

From Diamond International to Plum Creek: The Era of Large Landscape Conservation in the Northern Forest

by Sara A. Clark and Peter Howell



The last two decades have seen dramatic, unprecedented growth in conservation lands in the Northern Forest, stretching from upstate New York through Maine. The conservation community, in coordination with public agencies, has been able to take advantage of changing forest ownership structure and a significant expansion of public and private funding to support this increase in protected lands. As Sara Clark and Peter Howell discuss in this article, Maine has been a laboratory for some of the largest and most innovative land transactions. Maine is unique in having land conservation strategies focused almost entirely on permanent protection of privately owned land rather than any significant increase in public ownership, and has served as a testing ground for innovative market-based conservation tools. 🦅

When the Diamond International Corporation, headed by timber tycoon and corporate raider Sir James Goldsmith, sold nearly a million acres of land in 1988 in New Hampshire, residents of the Northern Forest had a widespread concern that the sale would usher in an era of unchecked development. Those fears, fortunately, were never realized. Though industrial timber companies sold huge amounts of land—almost 24 million acres—in the ensuing two decades, there was little underlying change in land use. It was not until the Plum Creek Timber Company unveiled in April 2005 its controversial proposal to develop almost 1,000 lots and two resorts in the Moosehead Lake region in Maine that it seemed former timberlands would be converted to large-scale development.

Instead, the last two decades have seen a burst of creative conservation action that resulted in protection of almost 3.3 million acres of land in the four-state region. From the Tug Hill Plateau in western New York to Maine's Downeast Lakes near the Canadian border, national and regional land trusts purchased land and easements across large segments of the region. Having strained previously to purchase 20,000-acre tracts, the land trust community now found itself assembling tens of millions of dollars to complete 200,000-acre and 300,000-acre projects. Thus was born the era of large landscape conservation in northern New England, a unique and unprecedented period made possible by readily available public and philanthropic capital, collaborative leadership within the land trust movement, and innovative financing tools.

SETTING THE STAGE FOR CHANGE

The 26-million-acre swath of the Northern Forest stretching from New York through Vermont and New Hampshire and up to Maine is known as the last great wildlands east of the Mississippi. The region contains more than 70,000 miles of rivers and streams and one million acres of lakes. It provides habitat for threatened or endangered species, such as the Canada lynx and the bald eagle, but also for species such as moose, loon, and wild brook trout that have become symbols of the region. The forests provide for human beings also—jobs in the forest products and tourism industries, high-quality groundwater, secluded retreats

for traditional camps and seasonal homes, and recreational opportunities for both residents and the millions of visitors to Maine each year.

Historic landownership patterns provide a starting point for understanding the unprecedented conservation that occurred in this region in the last two decades. Unlike the great forests of the western United States, the vast majority of the Northern Forest is and has been privately owned. Throughout much of the 20th century, industrial timber companies owned expansive landscapes. Though timber and pulp production were their primary goals, these owners invested in ensuring their lands remained productive in the long term.

This pattern of ownership served the region well, supplying jobs, protecting the land from fragmentation, and providing ample opportunity for hunting, hiking, and other types of recreation (Northern Forest Lands Council 1994). By the late 1980s, however, change was coming, and at a scale that few imagined possible.

Beginning with the sale of nearly one million acres by Diamond International Corporation in 1988, the vertically integrated forest products industry and traditional family owners began to vacate the Northern Forest region. In 1994, traditional industrial owners held 60 percent of all parcels greater than 5,000 acres, but by 2005 that percentage had dropped to 15.5 percent (Hagan et al. 2005). A number of trends had converged to create such massive turnover in ownership across the Northern Forest. First, the structure of the forest products industry underwent a dramatic transformation between the 1980s and the present. Vertically integrated forest products companies realized during the 1980s that increased profits could be made by decoupling the harvesting of raw resources from the production of timber and paper. With this new understanding, mill managers began to buy pulp from

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overseas and timber from sources beyond their own land base, where cheaper prices could be found. This change meant that traditional industrial owners no longer needed control of the Northern Forest landscape, and large blocks of land were soon up for sale.

A second aspect of the change in ownership was the new tax laws available to both timber investment management organizations (TIMOs) and real estate investment trusts (REITs). Beginning in the 1990s, these ownership structures offered lower tax rates than for traditional paper companies, which paid taxes at both the corporate level and on shareholder dividends (Ginn 2005; Dechter 2006). Thus, both TIMOs and REITs became the primary purchasers of lands that traditional paper companies were putting up for sale (Hagan et al. 2005).

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The second-home market, fueled by the giddy stock market of the late 1990s and the first wave of baby boomer retirement, was also heating up. With mills purchasing raw forest materials from overseas, land that had once been profitable for timber or pulp production became more profitable when sold for development, particularly those lands located near shorefront or other recreational amenities. The stability of ownership that had silently protected the Northern Forest's natural resources, timber industry jobs, and public access to recreation has given way to uncertainty and flux (Irland 2000).

UNPRECEDENTED CONSERVATION

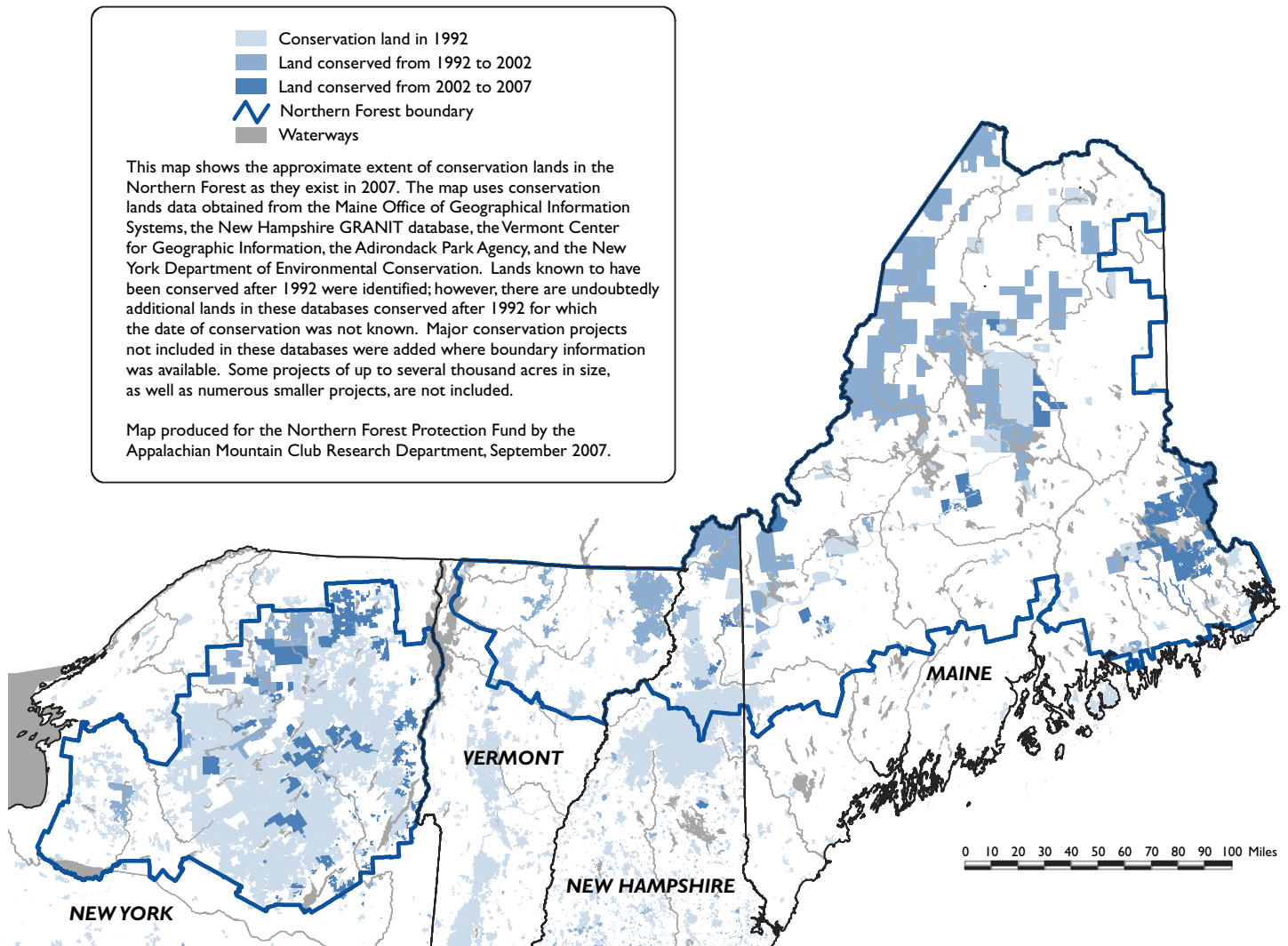
Changes to the forest ownership structure also brought great opportunity for land conservation. Anticipating such changes, the conservation community had done extensive planning to establish protection

priorities, creating blueprints for acquisition that continue to be refined (see R. Baldwin et al. this issue). Both within the Northern Forest region and across the country, the scale of conservation that has occurred in Maine since 1988 stands out. According to data collected by the Land Trust Alliance, the number of acres conserved in Maine by land trusts and other conservation organizations ranks second nationally, just behind California. Land protection in Maine accounts for nearly 15 percent of all land protected across the United States (Aldrich and Wyerman 2006).

This dramatic growth in the acres of lands protected was a result of both new opportunities and a significant expansion in public and private funding for conservation. First, in the late 1990s, a federal budget surplus and conservation-friendly administration helped secure millions of dollars of Forest Legacy funding for the region. By 2005, the program had contributed more than \$82 million across New York, Vermont, New Hampshire, and Maine, protecting nearly one million acres of land throughout the region. The structure of this funding was particularly well adapted to the working-forest protection model that was being developed in Maine at the time. It was enormously flexible, offering practitioners the choice of outright fee purchases or conservation easements. It provided block grants to the states, which could regrant the funds to specific projects with local input. The focus of Forest Legacy on working forests allowed timber companies to retain ownership and keep traditional uses in place.

Second, the work of the Northern Forest Lands Council (NFLC), a collaborative group convened by the governors of the four Northern Forest states in 1990, established landscape-scale conservation as a priority for the region. This conservation was to take place through two mechanisms: first, by providing incentives for better stewardship on private land, and second, by acquisition of key habitat, recreation or resource areas (Northern Forest Lands Council 1994). This report and the discussion it provoked created a catalyst for landscape-scale protection and a strategic framework for the steps necessary to accomplish it. Environmental advocacy organizations helped to raise the profile of the region and demonstrate the need for public funding to complete key transactions.

FIGURE 1: Conservation Land in the Northern Forest – 2007



Last, the changes in the forest products industry altered the relationship between the conservation community and forest owners. Some players in the timber industry were looking to leave the region entirely and needed willing buyers for their vast acreage. While TIMOs and REITs bought significant tracts of these lands, the conservation community also acted as a major buyer, becoming the fourth largest purchaser of timberland in the United States in 2003 (Ginn 2005). Other timberland owners sought partners that could help them monetize the development values

of land they wanted to use predominantly for timber harvest. The conservation community was uniquely positioned to provide this service through the purchase of conservation easements. The relationship between environmentalists and forest owners, once characterized by animosity and mistrust, had changed, creating opportunity for permanent protection of a landscape at a scale never before possible.

In 1998, the Conservation Fund was the first to move, brokering a 295,000-acre deal with Champion International across Vermont, New Hampshire, and

Ten Largest Conservation Transactions in Maine, 1989–2006

Pingree Easement, 762,192 acres (1999). No-development easement purchased by the New England Forestry Foundation on the Pingree ownership.

Sunrise Tree Farm, 311,648 acres (2005). Working-forest easement purchased by the New England Forestry Foundation on lands owed by Typhoon, LLC, and managed by Wagner Forest Management.

West Branch Phase II, 282,000 acres (2003). Working-forest easement held by the Forest Society of Maine, using funds from the Forest Legacy Program.

Katahdin Forest, 241,000 acres (2006). Innovative partnership between TNC and Great Northern Paper to create a 200,000-acre working-forest easement and a 41-acre reserve around Mt. Katahdin.

St. John Watershed, 189,000 acres (1998). The Nature Conservancy's purchase of lands formerly owned by International Paper.

West Branch Phase I, 46,985 acres (2003). Owned by the state of Maine to protect lands with high ecological and recreational values.

Katahdin Iron Works, 37,000 acres (2004). Working-forest purchased in fee by AMC, using new market tax credits.

Farm Cove Community Forest, 27,080 acres (2004). Working-forest easement purchased by the Downeast Lakes Land Trust.

Nicatous and West Lakes, 22,370 acres (2000). Easement negotiated by the Trust for Public Land, the Forest Society of Maine, and the Maine Coast Heritage Trust, using Forest Legacy and Land for Maine's Future funding.

Boundary Headwaters, 22,000 acres (2005). Easement held by the Forest Society of Maine to protect the watershed around the headwaters of the Kennebec River.

New York. The Nature Conservancy (TNC) followed suit, purchasing 185,000 acres from International Paper in Maine's St. John River Valley. This \$35-million deal was, at the time, the most expensive purchase that TNC had ever made in any of its programs. The New England Forestry Foundation pursued a different model, purchasing only the development rights on the dispersed Pingree family ownership in Maine. At 762,192 acres, this project is the largest conservation easement ever held by a land trust. While these deals protected five times the acreage conserved in the previous decade, it was not a time for the conservation community to rest on its laurels. In 1999 alone, more than 3.8 million acres changed hands in the Northern Forest, and more change was coming fast (Hagan et al. 2005).

The result of these trends over the last two decades has been unprecedented conservation across the Northern Forest. Since 1994 the results have been particularly striking. A quick glance at the time series maps shown in Figure 1 illustrates the magnitude of protected lands—more than 3.3 million acres across four states.¹ Large complexes of conserved lands are beginning to form, including one million acres of land stretching from the Crown Lands in New Brunswick, Canada, into Downeast Maine. Other impressive places include the Connecticut River headwaters in northern New Hampshire, the Moosehead to Katahdin corridor, including the mammoth 329,000-acre West Branch easement and the 241,000-acres Katahdin Forest transaction, which includes 40,000 acres of reserve and 200,000 acres of eased working forestland, and the mix of public and private lands in New York's Adirondack Park. These large landscapes undoubtedly provide significant natural resource protection, wildlife habitat, and recreational opportunities.

Maine has been a laboratory for some of the largest and most innovative land transactions. Three trends in particular stand out. First, land conservation in Maine is a result of both strong private land conservation organizations and significant federal and state government support. Second, land conservation strategies in Maine have focused almost exclusively on the permanent protection of privately owned land, rather than any meaningful increase in public ownership. Last, Maine has been the testing ground for new and

innovative conservation tools, including the use of new market tax credits and debt refinancing.

Private Land Conservation Organizations and Public Support

Currently, 85 different land trusts operate in Maine, the sixth highest number of any state (Aldrich and Wyerman 2005). Maine is home to one of the strongest and most effective land trusts in the nation, the Maine Coast Heritage Trust, which recently concluded a \$100 million campaign to protect coastal Maine. More than 94 percent of the acreage protected in Maine since 1994 has involved, at least as a partner, one or more nonprofit land trust or other conservation organization.² Conservation organizations across Maine represent the diversity of the field. Some, such as TNC, the Trust for Public Land, and the Conservation Fund, represent large international organizations with significant access to capital, broad membership bases and considerable staff capacity. While involvement of these organizations was critical for bringing attention and funding from outside the region, other regional and local groups, such as the Appalachian Mountain Club, the New England Forestry Foundation, and the Forest Society of Maine, also played an important role in securing local support and developing important political partnerships. Additionally, a number of local land trusts also operate throughout Maine, providing ways for individual communities to be involved in land-protection efforts nearby. Some of these local land trusts, such as the Downeast Lakes Land Trust and the Rangeley Lakes Heritage Trust, have taken on momentous challenges over the last decade. For example, in 2004 the Downeast Lakes Land Trust purchased the 27,080-acre Farm Cove Community Forest, which protected both outstanding recreational opportunities important to the local tourism economy and habitat for bald eagles, Atlantic salmon, and an array of other wildlife (Downeast Lakes Land Trust n.d.).

Despite the prevalence of private land conservation groups in the protection of the Northern Forest, such momentous protection could not have been accomplished without significant commitment from public agencies. As noted above, the Forest Legacy Program provided federal support for protection of working-forest landscapes across the Northern Forest

region. State programs, especially in Maine, also played important roles. The Land for Maine's Future program since its inception in 1987 has protected more than 445,000 acres, often in partnership with nonprofit land conservation organizations, which have provided requisite matching funds. The \$72 million it has provided through a series of voter-approved bond measures has undoubtedly made protection of the Northern Forest region possible.

Private philanthropy also was critical both in catalyzing and in finishing transactions. A small group of mostly small private foundations laid the groundwork for conservation success with their support of the Northern Forest Alliance, which helped to brand the region and make the case to policymakers for its protection. In addition, many foundations and individuals provided invaluable matching capital for signature transactions (see Sidebar).

The partnership of private nonprofit organizations and public agencies in the Northern Forest creates both strengths and weaknesses for conservation. The diversity of players allows each organization or agency to find its particular niche. For example, nonprofit organizations can often work outside the political process, which allows them to negotiate more quickly and privately when timberland owners decide to sell (Dechter 2006; Irland 2000). Public agencies can secure public funding and provide transparency and accountability in conservation policy. Different organizations can focus on different conservation goals, including recreation and public access, biodiversity protection, or sustainable forestry, ensuring that all aspects of the conservation field are supported. On the other hand, the diversity of organizations can create difficulties. With many organizations and agencies, each working with different goals and for diverse constituencies, it is inevitable that conflicts can arise. The sharing of information and the development of regional strategies can be challenging.

Private Land Strategies

A second characteristic of land protection in Maine over the few last decades is the focus on private lands. In 1994, only 7.7 percent of the lands in Maine were owned by federal, state, or local agencies. By 2004, that percentage had barely changed, reaching

TABLE 1: Acres Protected Per Year in Maine, 1989–2006: Conservation Easements and Fee Purchases

	Fee Purchases	Conservation Easements	Total
1989	589	0	589
1990	50,084	1,877	51,961
1991	585	0	585
1992	1,053	13	1,066
1993	3,730	0	3,730
1994	8,187	830	9,017
1995	164	108	272
1996	671	8,726	9,397
1997	0	596	596
1998	189,336	2,105	191,441
1999	272	762,192	762,464
2000	10,098	22,223	32,321
2001	3,628	430	4,058
2002	17,738	11,309	29,046
2003	55,491	305,593	361,084
2004	71,570	823	72,393
2005	18,430	334,270	352,699
2006	14,334	196,421	210,755

only 8.7 percent (Hagan et al. 2005). Efforts to increase the amount of publicly owned land have been largely ineffective because of a general distrust of public ownership. The proposed creation of a new national park in Maine is a case in point. Many citizens want to retain traditional access to the land, for both timber harvesting and recreational activities, including hunting, trapping and snowmobiling. They fear that public ownership, including a new national park, could put an end to these practices.

As such, land-protection strategies in Maine are predominantly focused on protecting land remaining in private ownership. One of the most common methods to accomplish this type of conservation is the use of conservation easements. These legal contracts divide the rights of land ownership between two parties. A land trust or a government agency assumes the development rights associated with a particular tract of land. Other rights, such as the right to harvest timber or the right to buy and sell the underlying ownership, remain with

the landowner. Given the flexibility permitted in structuring the easement, additional rights, such as access or mineral extraction, may be assigned to either party. Conservation easements have become increasingly complex over time as they attempt to better protect natural resources, working forests, and recreational opportunities. They may include provisions for sustainable timber harvesting, trail access, or biodiversity protection, or they may assign enforcement rights to third parties to ensure their stewardship in perpetuity.

Conservation easements have played a significant role in the protection of Maine's Northern Forest. With more than 1.5 million acres under easement, conservation organizations in Maine hold nearly one-quarter of all the land under easement in the United States (Aldrich and Wyerman 2005). The growth in conservation easements has been particularly strong since the New England Forestry Foundation secured its 762,192-acre easement on the Pingree lands in 1999, a trend that can be seen in Table 1. Currently, almost 80 percent of all conservation land in Maine is protected by easements.³

Despite their widespread adoption, a number of questions have arisen over the future of conservation easements. First, concerns have been voiced over long-term stewardship, monitoring, and enforcement of large easements. No-development easements, where only the development rights are removed from the land, are relatively simple to monitor. Aerial photography can be used to monitor large areas and requires only limited on-the-ground work. With newer working-forest easements, particularly those designed to protect biodiversity and promote sustainable timber harvesting, monitoring can be much more intensive and require extensive fieldwork. These requirements are both time consuming and expensive and represent an on-going responsibility for the land trusts and state and local governments that hold these easements.

Second, the extent to which working-forest easements can protect biodiversity and other values effectively has been debated. While it is clear they prevent the kind of fragmentation and development that can devastate wildlife habitat, timber harvest practices play a large role in determining the extent of that protection. While some easements have specific provisions to protect biodiversity, others contain little that offers

explicit protection. A recent assessment found that working-forest easements can be a blunt tool, sometimes stipulating what might be higher than necessary standards of forest management on lands containing moderate biological diversity while failing to require stringent enough harvesting restrictions on areas, typically smaller in size, containing significant biodiversity (Jenkins 2008). Beyond biodiversity, conservation easements have been touted as a mechanism for providing recreation access or preventing wilderness sprawl. As has been discussed elsewhere, it is questionable whether the use of conservation easements is always effective accomplishing these goals as well (Lewis 2001).

The long-term viability of the timber products industry in the North Woods, and thus, the long-term relevance of working-forest easements, is also questionable. Many of the current timberland owners, especially the TIMOs and REITs, are unlikely to remain invested in the Northern Forest for the long term. While it seems likely that some kind of forest products industry will remain to derive value from the wood products of the Northern Forest, be it timber, pulp, or bio-energy, the scope and profitability of the industry remains in flux. As such, alternative uses of the forest, such as recreation and tourism, carbon sequestration, or watershed protection may play more important roles in driving the future forest economy. As easements are crafted for perpetuity, it is important to recognize the dynamic nature of the region.

New Tools

Another characteristic of conservation efforts in Maine and elsewhere in the Northern Forest has been the willingness of various actors to test new and innovative tools for land protection. In particular, working with timber companies has required the conservation community to become savvy in market-based strategies. By leveraging business tools, nonprofit organizations such as the AMC and TNC have been able to put together larger deals than traditional conservation tools have allowed.

In late 2000, Congress authorized the use of new market tax credits (NMTCs), to encourage private investment in areas experiencing severe economic distress. The NMTCs provide credit against federal income taxes for certain equity investments and are

awarded yearly on a competitive basis. The ability to use NMTCs for sustainable forestry projects represented a new source of funding for conservation organizations working in the Northern Forest.

The protection of the 37,000-acre Katahdin Iron Works property as part of the AMC's Maine Woods Initiative provides an example of how NMTCs can work. AMC formed a partnership with Coastal Enterprises, Inc., a community development corporation that was successful in securing NMTC funding for other projects throughout Maine. Working together to apply for competitive funding, AMC and Coastal Enterprises, Inc., were able to secure \$2.35 million in federal NMTC funding for the purchase. The AMC continues to operate nearly 27,000 acres of the property as a working forest. The use of the NMTC, as well as other creative financing, altered the economics of owning working forestlands such that sustainable forestry practices could be used effectively.

A second market-based tool in use in the Northern Forest falls into the category of a "debt-for-nature" swap. This language has been predominantly used to describe the act of forgiving loans taken by developing countries in exchange for the permanent protection of significant natural resources. In the Northern Forest, the term is used on a smaller scale to describe an innovative collaboration between Great Northern Paper Company, TNC, and Hancock Life Insurance.

Though Great Northern had once been the largest landowner in Maine, by the late 1990s, rough times for the paper industry had put the company in a precarious position. Its only remaining assets included two mills at Millinocket and East Millinocket and 300,000 acres of forest, which served as collateral for a \$46 million note held by Hancock Life Insurance. Knowing that Great Northern was in trouble, TNC sought a creative way to protect the company's land holdings, which included portions of the Debsconeag Lakes and 15 miles of the Appalachian Trail, without destroying the role Great Northern played in the region's economy. The note held by Hancock turned out to be the lynchpin. TNC was able to buy the entire \$46 million note and leverage it into protection of nearly all of Great Northern's holdings. In exchange for \$14 million in debt relief, TNC took ownership of 41,000 acres

around the Debsconeag Lakes. The remaining amount on the note was re-loaned to Great Northern at a lower interest rate in exchange for a conservation easement over a 200,000-acre working forest. Though the deal allowed Great Northern to forestall bankruptcy for only a short time, the mills at Millinocket remain open under new ownership, and TNC prevented the sale of the landscape under foreclosure.

PLUM CREEK: BACK TO THE FUTURE?

Plum Creek's plan for the Moosehead Lake Region represents the latest and most challenging chapter in the story of large landscape conservation in the Northern Forest. Unlike its industrial timber brethren who independently sold land or easements to conservation organizations, Plum Creek has tied its conservation measures to a proposed rezoning that would enable it to undertake significant development around Moosehead Lake. In a more sophisticated reprise of Diamond International's strategy two decades ago, Plum Creek is seeking to monetize its assets not through timber harvesting alone but also through development. Specifically, Plum Creek has agreed to donate an easement on 91,000 acres and sell land and a "bargain" easement on another 340,000 acres around Moosehead Lake, provided Maine's Land Use Regulation Commission approves its plan to develop 975 house lots and as many as 1,050 potential resort accommodations on 21,079 acres of land (Plum Creek 2007). As this issue went to press, Maine's Land Use Regulation Commission (LURC) was mulling a decision on Plum Creek's plan.

Whichever way LURC rules, Plum Creek's plan poses new challenges for the conservation community. On one hand, the company's proposed land donations and sales would lead to the permanent protection of significant acreage, including lands and easements to be owned by The Nature Conservancy, the Forest Society of Maine, and the Appalachian Mountain Club. But because conservation is directly tied to proposed development, the plan has put land trusts in an uncomfortable position and created tension with the region's environmental advocacy organizations, which overwhelmingly opposed the overall plan. If land trusts in the past prided themselves on steering clear of the

regulatory process and dealing only with willing sellers, the world became much more complicated with Plum Creek's proposal. They now find themselves in the thick of the regulatory process and are having to ask themselves the fundamental question that faces LURC in weighing its decision on Plum Creek: does the proposed rezoning strike the right balance between conservation and development? With many landowners looking on in eager anticipation of LURC's decision, the issue of how to set the balance between conservation and development is likely to reverberate, at least in Maine, for some time to come.

CONCLUSION

The last 20 years of conservation have been unprecedented in the Northern Forest. A quick glance at the time-series map above (Figure 1, p. 59) provides an indication of just how much land the conservation community has been able to protect in a relatively short period of time. While changes to the forest products industry created the opportunity for such conservation, it has been the hard work of a number of dedicated state and federal agencies, skillful nonprofits, and a supportive public to convert the opportunity into protected acres. Changes such as Diamond International's sale and Plum Creek's proposal remind us that the future is uncertain, but also show what can be accomplished when the environmental community invests time and energy in finding new solutions.

While the acreage totals continue to rise and the complexes of green protected land continue to grow on maps of the Northern Forest, questions do remain. Will conservation easements effectively protect biodiversity? Will they stand the test of time and potential legal challenges? What is the future of the forest product industry and what is likely to happen when the TIMOs and other institutional investors sell? What role will regulation play in shaping land use? Answers to these questions are likely to provide clues to what the economic and environmental future of the Northern Forest will look like. 🐾

ACKNOWLEDGMENTS

The authors gratefully acknowledge the assistance of David Publicover and Cathy Poppenwimer at the Appalachian Mountain Club and Tim Glidden at Land for Maine's Future.

ENDNOTES

1. Total acreage was determined from data compiled by the Appalachian Mountain Club for the Northern Forest Region, 1994–2006. It only includes large conservation transactions (generally 1,000+ acres) and therefore underestimates the total acreage of protected lands.
2. Data used to calculate this figure come from the Appalachian Mountain Club, the Land for Maine's Future program, and the federal Forest Legacy program.
3. Data used to calculate this figure come from the Appalachian Mountain Club, the Land for Maine's Future program, and the federal Forest Legacy program.

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