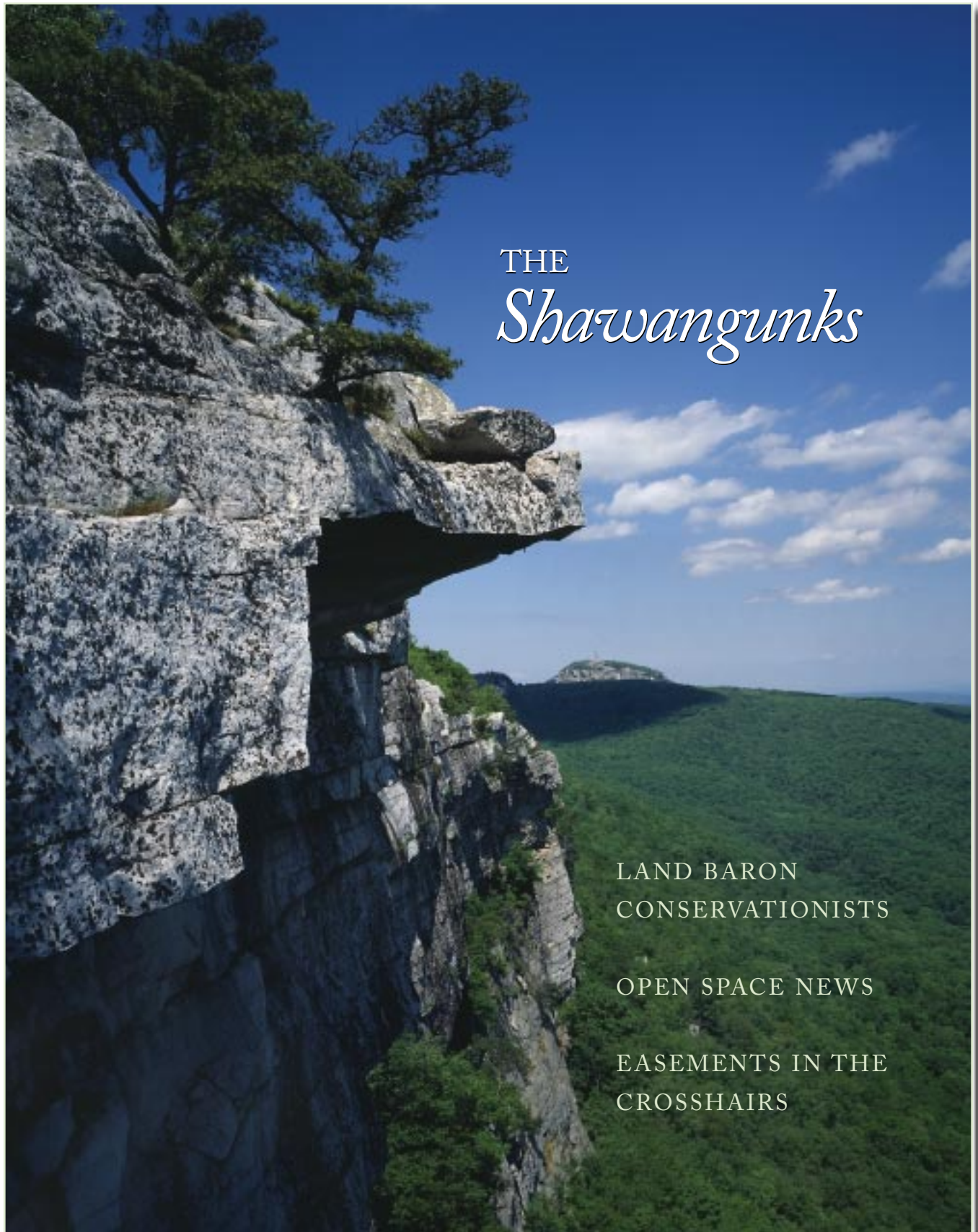


OPEN SPACE

A PUBLICATION OF THE OPEN SPACE INSTITUTE ♦ VOL. 2 Summer 2004



THE *Sharwangunks*

LAND BARON
CONSERVATIONISTS

OPEN SPACE NEWS

EASEMENTS IN THE
CROSSHAIRS

C O N T E N T S

3

LETTER FROM THE EDITORS
VIEWPOINT

4

ON THE TRAIL: The Shawangunk Ridge

7

Sam's Point Groundbreaking
A Scientist Speaks: John Thompson

9

Conservation Timeline
Reintroducing Fire to the Gunks

10

MAIN STREET: Grand Resorts, Land Barons, and Conservation

11

Tri-State Greenway

11

CROSSROADS: Conservation Easements in the Crosshairs

12-13

Debating the Value of Conservation Easements

14

OPEN SPACE NEWS

15

RECOMMENDED READING

THE OPEN SPACE INSTITUTE (www.osiny.org) is a non-profit land conservation organization that protects significant recreational, environmental, agricultural and historic landscapes. Founded in 1963, OSI has protected more than 90,000 acres in New York State. Through its Northern Forest Protection Fund, OSI has assisted in the protection of close to 900,000 acres in northern NY, Vermont, New Hampshire and Maine. OSI's New Jersey Conservation Loan Program has helped protect more than 10,000 acres in the nation's most densely populated state.

BOARD OF TRUSTEES

John H. Adams, *Chairman*
Edward A. (Ned) Ames
Susan Babcock
Peter A. Bienstock
Gilman S. Burke
T. Jefferson Cunningham III
J. Matthew Davidson
Paul J. Elston
Samuel Huber
Felix Kaufman
W. Barnabas McHenry
Valerie Anne Mars
Caroline Niemczyk
Katherine O. Roberts
Hume R. Steyer
Patricia F. Sullivan
Sheryl Tishman

STAFF

Christopher (Kim) J. Elliman
Chief Executive Officer
Joseph J. Martens
President
Robert K. Anderberg
*Vice President and
General Counsel*
Susan Barbarisi
*Administrator;
Citizen Action Coordinator*
Tally Blumberg
Development Director
Elizabeth Carey
Program Associate

Donald Cramer
Comptroller
Paul Elconin
*Mid-Hudson Land
Steward*
Jeff France
Receptionist; Office Manager
Jennifer Grossman
*Vice President for
Land Acquisition*
Peter Howell
*Vice President and
Director of
Conservation Finance*

Tildy La Farge
Communications Director
Daniel G. Luciano
*Property Manager;
Assistant Vice President;
Assistant Counsel*
Paul McRae
Junior Accountant
Jodie Mitchell
Program Associate
Katie Stone
Intern
Gillian Weber
GIS Specialist

PUBLICATION STAFF

Tildy La Farge
Managing Editor
Elizabeth Carey
Photo Editor
Samuel Huber
Senior Writer
Gillian Weber
Web & Graphics Editor
Robert K. Anderberg
Susan Barbarisi
Christopher (Kim) J. Elliman
Peter Howell
Joseph J. Martens
Editors

PUBLICATION DESIGN

Janice Pfeiffer Design
japfeiffer@earthblink.net

COVER PHOTO: TRAPPS GATEWAY; AND (ABOVE) BONTICOU CRAG; BY HARDIE TRUESDALE. www.hardietruesdaale.com

OPEN SPACE INSTITUTE 1350 Broadway, Room 201 New York, NY 10018 Tel 212.629.3981 Fax 212.244.3441 Web www.osiny.org

This publication is printed on recycled paper with vegetable-based inks.




Kim Elliman and Joe Martens.

The singular geography and topography of the Shawangunk Ridge is the subject of this issue of *Open Space*. The “Gunks,” as they are affectionately known, are part of a 245 mile long ridge that runs from New York to Pennsylvania, forming a spectacular and rare landscape. OSI has done extensive preservation in the Northern section of the Gunks, located about ninety miles north of New York City in Ulster County, New York. Our future goal is to protect the rocky spine of the ridge as it wends its way toward New Jersey. (See “*Open Space News*,” page 14, for recent successes in New Jersey.)

In this issue, we are also devoting a significant amount of space to conservation easements, a widely used conservation technique that has come under increasing scrutiny by the media and Congress. See the adjacent “Viewpoint” penned by longtime OSI trustee, Edward A. (Ned) Ames, and a point-counterpoint discussion by two conservation experts on pages 12-13.

As always, we welcome your thoughts and correspondence.

Sincerely,
Kim Elliman, 
CEO

Joe Martens, 
President

Drop Us a Line

Write to:

Editor/OPEN SPACE
Open Space Institute, Inc.
1350 Broadway, Suite 201
New York, NY 10018

or email us at:

Editor@osiny.org

VIEWPOINT

The Use of Conservation Easements in a Challenging Political Environment

BY EDWARD A. (NED) AMES

In the spring of 2003, the Washington Post ran a series of articles criticizing The Nature Conservancy for broad conflicts of interest, focusing in particular on the use of conservation easements and alleging that they were used to benefit insiders, including trustees. In light of the abuses alleged in the Post series and a subsequent formal inquiry launched by the Senate Finance Committee, it is only prudent to review the case for conservation easements and the standards by which they should be judged.

The use of conservation easements has burgeoned in recent years as the impact of sprawl has become pervasive. Easements have been seen as a way of protecting traditional land use and conserving natural resources at a lower cost than through outright acquisition. While the regulation of land use is a contentious issue, the use of easements has been broadly accepted as a private sector, voluntary response to destructive, rapid changes in the landscape.

Conservation easements have become an essential tool of both the land trust movement and the conservation community more broadly. As their use has spread, opposition to easements from people against land use control in any form has grown. At the same time, legitimate questions have been raised about both the quality of the easements themselves, and the standards and practices of the conservation programs that employ them.

It is entirely possible to evaluate conservation easements by the degree to which they serve a public purpose. Abuses such as self-dealing, overstatement of value and lack of conservation benefit can be identified and should be eliminated. But in my experience

during almost thirty years of work in the field, conservation easements are used overwhelmingly for legitimate conservation purposes, and, in the case of donated easements, in compliance with the intent of the tax code. The key to ensuring public benefit is the preparation of sound documentation, including a conservative appraisal of value and a clear delineation of the conservation purpose being served. Linking individual conservation easements to broader, regional plans or overlays can provide a useful context for determining public purpose.

The more difficult challenge is to monitor easements and enforce their provisions. Here, practice varies widely, even among the larger, more established conservation organizations. The effective use of easements as a conservation tool requires working with landowners on an ongoing basis, rejecting proffered easements that don't meet high standards, and enforcing restrictions in an even-handed and comprehensive way.

On a national level, the Land Trust Alliance has taken a lead in the defense of easements and in promulgating high standards and practices for the field. But it is essential that organizations like the Open Space Institute, and other conservation groups with experienced staff and expert boards, set the record that will help rebuild the public trust in this valuable tool. 🌿

Edward A. (Ned) Ames

MARCH 1, 2004

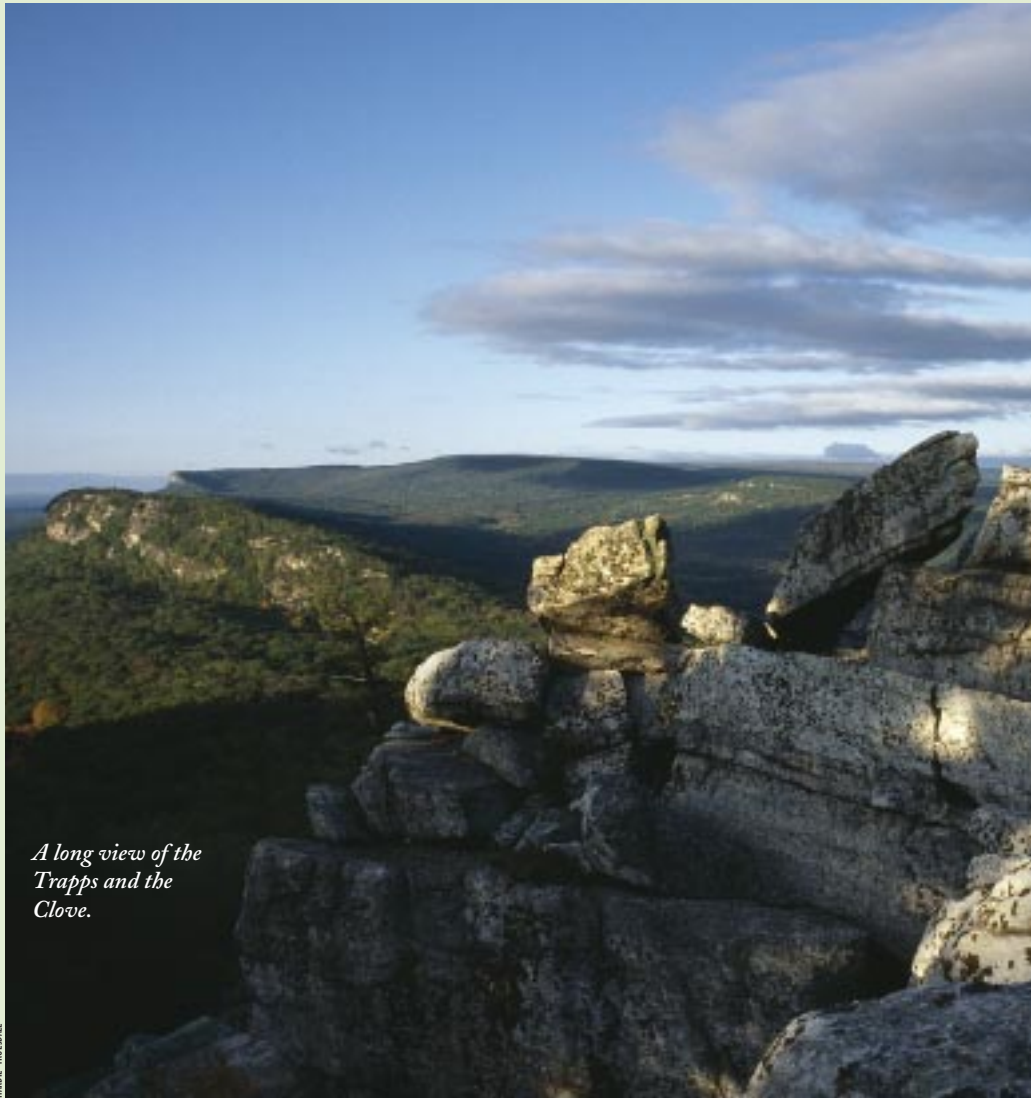
Edward A. (Ned) Ames is a trustee of the Mary Flagler Cary Charitable Trust. A long time advocate of open space protection, Ned has chaired The Wilderness Society, Hudson River Foundation, and The Preservation League of New York, among other financial and charitable organizations.

THE SHAWANGUNK RIDGE:

Despite four hundred years of European colonization, the Shawangunk Ridge remains as resilient as its gleaming white rock formations. Running 245 miles in length, the glistening white band of Shawangunk conglomerate rock (known as the Kittatinnies in New Jersey, and the Blue Mountains in Pennsylvania) runs nearly straight as an arrow from Rosendale, New York, to just north of Swatara State Park in central Pennsylvania.

By all accounts, the northernmost 20 miles of this ridge is the most spectacular. Drawing over 500,000 visitors a year, the Northern Shawangunks of Ulster County, New York, are an ecological and recreational mecca. The conglomerate cliffs overlooking the Hudson River Valley sport the best rock climbing routes on the East Coast. Sam's Point contains a vast dwarf pitch pine barrens growing on bare bedrock, unlike any other in the world. Protected by conservation efforts dating back to the 1860's, the secluded glens, ravines, crevices, streams and windy summits of the Shawangunks remain unspoiled to this day.

Thomas Nozkowski, an artist and long-time resident of High Falls, has hiked the backwoods and secluded hollows of the Northern Shawangunks for over 40 years. "This is a subtle landscape, but one full of intrigue and stark beauty. Every day I am out in the Shawangunks I see them in a new light," says Nozkowski.



*A long view of the
Trapps and the
Clove.*

HAROLD TRUESDALE

For modern visitors, miles of Victorian-era carriageways and backwoods trails allow nearly limitless exploration of places of extraordinary scenic beauty. Ancient faulting creates massive ice caves filled with snow and ice throughout much of the summer, where unusually cold climates are home to boreal plants otherwise found as far north as Nova Scotia.

The conservation of the Shawangunks found early champions in Albert K. and Alfred H. Smiley, Quaker twins who first visited in 1869. Their business and philanthropic activities – Albert opened the famous Mohonk Mountain House in 1869, and Alfred opened the first of two mountain houses at Lake Minnewaska in 1879 – led to the preservation of

Preservation in a Time of Challenge

BY SAM HUBER



over 17,000 acres of ridge top land in the Northern Shawangunks.

For 135 years, the Victorian resort built on Lake Mohonk catered to weary New Yorkers seeking solace in nature. In 1963, Albert Smiley's heirs, hotel guests and other concerned conservationists created The Mohonk Trust, permanently dedicating nearly 5,000 acres of land surrounding the

Mountain House for conservation and public access. The Mohonk Trust – renamed the Mohonk Preserve in 1978 – was the first land trust established to protect the Shawangunks and is now the largest member and visitor-supported nature preserve in New York State. Hosting over 150,000 visitors annually, the Preserve has active programs in land protection, stewardship, environmental education, and ecosystem research. (*See related article on page 7.*)

“Albert K. and Alfred H. Smiley were early conservation visionaries,” says Glenn Hoagland, Executive Director of the Mohonk Preserve. “They painstakingly acquired over 400 separate tracts of land and assembled a vast and beautiful estate surrounding Lake Mohonk and Lake Minnewaska. The Mohonk Preserve is proud to continue the Smiley family legacy of land conservation and management,” continues Hoagland.

The lands acquired by Alfred K. Smiley at Lake Minnewaska have also been protected, although by a far more arduous route. In the 1970's, much of the Minnewaska lands were acquired by the State of New York as Minnewaska State Park. However, in 1979 the Marriott Corporation proposed to

develop the remaining privately held lands at Lake Minnewaska with a resort complex consisting of a 400-room hotel, 300 condominiums and related amenities, all surrounded by protected state parkland.

The conservation community, including Friends of the Shawangunks and other advocacy organizations, opposed this development and urged that Lake Minnewaska and its surrounding 1,200 acres be incorporated into Minnewaska State Park. After years of controversy and numerous lawsuits challenging the adequacy of the

water supply and the efficacy of amending a conservation easement protecting the lake, the remaining 1,200 acres of Lake Minnewaska (including the 33-acre lake itself) were incorporated into Minnewaska State Park in the summer of 1986.

Mohonk and

Minnewaska were just the start of a much larger conservation effort. The Shawangunk Mountains cover over 85,000 acres of land stretching over 48 miles in length, much of it still pristine and undeveloped. In the early 1980's, the Open Space Institute started a ridge-length protection



PHOTO COURTESY OF MOHONK MOUNTAIN HOUSE

Albert K. Smiley in the gardens at Mohonk Mountain House, in the heart of the Shawangunks.

effort that has to date protected more than 18,000 acres of land.

In some 35 transactions costing in excess of \$16 million, OSI has protected the 4,700-acre Ellenville watershed tract (now known as the Sam's Point Preserve); large tracts of land in the Witch's Hole and Mine Hole Hollow; lands at Stony Kill Falls; the northern summits of Dickie Barre and Ronde Barre; lands near the High Falls Ice Caves; thousands of acres in the southern Shawangunks; and lands in the so-called "Trapps Gateway," the entrance to the ridge for thousands of visitors and the location of the Mohonk Preserve's new Visitor's Center.

OSI and its conservation partners continue to protect this remarkable landscape. OSI envisions a swath of preserved lands — perhaps as much as 65,000 acres — stretching approximately 50 miles along the spine of



One of many technical climbing routes in the Gunks.

ANNE O'NEILL

the ridge from Rosendale to the New Jersey border, and connecting with the enormous tracts of protected lands leading down the Kittatinny and Blue Mountains. Ultimately, one may be able to walk from the Delaware Water Gap along the length of the Kittatinny/Shawangunks Ridge to the Catskill Mountains, largely on protected lands.

This future vision is by no means certain. The flanks of the ridge show signs of the steady advance of residential development. Once sleepy towns such as Gardiner are now suburban outposts of New York and New Jersey. And a 2,600-acre tract west of Lake Awosting is the site of a proposed 350-home residential community that would reach into the most remote glens of Minnewaska State Park Preserve.

But OSI remains firmly committed to its core conservation plan:



purchasing lands from willing sellers, and conserving these lands for future generations. A successful partnership with the State of New York has been critical. Working with the state, OSI plans in 2004 to add up to 6,000 acres to the Minnewaska State Park Preserve, including much of its Sam's Point and Witch's Hole holdings, making it one of the largest state parks in New York.

"The Minnewaska State Park Preserve is thought by many to be the jewel of the State park system," said

(continued on page 8)

NEW CONSERVATION CENTER AT SAM'S POINT PRESERVE

The Nature Conservancy has broken ground on a new educational center in Cragmoor, N.Y., at the 5,373-acre Sam's Point Preserve, created by OSI in 1997 and managed by The Nature Conservancy. Designed to complement the dramatic cliffscapes of the Preserve, the center will feature environmentally sustainable building practices. "The Conservation Center will provide an informative welcome for visitors as well as serving as a much needed base for stewardship and research," says Cara Lee, Director of TNC's Shawangunk Ridge Program.



COURTESY OF MATTHEW BALLEW ASSOCIATES

A SCIENTIST SPEAKS CONNECTIVITY ON THE LANDSCAPE



John Thompson is the Natural Resources Specialist with the Mohonk Preserve's Daniel Smiley Research

Center (www.mohonkpreserve.org). John can be reached at: jthompson@mohonk-preserve.org.

The key to landscape level conservation is connectivity. Animals, to varying degrees, require unfractured habitats. When ecosystems get sliced and diced, the animal populations we all admire and love to watch are going to suffer.

The cause of a fractured ecosystem can be a new housing development, industrial activity, a strip mall or a new road. Even the most inconspicuous dirt road can create a line that animals won't cross. For example, a smaller animal that is used to the leaf cover in the forest won't move into the road because the absence of leaf cover signals an entirely new habitat — one that may not support the animal and could potentially expose it to predators.

In general, larger mammals like black bear, bobcat and fisher, all found in the Gunks, tend to be most vulnerable when landscapes are broken up. That's because their populations are smaller to begin with and they have low reproductive rates.

Without an expanse of land to move around in, these animals run the risk of being separated. And separation makes the species vulnerable and less apt to recover from a severe event, such as an outbreak of disease, a storm, or a forest fire.

The presence of these species with large home ranges indicates a healthy ecosystem. By protecting these "umbrella" species, we hope to ensure that the ecological processes and habitats of many other species are protected.

Some of the gravest concerns in the conservation community are — how will global warming impact animal populations? Will populations be pushed north in search of shelter and food? What will happen when entire communities of animals are moving and there is no place to go? These are all good questions and we hope that the information we're collecting in the Gunks — daily weather monitoring and recording animal and plant life — will help shed light on the answers to those questions. ■



Battlement Terrace at the Minnewaska State Park Preserve.

HEBB CHUNG

"The Minnewaska State Park Preserve is thought by many to be the jewel of the State park system."

--BOB ANDERBERG

Robert Anderberg, OSI's General Counsel who also oversees the organization's Shawangunk Ridge Land Protection Program. "The lands being added by OSI to the Park contain some of the most enduring landmarks in the Shawangunks — the major ice caves, Shingle Gully, Indian Rock, High Point, the Mine Hole Hollow, Napanoch Point, and other wild places."

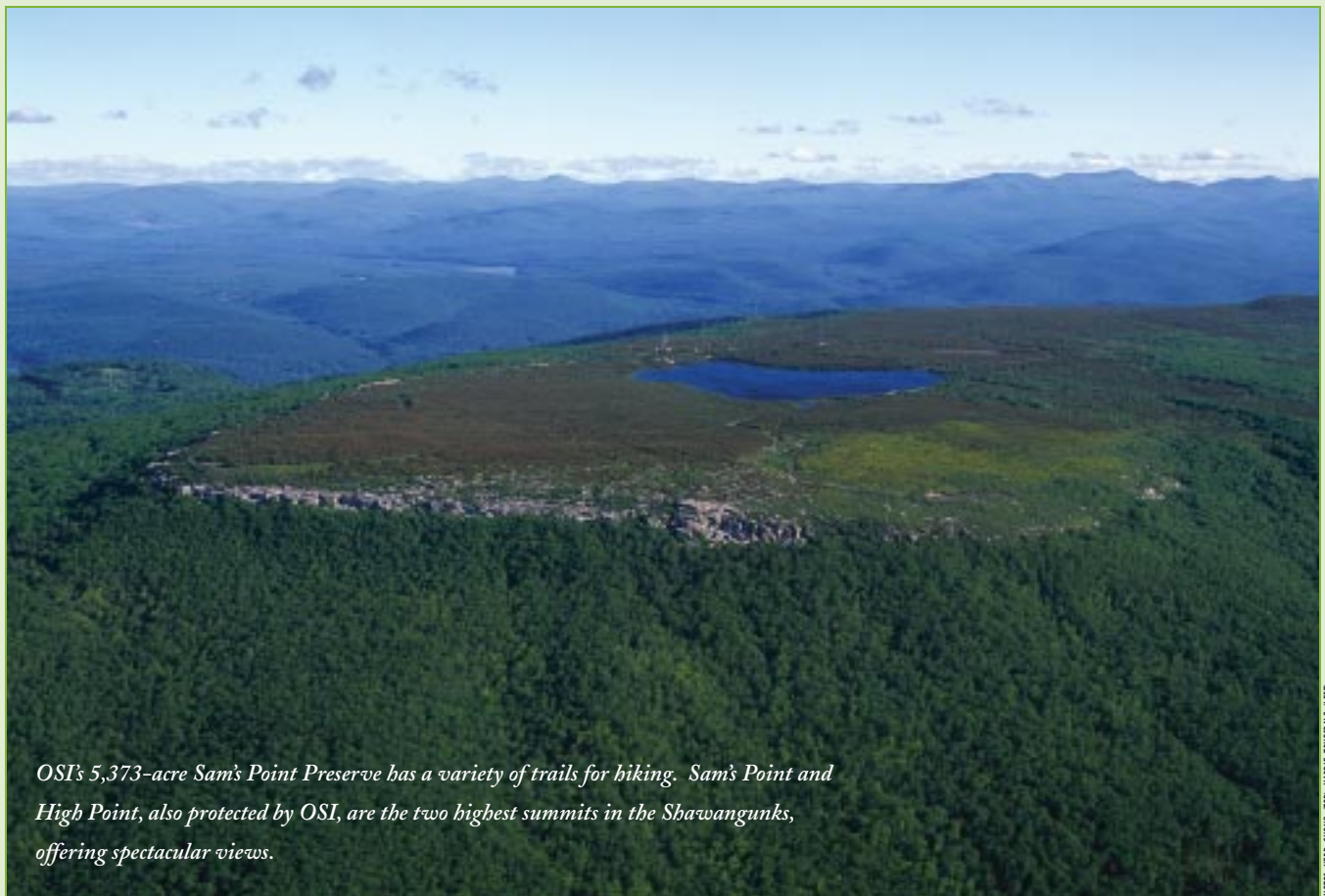
"Indeed, the thrust of these additions to Minnewaska is to create a vast roadless area lying between Lake Awosting, Lake Maratanza, and the

Witch's Hole. This is a magnificent legacy for future generations, and we are lucky that officials at the Palisades Interstate Park Commission and the NYS Office of Parks share in our vision," said Anderberg.

OSI has also forged partnerships with the Mohonk Preserve and The Nature Conservancy, both of which are members of the Shawangunk Ridge Biodiversity Partnership, a group of ten partners that is gleaning field research and scientific analysis to ensure the long-term protection of the slopes of the ridge. The Partnership

has identified the most sensitive areas where rare and unusual plants and animals live, and has developed a Master Plan that carefully balances resource protection and public use.

"In preserving the Shawangunks we owe much to previous generations," adds Anderberg. "The original vision of Albert and Alfred Smiley protected over 17,000 acres of unique and wild Shawangunk landscape. Our goal is to complete this vision, and protect the remaining hills, crags and summits of the remarkable little mountain range for all time." 🌲



OSI's 5,373-acre Sam's Point Preserve has a variety of trails for biking. Sam's Point and High Point, also protected by OSI, are the two highest summits in the Shawangunks, offering spectacular views.

PHOTOS: HERB CHONG (TOP); HADIE TRUESDALE (LEFT)

FIRE ON THE RIDGE

BY STEPHANIE GIFFORD



Smokey the Bear, the Forest Service's highly successful promoter of fire prevention, has had his way in the Shawangunks. But, as in many forested regions where fire suppression has been encouraged, the result has not been altogether positive for the ecosystem.

Effective fire suppression tactics have all but eliminated fire from the unique, fire dependent ecosystem of the Shawangunks, which has not experienced a sizable wildfire in 50 years. The accumulation of half a century's worth of fuels poses a life threatening situation, not only to those that live and work in the area, but to the natural resources that so many individuals and organizations have worked hard to protect.

Scientists estimate that natural fires historically swept through the Shawangunks every five to twenty-five years. Fires burned off accumulated dead wood and living brush, enriching the soil with nutrient-rich ash and invigorating fire-tolerant plants which grow there. Huckleberry growers, who relied on the abundance of their crops, encouraged fire because it eliminated other competing plants and created a better growing environment in which the huckleberry could thrive.

Sam's Point Preserve, acquired by OSI in 1997 and managed by The Nature Conservancy, is one of the most fire-prone areas in the Shawangunks, and is home to the extensive, but globally rare, dwarf pitch pine barrens. This natural community, like other pitch pine stands at lower elevations, is highly adapted to fire, and indeed depends on fire to maintain its unique make-up.

The Shawangunk Ridge Biodiversity Partnership, led by The Nature Conservancy, is developing plans to reintroduce fire to the Shawangunk landscape, but in a controlled fashion. The Nature Conservancy and the National Park Service have been using prescribed fires to reduce hazardous fuel loads in conservation areas across the country since the 1960's and, with the New York State Department of Environmental Conservation, in the Albany Pine Bush since 1991.

TNC is preparing a Shawangunk Ridge fire management plan, which will be available for public consideration in late 2004. Plans for individual burns will also be prepared in 2004, in preparation for demonstration burns in 2005. When the burns do start, they will be applied with great care by experienced staff according to the plan and when the weather is right. Done correctly, the forest will be healthier and the threat of catastrophic fire will diminish. Smokey the Bear might just approve. 🌲

Stephanie Gifford is Director of Ecological Management at The Nature Conservancy's Eastern New York Chapter. A former "burn boss" in the Albany Pine Bush, Gifford initiated TNC's fire management program there in the 1990's.



Prescribed burn (above), and Stephanie Gifford, a former "burn boss" (below), in the Albany Pine Bush.



CONSERVATION TIMELINE

Smiley family permanently protects first acre of land in Shawangunks. Conveys to Mohonk Trust a total of 487 acres, including the Trapps rock climbing cliffs, the most popular climbing venue on the East Coast. **1966**

Ellenville Ice Caves designated "National Natural Landmark" by U.S. Secretary of the Interior. **1967**

The Palisades Interstate Park Commission (PIPC) acquires 7,000 acres from the Phillips family, the first step in the creation of Minnewaska State Park. **1971**

New York's Department of Environmental Conservation (DEC) establishes Basherkill Wildlife Management Area, protecting one of New York State's largest fresh water wetlands. **1972**

Marriott Corporation proposes resort and condominium complex. Plan is ultimately thwarted by coalition of conservation groups, led by Friends of the Shawangunks and others. **1979**

New York State acquires 1,200 acres, including Lake Minnewaska, and adds it to Minnewaska State Park Preserve, which in 1986 totals over 11,600 acres. **1986**

Through 11 separate transactions, OSI protects 2,300 acres in Southern Shawangunks. Assemblage is later transferred to the DEC and administered as the Wurtsboro Ridge State Forest. **1987**

OSI acquires 4,623-acre Ellenville Watershed lands, renamed Sam's Point Preserve, managed for OSI by The Nature Conservancy. **1997**

The new 2,500-acre Shawangunk Ridge State Forest is created through partnership between New York State, OSI, Trust for Public Land (TPL) and others. **2000**

OSI acquires the 1,900-acre Witch's Hole Conservation Area, to be added to the Minnewaska State Park Preserve. **2001**

OSI and TPL convey 5,400-acre Lundy Estate to State of New York, creating a "conservation corridor" between the Gunks and the Catskill Forest Preserve. **2002**

Shawangunk Ridge Biodiversity Partnership issues scientists' report on the potential environmental impacts of proposed Awosting Reserve development. **2003**

Three peregrine falcon chicks fledge, a first in over 50 years, according to Mohonk Preserve's Daniel Smiley Research Center. **2004**

Mohonk Preserve, Minnewaska State Park Preserve, Sam's Point Preserve, the State Forest Preserve, and other conservation holdings now total over 41,000 acres.

NEW WORLD CASTLES

BY CHRISTOPHER SPATZ

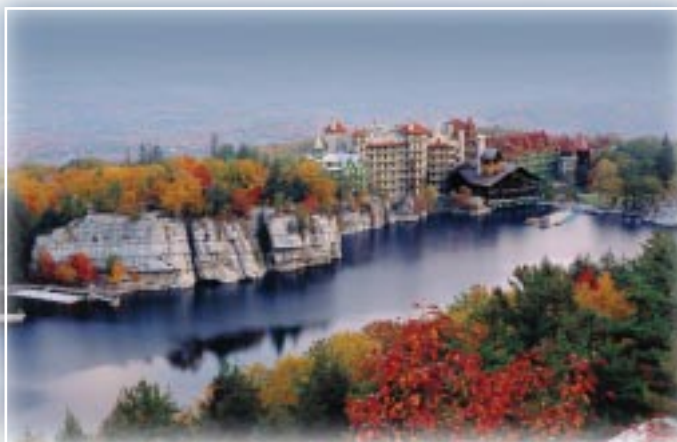
When Americans first awakened to the notion of heading to the wilderness for inspiration and respite, they came to the mountains of the Hudson Valley — to the Catskills and the Shawangunks.

Captivated by the radiant tales of Washington

Irving and James Fennimore Cooper, and smitten with the gilded landscapes of the Hudson Valley School, this land of yawning waterfalls, hemlock vales, sky lakes and gaping overlooks drew the privileged of New York to grand hotels offering a patina of city life cast high amid the wilds of story and paintings.

The Romantic spirit that inspired these resorts parallels the move to preserve wild places. In 1885, the wilderness cast its spell on New York legislators, who created the 34,000-acre Catskill Park Preserve (and the much larger Adirondack Park Preserve) around the resorts, providing public access to the mountains for those who could not afford the hotels.

The Catskill, Kaaterskill, and Overlook Mountain Houses thrived during the 19th century, and proprietors like Charles Beach of the Catskill Mountain House and the Newgold family at Overlook acquired large tracts of land adjacent to their hotels, across much of the front range of the Catskills. In the Shawangunks, a pair of Quaker twins named Albert and Alfred Smiley purchased the Stokes Tavern along the edge of Lake Mohonk in 1869, where they began work on their Mohonk Mountain House. Seven years later, they began raising the Cliffhouse and Windmere hotels farther south down the ridge at Lake Minnewaska.



Mohonk Mountain House

PHOTOS COURTESY OF MOHONK MOUNTAIN HOUSE

With western landscapes beckoning, the fortunes of the old Catskill resorts declined swiftly during the 20th century. In June of 1930, more than 14,000 acres around the Catskill and Kaaterskill hotels were incorporated into the 300,000

acres of the expanded Catskill Park Preserve. In the 50's, the Newgolds followed suit at Overlook.

The Smileys ran into similar difficulties, but only partly. Operations at Minnewaska were sold to the resort's general manager Kenneth Phillips in 1955. Starting in 1967, the Smileys split their remaining property at Lake Mohonk. The family retained 2,200 acres around the last of the great Victorian hotels at the Mohonk Mountain House, while establishing the state's largest publicly supported nature preserve with the 5,300-acre Mohonk Trust now expanded to 6,600 acres and renamed the Mohonk Preserve — engendering a stewardship legacy that initiated conservation efforts in the Northern Shawangunks. Struggling to keep Minnewaska solvent, Phillips sold his 10,500 acres to New York State between 1971 and 1986, creating the 12,000-acre Minnewaska State Park that abuts the Mohonk Preserve.

Today, walking along the stony traces and carriage roads of these New World castles — into the mountains that first enchanted a nation — feels like tracking the nativity of fairy tale. ♣



Christopher Spatz writes about the Catskills and Shawangunks for Blue Stone Press in High Falls, NY. He is a member of the Gunks Climbers' Coalition (www.gunksclimbers.org), a climbers' advocacy group committed to preserving climbing access in the Gunks through stewardship efforts with OSI, the Mohonk Preserve, and Minnewaska State Park.

This Remarkable Little Mountain Range

BY ROBERT K. ANDERBERG

The Shawangunk Ridge begins much as it ends: with a whimper. Starting in a church parking lot in Rosendale, New York, it wends its way through three states and twenty-two counties until it abruptly terminates under an interstate highway outside of Swatara, Pennsylvania.

Between these two diminutive points lies a narrow ribbon of remarkable wilderness. The preservation of this resource spans a century of time and the collective efforts of numerous private, state and federal entities. A de facto tri-state greenway, the Ridge encompasses more than 170,000 acres of preserved land in the Shawangunk, Kittatinny and Blue Mountains.

Much of the ridge can be readily hiked: starting at the Mohonk Preserve's Spring Farm, one can walk trails through New York and New Jersey to central Pennsylvania. The ridge hosts numerous state forests, parks, preserves, and game lands; two national natural landmarks, including the Ellenville Ice Caves (now owned by the Open Space Institute) and Sunfish Pond Natural Area; national historic landmarks; and federal trail lands. Some of the notable nature preserves include the Hawk Mountain Sanctuary, Mohonk Preserve, Sam's Point Preserve, and Bear Hill Preserve.

The names of the endless crags, summits, and knobs of this ridge give one a feeling for its varied history and the impact of its mysterious beauty: High Point, Sam's Point, Lookout Rock, Wolff Rocks, Pulpit Rock, Dan's Pulpit, Devil's Pulpit, Jacobs Ladder, Weathering Knob, Bake Oven Knob, Round Head, Blue Rocks, Auburn Lookout, and Dutch Shoe Rock, to name a few. ■

OSI

CROSSROADS

Conservation Easements In the Crosshairs

BY KIM ELLIMAN

Following the investigations of corporate and financial excesses of the past few years, Congress, the IRS, states attorneys general, and the media have mounted a

broad investigation into the practices of the non-profit/philanthropic sector. The investigation is wide-ranging but it has focused in particular on the use and abuse of conservation easements, and sparked calls for reform and regulation.

The Land Trust Alliance (LTA), representing more than 1,300 land trusts nationwide, has revised its standards and practices to considerably raise the bar on land ethics and prevent abuse and conflicts of interest. In the search for a balance between such self-enforcement and government regulation of NGO's, the Senate Finance Committee in particular is considering legislation to mandate clearer guidelines and more transparent reporting.

This inquiry has focused on how conservation easements are treated by donors, conservation groups, and other buyers (sometimes called conservation buyers). The Finance Committee and the IRS probes are looking into questions of how to value a donated gift, whether it be an antique or an interest in real estate. How can the IRS be assured that the donations are accurately valued?

Typically, the conservation movement has protected considerable quantities of land through landowner donations of conservation easements.



Farmland in Saratoga County protected by a conservation easement.

Often, but not always, the donor takes a deduction against income or estate taxes when making such a gift. If the value of the gift is overstated, so is the tax

benefit, and if so, there is potential taxpayer fraud.

Conservation easements can be donated or purchased. Most of the large easements on forestland in the East have been purchased at fair market value and therefore have not included any tax benefits. Even donated easements, if the donor does not claim a deduction (as many do not—see the “Viewpoint” by Edward A. (Ned) Ames on page 3), do not pose concerns. It is only those easements where the donor claims more value—and so, a greater tax deduction—than warranted, that arguably should be the focus of inquiry and reform.

The investigation of easements has prompted a growing debate within the conservation movement about the use, abuse, and efficacy of conservation easements to achieve conservation goals and to warrant public trust and subsidy. We present on the following pages the views of two noted national experts. John D. Echeverria, one of the nation's experts on law and land use, argues that the benefits of easements may not justify their cost to taxpayers. Dana Beach, a leader within the smart growth movement, reflects on his experience working in the Low Country of South Carolina and suggests that despite some abuses, easements are an essential tool in the conservation toolbox. ■

Revive the Legacy of Land Use Controls

BY JOHN D. ECHEVERRIA

Over 30 years ago, the U.S. Council on Environmental Quality, under the leadership of Republican Russell Train, published two important reports: *The Takings Issue* and *The Quiet Revolution in Land Use Controls*. The first made the point that the Takings Clause of the U.S. Constitution, properly interpreted in light of legal precedent and constitutional history, should not bar strong land use restrictions to protect the environment. The second documented the then burgeoning efforts at the state and local levels to enact

Here's why:

High Cost: There simply are not enough public and private dollars to pay owners what they are likely to demand to refrain from degrading our environment and our communities, especially in this era of painful budget limits and sharp competition for charitable dollars.

Limited Effectiveness: Under a voluntary approach, individual landowners can simply opt out of land conservation programs and thereby frustrate the achievement of

POINT

The pendulum has swung too far and we are due for a correction. Land acquisition has a role to play, but it cannot do it all, or even most of what is needed.

regulatory programs to protect open space, ecologically sensitive areas, and individual communities.

Around the time of the publication of these visionary reports, some of the nation's most significant land use laws were adopted, including the federal Coastal Zone Management Act, the Adirondack Park Agency Act, and Oregon's path-breaking, statewide land conservation legislation. All of these laws remain on the books today.

Yet what a difference a few decades can make! Today, the vision of land conservation policy outlined by Train and his energetic young staff (in particular William Reilly and Boyd Gibbons) is largely in tatters. In the face of a strident "property rights" backlash, some conservationists have largely abandoned the regulatory option, preferring instead to rely on the voluntary acquisition of fee interests in property and, more recently, easements, paid for with a combination of private donations, public grants, and tax benefits.

To my mind, the pendulum has swung too far and we are due for a correction. Land acquisition has a role to play, but it cannot do it all, or even most of what is needed.

public goals. Conservationists properly mock "voluntary" efforts to control global warming. Why should voluntary action be any more effective in preserving the communities and landscapes we cherish?

Myth of Permanence: Finally, the chief purported virtue of acquisition, that it achieves permanent preservation, is almost certainly a chimera. Easements, in particular, are already under challenge in many places, and the social and legal pressure to remove or modify easement restrictions will only increase as decades and centuries pass.

Aldo Leopold, after years of studying this problem, came to the conclusion that the only long-term solution to America's land conservation challenge lay in the development of what he called a "land ethic." In particular, he argued that it was the landowner's responsibility to manage his land well, and that government subsidy of conservation would "ultimately bankrupt either the treasury or the land or both."

Russell Train and his young advisors took this advice to heart and so should we today.



John D. Echeverria is the Executive Director of the Georgetown Environmental Law and Policy Institute (www.gelpi.org).

Create More Incentives for Easements

BY DANA BEACH

Despite the revelations in the Washington Post and elsewhere of serious abuses of the tax advantages easements offer, conservation easements are among the most important tools available to protect the nation's environment and natural landscapes. Instead of curtailing their use, states and localities should enact more incentives to accelerate the purchase and donation of easements.

Some critics have denounced easements on the grounds that the parcels protected have been selected by land trusts "with no public input" and that easements compromise regulatory efforts. They prefer restrictive zoning enacted with extensive public debate. Practically, however, very few local governments, especially in high-biodiversity Southeastern states, understand or embrace the need for land conservation. Zoning is often designed to facilitate development rather than conservation.

restrictive zoning in South Carolina limits subdivision to 25 acre lots or larger. Notably, this zoning is under constant political assault by extreme property rights advocates. Forty-four of South Carolina's 46 counties have "rural" zoning codes with minimum lot sizes of one acre, or they have no zoning at all. Unfortunately, South Carolina is no exception. Throughout the Southeast, where biodiversity is among the highest in the nation, rural zoning is a prescription for sprawl. Leaving rural land protection in the hands of counties and states would consign most of the wildlife habitat in the nation to oblivion.

Critics contend that easements often deliver large tax benefits to individual donors with questionable public benefits in return. The Cheeha-Combahee easement was valued at approximately \$2.8 million. It provided an income tax benefit to the owners, and a cost to the taxpayer, of less

COUNTERPOINT

Leaving rural land protection in the hands of counties and states would consign most of the wildlife habitat in the nation to oblivion.

Even the most restrictive zoning in the country cannot approach the level of protection afforded by conservation easements. Consider the case of the South Carolina Lowcountry, where landowners have joined with state and federal agencies to protect more than 160,000 acres of land since 1987 in the Ashepoo/Combahee/Edisto (ACE) basin initiative, almost half through donated conservation easements.

One protected property in the ACE is the 12,325-acre Cheeha-Combahee Plantation. With 21 miles of magnificent river/marsh frontage, dramatic topography and no local land use regulations, Cheeha-Combahee was a perfect candidate for a high-end golf course or equestrian development in the style of Hilton Head, just 30 miles to the south.

In 1993, eight families purchased Cheeha-Combahee and donated a perpetual conservation easement to Ducks Unlimited. The easement allows only 10 subdivisions with no parcel smaller than 600 acres. In contrast, the most

than \$1 million, or approximately \$80.00 per acre. In its protected state, the property provides enormous value for wildlife, water quality, and other ecological services. It has also facilitated a growing eco-tourism industry of kayakers and canoeists, along with traditional hunters and anglers who enjoy the benefits of a protected watershed and riparian vistas. Most importantly, Cheeha-Combahee lies between state and federal wildlife preserves.

Far from compromising conservation efforts, easements in the ACE basin have become a rallying cry for conservation in the public and private sectors throughout the state. They offer the hope that pristine ecosystems can be protected in perpetuity. In response to the success of the ACE, local, state, and federal policy-making now leans heavily toward conservation. Instead of compromising regulatory efforts, private conservation action in the Lowcountry has improved public decision-making.



Dana Beach is the Executive Director of the South Carolina Coastal Conservation League (www.scccl.org).

AMC Deal Will Protect Heart of Maine's Hundred Mile Wilderness



Moosehead Lake, Maine.

The Appalachian Mountain Club (www.outdoors.org) recently announced that it had acquired 37,000 acres in Maine's fabled Hundred Mile Wilderness. The Open Space Institute's Conservation Loan Program helped fund the \$14.2 million transaction, which was facilitated by the Trust for Public Land (www.tpl.org). The AMC deal protects one of the most scenic sections of the Appalachian Trail.



Heart of the Pines.

New Jersey Deal is One for the Record Books

With its acquisition of the 9,400-acre DeMarco cranberry farm in New Jersey's Pinelands, the New Jersey Conservation Fund (NJCF) completed the largest private conservation deal in State history. With its rare cedar swamps, upland forests, crystal clear streams and reservoirs, the property is an exceptional ecological resource. OSI's New Jersey Conservation Loan Fund helped fund the \$12 million purchase. The NJCF is still seeking financial support and donations. For more information, log on to www.njconservation.org.



Great Hudson River Paddle

The fourth annual Great Hudson River Paddle from Albany to New York has been scheduled for July 6-July 15. Log on to www.hrwpa.org for details.



Faux Lawns in Suburbia



The Metropolitan Water District of Southern California is testing synthetic lawns, a new concept in lawn beautification to see if they help save water. According to one proud owner of a faux lawn, "It is an eye catcher."



New Jersey Highlands Bill: Update

On June 7th, as *Open Space* was going to press, there was good news for proposed legislation that would protect the heart of New Jersey's Highlands and the water it supplies to millions of people. Two key committees at the state legislature passed the bill, bringing it one step closer to a full vote.

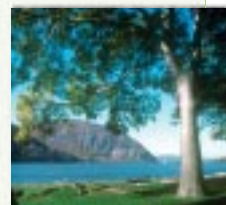
In November, the Open Space Institute will recognize Samuel W. Lambert III, past chairman of the New Jersey Conservation Foundation, for his outstanding contribution to conservation in the state and his organization's advocacy for the landmark bill now before the legislature.



New Website for Bird Lovers

If you're interested in making your backyard more bird friendly, log on to Audubon's new interactive website. "Audubon at Home" also stresses ways to mitigate the perils birds face as they navigate natural areas bisected by roads and property lines. Log on to www.audubon.org/bird/at_home/.

Putnam Gets "Preserve America" Honor



Cold Spring.

Eight communities in the U.S., including Putnam County, New York, were recently honored with a "Preserve America" designation for their efforts to protect the historic heritage of their hometowns. Log on to www.PreserveAmerica.Gov for links to these historic places.

RECOMMENDED



READING

THE LAND WE SHARE (Island Press)

By Eric T. Freyfogle

In a wide-ranging examination that is both timely and provocative, Freyfogle offers a spirited intellectual defense of the notion of property as an organic, dynamic institution. Society has an obligation to protect the land, says Freyfogle, and government programs that pay, as opposed to require, landowners to do so may have the cart before the horse.

LAND CONSERVATION FINANCING

(Island Press)

By Mike McQueen and Ed McMahon

For professionals working in land conservation, this is an invaluable resource that lays out the various funding mechanisms available. *Land Conservation Financing*, by Mike McQueen and Ed McMahon, both of The Conservation Fund, also takes us into the future with an explanation of green infrastructure and how it will figure into land conservation.

MAMMAL TRACKS and SIGN of the NORTHEAST (New England Press)

By Diane K. Gibbons

Diane Gibbons, an accomplished naturalist, explains the subtle clues animals leave, enabling readers to get an up-close glimpse

of animal life long after an animal has come and gone and left its distinctive mark.

TIME & TIDE (Crown Journeys)

By Frank Conroy

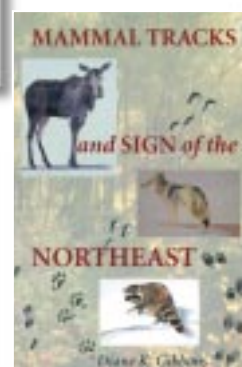
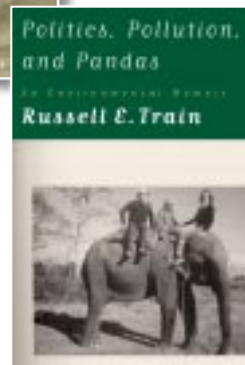
Looking across the Atlantic, Herman Melville described it as "an elbow of sand; all beach, without a background." The place — Nantucket. In the latest installment of Crown Journeys, which enlists noted authors to write about landscapes they love, Frank Conroy takes readers on a walking journey across the Moorish landscape of Nantucket. Conroy's intimate portrayal of the island and its evolution from the whaling days to present times is inspiring, dream-filled, and haunting.

POLITICS, POLLUTION AND PANDAS

(Island Press)

By Russell E. Train

Regardless of which side of the political aisle you inhabit, Russell Train's environmental memoir provides a fascinating glimpse of two republican administrations and some of the most important environmental policies that became law under Richard Nixon and Gerald Ford. A lifelong republican, Train's party loyalty doesn't stop him from sharing his dismay with the Bush administration's environmental record.



Support OSI's Work To Protect Imperiled Landscapes!

- ☐ I have enclosed my tax-deductible contribution made payable to the Open Space Institute.
☐ \$50.00 ☐ \$100.00 ☐ \$250.00 ☐ \$1000.00 ☐ Other
☐ My company's matching gift is enclosed.
☐ Please send me more information on the Open Space Institute's programs.

NAME _____

ADDRESS _____

CITY _____ STATE _____ ZIP _____

EMAIL _____ PHONE _____

Please return this form to: Open Space Institute, 1350 Broadway, Room 201, NY, NY 10018,
 or contribute on line at www.osiny.org

The Open Space Institute, Inc. was incorporated in 1974 under Section 402 of the Not-for-Profit Corporation Law of New York and is a tax-exempt public charity under Sections 501(c)(3) and 509(a)(1) of the U.S. Internal Revenue Code. All contributions to the Open Space Institute, Inc. are tax deductible to the fullest extent of the law. A copy of our latest financial support may be obtained by writing to the New York Department of State, Office of Charities Registration, Albany, NY 12231 or to OSI.



OPEN SPACE INSTITUTE

1350 Broadway, Room 201
New York, N.Y. 10018-7799

NON-PROFIT ORG
U.S. POSTAGE
PAID
New York, N.Y.
Permit No. 324

*Ice storm aftermath in
the Shawangunks.*

Photo by Annie O'Neill