Protecting Public Values on Private Lands in the State of Maine, USA

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Abstract—The State of Maine in the US is 94% privately owned, and is the most forested state in the country. Fifteen years ago, Maine ranked last among US eastern states in its percentage of land under conservation; today it ranks near the top. The Nature Conservancy and its many partners have achieved this extraordinary turn-around through a combination of bold acquisitions and strategic innovations. This paper will explain The Nature Conservancy's pioneering strategies for the protection and restoration of large, privately owned forested landscapes; strategies that are applicable in many other private land settings. In Maine these strategies have included using silviculture as both a conservation and financing strategy, tax-free exchanges with other landowners, development by design, conservation easements, and even making low interest loans to paper companies in exchange for conservation restrictions.

Introduction

The mission of The Nature Conservancy, one of the world's leading conservation organizations, is to conserve the lands and waters on which all life depends. The Nature Conservancy has been working to conserve important lands and waters since 1951. Over the years, our mission has grown from protecting small (<50 ha) rare plant sites, to encompass the conservation of landscapes of lands and waters around the world. This paper will describe examples of how we have worked with private landowners in Maine to protect large areas of wild lands – both reserves and working forests – that may prove useful in your work with private landowners around the world.

The State of Maine is predominantly privately owned – 94% of our lands are private – with only 6% in combined federal, state and local government ownership. Maine is the most forested state in the United States (90%) with a long history of forest exploitation (Figure 1). In the 1860s Maine was the center of lumbering in the United States. The forest economy remains important today, both for traditional forest products and for recreation and tourism.

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In: Watson, Alan; Carver, Stephen; Krenova, Zdenka; McBride, Brooke, comps. 2015. Science and stewardship to protect and sustain wilderness values: Tenth World Wilderness Congress symposium; 2013, 4-10 October; Salamanca, Spain. Proceedings RMRS-P-74. Fort Collins, CO: U.S. Department of Agriculture, Forest Service, Rocky Mountain Research Station. 208 p.

To achieve our mission in Maine, we need to work with private landowners. Fortunately the history of human settlement and ownership in Maine has resulted in more than half of the private lands (>67%) being held in large ownerships (>40,000 ha). Much of this private ownership, and much of Maine, is without significant human settlement. One half of the state (4 million ha) has no organized town government and very few people, and is known as the Unorganized Territory (UT). Land use in this area is overseen by a state agency (Figure 2). This pattern results from the disposition of the public domain by the state in the early 1800s. Lands were sold off in blocks of townships to investors to pay off state debt, and to encourage settlement of the frontier. The investors were interested in the economic value of their timberlands, and discouraged settlement as they thought it would lead to higher taxes. In addition, the soils in the UT were generally not suitable for agriculture, limiting settlement.

Prior to the late 1990s, The Nature Conservancy in the United States had a 40-year history of conservation success – at the time we were protecting lands at the rate of roughly 400 hectares per day across the United States. In the late 1990s we completed a series of ecoregional conservation plans, looking at large landscapes with similar climate, geology and vegetative cover. In the Northern Appalachians/Acadian Ecoregion, including Maine (Figure 3) there remain large areas of intact forest cover, largely representative of the species present in the original pre-settlement landscape.

Figure 1—Maine's forests fueled its economy in the 1800's.

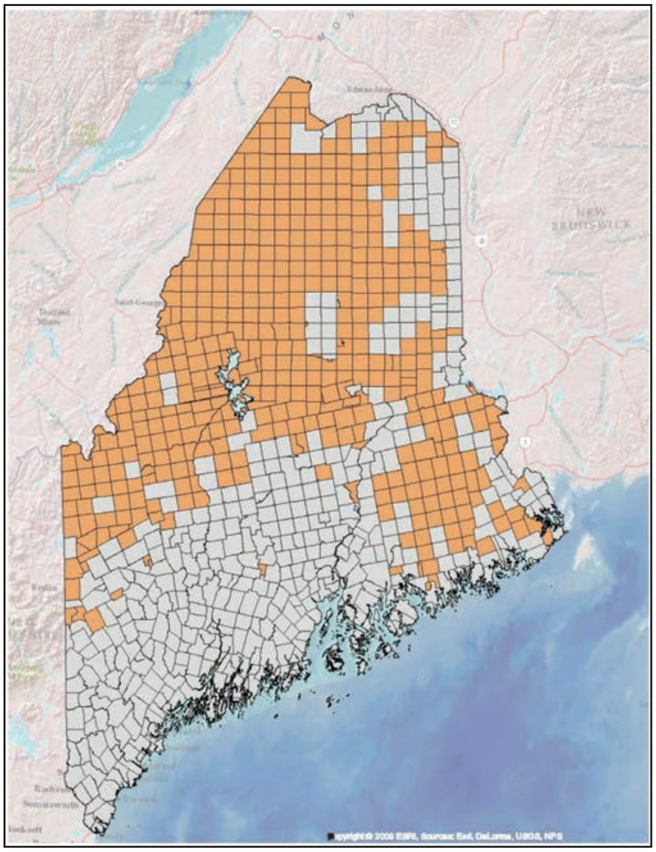

Figure 2—Maine's Unorganized Territory

In completing our analysis of the Northern Appalachians we soon came to realize that at the rate we were conserving lands, we would not be successful in accomplishing our mission to maintain functioning natural systems to support wildlife and human needs in perpetuity. We needed to work at a larger scale. Starting in 1998, Maine became the stage for a series of significant private land conservation transactions that changed the scale of conservation action, and served as a model for our work in the United States and around the world (Clark and Howell 2007). Between 1997 and 2012, the amount of permanently conserved land in Maine increased from 6% to 20% through the work of TNC and our partners.

Three case studies are presented here – one large-scale private land acquisition; one private industrial debt for nature swap; and a large scale conservation planning and development plan sanctioned by the state land use regulatory agency in the Unorganized Territory (Figure 2). In each of these projects we achieved large-scale conservation, while learning new ways to work with private landowners.

The St. John River – Conserving Timberland At The Wholesale Level

The Nature Conservancy had long been interested in the upper St. John River, a remote free-flowing river that harbors a number of rare plant species and the endangered Canada lynx (*Lynx canadensis*), (Figure 4). In the 1990s traditional forest products companies began selling off their

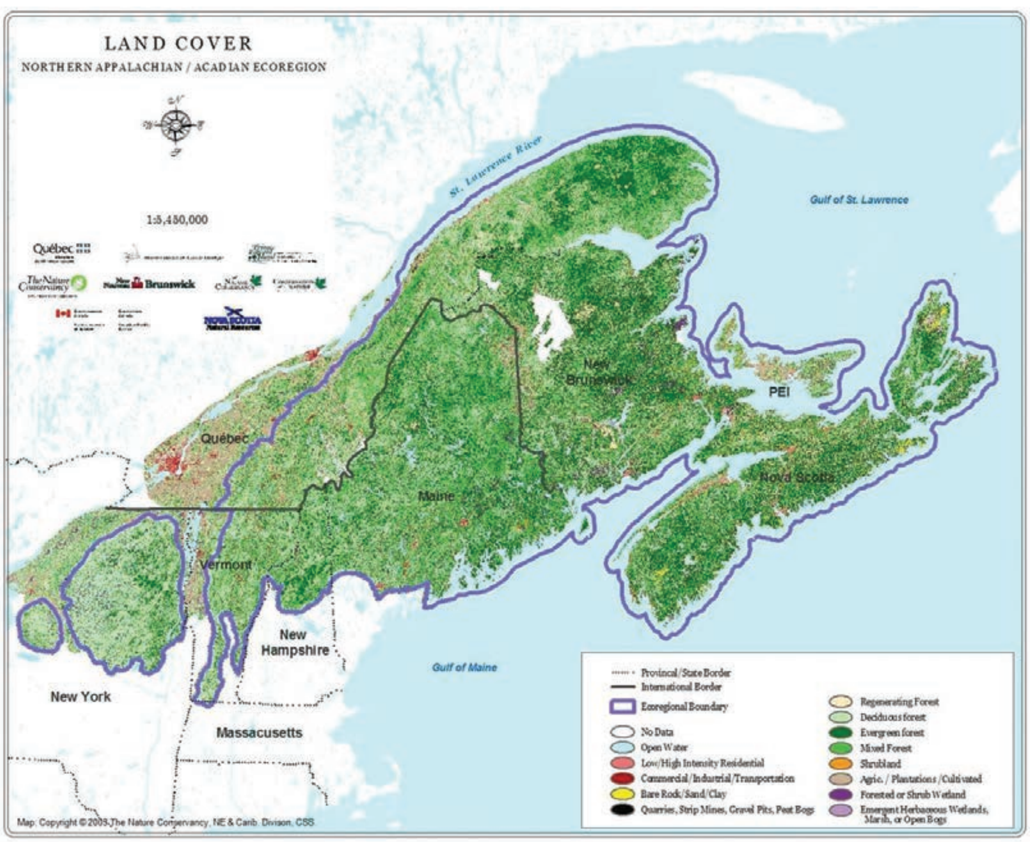

Figure 3—The Northern Appalachians/Acadian Ecoregion – Land Cover

Figure 4—Canada lynx (*Lynx canadensis*)

timberlands due to pressure from Wall Street to redeploy their capital in manufacturing infrastructure. In trying to increase our impact we started talking to some managers of the private forestland investor owners who replaced the industrial owners. In the summer of 1998 we entered into a partnership with a Timber Investment Management Organization (TIMO) to cooperate in submitting a bid for 75,000 hectares of timberland for sale along the upper St. John River (Figure 5). The Conservancy would acquire a 650 meter wide corridor along 65 kilometers of the river for $3 million (US) to protect natural and recreational values. The TIMO's investors would purchase the remaining 70,000 hectares to manage as productive timberland.

When the bids were opened, our combined bid had lost – with two others ahead of us. Then things started to get interesting. A few weeks later State Director Kent Wommack received a call from our TIMO partner, with a combination of good and bad news. The good news? – The first two bidders had dropped out of the running for different reasons. The bad news? – The investor lined up by the TIMO to purchase the managed timberlands had already moved on and invested in another timberland acquisition and was no longer available to participate. The Nature Conservancy could still buy the land, but we needed $35.1 million dollars to complete the deal – 10 times our initial investment.

Figure 5—St. John River

In summary, Kent was able to line up pledges from key supporters over the next four weeks, we borrowed $35 million from The Conservancy's Land Preservation Fund, and we closed on the St. John lands six weeks later, in late December 1998 – at that point the largest conservation transaction ever undertaken by The Nature Conservancy anywhere in the world. To date 25,000 hectares has been set aside as ecological reserve (wilderness), with the remaining 50,000 hectares managed sustainably for wildlife and forest products (Figure 6).

Lessons From The St. John River Project

1. Don't be afraid to be bold – take advantage of unexpected opportunities.
2. Buy at the wholesale scale – timberlands are much less expensive per acre when bought in bulk.
3. Planning from the beginning to retain a significant portion of the land as sustainably managed timberlands helped mitigate the fundraising risk and provided the Conservancy with a "green" endowment, as well as working forest lands that could be traded for other, higher value, conservation lands within the watershed. At the same time we learned a lot about the potential for and limitations of managing timberlands for a combination of wildlife and timber values.
4. The power of a compelling vision in raising private contributions – the scope of the St. John Project captured the imagination of donors, many of which had not invested in conservation previously.

The Katahdin Forest—A Private Debt-For-Nature Swap

Three years after the initial St. John deal, we made another step in creative financing with the Katahdin Forest Project. Great Northern Paper was once the largest landowner and one of the largest employers in Maine, with its 800,000 hectares of forest land and two large pulp and paper mills. But at the end of the 20th century it suffered under global forces of competition and a succession of corporate owners who sold much of the land to cover debt, leaving a core ownership of about 120,000 hectares (Figure 7). By the spring of 2002 Great Northern was struggling to survive under the leadership of a Quebec entrepreneur. His vision was to rebuild one of the paper machines to produce a more profitable line of paper as the key to reviving the Millinocket mill. He borrowed $50 (US) million from Hancock Insurance Company to invest in the mill.

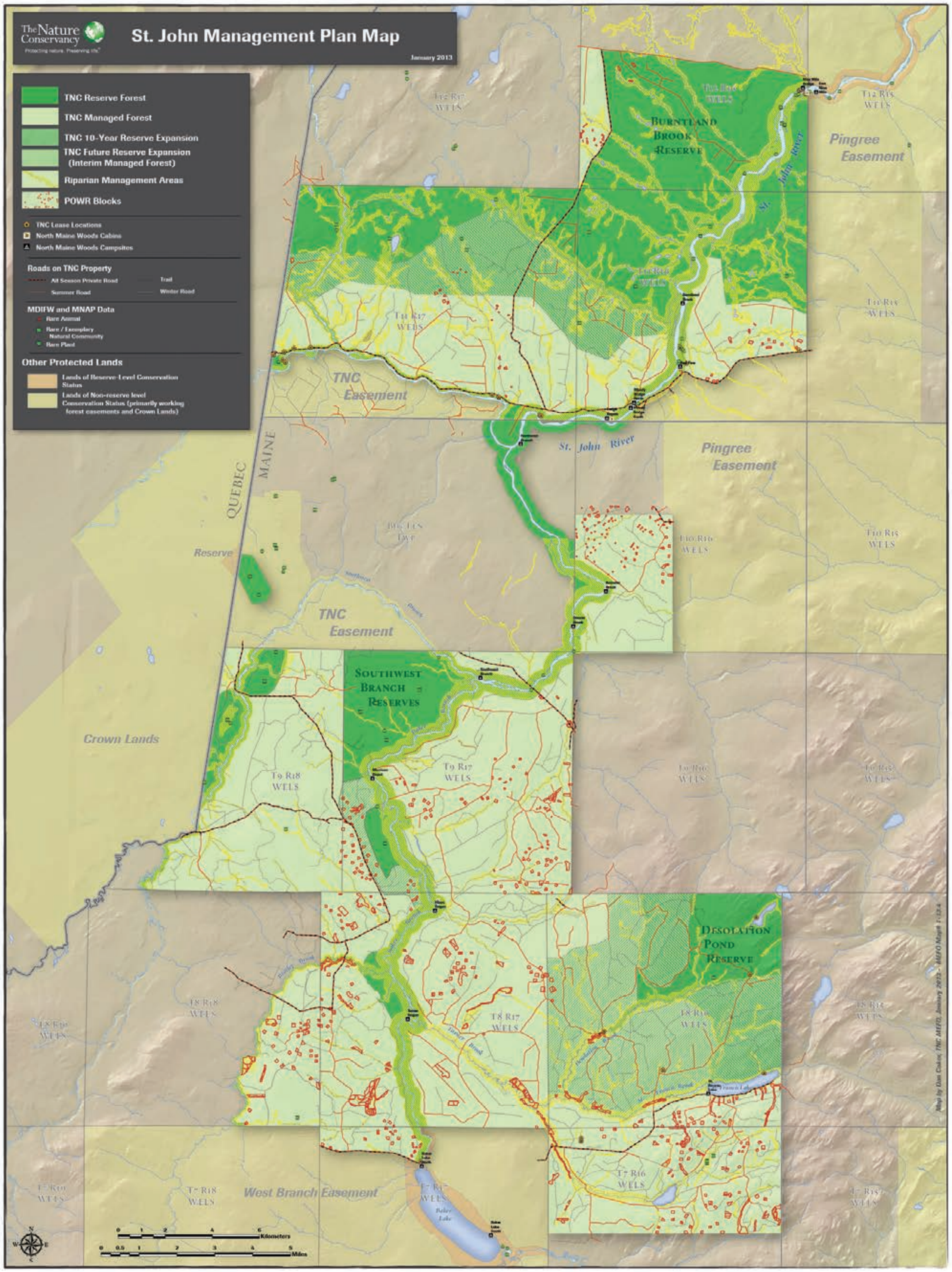

Figure 6—St. John Project

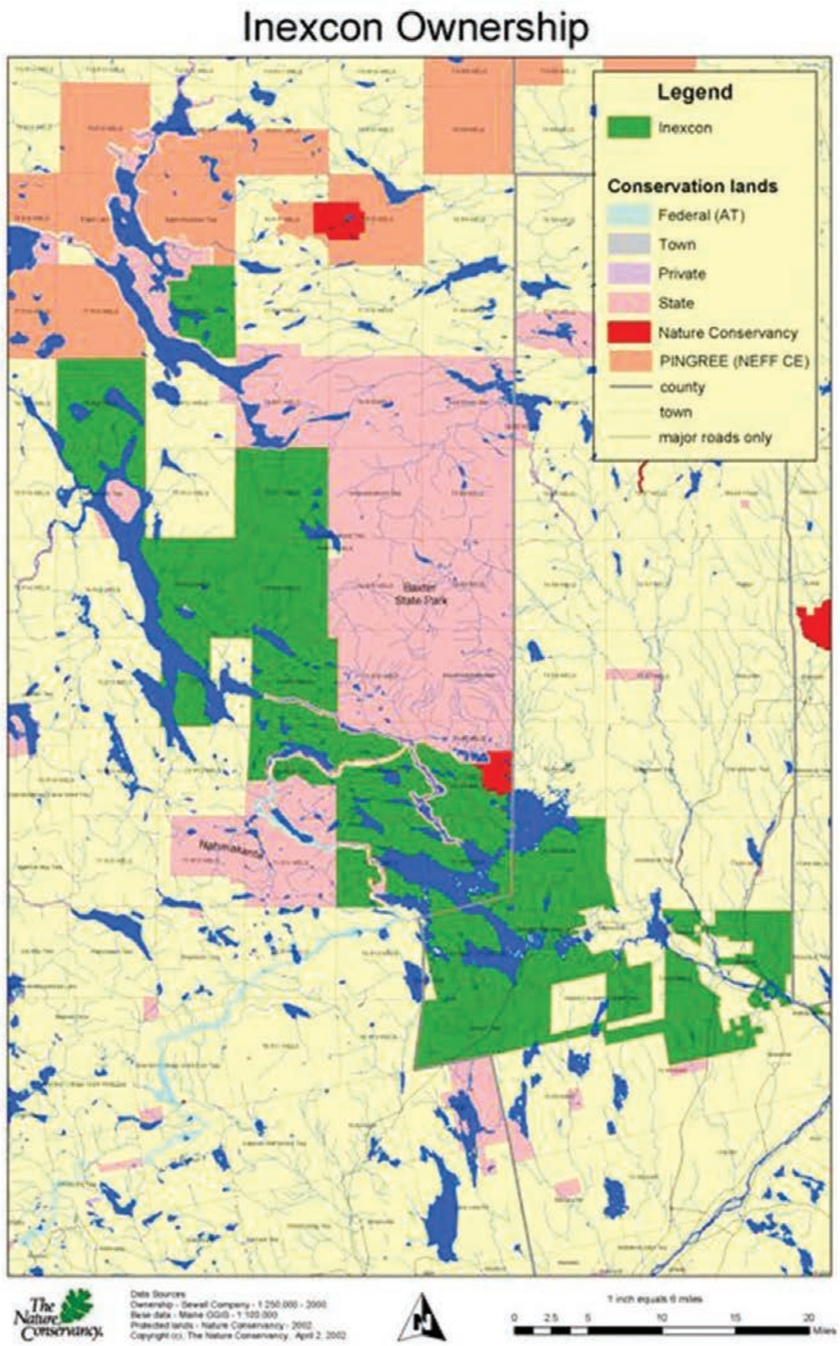

Figure 7—Great Northern Paper (Inexcon) Land Ownership.

Great Northern owned the Debsconeag Lakes area (Figure 8), which had long been on the conservation priority list for the State of Maine and many conservation NGOs. Sensing an opportunity to conserve this area, Kent Wommack, Bill Ginn and Tom Rumpf met with the principles of Great Northern in the spring of 2002. When the chief financial officer found out that he had worked at Mead Paper Company with Kent's father, we were able to establish a connection. The President, Lambert Bedard, relaxed and explained that though the company would benefit from the cash flow generated from selling some timberland, the land was tied up as collateral in the note with Hancock Insurance Co.

Never one to be shy about pursuing an opportunity, and having recently learned of a new federal tax credit program that might be able to assist us, Bill Ginn offered that we might be in a position to acquire the note from Hancock. We provided a $4 million short-term loan to help the mill with it cash flow problems, and using contacts through our board president, Hank Paulson, CEO of Goldman Sachs at the time, Bill was able to successfully negotiate with Hancock. We acquired the note, forgave $18 million of it in return for acquiring 20,000 hectares to create the Debsconeag Wilderness Preserve, and refinanced the remainder, working with

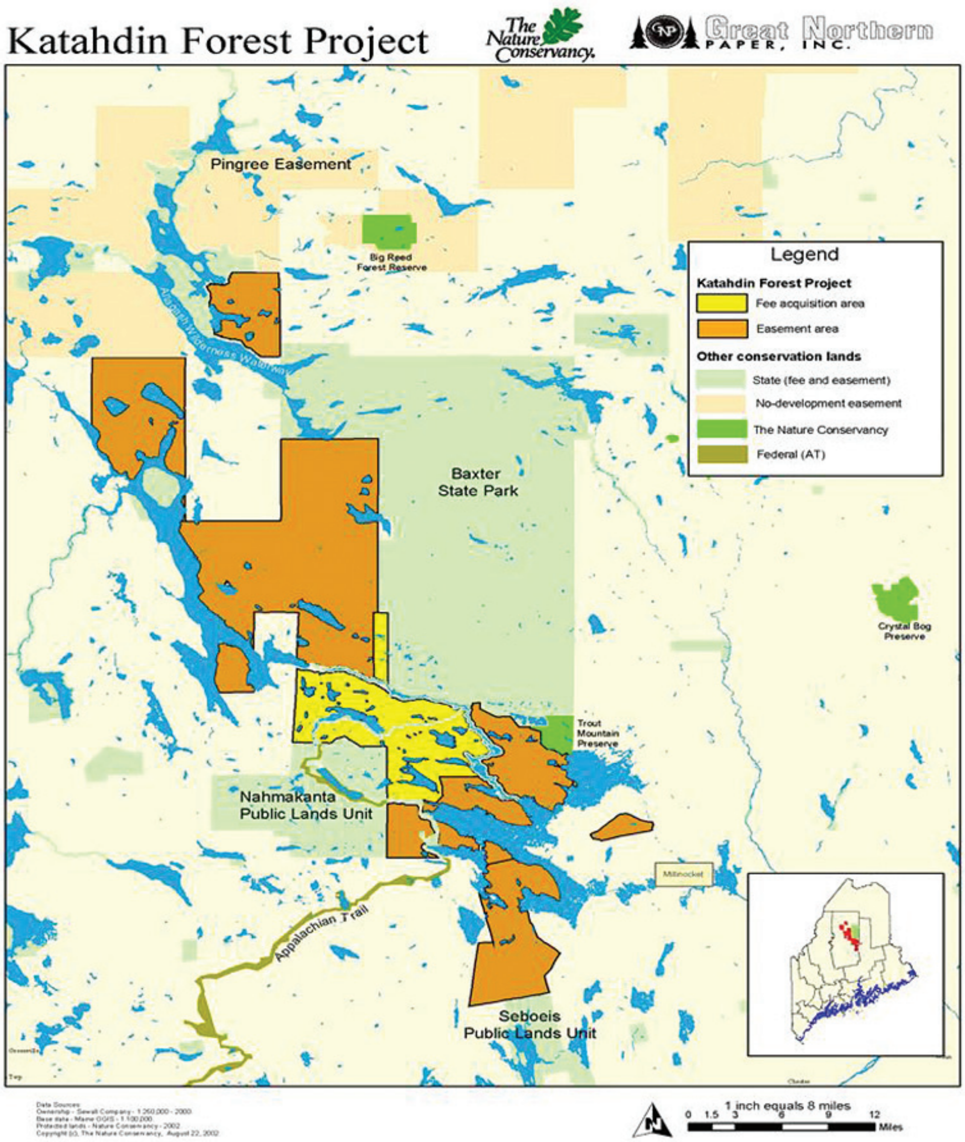

Figure 8—Katahdin Forest Project

Coastal Enterprises, Inc., a community development organization and conduit for the New Markets Tax Credit Program of the US Treasury, improving Great Northern's cash flow by $3 million a year. In return we acquired a no-development conservation restriction on 80,000 hectares of sustainably managed working timberlands surrounding the Debsconeags for a total conservation package of nearly 100,000 hectares (Figure 9). We sold the conservation easement to the State of Maine, and raised an additional $12 million over the next 18 months to complete the transaction (Ginn 2005).

Lessons From The Katahdin Forest Project

1. Think creatively to work around obstacles.
2. Working with non-traditional partners can create opportunities.
3. Connections to the business community can open the door for conservation.

The Moosehead Conservation Framework – Combining the Strength of Government Regulations and Private Investment

The final case study involves a complicated interaction between the largest private forest landowner in the US – Plum Creek Timberlands, a state regulatory agency that oversees land use in Maine's four million hectares of Unorganized Territory (UT), and The Nature Conservancy in partnership with two other conservation NGOs.

Plum Creek moved into Maine in the late 1990s, when they acquired 360,000 hectares of productive forestland from South Africa Pulp and Paper. By 2005 they were looking for ways to diversify their return from the timberlands, and proposed a large planned development and conservation package for the 160,000 acres (64,777 ha) they owned

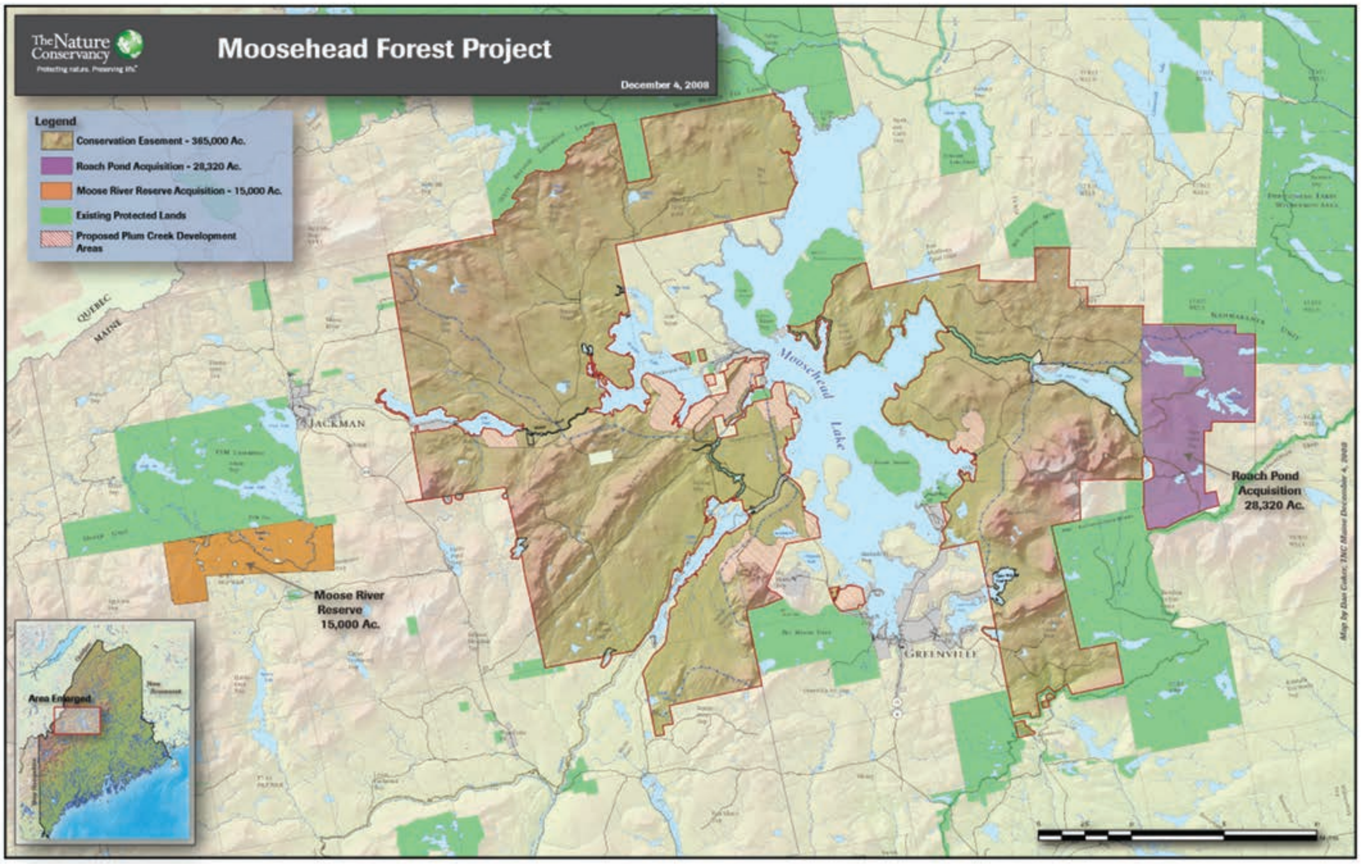

Figure 9—Moosehead Conservation Framework.

within the UT on and around Moosehead Lake, Maine's largest lake (Bell 2007). Under the Concept Plan process, in return for rezoning of about 8,000 hectares for vacation home lots and two resort developments, Plum Creek proposed to permanently conserve about 25,000 hectares, including the shorelines of a number of remote ponds. The remainder would continue to be managed as working forestlands, but without permanent conservation.

We met with Plum Creek to share our conservation assessment of the lands in question, and to explore creative ways we might increase the amount of conservation. After a series of negotiations, including our partners The Forest Society of Maine and the Appalachian Mountain Club, we announced the Moosehead Conservation Framework Agreement with Plum Creek. Under the framework, Plum Creek agreed to sell 18,000 hectares in two separate parcels to us and the AMC to be permanently conserved for wildlife habitat and remote recreation, and to sell a no-development conservation restriction on all the land within the plan area that was not either rezoned for development or conserved as required balance for the rezoning proposal before the regulatory agency. Plum Creek revised its concept plan and resubmitted it for review. The proposal was controversial, as many people felt that no development should be allowed. The constitutions of Maine and the United States guarantee some economic use for private lands, and an analysis by the Open Space institute showed that Plum Creek could accomplish nearly as much development outside of the concept plan process, but with minimal conservation in return (Table 1).

Following a long and fractious process before the regulatory agency, including four public hearings and two weeks of hearings with organizations that intervened in the proceedings, the plan evolved considerably to improve the ultimate result. In the end, the development envelope was consolidated closer to the existing developed areas adjacent to the plan area, and reduced to 6,000 hectares. Plum Creek donated a permanent no-development easement on 38,000 acres (15,385 ha) surrounding the development, and we and our partners assisted the state in acquiring a permanent conservation restriction on the remaining 106,000 hectares of working forest lands. Following two and a half years of legal appeals, the regulatory agency's decision was upheld and the conservation transactions were completed. In the end this complicated and difficult partnership resulted in 6,000 hectares of land rezoned for development, balanced by 162,000 hectares of permanent conservation, which connected a network of 800,000 hectares of conservation lands in northern Maine (Figure 9).

Table 1—Comparison of development and conservation components: Moosehead Concept Plan vs. unplanned development without plan (Source: Open Space Institute)

Scenario Component	Concept Plan	Unplanned Development
Residential Lots	**975 lots** 236 shorefront 739 back lots	**618 lots** 252 shorefront 366 back lots
Resort Development	**Big Moose** 4,450 acres; 800 accommodations **Lily Bay** 750 acres; 250 accommodations	**Big Moose** 4,450 acres; 800 accommodations **No Lily Bay Resort**
Total Residential Units	**2025**	**1,418**
No. of Lakes with Development	**6**	**25**
Permanent Shoreline Protection	**156 miles** **10,000 acres**	**55 miles** **3,500 acres**
Back Land Protection	**395,000 acres**	**none**
Trail Corridor Protection	**160 miles**	**none**

Lessons From The Moosehead Conservation Framework?

1. Engaging in the regulatory process with voluntary private conservation is complicated and messy, but can yield tremendous outcomes if done right.
2. An effective process for public and stakeholder input is critical in complicated regulatory proceedings. In this case the agency hired professional consultants, at the cost of the applicant, to plan and facilitate the process – it made all the difference.
3. Partnerships can be complicated, with different NGOs having different priorities, but they can also be helpful in building public credibility. It's important to be clear up front on the partnership agreement – put it in writing.

What's Next?

In our continuing efforts to find creative ways to conserve large private landscapes, we are currently exploring the feasibility of attracting large amounts of private "impact investment" capital, matched by a small amount of our own funds, to acquire large tracts of forest land in partnership with conservation-minded investors.

Here's how it would work. Many high net worth individuals are now investing in timberland as a hedge against the stock market. They are long-term owners of the asset, looking to transfer wealth between generations. Many have an interest not only in financial return, but also in making a conservation impact. We would enter into a partnership with one or more of these investors to acquire 100,000 hectares or more of private timberland, with the investor providing up to 95% of the capital, and TNC providing the balance, as a demonstration of our commitment. The partnership would last 10-15 years, during which time TNC would be responsible for managing the land, providing the investor with a very modest return, in the 1-2% range, while we worked on specific high value conservation take-outs using our 5% contribution and traditional sources of conservation capital through public and private fundraising. After the 10-15 years, the investor would end up with the bulk of the timberland, subject to a conservation easement, which would prevent development but would allow for continued timber management.

We are currently applying this concept in the southern US, working with a charitable foundation, and hope to apply it in Maine before long.

There are many ways to work with private landowners to conserve large areas of wild lands. There are many opportunities if you remain adaptive and take advantage of the opportunities in each situation.

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