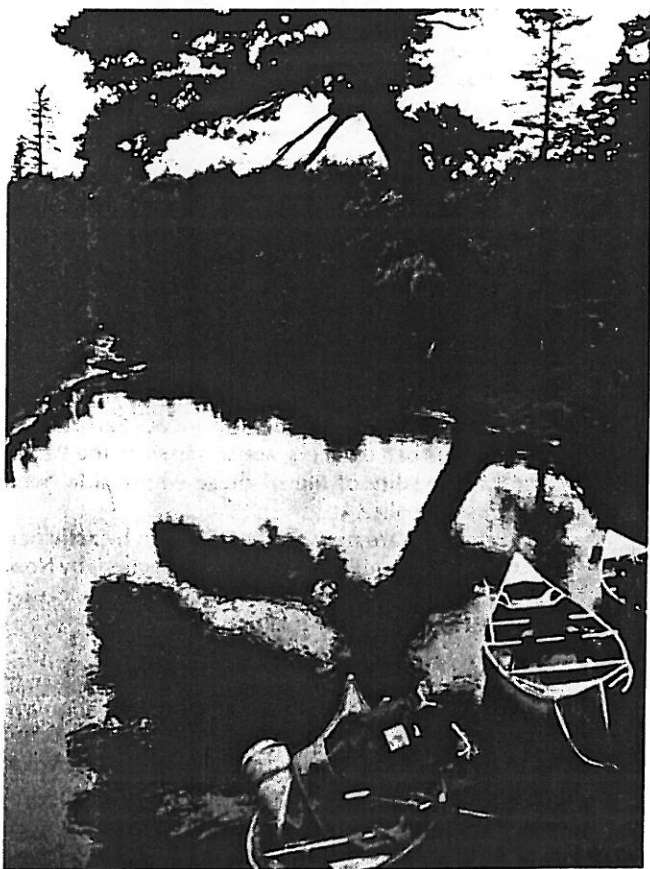
The diversity of forests, wildlife, and aquatic ecosystems are the essence of the Adirondacks. Government attitudes and actions can contribute to the protection or degradation of these qualities.

To its credit:

—The *Adirondack Park Agency*, despite opposition by the Department of Environmental Conservation, denied a request from the New York State Electric and Gas Corporation to apply the potentially dangerous chemicals pentachlorophenol, sodium methylthiocarbamate, and creosote to utility poles in or near wetlands.

To their discredit:

—The *State Senate* refused to follow the lead of the State Assembly and rejected legislation that would have completed the Adirondack portion of the New York



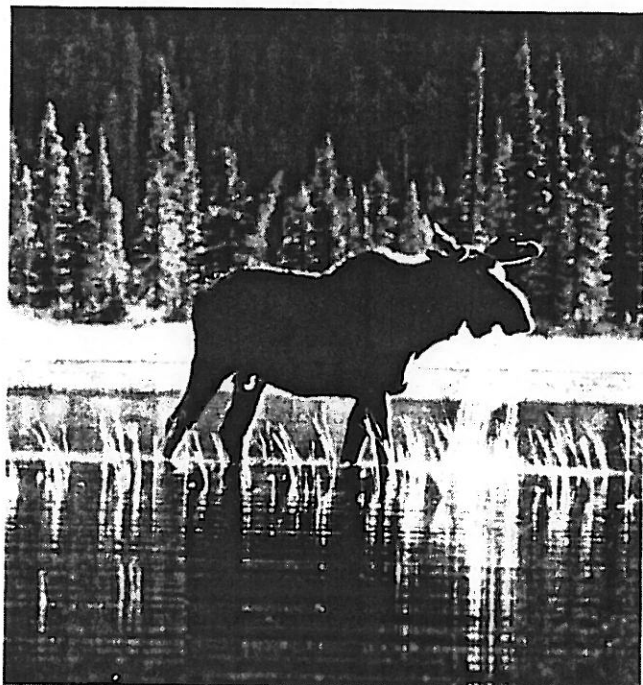
The Middle Branch of the Oswegatchie River in the Five Ponds Wilderness is afforded additional protection by the state's Wild, Scenic and Recreational Rivers System. Other Adirondack Rivers should be added to the System in 1985.

State Wild, Scenic and Recreational Rivers System. Furthermore, the Governor failed to display leadership and press for this important legislation, which has been awaiting passage for several years.

All major rivers in the Adirondack Park have been carefully reviewed as to their suitability for inclusion in the State Rivers System which provides special protection against impoundment, pollution and inappropriate development. Approximately 1200 miles of Adirondack rivers were previously included in the System by the state legislature and those rivers found unsuitable for inclusion were dropped from further consideration. After intensive study, an additional 116 miles of Adirondack rivers, including such classic Adirondack waterways as the North Branch of the Moose, the Osgood and the Grasse, were recommended by the Agency in 1979 for inclusion. By adding these remaining "crown jewels" of the state's rivers to the state's protective system, New York State would assure the best possible legacy of free flowing streams for future generations. **This modest expansion of the Adirondack Wild, Scenic and Recreational Rivers System should be a top priority conservation goal for the Adirondack Park in this centennial year.**

—The *Adirondack Park Agency*, early in 1984, approved the use of the controversial chemical pesticide 2,4-D for algae control in Lake Vanare, a popular Adirondack waterbody. In view of the nationwide concern over this pesticide, the Agency's action is incomprehensible. This action was based on no record, no environmental data, no impact statement, no draft permit and a confused Agency discussion.

—The *Department of Environmental Conservation* has conspicuously failed to pursue a restoration program for extirpated Adirondack mammals such as the moose,



Moose may be moving back into the Adirondack Park after a 100 year absence. Their chance of successfully occupying their former range would be greatly enhanced if the Department of Environmental Conservation would transplant some supplemental animals into the Park.

wolf, and cougar in the Adirondack Park, despite available funds from the state income tax checkoff device, "Return a Gift to Wildlife." The Adirondack Park is one of the few remaining wild areas in the eastern United States where these species, which require a substantial wilderness range, could survive. If Adirondack wilderness is to be managed to perpetuate naturally functioning ecosystems, as called for in the State Land Master Plan, a concerted attempt to restore these native species is long overdue.



## **PROGNOSIS FOR THE PARK**

The future of the Adirondack Park is in the hands of the citizens of New York State. A knowledgeable citizenry, as quick to praise and support sound policies as to expose and condemn irresponsible ones, can be the decisive factor in influencing state actions.

There is still time to alter destructive trends and preserve--even enhance--what remains of the most spectacular open space reserve in the eastern United States. We need only the political will to do so. With the support, love and vigilance of an informed public, the Adirondack Park will continue to serve as a global demonstration project that human beings can coexist in harmony with their natural environment.

