

# The Influence of Conservation Easements on Recreation in the Northern Forest

By WILLIAM S. KIES, MARLA R. EMERY, AND JAMES F. PALMER

## Abstract

*Before the implementation of conservation easements, access to private timberland was determined and controlled by the landowner. With the creation of large conservation easements, some of that control has shifted to non-profit organizations and government agencies. Frequently, easement deeds call for the landowner to grant public access for recreational activities. However, the effects of easements are not uniform. Understanding the impacts of particular conservation easements on recreational access requires examination of (1) land use and land tenure patterns before the implementation of the easement, (2) the specific details of easement provisions, and (3) how these have been interpreted and implemented since their creation.*

Private timberland has long had an important role in recreation and the traditional leisure activities associated with the Northern Forest (Patrick 1969). The rural wooded landscape has provided space and opportunities for hunting, fishing, hiking, snowmobiling, wildlife viewing, and other activities. Unlike



*NYSDEC Conservation Easement sign.*

other regions of the country, public ownership of the land is limited in the Northern Forest. Rather, large private timberland owners have provided the public with access to extensive expanses of forest for recreational purposes. In recent years, the potential for development has appeared to threaten this tradition. Large conservation easements (25,000+ acres) have emerged as a growing trend in conserving private timberland in the Northern Forest and continued public access to them. Stretching over millions of acres, these "mega-easements" encompass entire hamlets, towns, and townships. They represent a shift in the strategy to control and manage the resources and people of the Northern Forest. The intention of this project was to examine how recreation has been influenced by the implementation of large conservation easements in the Northern Forest.

## Background: The Northern Forest, Recreation, and Conservation Easements

At 26 million acres, the Northern Forest is one of the largest continuous forested landscapes in the lower forty-eight states (Harper et al. 1990, P.1). One distinctive characteristic of this region is the importance of the land to the economy and livelihoods of its people. Surveyors, fishing and hunting guides, mill workers, loggers, ski instructors, truck drivers and wood-craftsmen all rely on the land to earn a living. Over the past few decades, shifts in global industry patterns, corporate sell-offs and consolidations, technological advances and improvements in silviculture have contributed to an evolution in the forest products industry. Despite these changes, the forest products industry has continued to be important in the Northern Forest. However, the changing patterns have put pressure on Northern Forest industrial lands that calls into question the likelihood of their remaining open and productive.

Along with forestry-related jobs, recreation and tourism bring in billions of dollars and thousands of jobs to the region and are equally important to its identity and economic vitality. The relationship between recreation and industrial timberland has long been an important component in the land-use patterns found in the Northern Forest. Private industrial timberland owners recognize the recreational value of their land. In some cases, a tradition of free public access pays dividends in good community relations. In other cases, leases (whether to

*William S. Kies is the Education Coordinator for the Stamford Museum & Nature Center. kieswill@hotmail.com*

*Marla R. Emery is Research Geographer with the U.S. Forest Service, Northeastern Research Station in Burlington, Vermont. Marla.Emery@forestry.gsi.gov.uk*

*James F. Palmer, is FASLA Professor of Landscape Architecture at the SUNY College of Environmental Science and Forestry. zooley@mailbox.syr.edu*

individuals, commercial sporting camps, or ski areas), usage fees, and/or preferential tax treatment in exchange for public access provides direct financial benefit. Both types of returns have been a factor in keeping industrial timberland in the Northern Forest open for recreational purposes (Patrick 1969, Capozzi and Dawson 1999, Best and Wayburn 2001). Ongoing access to these private lands is important to meeting the public demand for many recreation opportunities. Thus far, demand (recreation) has been sustainably met by supply (open lands). However, with increasing recreational demand and the possible closure of timberland in the Northern Forest, this balance could be disrupted, creating new and unforeseeable changes.

**Conservation Easements.** Outright purchase of a tract of land by a conservation organization or state agency for conservation has been popular ever since the need for preservation was recognized. However, lack of financial resources and high real estate values prompted interest in alternative ways to protect land. Conservation easements were identified as a practical option. A conservation easement is a legal agreement between a landowner (the grantor) and a public agency or certified conservation organization (the grantee). While the grantor continues to own the land, they agree to manage it in accordance with guidelines specified by the grantee. The goal of easements is to provide permanent protection from land uses that could damage the ecological, scenic, natural resource and/or recreational values of the land. Sustainable forestry and agricultural activities are encouraged. Activities that change the topography, disturb the habitat of rare and endangered species and natural communities, and the construction of residential, commercial or industrial buildings are prohibited. Conservation easements are designed to protect the public interest in environmental and other values while retaining private ownership.

In the Northern Forest, conservation easements have greatly increased in number and size over the past decade. Prior to 1996 only one easement over 25,000 acres existed in the Northern Forest. Today there are twelve, covering a total of 1,796,114 acres and funding campaigns are under way to raise money for the protection of more than 700,000 additional acres.

Increases in the number and size of conservation easements in the Northern Forest appear to be the result of several interacting factors. Global patterns in the forest products industry have changed the way large industrial producers do business (Donovan 1993). In an accelerating trend of transactions and consolidations, many forest product corporations have shifted their operations south to more affordable land, favorable climates, cheaper labor, and less environmental regulation, in the process divesting themselves of industrial timber lands within the Northern Forest. Institutional investors have emerged to fill some of the void left by the withdrawal of these industrial giants. In roughly the same time period, publicly and privately available funding for conservation has also increased. The Forest Legacy Program, enacted by Congress in 1990, enables the federal government to purchase and/or fund easements to protect forestlands that face conversion. In addition, philanthropic investment in forest conservation has increased (Best and Wayburn 2001). Finally, shifts in the conservation attitudes and policy of landowners have significantly influenced the current trend toward easements. Decades of public support for conservation and increased environmental awareness have encouraged large landowners to implement more conservation friendly policies on their lands (Brown 1993).

## Methods

**Case Study Easements.** Conservation easements of 25,000 acres and greater were considered for this study. This threshold is used by Harper, et al. (1990)

to identify "very big tracts of land" that cross multiple ecosystems and political boundaries. Unlike easements on individual farms and small forestland holdings, these easements have impacts beyond their immediate neighbors.

It would have been difficult to look at all of the large conservation easements in the Northern Forest. Consequently, three case studies were chosen for detailed examination (Figure 1). The cases were selected to provide variety in size, location, and age. Although this creates challenges for comparability, it allows for a broader picture of the range of impacts that could occur.

The first case study easement is between Hancock Timber Resources Group and the State of Vermont. The easement "restrict(s) the exercise of all development rights, residential, commercial or otherwise" and "protect(s) the scenic and recreational values ... from conversion to non-forest uses while ... allowing ... commercial forestry and public recreation." In addition, "the public shall have reasonable access (for) but not limited to hiking, cross-country skiing, hunting, fishing, snowmobiling, and nature observation." However, motor vehicle use (except snowmobiles) is prohibited. Hancock is also "prohibited from charging the public ... for recreational use." The price tag for this easement of 31,493 acres was \$2.8 million.

The second case study is an easement on 110,000 acres in New York State's Adirondack Park that was brokered by the Conservation Fund for a cost of \$24.9 million. The former Champion International Paper land was transferred to Forestland Group, who will manage the land for its long-term forestry potential. The New York State Department of Environmental Conservation (DEC) holds the easement to the development and recreation rights. The purposes of the easement are to (1) "perpetuate a sustainable working forest," (2) "conserve the wildlife habitat and other natural features ... especially the diversity of forest types" and (3) "provide opportunities for



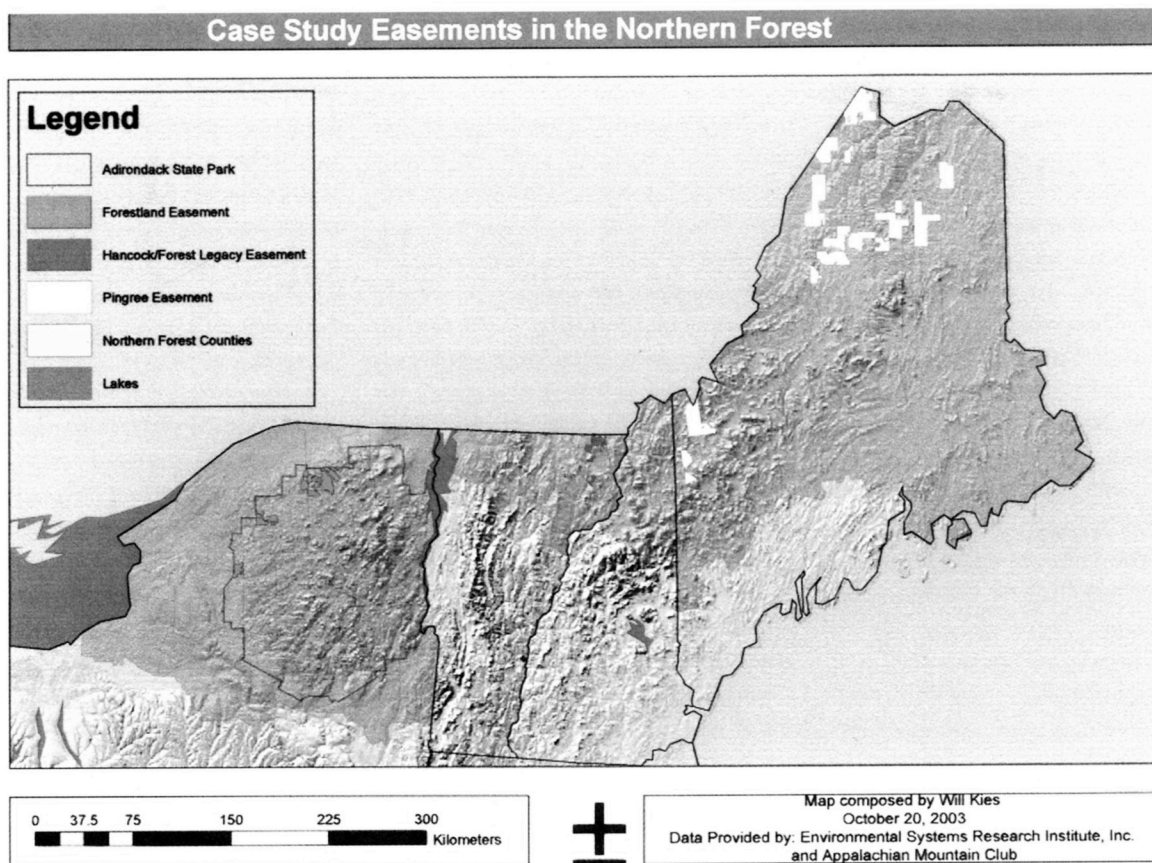


Figure 1. The extent of the Northern Forest and location of the three case study easements.

public recreation in a manner that is consistent with the forest management and resource conservation purposes.” Full non-motorized access is provided for the public; motorized-access will be made available along designated corridors. A distinctive aspect of the Forestland easement is that the property had been closed to the public for more than 100 years because of exclusive leases to hunting and fishing camps and clubs (DEC 1999). At the time the easement was established there were 28 active clubs on the land with more than 400 structures (DEC 2000). These leases will be terminated after 2013.

The third case study involves Pingree family lands covering 762,192 acres in Maine, an area larger than the state of Rhode Island. These lands are managed by Seven Islands Land Company, which is recognized for its sustainable forest management practices. In 2000, the

non-profit New England Forest Foundation purchased development rights on the land for \$28.1 million, making it the largest forestland easement in the history of the United States. The intent of the easement is to “maintain the property forever in its present and historic primarily undeveloped condition as a working forest.” While it is also a purpose to “conserve and/or enhance ... historic public recreation opportunities,” the easement specifically “does not grant any right of public access to, on or across, or public use of (the) property.” Fees may be charged for any such access or use, and the public may be prohibited from access or use at any time.

*Documents, Interviews and Surveys.* Since no single method was adequate, several convergent methods were used to examine and understand how large conservation easements influence recreation.

The basic structure of the approach consisted of primary document analysis, interviews, and surveys. Analysis of these data provides a picture of current and potential impacts of conservation easements on recreation activities and access in the Northern Forest.

A contextual analysis of the legal documentation establishing each easement produced information on recreational access and opportunities. Interviews with recreationists at the three study areas provided insight and information on recreational opportunities and access before and after the easements were placed on the land. Interviews were conducted on “high usage” days including weekends, holidays (July 4 and Labor Day), prime fishing times (mid-June and late-September), harvest seasons (blueberries), and opening days for hunting (bird and big game). A total of 21 interviews were conducted over 11 days on the easements:

11 on Pingree, 6 on Hancock, and 4 on Forestland.

To complement data from the documents and interviews, a short survey was mailed to a random sample of individuals in communities that were within 25 miles of the easements. The survey provided an opportunity to gather data from both people who use the property currently and others who have done so in the past. A random sample of 525 addresses (175 from each case study easement) resulted in 87 completed questionnaires, for a response rate of 18 percent. The questionnaire provided respondents with an opportunity to describe their current and historical patterns of usage of the case study easements.

## Results

Results from the survey and interviews indicate that in general the placement of large conservation easements in the Northern Forest has had little impact on the way people use the properties. Of those surveyed, 76 percent stated that conservation did not change the

recreation opportunities available to them; less than 10 percent experienced significant or moderate change. As one interviewee stated: "I've hunted these roads and woods for over 20 years. I don't see this easement changing much" (Interview 21, 2002).

However, there was some variation across the three case studies that can be attributed to the degree of change in policies, landownership, and regulations due to the easement. For instance the greatest change in public access and use policy is on the Forestland easement, and respondents there are more likely to recognize that their recreational opportunities have been at least moderately influenced (15%). Prior to the implementation of the easement, hunting clubs and camp owners had exclusive recreational usage rights; now the general public has access. This change creates new opportunities for those who were not members of the hunting clubs, but also has impacted club members, who now have to share the property with the public. Comments from survey respondents and in-

terviewees illustrate the change created: "More (recreational opportunities) are now available" (Survey 84, 2002). "I use it (the easement property); before hunting clubs kicked you off their leased land" (Survey 57, 2002). "The camp my cousin owns can no longer be used" (Survey 76, 2002).

The Pingree and Hancock Easements have not produced such far reaching changes and perceived recreational opportunities have not been as greatly impacted (4% and 10% respectively). In both cases, no new areas or activities have been opened to the public and ownership has not changed on the Pingree easement. Instead these easements have helped stabilize and perpetuate existing public use. "We have been doing the same thing up here before the easement was established. I don't think it will change anything" (Interview 15, 2002).

*Recreational Activities of Users.* The lands under these three conservation easements are productive places used for multiple purposes. Respondents to the

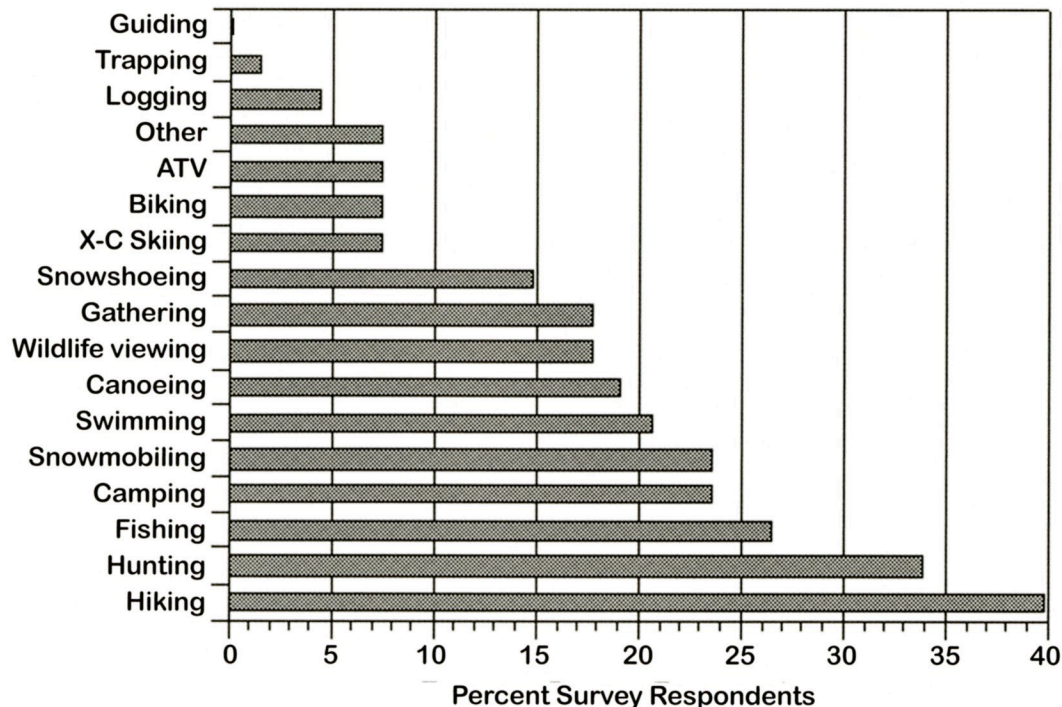


Figure 2. The percent of survey respondents participating in various forest activities.



survey participated in fifteen named activities (Figure 2) with hiking (40%), hunting (33%), and fishing (26%) being the most popular. The activity pattern of interviewees was similar. An interesting observation was the infrequency of 'back-country' recreational activities such as backpacking. Most of the recreational activities taking place on the properties use internal road systems, designated campsites, easy access points to bodies of water, and varied habitats created by the former and current land use policies.

Intensive-use recreational activities, such as snowmobiling and all-terrain vehicle (ATV) use have been significantly impacted by the implementation of conservation easements. Where these uses are not prohibited, they are restricted to specific corridors and/or existing roads. This topic was repeatedly addressed in the survey comments and interviews. "Now we have to try and find another route to take (regarding ATV use)" because of the placement of the easement (Survey 51, 2002). "I don't see the easement changing anything except ATV use. We used to be able to ride in here, which was great for bringing out deer, but now you either have to drag them out or have a dolly" (Interview 21, 2002).

## Discussion

There are three primary factors that help explain the influence of large conservation easements on recreation in the Northern Forest: historical land use and land tenure patterns, the particulars of easement provisions, and the scale and diversity of the Northern Forest. While each factor alone may influence the impacts of conservation easements, it is in combination that they produce the greatest variation across the landscape.

**Historical Land Use and Land Tenure Patterns.** The historical land use and land tenure patterns of the Northern Forest play a crucial role in determining how conservation easements impact recreation. These historical patterns are

the starting point for changes that occur when conservation easements are established on a property and they continue to influence current practices and future possibilities. The geographical extent of these policies varies from the state level to very localized practices.

Each easement case study area has a history of land use that has produced a set of 'traditional' policies that differ somewhat from those that prevail in the other two. Actual and perceived changes in recreational opportunities vary according to the land use and land tenure patterns that have evolved over time in each site. When public access historically has been denied, as was the case on the Forestland easement and on much of the private industrial forest land of New York, the reaction is closely related to the fact that this large area had previously been off limits. In contrast, access has long been allowed on the Hancock land and has become intrinsic to the activities of the local communities. The lack of perceived change in recreational opportunities as a result of this conservation easement could be predicated by the public's prior access experience. On the Pingree land, there is a tradition of public access, but the conservation easement introduces a new land tenure arrangement that allows for uncertainties about the future. Not surprisingly, this ambiguity is reflected in public reactions. Ultimately, the interaction of new management strategies and policies with historical land use and land tenure patterns will be one determinant of easement effects on recreational access.

**Easement Provisions — 'Details, Details, Details.'** Gustanski and Squires observe that "Most private land trusts believe that every conservation easement should be unique and specifically adapted to the needs of the individual landowner and the features of the land" (2000, p. 16). Some easements only remove developments rights from the land, while others include recreational and access rights, depending on the needs and desires of the

landowner and grantee. Since each conservation easement is customized to fit a particular circumstance, the overall impacts of their implementation vary accordingly. For example, the Pingree easement does not protect (only pledges) the right of public usage, while the Forestland and Hancock easements do provide protection. This small but significant detail leaves open the possibility of changes in recreational opportunities. This could include interruption of the long-term pattern of traditional use of the land, such as that which occurred with the end of land leases and exclusive access rights on Forestland, or a significant increase in the management of some motorized vehicle use.

Differences in the missions of the grantee agencies and organizations also have implications for the impacts of easements. For example, the New York State DEC (the Forestland easement grantee) is responsible for more enforcement of environment laws than Vermont Department of Forests, Parks, and Recreation (the Hancock grantee), whose main priority is the management and promotion of Vermont's forests and parks. The non-profit land trust organizations involved in the Northern Forest similarly each have their own missions, affected in part by their geographic focus. For instance the Vermont Land Trust and the Upper Valley Land Trust are more local, while The Trust for Public Land and The Nature Conservancy are national or international organizations.

Comparing the agendas of public agencies and non-profit organizations reveals differences that will be reflected in easement provisions. Government agencies are tasked to work in the public interest, often managing, enforcing, and promoting the environment in order to enhance the health, safety and welfare of the people of the state. This can include securing public participation on lands within in the state. In contrast, many non-profit organizations are not in business to provide people with access, but are striving to protect endangered,



threatened, and/or unique ecosystems and natural communities. These differences become embedded in the terms of conservation easements negotiated by grantees, which in turn will effect future land use and permitted recreation activities.

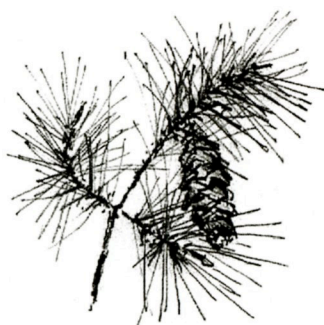
**Scale and variation within the Northern Forest.** Across the Northern Forest, the natural and human communities look very much the same on the macro scale. However, a closer look reveals a strikingly diverse region on the micro scale. These differences also contribute to the variation in results of large conservation easements.

Flying over the Northern Forest, one sees a landscape very consistent from New York to Maine. However, if one were to walk the same distance in its forests, along its roads, and in its communities, the variation one would find is great. The mosaic of private and public land holdings in the Adirondacks is much different than the overwhelmingly industrial forestlands of the North Maine Woods. These differences have contributed to unique ecological patterns.

There is significant diversity among the human communities of the Northern Forest, too. Lake Placid, New York is a winter sports mecca with its towering ski jumps and state-of-the-art bobsled and luge tracks. It is a world away from the paper mills that support Millinocket, Maine. The sense of place is strikingly different, yet both are considered gateways into Northern Forest wilderness (High Peaks of the Adirondacks and Baxter State Park in Maine). Newport, Vermont and Rangeley, Maine both sit on beautiful lakes, surrounded by smaller rural communities. However, the legacy of dairy farming in Vermont has left a landscape scattered with stone walls, fences, barns, and pastures. Take a trip some 150 miles east to the Rangeley Lakes region where the community is rooted in the waters and woods of the western mountains of Maine. There the

legacy of five-pound brook trout and twelve-point bucks has created the mystique of a sportsman's paradise that is sustained by the occasional trophy fish. Both Newport and Rangeley are thriving communities but their pasts are as diverse as their geographies.

The differences between these communities illustrate the variety of places that exist in the Northern Forest and the potential for large conservation easements to have equally diverse impacts on recreational opportunities. A conservation easement strategy that produces a particular set of results in one place may have very different results in another. While conservation easements thus far appear to be effective in preserving public access to land for recreational activities, as the saying goes "the devil is in the detail." Understanding the impacts of conservation easements on recreation in the Northern Forest requires examination of historical land use and land tenure patterns in the effected location, the goals and provisions of the easement, and the ways that these are interpreted and implemented over the long term.



## References

- Best, C., and L. Wayburn. 2001. *America's Private Forests: Status and Stewardship*. Washington, DC: Island Press.
- Brown, Tommy. 1993. *Forest Conservation, Forest Recreation and Tourism, and the Forest Industry: Interrelationships and Compatibility*. In Technical Appendix: A compendium of techni-
- cal research and forum from the Northern Forest Lands Council, 1994, Concord, New Hampshire: Northern Forest Lands Council.
- Capozzi, S., and C. Dawson. 1999. Recreational use of industrial forestlands in New York State. In *Proceeding of the 1999 Northeastern Recreation Research Symposium*, Bolton Landing, New York, April 11-14, 1999, ed. G. Kyle. GTR NE-269. Newton Square, PA: USDA Forest Service, Northeastern Forest Research Station. pp. 373-377.
- Donovan, C. 1993. *Global economic trends that affect the forest-based economy in the Northern Forest Lands*. In Technical Appendix: A Compendium of Technical Research and Forum from the Northern Forest Lands Council, 1994. Concord, NH: Northern Forest Lands Council.
- Gustanski, J.A., and R.H. Squires, eds. 2000. *Protecting the Land: Conservation Easements Past, Present, and Future*. Washington, DC: Island Press.
- Harper, S.C., L.L. Falk, and E.W. Rankin. 1990. *The Northern Forest Lands Study of New England and New York*. Rutland, VT: USDA, Forest Service.
- New York State, Department of Environmental Conservation (DEC). 1999. *Questions and answers: Champion land agreement*. [<http://www.dec.state.ny.us/web-site/dlf/press/champqa.html> Last accessed July 17, 2002]
- New York State, Department of Environmental Conservation (DEC). 2000. *Draft Copy of the Recreation Plan for the Santa Clara Tract*. Raybrook, NY: NYS, DEC.
- Patrick, D. 1969. The role of industrial woodlands in recreation. *Journal of Forestry* 67:625-627.