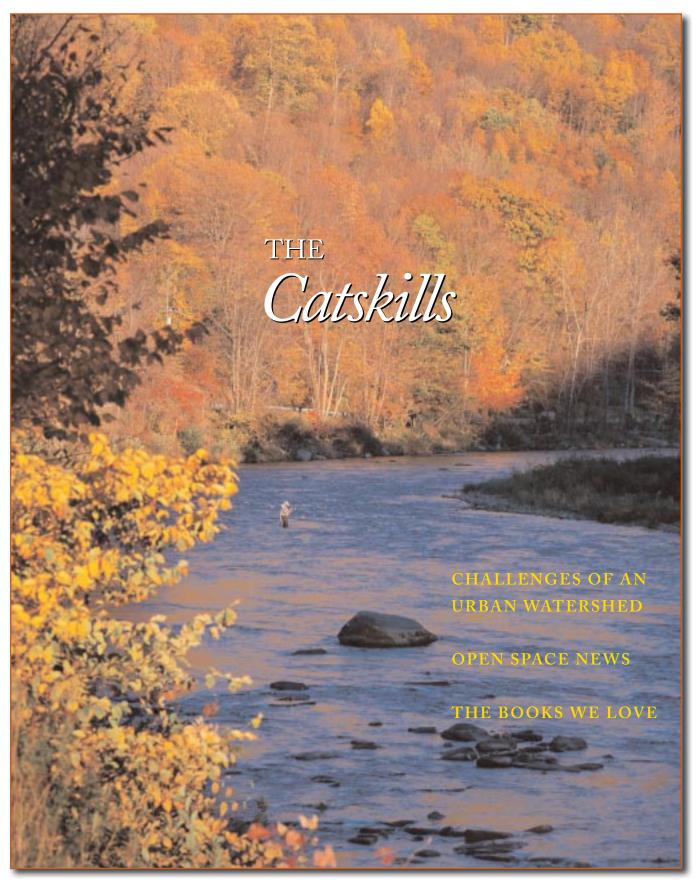
OPEN SPACE

A PUBLICATION OF THE OPEN SPACE INSTITUTE * VOL. 3 FALL 2004



CONTENTS

LETTER FROM THE EDITORS

CROSSROADS: The Catskills Identity

10

VIEWPOINTS: The role of second homes and upscale development in the Catskills

MAIN STREET: Challenges of an Urban Watershed

ON THE TRAIL: New Jersey Highlands

OPEN SPACE NEWS

OSI ANNOUNCES CONSERVATION AWARD

RECOMMENDED READING

MISSION OF THE OPEN SPACE INSTITUTE, INC.

The Open Space Institute protects scenic, natural and historic landscapes to ensure public enjoyment, conserve habitats and sustain community character. OSI achieves its goals through land acquisition, conservation easements, special loan programs, and creative partnerships.

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

Donald Cramer Comptroller

Samayla D. Deutch Counsel

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; Managing Editor, OPEN SPACE

Daniel G. Luciano Property Manager;

Assistant Vice President; Assistant Counsel

Paul McRae

Junior Accountant

Jodie Mitchell

Program Associate

Monica Scrivner Assistant to Comptroller

Gillian Weber

GIS Specialist

Abigail Weinberg

Coordinator of

Conservation Finance

DESIGN

Janice Pfeiffer

PRINTING

Maar Printing Service

OPEN SPACE INSTITUTE

1350 Broadway, Room 201 (between 35th & 36th Streets), New York, NY 10018 Tel 212.629.3981 Fax 212.244.3441 Web www.osiny.org

This publication is printed on chlorine free and acid free recycled paper with vegetable-based inks.

FROM THE EDITORS

Il across the country, urban areas are dependent upon rural watersheds for clean water. Now, these rural

areas are experiencing unprecedented pressure from sprawling development. Farms and forests are being converted to subdivisions for high-end residences, vacation homes, and luxury developments, threatening the purity of mountain rivers, streams and ponds that are essential to a healthy watershed. This publication pays tribute to these open spaces and sweeping landscapes both for their value as a water resource, and for their aesthetic inspiration, tranquility, and relief from daily stress.

Beneath the crowded streets of New York City, an intricate waterworks delivers 1.2 billion gallons of clean, fresh water every day to more than nine million residents. That underground river comes from a watershed that encompasses almost 2,000 square miles, primarily in the Catskill Mountains. In Newark and northern New Jersey, 2 million residents tap water that flows from a watershed just south of the Catskills in the New York-New Jersey Highlands.

This year, New Yorkers are celebrating the 100th anniversary of The Catskill Park (see CROSSROADS/page 4), created to save the forests as watershed for New York City. As OPEN SPACE was going to press in November, the House of Representatives passed a federal bill, approved earlier by the Senate, earmarking \$110 million for the Highlands region, which stretches across the four states of Pennsylvania, New Jersey, New York and Connecticut. We expect that legislation to go to President Bush before the end of the year. Meanwhile, the State of New Jersey has passed landmark legislation limiting development on 800,000 acres in the Highlands (see page 12).

OSI and many other conservation partners have a history of land and watershed conservation. Thirty years ago, led by our chairman and founder, John Adams, and conservationist



Editor/OPEN SPACE Write to:

> Open Space Institute, Inc. 1350 Broadway, Suite 201 New York, NY 10018

Editor@osiny.org or email us at:



Kim Elliman and Joe Martens.

Larry Rockefeller, the Open Space Institute pioneered its first land protection program in the Catskills (see page 9), where we focused our efforts on the historic Beaverkill River. OSI has protected more than 6,000 acres there in the vicinity of Beech Mountain, one of the highest peaks in the Catskills, most of which is now Forest Preserve. More recently, OSI worked with the City of New York and our joint venture partner, the Trust for Public Land (TPL), to help protect more watershed lands.

In 1998, working with the states of New York and New Jersey, the Palisades Interstate Park Commission, and the federal government, OSI and TPL negotiated the acquisition of 17,000 acres in Sterling Forest on the NY-NJ border, just 35 miles from Midtown Manhattan and a critical component of New Jersey's watershed. And, two years ago, we initiated the New Jersey Conservation Loan Fund for land-saving efforts in the Highlands and other key natural areas. Since its inception, the Fund has made six loans to help acquire 10,112 acres, valued at more than \$25 million.

This year, we are highlighting the accomplishments of one of the Garden State's most formidable advocates for open space protection, Sam Lambert, by honoring him with our 2004 Land Conservation Award (see article on page 18).

We hope you enjoy this issue of OPEN SPACE. As always, we welcome your comments and correspondence. With best wishes for the holidays,

Kim Elliman, Chief Executive Officer

Joe Martens, President

CATSKILLS:

A Defining Landscape, Undefined

BY JUDITH LABELLE

A FEW YEARS AGO, THE ITALIAN FORESTRY MINISTER WAS INVITED TO ADDRESS A MEETING OF LOCAL LEADERS IN A REGION SIMILAR TO THE CATSKILLS, WITH FOREST-COVERED MOUNTAINS SURROUNDING SMALL VALLEY COMMUNITIES. THE THERMAL SPA RESORTS THAT HAD BEEN THE REGION'S MAINSTAY HAD FALLEN OUT OF FAVOR AND THE LOCAL OFFICIALS WERE CLAMORING FOR DEVELOPMENT. THE MINISTER REMINDED THEM OF THE BIBLICAL INJUNCTION: "THE LAST SHALL BE FIRST."

He explained that while they saw themselves as behind other regions in the race to develop, they could move from being "last" into being "first" by learning from what had happened elsewhere.

The same challenge and opportunity confronts the Catskills. What could the Catskills learn from the experience of others? Many things. Change cannot be stopped; but it can be managed and shaped. There is strength in numbers; communities working together can be more effective than when they are isolated. A strong regional identity is key to being competitive in the new economy.

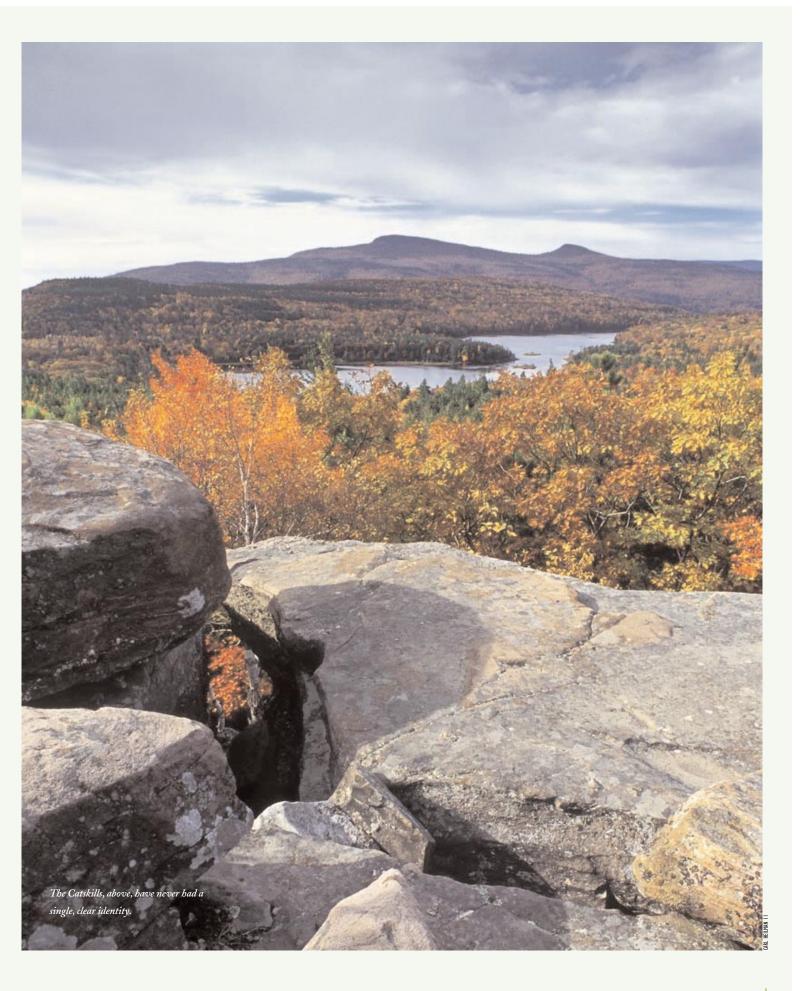
"Regional identity" may sound soft and unimportant. But think about regions that have a strong identity — the Napa Valley, Vermont (it is a small state), Tuscany, the English Lakes District, and Provence. These distinctive places attract tourists willing to pay top dollar for merchandise and services because they trust



Tuscany, like other European regions including the English Lakes District and Provence, benefits from a strong, well-defined regional identity.

that a high quality environment will produce a high quality product. These places attract entrepreneurs and small businesses as well.

But the Catskills have never had a single, clear identity. The region means many things to many people. The resorts of the Borscht Belt.





Reservoirs in the Catskill watershed, pictured above, provide 90% of the drinking water consumed by 9 million New Yorkers.

The "mountains." The Catskill Park, defined by the "blue line" within which all State-owned land is part of the Forest Preserve and held as "forever wild." The New York City watershed, which provides 90% of the water for more than 9 million New Yorkers.

These diverse meanings do not relate to the same geographic area. The resort area was in Sullivan County, south of the areas encompassed by the other definitions. There are mountains outside the Park as well as inside. (When you look at a state map, the Adirondack Park makes sense geographically; the blue line around the Catskill Park

looks political.) The Forest Preserve is within the Catskill Park, but composes only about 40% of it. More than half of the Catskill watershed is outside the Park.

Formal recognition of the importance of the natural resources in the Catskills has traditionally come from outside. Leadership within the Catskills has been most effectively galvanized when trying to fend off or shape these efforts. For example, the Forest Preserve created by the State of New York is located in only two areas the Adirondacks and the Catskills. In the Adirondacks, the investment made by the People of the State of New York in acquiring and paying

taxes on Forest Preserve land was recognized by the creation of a regional agency that has land use authority for projects of regional importance. When something similar was proposed for the Catskills, it was opposed and stopped. Land use authority in the Catskills remains a matter of local control, with no entity to provide an overarching vision for the region.

Similarly, when the City of New York began to take steps to protect water quality within the watershed (to avoid a \$6 billion water filtration plant), local leaders rallied to force an approach that respected the needs for economic development in their communities as well.

HISTORICAL TIMELINE

1609:

Henry Hudson discovers the Catskills and claims the territory for the Netherlands.

1708:

Johannes Hardenbergh and others purchase 1.5 million acres in the Catskills from the Queen

1750:

Agriculture, mainly livestock and dairy, becomes common as roads move inland

1800:

Business of leather tanning takes hold. Hemlock forests decimated for tanbark and major fisheries wiped out due to streamside tanneries.

1807:

Robert Fulton launches era of steamboat travel in round trip to Albany, resulting in a rush to the Catskills.

1816:

Construction of Thomas Cole's house. It was here that Cole created his famous allegorical paintings and nurtured the career of his pupil, Frederic Edwin Church.

The traditional reliance on local control may reflect, in part, the geography of the Catskills. The communities are often separated by long stretches of forested hills that make working together difficult. This problem is compounded by the strong independence of character needed to make a living in a rugged area.

But the Catskills are no longer so isolated and the economic context has changed.

In the old economy, development in rural areas was based on resource extraction, often without regard for environmental impact. In the new economy, successful rural development is based on sustainable use of resources and quality of life.

Yet the opportunity this affords to a region like the Catskills can be lost if it is overrun by "gold style" development. The recent spurt in real estate values, coupled with pending proposals for casinos and hilltop resorts, suggests that the area is no longer regarded as being remote and development pressures will only continue to increase. The impact of these changes will transcend municipal boundaries and managing them will require a regional effort.

But perhaps the current forces of change provide a moment of opportunity for the Catskills: the time may be ripe for local leaders to define the region from within.

The Catskills and the Adirondacks are not typical American "parks," since they encompass communities as well as state-owned land. They are more typical of European parks, many of which benefit from welldeveloped identities and might be a source of ideas.

ABOUT THE WATERSHED

ore than nine million New York City residents consume approximately 1.2 billion gallons of water every day. Water is delivered to New York City's intricate distribution system — more than 6,000 miles of pipe by gravity, except for a small percent that is pumped. The two watersheds — the Catskills/Delaware, to the west of the Hudson River, and the Croton Watershed, to the east — cover 1,969 square miles.

There are 19 collecting reservoirs and 3 controlled lakes. Twelve of the reservoirs are located within the Croton system on the east side of the Hudson River. The Croton system provides approximately 10% of the total water consumed by New Yorkers. +



Construction of the New York City reservoir system began in the Croton watershed in 1837. Pictured here, the West Branch Reservoir in Putnam County.

1885:

On May 15, Governor Hill signs legislation requiring specially designated lands in the Catskills and Adirondacks to be "kept as wild forest lands."

1901:

First automobiles roll off the assembly line, resulting in more "daytrippers" and visitors to rivers like the Beaverkill.

1904:

On April 5, the Catskill Park is created by an act of the NY State Legislature.

1907:

The first reservoir in the Catskills, the Ashokan, is constructed.

1997:

City of New York signs landmark Watershed Memorandum of Understanding, a 1000-page document, that, most notably, allows the city to acquire land near the reservoirs and their feeder streams in lieu of ensuring water quality and safety through filtration.



European parks are designed to encourage economic development while protecting community character and environmental quality in the finest cultural landscapes. The French regional park approach might even suggest a way to address concerns about local control, while promoting a regional identity.

French regional parks are created when local leaders come together to gain recognition for a region they believe to be of national significance. They undertake a planning process to clarify their sense of the region's distinctiveness, their goals and how they intend to achieve them — usually using their local land use authority in complementary ways, educating residents and visitors alike about the region's distinctive qualities, and developing incentives for private action

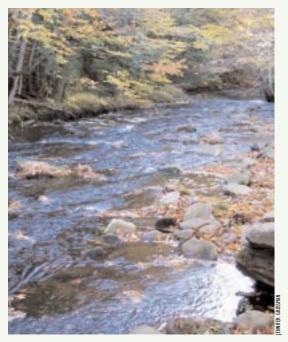
consistent with them. Designation as "park" generates tourism as well as project funding. At the end of the process, each community decides whether it wants to become part of the park. (Holdouts are allowed to reconsider and join later.) While this may result in "Swiss cheese" to start with, it allows the communities in the region to define the region, without forcing participation.

While we don't have a regional park structure with funding support, as the French do, it is clear that funding is more readily available from state and federal sources when initiatives are undertaken at the regional rather than local level. Some building blocks are already in place, such as the renaissance of the small towns in Sullivan County and the focused support for farmers in the watershed.

The Catskills are on the cusp of change. The question is whether that change will be determined by leadership within the Catskills or a diffuse set of economic and political forces from without.

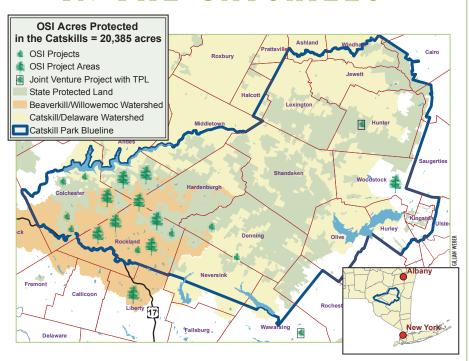
Can the leadership within the Catskills rally to this challenge?

Judith LaBelle is the President of Glynwood Center (www.glynwood.org), which helps communities integrate their natural resources, cultural heritage, and economic development potential to create a brighter future that is distinctively their own. Major elements of Glynwood's work include its Agricultural Initiative: Connecting Communities, Farmers and Food, and the international Countryside Exchange. Prior to becoming the founding President of Glynwood, Ms. LaBelle was a practicing attorney.



The Willowemoc, a tributary of the Beaverkill River. OSI is working with The Audubon Society and Trout Unlimited on a strategy to protect the most sensitive portions of the Beaverkill-Willowemoc watershed.

OSI'S PAST, PRESENT AND FUTURE IN THE CATSKILLS



ed by Chairman John Adams, the Open Space Institute has protected nearly 20,000 acres over three decades in the Catskills. In the 1970s, working with a group of dedicated conservationist including Larry Rockefeller, Adams spearheaded the protection of thousands of acres in the Basherkill Valley, gateway to the Catskills, and the Beaverkill Valley. OSI also purchased the 5,000-acre Onteora Scout Reservation and created the Beech Mountain Nature Preserve.

More recently, OSI and its partner the Trust for Public Land conveyed to the State of New York the 5,000-acre Lundy Estate, the largest addition to the Catskill Forest Preserve in more than 100 years. And, working with other partners, OSI protected the historic Van Norden property along the famed Willowemoc and saved hundreds of highly visible acres on the flanks of Overlook Mountain.

Looking forward, OSI has set a number of new goals in the region. With the help of the Catskills Organizing Committee, which consists of OSI, the Audubon Society and Trout Unlimited, we plan to protect thousands of acres in the Lower Beaverkill Valley. Working with the State, we hope to add 10,000 acres to the Catskills Forest Preserve. And, with New York City and Catskill landowners, we're committed to protecting working farms and forests in the watershed.

Let's Not "Crotonize" the Catskills

BY RICHARD COOMBE

orking landscapes will be critical to the future of the Catskills. We can protect farmland and forested landscapes by encouraging second-home buyers and developers to pool resources with farmers and foresters.

I would argue that the future of the region lies in the hands of second- home buyers and developers. And I would challenge them to think of the marketplace as a way to keep rural communities economically feasible. An affluent homebuyer can buy a 100-acre farm — an acquisition that is still possible today — and build on ten acres of it. The landowner could encumber the remaining acreage with a conservation easement, which not only restricts future development on the property, but also provides the landowner with a tax benefit. The landowner could then lease the property to a farmer or forester, again realizing the twin goals of a financial benefit and the best possible stewardship of the land.

excellent, unique and enterprising developments mentioned on the opposite page.

Will second-home buyers and developers see the light? It depends on whether they see the aesthetic, environmental and monetary value of voluntary measures. More than a decade ago, a group of farmers proved that voluntary efforts and partnerships could be a significant land-saving force. The Watershed Agricultural Council (WAC), which I helped found in 1993, created a farmer coalition to work with the City of New York and the Environmental Protection Agency to engage in a voluntary program to protect watershed lands.

Together we engaged in "Whole Farm Planning" that promoted agriculture as a preferred land use in the City's watershed. With guidance and support from Cornell University and the USDA NRCS, we embraced Best Management Practices and collectively achieved multiple

For the health of the landscape, continuing its use as a working farm or forest is the best possible outcome.

The use of conservation easements requires a third party. Developers can help fill this need by pooling resources and perhaps even contributing a set percentage of their gains to a revolving trust or local land group working to acquire conservation easements. I urge and challenge developers in the Catskills to consider the economic gain inherent in land protection. Before carving up large landscapes into tiny pieces, consider the fact that landowners pay taxes, but cows, as they say, don't go to school. Farms kept intact not only add to the beauty of the landscape, but also raise the land value of neighboring properties.

For the health of the landscape, continuing its use as a working farm or forest is the best possible outcome. This avoids fragmentation and allows for management practices that are beneficial for biodiversity, clean air, and clean water. Conversely, land that is fragmented into plots of less than 20 acres is very difficult to manage-even with the goals: production of food and fiber from farms; management of landscapes to achieve biodiversity; implementation of best management practices to limit pollution; and, the protection of open space, scenic beauty and wildlife habitat.

What happens if private landowners do not embrace voluntary measures. We will be in for the same fate as Westchester and Putnam Counties. The Town of Warwick in Orange County right now is waking up to the reality that many of its farms have been lost forever. A window has opened and closed; now, nothing can be done to reverse the fate of the farms that once graced the landscape. Westchester and Putnam Counties have been Crotonized: the growth of the Croton watershed took place with little or no planning and concern for natural resource protection, with sprawling subdivisions created around on-site septic systems. We can avoid these outcomes and we should do everything we can while the clock is still ticking.

Richard Coombe currently serves as Regional Assistant Chief of the Natural Resources Conservation Service (NRCS), administered by the U.S. Department of Agriculture. He was the founding Chair and CEO of the Watershed Agricultural Council, a watershed protection program and land trust established to protect forests and farmland in the Catskills. Prior to the NRCS, Mr. Coombe served 10 years in the NYS Assembly and 10 years as Professor of Economics at Sullivan County Community College. He owns a fourth generation family farm in the Catskills.

The Catskills: Not Necessarily the Hamptons

BY STEVE DUBROVSKY

don't envision a bleak future for the Catskills. It's easy to paint a grim picture: main streets clogged with cars, clear-cut landscapes, loss of character and tranquility. My first hand experience as a developer and designer of upper-end housing convinces me that the Catskills is attracting a homebuyer in search of peace and quiet. The common theme amongst those that have found their way up here from the city is that, when here, they want their high-octane lifestyles left behind. Seclusion is their antidote.

I have learned that development with the least impact on nature is good business. Offering large lots and taking an approach to building that works around what nature has provided is essential. It cannot be about changing the landscape to fit our needs. It has to be the other way around. An environmentally sensitive designer should find ways to work around mature trees, rock formations, existing grades and natural drainage. In short, the completed building should look like it was always a part of the existing landscape. This approach doesn't have to be more costly for the developer but it does take vision, thought, dedication and patience.

Restrictive covenants and architectural guidelines ensure that clean air, water and the natural beauty of the community will not be further disturbed by man or machine.

We prohibit the re-subdivision of properties into smaller parcels. This ensures the privacy and seclusion desired by homeowners, as well as maintaining the intended habitat for fish, birds and wildlife. No excavation or grading of the land is permitted beyond the home's footprint and a carefully placed driveway. All site work and improvements to the property must be approved by the grantor. There are no commercial uses permitted including the leasing of homes. Horses and cattle are permitted on large lots only with adequate existing grazing land. Homes must be constructed utilizing natural materials such as wood and stone.

Most purchasers of second homes have a previous connection to the Catskills. Cherished memories of the land and its captivating beauty are desperately sought after. These residents share my philosophy of development and value the need to protect land for posterity. And they are willing to pay a premium for that guarantee.

The economic benefits to the community are substantial. Weekenders shop at local stores and antique shops, art galleries and farmers' markets. They employ local craftsmen and service companies. They purchase everything from generators and firewood to gourmet catering from local businesses. Like every other resident, they pay property taxes; but they do not impact the services. They live along private roads that they maintain through a self-funded Homeowners Association and typically, their children do not attend local schools. In this scenario, you can have it both ways; one can protect the environment for the generations to come while building a new home.

The Hamptons is a reference point that frequently comes up in discussions about the future of the Catskills. People who come to the Catskills don't want endless traffic, restaurants where only the elite can get in, and the proliferation of the chic and trendy on every level of weekend life. My experience suggests to me that those of us who choose to live in the Catskills do not want to share the fate of the Hamptons.

With an approach that protects the land, everyone involved — the environmentalists, the developers, the homebuyers, and the local communities — can benefit and share in the beauty of the special world that is the Catskills.

The economic benefits to the community are substantial... Like every other resident, weekenders pay property taxes; but they do not impact the services.

Steve Dubrovsky is the Founder and President of the Woodstone Group, which has developed the Chapin Estate (www.chapinestate.com), a rustic residential community that stresses environmentally friendly development and self imposed mandates for preserving the natural surroundings. Mr. Dubrovsky has been designing homes in the Catskills for 25 years. His work has been showcased in the Robb Report Home Design Collection, Luxury Homes, Home Magazine, and Adirondack Style (Random House).

CHALLENGES OF AN **URBAN** WATERSHED: The Social Context

BY DAVE TOBIAS

SOCIAL ASPECTS OF WATERSHED PROTECTION

remendous resources are being expended by land trusts and government agencies to acquire and protect watershed land. Since watersheds generally cannot be replaced or relocated, the downstream community pursuing protection programs is in a forced marriage of sorts with the watershed community. Despite heavy investments in program development, social and political conflicts with local communities can trump the final success of a land acquisition initiative.



An organization may feel that its acquisitions will (or should) be welcomed openly in a given watershed community, but there is often upstream resentment when downstream comes calling. An understanding of the social context is critical to the final outcome.

CRAFTING THE DEAL

A typical land acquisition project involves either a landowner's entire property, a portion of the holding, or a conservation easement. Each alternative will have different implications to both buyer and seller. Conflicts can arise due to insufficient communication and misunderstandings. Some examples of potential conflicts:

- In recent years, the presence of deer has become a serious problem for landowners. Hunting is often a preferred management tool — by the organizational owner, but perhaps not the original owner. This can become an immediate flashpoint.
- Lack of road frontage or moderate slopes may prevent practical or costeffective vehicular access to the land being acquired. This may mean that a deeded right-of-way over an existing driveway may be needed, which could impact the owner's enjoyment of the retained land. The owner might easily accept the idea of infrequent administrative access over their driveway to benefit the organization, but almost certainly the idea of public access over such a driveway would be problematic.
- There may also be retained spring rights on the property being acquired, or tight parking conditions along the public road. Concerns by the owner (and other neighbors) about



Watershed Map Courtesy of the New York State Department of Environmental Protection (DEP)

vandalism or damage by 'outsiders' who might use the area for access can result in soured relationships.

To avoid potential conflicts over future uses with those who convey the land — or with local neighborhoods — it is in the organization's interest to try to understand or forecast community interests, management needs, and public access plans at the earliest possible stage. Sometimes this analysis can take place before initial negotiations; in other situations it might be reasonable to address it as late as during the purchase contract — after that, difficulties are much more likely to arise.

RESOURCE MANAGEMENT

Communities range greatly in their expectations of how indigenous natural resources such as timber, minerals or agricultural products should be managed. With forestry as an example, there are many towns

that prohibit almost all tree-cutting outright, or that employ strict treecutting ordinances. However, in rural communities where the local economy may be based on resource extraction, the opposite is often true and every effort is made to ensure that properties are in fact kept available for resource extraction.

This underscores the need for a thorough understanding of local economic factors — as well as zoning - prior to purchasing property, and a plan for integrating resource management plans with local economies. One possible solution is to bid out harvests to local companies while requiring maximum use of bestmanagement-practices (BMPs). If the site is then used to educate other landowners, the organization can contribute to the local economy while also expanding the influence of BMPs.

(continued on page 18)

The NEW JERSEY HIGHLAND

A Decade Long Effort at the State and Federal Levels Comes to Fruition

BY MICHAEL CATANIA

he Highlands, a two million acre mountainous region stretching from western Connecticut to eastern Pennsylvania, has long been eclipsed by better-known ecosystems elsewhere in the country. Think of Yellowstone, the Everglades, or even the Northern Forest. But, at least in the New Jersey Highlands, that seems about to change.

Recognizing the national significance of the New York-New Jersey section of the Highlands and threats resulting from development and rapid population growth, the U.S. Forest Service initiated a comprehensive study of the region more than a decade ago. That provided the impetus for efforts in both states to identify and protect critical landscapes, including Sterling Forest in New York. In 2002, the Forest Service updated its report amidst rising population and growing development in the region, which provides drinking water to close to half of New Jersey's 8.4 million residents and significant recreational opportunities for thousands of people.



Sterling Forest, in the heart of the Hudson Highlands, is just 35 miles from Midtown Manhattan.

On August 10, 2004, Governor James McGreevey signed the "Highlands Water Protection and Planning Act," culminating a decade-long effort to protect the region. And for the second time in the last quarter century, New Jersey has established a regional land use mechanism to protect an area of special ecological significance.

Patterned in many respects after the landmark 1979 "Pinelands Protection Act," the new Highlands legislation would create a Highlands Regional Water Protection and Planning Council to prepare and adopt a Regional Master Plan for the Highlands. As defined in this new law, the 800,000-acre NJ Highlands will be divided into a "Preservation Area" and a "Planning Area." While local governments in the Preservation Area will be required to bring their plans and ordinances into conformance with new regional guidelines, governments in the Planning Area will be encouraged (with financial incentives)

but not required to do the same. Some observers are worried that this compromise will hamper truly effective regional planning, and fear that this approach will simply shift development to the Planning Area and areas outside the Highlands.

The legislation does include stringent new limitations on development and calls for strict new Department of Environmental Protection (DEP) oversight of pending



View of Sterling Forest from atop an old firetower near Greenwood Lake.

developments in the Preservation area. However, a number of activities ranging from mining and agriculture to certain single-family home construction - are exempted, and developments with local and state approvals prior to the effective date of the Act are also explicitly grandfathered. Further, the new Highlands Regional Master Plan, unlike the Pinelands plan, would not designate regional growth centers where development must be accepted by local governments, instead putting the onus on voluntary efforts.

While preparing to sign this far-reaching Highlands legislation, Governor McGreevey triggered a wave of anger and disappointment in the environmental community by first signing a hastily-passed bill to expedite development. The so-called "Fast-Track" legislation would facilitate the approval process in some areas where development would be encouraged and creates a "Smart Growth Ombudsman" who is empowered to override permit denials by other agencies, including DEP.

Supporters of the Highlands measure have voiced concern that this quid pro quo for passage might negate many of the positive effects of the landmark Highlands law by facilitating illconceived development projects. Litigation to challenge the "Fast Track" law is a virtual certainty. At press time, McGreevey signed an executive order effectively delaying the implementation of this bill and opening up a 90-day public comment period, set to begin on November 8. The State agencies will then weigh in and a second public comment period will take place.

Also, on a promising note, the Governor has announced a series of excellent appointments to the Highlands Council, including the nomination of John Weingart, a respected and experienced land use regulatory professional, to be the Chairman of the new Council.

With respect to the broader Highlands region, the multi-state Highlands Coalition (www.highlandscoalition.org), which played a critical role in the passage of the Highlands law, is working hard to increase further both visibility and funding for the region. "This year will go down in history as a turning point in the more than decade-long struggle to protect the Highlands," said Tom Gilbert, Executive Director of the Highlands Coalition, which includes over 100 groups working to protect the region.

In October, the U.S. Senate unanimously approved the Highlands Conservation Act (H.R. 1964), which would authorize \$110 million in federal matching funds over 10 years to assist the states of CT, NJ, NY and PA to protect critical natural areas designated by the U.S. Forest Service. As OPEN SPACE was going to press, the House of Representatives passed the same bill. We expect the bill to go to the President for his signature before the end of the year, moving the Highlands one step closer to achieving recognition as a conservation region of national significance.

Michael Catania is the President of the non-profit Conservation Resources Inc. (www.conservationresourcesinc.org) and the Chairman of the Coalition for Conservation. Conservation Resources Inc. administers the Open Space Institute's New Jersey Conservation Loan Fund, which makes loans to regional and local conservation organizations working to protect open space in select areas in New Jersey.

2004 ELECTION:

Red, Blue...and Green

CONSENSUS FOR CONSERVATION

n November 2, the American public voiced widespread support for land conservation and the protection of open space. That voters could find common ground on election day — given the hotly contested 2004 presidential race — was hailed as a welcome surprise and good omen in the conservation community.

In over 100 communities across 25 states, voters approved funding measures for conservation by wide margins, electing to assume higher taxes. "Voter reaction to the pressures of uncontrolled growth and sprawl is bipartisan," said Ernest Cook of the Trust for Public Land, a national conservation organization that works with local communities to identify new public funding methods for open space protection.

According to the Trust for Public Land, 111 out of 147 measures passed on election day. Overall, \$2.4 billion in new public funding was passed in November to protect natural resources, create parks, and conserve landscapes. The results confirm pre-election polling by the Open Space Institute, the Trust for Public Land, and other groups (see next page).

16 OPEN SPACE VOL. 3 FALL 2004

HIGHLIGHTS:

- States with the most measures for open space funding are those that offer matching funds to local governments: Florida, Massachusetts, Michigan and New Jersey.
- With more than 40 measures passed in 2004, New Jersey leads the pack, according to the Trust for Public Land.
- According to TPL, in terms of dedicated open space funds, New York State lags behind other counties nationwide. Some, but not many, counties in New York have dedicated funds, including Westchester, Rockland, and Dutchess.
- On Long Island, New York, voters passed \$255 million for open space measures, including a \$50 million bond act in Nassau County and a \$75 million measure in Suffolk County. Also on Long Island, voters passed a \$100 million Clean Water Open Space Bond Act in Brookhaven.
- In Rhode Island, a \$70 million statewide measure was passed. And, in Barnstable, Massachusetts, a \$44 million measure passed.

groups (see next page).

Brook trout watercolor band painted by James Prosek. See related book review on page 19.

In 2005, the Trust for Public Land will publish the complete results of the 2004 election. Log on to TPL at www.tpl.org or go to www.landvote.org for TPL's comprehensive database.

Studies Reveal Attitudes Toward Open Space

TWO RECENT OPINION POLLS commissioned by a coalition of groups, including the Open Space Institute and its Joint Venture partner, the Trust for Public, indicate that the public values open space and is willing to pay the price for land saving efforts. Seventy-four percent of respondents in Orange County - New York's fastest growing county - said they'd be willing to approve a \$50 million bond referendum. In Putnam County, 58% of respondents said they'd vote for a \$20 million bond to protect open space. The coalition is polling in several counties where sprawl threatens undeveloped landscapes.

Further north, in the Capital District counties of Albany, Schenectady, Saratoga and Rensselaer, an urban sprawl survey by Siena College revealed that more than 80% of those polled favored using local and state tax dollars to protect farmland, parks, and wildlife areas. When asked if they had walked or biked to work, a store, a school, or someplace else, only 43% responded yes. An overwhelming majority, close to 80%, said they favored the creation of more communities where people can safely walk.

Stay tuned for the results of a comprehensive, yearlong study of sprawl in the Capital District by the Open Space Institute and the Center

for Policy Research at the State University of New York at Albany. The study, "Open Space for Tomorrow," will be available online at

www.osiny.org.

Conservation Easements and the Congressional Inquiry

THE LAND TRUST ALLIANCE (LTA) reports that, despite efforts led by Senator Max Baucus, it is unlikely that Congress will pass legislation in 2004 to address perceived abuses associated with conservation easements. However, Senate Finance Committee Chair Charles Grassley (R-IA) pledged in a recent press release to continue in 2005 to work towards reforms. The International Revenue Service is also honing in on ways to prevent abuses in the charitable sector.

In the meantime, the newly enacted American Jobs Creation Act of 2004, signed by President Bush in late October, includes new provisions that limit deductions on donations of automobiles, intellectual property and other noncash gifts to charitable causes. The new Tax Bill does not impose new rules related to the donation of conservation easements.

As reported in OPEN SPACE, vol.II, conservation easements — widely used by land trusts as a land saving tool — have been scrutinized in the media and at the congressional level. The spotlight on easements grew bright when the Washington Post ran a series of articles detailing alleged abuses by donors of conservation easements as well as charities accepting conservation easements.

The Nonprofit Coordinating Committee of New York, an umbrella group that represents and supports non-profit organizations in the New York Metropolitan area, has posted a draft of the Senate Finance Committee's white paper with helpful analysis.

On its web site (www.npccny.org), NPCC recommends that land trusts keep in mind the Hippocratic oath taken by doctors: "Do Not Harm."

The LTA, which represents more than 1,300 land trusts in the United States, will soon publish a newly revised conservation easement handbook. Log on to www.lta.org for continuing updates.

Hudson Valley Agriculture Conference

THE ANNUAL ALL DAY CONFERENCE devoted to the future of farming in the Hudson Valley is scheduled for January 13 (snow date: January 14) at Marist College in Poughkeepsie, N.Y. The Hudson River Valley is one of the most threatened agricultural regions in the country, according to the American Farmland Trust.

New Paltz Joins Green Assets

CONCERNED ABOUT INCREASING development pressure on the Shawangunk Ridge, the Town of New Paltz has joined the "Green Assets" program, spearheaded by the Shawangunk Ridge Biodiversity Partnership. The program uses an inventory of sensitive habitats and high-tech maps that municipal planners can access in order to coordinate efforts and help preserve the Ridge. Log on to: www.townofnewpaltz.org.

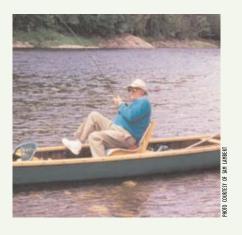
PUBLIC ACCESS

Whether the principal mission of an organization is protection of water quality or scenic views, there is often pressure by local towns for public access to fee simple acquisitions. Such access may include passive activities such as hiking, hunting and snowshoeing, or more intensive uses such

as camping, snowmobiling, or mountain biking. The attitudes of local residents about such uses vary and it is wise to gauge preference early on. Parking - often taken for granted — can raise local concerns about an array of outcomes such as increases in traffic, burglary, vandalism and crowds due to increased use by the public.

OSI ANNOUNCES ANNUAL CONSERVATION AWARD

Nis fall the Open Nis fall the Open Space Institute is honoring Samuel W. Lambert, III with its 2004 Land Conservation Award. As past President of the New Jersey Conservation Foundation, Sam has made a remarkable impact protecting the Garden State's open spaces and watersheds. During his tenure, NJCF protected more than 15,000



acres in New Jersey. Most notably, Sam led NJCF through the acquisition of the 10,000-acre Franklin Parker Preserve in the Pine Barrens. And, NJCF has played a critical role advocating recent legislation protecting 800,000 acres in the New York-New Jersey Highlands.

Sam is a retired partner of Drinker Biddle & Reath, LLP, and is a Trustee of several charitable foundations including The Windham Foundation, The Curtis W. McGraw Foundation, and the Winslow Foundation. Sam and his fiancé Casey Hegener are residents of Princeton and the Beaverkill Valley in the Catskills. Sam attributes the origins of his interest in the environment to growing up on a family farm in Lawrenceville, NJ. As well, he happily confesses to having a serious fly-fishing addiction, which began when he was a boy of just five years old.

Sam foresees a continuing involvement with protecting land and water resources in New Jersey. "There is an enormous amount of work to be done in this large, complicated area, and I suspect I could spend the rest of my life working on it," he comments.

PROPERTY TAXES

A number of studies have shown that the cost to local municipalities of servicing vacant land is significantly lower than the cost of servicing residential property. Yet despite the evidence, towns and taxpayers generally treat zoning and approval thresholds as if this were not the case, an approach coined as the 'ratings fallacy'. There is probably a missed opportunity for better public outreach on this front. The current economic climate presents an added incentive for organizations to debate the 'ratings fallacy' and explain the ways in which open space subsidizes the tax base. Beyond that, it is important for the organization to take time to address the expected benefits of the acquisition with local constituencies, regardless of whether the group intends to pay taxes or seek exemption.

CONCLUSION

Organizations involved in acquiring land or easements for watershed protection face many challenges, not the least of which are program development, staffing, fund raising, and stewardship. However, a lessrecognized but critical aspect of success is often not considered: he social context of our work. The wide range of land acquisition and management issues that affect the lives of local residents, neighborhoods, and towns should be addressed as early as possible if "success" is part of the organization's mission.

Dave Tobias has been Director of the Land Acquisition Program for the New York City Department of Environmental Protection since 1996, during which time the City has secured over 50,000 acres throughout its watershed. Prior to that he was Assistant Director of The Nature Conservancy's Eastern NY Chapter. He can be reached at dtobias@dep.nyc.gov.

RECOMMENDED



READING

TROUT

(Alfred A. Knopf)
By James Prosek

James Prosek's book about North American trout combines thoughtful and at times personal accounts along with lively water-color illustrations painted by the author. Prosek presents a vivid gallery of living creatures. "I hope my celebration of the trout causes others to feel the same way." Prosek's admiration and enthusiasm are hard to resist.

LIQUID ASSETS: The History of New York City's Water System

(Purple Mountain Press)

By Diane Golusha

Diane Golusha unravels the intriguing human history and engineering miracles behind the system that delivers more than 1 billion gallons of water to New York City every day. The impact on entire villages — some were completely obliterated to make way for reservoirs — and on lives that were forever altered is fascinating human history. So many lives, as Golusha writes, were "inextricably and forever linked by a substance that is taken for granted more often than not."

THE BEAVERKILL

(Lyons Press)

By Ed Van Put

Read this book and you will come to know the "aristocrat" of fish in the Beaverkill. Also known as "speckled beauty," the native brook trout is in a class by itself, according to Ed Van Put, a retired fisheries professional with the New York State Department of Environmental Conservation. Van Put recalls a bygone era and an angling tradition before the introduction of other fish species.

60 HIKES WITHIN 60 MILES

(Menasha Ridge Press)

By Christopher and Catherine Brooks

This book provides practical guidance for would be hikers looking to escape New York City. The authors, a husband and wife team, actually hiked all these trails before putting pen to paper. And their hard work paid off: each hike contains a locator map, directions to the trail, trail map, trail description, and useful at-a-glance information about scenery, traffic on the trail, exposure, and nearby facilities.

Beaverkill Beaverkill Beaverkill Liquid Assets A History of New York City's Water System Diene Gelusha

URBAN SPRAWL AND PUBLIC HEALTH: Designing, Planning and Building For Healthy Communities

(Island Press)

By Howard Frumkin, Lawrence Frank, & Richard Jackson

A fascinating and thought provoking exploration of the health impacts of suburban sprawl by three leaders in the field of urban planning and public health. As these experts point out, poorly designed communities take both a psychological and physical toll. The authors' discussion of the link between childhood development and exploration of the outdoors is an eye opener for any parent.

Support OSI's Work To Protect Imperiled Landscapes!

I have eliciosed my tax-ded	idecible collectibution	i illaue payable to	the open space misticu	Le.
\$50 \$100	\$250	\$1000	Other	
O My company's matching gif	t form is enclosed.			
I would like to receive OPL	EN SPACE.			
Please add me to OSI's: electronic mailing list, or mailing list.				
NAME				_
ADDRESS				
CITY		STATE	ZIP	
EMAIL		PHONE		

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 report may be obtained by contacting us at 212-629-3981.



1350 Broadway, Room 201 (between 35th & 36th Streets) New York, N.Y. 10018-7799 Phone: 212.629.3981 Fax: 212.244.3441

www.osiny.org

NON-PROFIT ORG U.S.POSTAGE PAID Newburgh, N.Y. Permit No. 415

