



New York State
Department of Environmental Conservation

Division of Lands & Forests

DRAFT ENVIRONMENTAL IMPACT STATEMENT

**MODIFICATION OF WORKING FOREST
CONSERVATION EASEMENTS HELD BY NYSDEC ON LANDS
OWNED BY HEARTWOOD FORESTLAND FUND III, LP**

Santa Clara Tract Conservation Easement

Towns of Waverly, Santa Clara and Duane, Franklin County
Town of Hopkinton, St. Lawrence County

Tooley Pond Tract Conservation Easement

Towns of Clifton and Clare
St. Lawrence County

Croghan Tract Conservation Easement

Towns of Croghan and Watson
Lewis County

Date of Acceptance

Prepared By:

Lead Agency

NYS Department of Environmental Conservation
Division of Lands and Forests
625 Broadway
Albany, NY 12233-4250

(Public comments will be accepted until December 4, 2009 – 30 day comment period)

DAVID A. PATERSON, *Governor*

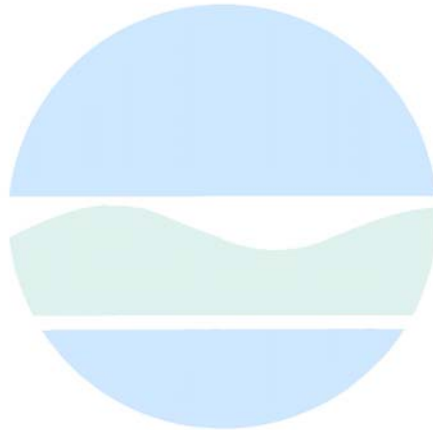
ALEXANDER B. GRANNIS, *Commissioner*
- Continued -

Heartwood Forestland Fund III, LP
c/o The Forestland Group, LLC
Regional Office
P.O. Box 155
Wellsboro, PA 16901
(570) 723-8742
www.forestlandgroup.com

LandVest Inc.
Timberland Services
Vermont Forestry Office
5072 U.S. Route 5
Newport, Vermont 05855
(802) 334-8402
www.landvest.com

Involved Agencies

NYS Adirondack Park Agency
P.O. Box 99
1133 NYS Route 86
Ray Brook, NY 12977
(518) 891-4050
www.apa.state.ny.us



Modification of Working Forest Conservation Easements Held by NYSDEC on Lands Owned by Heartwood Forestland Fund III, LP

This Draft Environmental Impact Statement (DEIS) has been prepared to consider and assess potentially significant environmental impacts that may result from a proposal to modify three (3) Working Forest Conservation Easements held by The People of the State of New York, acting by and through the Commissioner of the Department of Environmental Conservation (Conservation Easement Grantee), encumbering 110,000 acres of land in the northwestern Adirondack Park owned by Heartwood Forestland Fund III, LP (Conservation Easement Grantor). The Department's authority to modify the Conservation Easements derives from Environmental Conservation Law Section 49-0307 (3)(a).

I. Background

The New York State Department of Environmental Conservation (DEC) holds three (3) Working Forest Conservation Easements (referred to herein as "Working Forest Easements," "Conservation Easements", or "Easements") that restrict land use and development on approximately 110,000 acres of privately owned forest lands in Franklin, St. Lawrence, and Lewis Counties. The properties were formerly owned by Champion International Corporation (originally referred to as the Champion Properties), and the Conservation Easements were granted to The People of the State of New York by The Conservation Fund on June 30, 1999. At the same time, approximately 29,000 acres of former Champion land were conveyed to the State of New York and became part of the Forest Preserve. The current owner of the Working Forest Conservation Easement lands is Heartwood Forestland Fund III, LP (HFFIII, or "Landowner"), who is responsible for the commercial management of the forest lands subject to the terms and conditions of the Easements held by NYSDEC. Many issues related to the original acquisition project, including the conveyance of land and easements to the State, sale of easement lands to the new landowner, subdivisions related to the project, establishment of certain building envelopes, and leasing of camps and property by the landowner are addressed in NYS Adirondack Park Agency (APA) Permit 98-313.

The Champion/HFFIII Conservation Easements are referred to as "Working Forest" or "Sustainable Forestry" Conservation Easements because they are designed and written specifically to protect private forest lands that are actively managed for timber or other marketable forest products. The primary purpose of the Easements is to maintain and support the long-term use and availability of these properties for sustainable forest management in a way that is economically viable and avoids or minimizes negative impacts to water quality, soil productivity, sensitive species or biological communities, and other natural resources on the properties. The secondary and tertiary purposes of the Easements are to protect or enhance wildlife habitat, and to provide opportunities for public outdoor recreation.

The current, existing Champion/HFFIII Working Forest Conservation Easements have many terms, conditions, and provisions that address prohibitions or limitations related to development and other land uses, retained rights of the Easement Grantor (such as forest management), and affirmative rights of the Easement Grantee (such as public recreational access and use). The terms, conditions, and rights described or addressed in the current, existing Conservation Easements that will be affected by the proposed modifications are as follows:

- i) The Landowner's right to lease the Easement lands, and 220 traditional hunting and fishing camps thereon, to private individuals and clubs for a period of fifteen (15) years from the signing date of the Easements, which was June 30, 1999.
- ii) The Landowner's exclusive hunting rights, which permits the Landowner to prevent public access to, and use of, the Easement lands during the period of September 1 through December 31 each year, until June 30, 2014.
- iii) The Landowner's responsibility to remove all hunting and fishing camps from the Easement lands within three (3) years of the June 30, 2014 camp leasing termination date.
- iv) The Landowner's discretion to permit camp lessees, guests, or others to use motorized vehicles (including all-terrain vehicles (ATV's)) on any roads and trails on the Easement lands.
- v) Requires the Landowner to either have the Department approve a forest management plan or enroll and maintain the property in an approved sustainable forestry certification program.

II. Proposed Action

The proposed action is to modify certain terms, conditions, restrictions, and rights in the Champion/HFFIII Working Forest Conservation Easements, as follows:

- i) The Landowner's right to enter into exclusive private posting lease agreements on the Easement lands until June 30, 2014 will be terminated, and replaced with the perpetual right of the Landowner to lease no more than 220 traditional hunting and fishing camps, each with a one (1) acre surrounding area of land referred to as a "Recreation Camp Envelope" or "Camp Envelope," which envelope will contain all camp buildings and other improvements (such as outhouses and sheds).
- ii) Lessees will be permitted to post and restrict public access from each individual Recreation Camp Envelope only; therefore all but a sum total of 220 acres of the 108,933-acre easement property will be open and available to the public.
- iii) The Landowner's exclusive hunting rights, reserved from September 1 to December 31 each year until June 30, 2014, will be terminated, granting The People of the State of New York full year-round public recreation rights on the Easement lands.
- iv) The use of passenger cars, trucks, and snowmobiles by camp lessees will be limited to only certain designated routes on the Easement lands, which routes shall be agreed upon by Grantor and Grantee.
- v) The use of ATV's by camp lessees will be limited to only certain specific

ingress/egress routes to and from each Camp Envelope, which routes shall be agreed upon by Grantor and Grantee, and such use of ATV's may only be during times of the year when these routes are inaccessible to other vehicles. Lessees may also use, as a member of the public, any motor vehicle routes that are designated by Grantor and Grantee as open for public use.

- vi) Requires the Landowner to either have the Department approve a forest management plan or enroll and maintain the property in an approved sustainable forestry certification program. It would require annual inspections of the property; auditors must be independent; with all audit reports provided to the Grantee.

The following additional clerical and administrative changes are associated with the action and will be part of the agreement to modify the Conservation Easements:

- i) Update the clause relating to the demolition and removal of deteriorating structures.
- ii) Update DEC contact and address information.
- iii) Footnote clarification of recreational activities reserved by Landowner.
- iv) Update the indemnification clause, which will provide the Department and State greater liability protection.

All other terms, conditions, restrictions, and rights described in the original Working Forest Conservation Easements will remain unchanged.

It is the intention of the parties that the benefits to each party resulting from this modification be equal. The permanent continuation of the right to lease hunting and fishing camps to private individuals and clubs is a financial benefit to the Grantor. Benefits to the Grantee include opening almost the entire 108,933 acres of Conservation Easement land to year-round public recreation, and the transfer of full fee title and rights to approximately 2,500 acres of land from HFFIII to The People of the State of New York. The land acquired in fee by the State will become public land and fully open to public recreational use in accordance with State laws and regulations. Of this acreage being conveyed in fee to the State, approximately 2,000 acres are lands that are currently part of the Santa Clara Tract Conservation Easement property and are located within the Adirondack Park and will become Forest Preserve; the other approximately 500 acres are lands located outside the Adirondack Park that are not currently protected in any way, and which will be classified as State Forest. Detailed real estate appraisals conducted by DEC will determine the exact acreage of fee land that will be conveyed in order to make equal the financial values to both parties resulting from this modification..

III. Purpose and Anticipated Benefits of the Proposed Action

The purpose of the proposed modification is to support the primary purpose of the Champion/HFFIII Working Forest Easements, which is "to perpetuate, as a sustainable working forest, the productive forest resources on the Protected Property; to encourage the long-term professional management of those forest resources; and to facilitate the biologically and economically sustainable production of forest resources while

minimizing the impacts on water quality, scenic benefits, wildlife habitat, recreational and other values.” Permitting the perpetual continuation of private camp leasing by the Landowner is consistent with, and supportive of, the primary purpose of the Easements because private recreation leasing is a significant component of the Landowner’s sustainable working forest business formula. Such leasing programs increase the economic viability of sustainable forestry operations on many of New York State’s largest working forest properties, and are compatible with the State’s ongoing Working Forest Conservation Easement Program.

Related benefits the modifications would provide to The People of the State of New York include:

- Continuation of the long-standing cultural and social tradition of allowing people to participate in and enjoy local hunting and fishing clubs and recreation camps in the Adirondack region, where such camps are an accepted historical use of large, privately owned and managed forest properties.
- Continuation of the economic benefits provided by clubs and camp lessees to the surrounding local communities, which includes local tax revenue generated by the lease camps (such revenue amounted to approximately 2% of the total assessed value of the Champion International lands in 1999, or approximately \$176,000).
- Year-round public access to, and recreational use of, the Easement Lands, including hunting during big game season (which is anticipated to be the primary public outdoor recreational use of these Easement lands) sooner than the original full public access date of June 30, 2014.
- Private Camp leases provide an additional means for individuals to access and use the Easement lands for hunting, fishing, and other outdoor recreation purposes. Many organized hunting and fishing clubs and forest landowners who lease land or camps in the Adirondacks openly accept new members from the public.
- Added protection for approximately 2,000 acres within the Adirondack Park, to be converted from Easement lands to NYS Forest Preserve, and which will be added to the recently classified Deer River Primitive Area, a valuable public recreational and ecological resource.
- The new protection of approximately 500 acres of currently unencumbered private land along the Deer River, just outside the Adirondack Park, to be added to State Forest lands, managed according to DEC sustainable forestry practices, and open to the public for outdoor recreational use as on other State Forest lands.
- Both parcels conveyed in fee to the State will provide public access to a previously inaccessible parcel of detached Forest Preserve, which will now become available to the public for hunting, fishing, camping, and other outdoor recreation.
- The perpetual continuation of Camp leasing on the Champion/HFFIII Easement lands would be consistent with other, more recent Working Forest Conservation Easements negotiated and acquired by the State, and which the Department and public have found to be acceptable both economically, socially, and

ecologically in supporting the goals of private working forest landowners and the State's Sustainable Forestry Conservation Easement Program.

- Requiring the Landowner to either have the Department approve a forest management plan or enroll and maintain the property in an approved sustainable forestry certification program. However, should the Landowner choose to enroll the property in an approved Forestry Certification Program, the Department benefits from the assistance of a professional auditing entity to share the burden of program verification and physical inspection of the property. The Department anticipates that certification could enhance the Landowner's compliance with the sustainable forestry provisions of the Conservation Easements. Adding the involvement of an independent auditing and certifying entity could reduce burdens on Department staff and cut costs associated with monitoring the Easements.

Therefore, the changes to be achieved by the proposed modification to the Champion/HFFIII Working Forest Easements have been determined to be of long-term value and benefit to The People of the State of New York.

IV. Environmental Setting and Land Use

The three (3) Working Forest Easements involved in the proposed action each pertain to geographically separate blocks of land located in the northwestern section of the Adirondack Park, lying in portions of eight (8) towns in Franklin, St. Lawrence and Lewis Counties. The three tracts of private forest lands are identified as the Santa Clara Tract, encompassing approximately 72,000 acres located in the Town of Hopkinton in St. Lawrence County, and the Towns of Waverly, Santa Clara and Duane in Franklin County; the Tooley Pond Tract, encompassing approximately 24,000 acres located in the Towns of Clifton and Clare in St. Lawrence County; and the Croghan Tract, encompassing approximately 13,000 acres located in the Towns of Croghan and Watson in Lewis County.

The lands comprising these Easements are entirely within the Adirondack Mountain region, which is an extension of the Cambrian Shield south from Canada. The area in which these lands are located is not as mountainous as in the central and eastern Adirondack region, but rather is more generally characterized as having rolling hills that are interspersed with several significant north flowing rivers and ponds, lakes, and large wetlands. Glacial characteristics are predominant, such as gently curved ridges and valleys, long winding eskers, and numerous lakes, ponds, and wetlands. The significant forest lands are composed primarily of northern hardwoods, with some conifer stands, including boreal forest types in proximity to the many wetlands. The forest cover is broken frequently by wetlands, waterbodies, forest access roads, and log landings. Most of the primary recreational water resources formerly owned by Champion International, consisting of river corridors and other ecologically sensitive

areas, were acquired in fee by the State at the same time the adjacent Conservation Easements were acquired, amounting to 29,000 acres of new Forest Preserve.

The timberlands on the Easement tracts have served as working forests for commercial timber production since the early 1900's, first by the St. Regis Paper Company and later by Champion International Corporation. Today the lands continue to be used by the current Landowner, HFFIII, for commercial forestry operations, and secondarily for a variety of outdoor recreation activities by both private hunting and fishing lease holders and the general public. Both companies leased exclusive hunting and fishing rights on portions of the lands and permitted lessees to erect camp buildings. Prior to the State acquisition of the Working Forest Easements, recreational use of the Easement lands was limited solely to leaseholder hunting and fishing clubs and guests of the Landowner for over 100 years, with no general public access to the properties.

Because the Easement lands are actively managed for timber, a significant acreage of trees is comprised of younger age classes, in comparison to adjoining Forest Preserve lands. This pattern of managed and preserved forests across the landscape provides a mix of habitat types that benefits a greater diversity of plant and animal species. For example, it is expected that over time shade intolerant species such as white ash and black cherry will decrease on Forest Preserve lands as the forest progresses in age to a climax forest, however these species should remain a viable component of the adjacent managed forest lands where openings in the forest canopy created through harvesting are more common than openings created naturally. The Conservation Easements (both original and as modified) provide that any and all forest management activities occurring on the Easement lands are to be conducted in accordance with a forest management plan that has been approved by DEC foresters or Forest Certification professionals. Such forest management plans must take into account long-term, sustainable silvicultural goals, special treatment areas designed to protect sensitive ecological areas, and best management practices that protect natural resources.

Existing infrastructure on the Easement lands includes a large network of logging roads and skid trails, with their associated gates, culverts, bridges, log landings, and sand/gravel pits, as well as the hunting and fishing camps used by private leaseholders. All camp buildings and other structures have been inventoried and building footprints established. Interior access to the properties is provided by more than 500 miles of improved or partially improved gravel roads developed for logging and accessing lease camps. Internal roads and access lanes range in character from dirt skid trails and so-called "winter roads" (roads created solely for the use of logging vehicles and machinery on frozen surfaces), to well developed and maintained gravel haul roads.

Current private recreational use of the Easement lands includes camp/cabin camping, hunting, fishing, snowmobiling, and the use of all-terrain vehicles to access lease areas. The primary recreational use of the properties has historically centered around big game hunting for deer, although small game hunting also occurs. Much of the recreational use intensity on the lands is largely dependent on the written lease

agreements governing each individual lease. Since 1999, the Working Forest Easements have required Camp lessees to establish and post one (1) acre Recreation Camp Envelopes that do not conflict or interfere with legal property lines or adversely impact permitted public use.

Permitted public recreational use of the Easement lands includes snowshoeing, cross-country skiing, fishing, trapping, canoeing, kayaking, swimming, wildlife observation, and limited hunting (small game only, as permitted from January-August, until 2014). Snowmobile trails open to the public have been maintained on these properties long before the establishment of the Conservation Easements, and continue to be a public recreational resource. Under the original/existing Conservation Easement terms, until June 30, 2014 public hunting on the Easement properties is prohibited during the period of September 1 through December 31, and all public use of the Easement properties is prohibited during the Northern Zone Whitetail Deer Rifle Season (a subset of the full Northern Zone Big Game Season), with the exception of certain designated Rifle Season Public Access Corridors that the public may travel on year-round to access adjacent Forest Preserve lands. As an active working forest, the public recreational experience on the Easement lands varies significantly from that found on surrounding Forest Preserve, where people tend to seek a quieter, more primitive wilderness experience. Though a wide range of public recreational uses have been acquired by the State and are permitted on the Easement lands, recreational use of the properties continues to be primarily by private Camp lessees for hunting and fishing purposes. All recreational activities on the Easement lands, public and private, are required to be consistent with existing laws and regulations, such as State regulations governing hunting, fishing, and trapping.

Each of the three Easement tracts contains natural resources and recreational opportunities of significant value to the People of the State of New York. Further descriptions of each tract are summarized below.

Santa Clara Tract

The Santa Clara Tract is the largest of the three Champion/HFFIII Working Forest Easement tracts, comprising more than 72,000 acres near the hamlet of Santa Clara in west-central Franklin County. The Santa Clara Tract Easement lands enclose State Forest Preserve lands along the Deer River and the East and Main Branches of the St. Regis Rivers, and in the Madawaska Pond and Quebec Brook areas. The enclosed Forest Preserve parcels are classified as Primitive and Wild Forest, and are managed as part of the Debar Mountain Wild Forest unit. The largest contiguous block of the Debar Mountain unit lies east of the Santa Clara tract's eastern boundary along NYS Route 30. The terrain of the Santa Clara Tract is moderate consisting of low rolling hills and mountains and is covered by a mix of northern hardwood and softwood forest types. Fish and wildlife are typical of the northern Adirondacks, with known populations of spruce grouse, bald eagle, peregrine falcon, three toed woodpecker, and common loon identified on, or adjacent to, the Santa Clara Tract in the past. Three classified rivers bisect the Santa Clara Tract: i) the Main Branch of the St. Regis River, classified as a

"Recreational River"; ii) the East Branch of the St. Regis River, classified as a "Scenic River"; and iii) the Deer River, classified as a "Scenic River." River corridors range from meandering broad streams to narrow rock-filled channels with steep rapids and falls. There are numerous other streams, ponds, bogs, and wetland areas, giving the area a wild, boreal character. It is anticipated that public recreation access to, and use of, the Santa Clara Tract will be addressed and planned for in a Recreation Management Plan to be developed specifically for the Santa Clara Tract Conservation Easement Lands.

Tooley Pond Tract

The Tooley Pond Tract comprises approximately 24,000 acres in the Towns of Clare and Clifton, in south-central St. Lawrence County. Elevations range from 840 feet above sea level near Degrasse to 1,780 feet above sea level on top of Tooley Pond Mountain. The defining geographic feature of the Tooley Pond Tract is the meandering 16-mile stretch of the South Branch of the Grasse River, which is encompassed by a ribbon of State Forest Preserve that bisects the Easement lands. As with the Santa Clara Tract, the Tooley Pond Tract is covered by a mix of northern hardwood and softwood forest types; and fish and wildlife are typical of the northern Adirondacks, with known populations of spruce grouse, bald eagle, peregrine falcon, three toed woodpecker, and common loon identified on, or adjacent to, the Tract in the past. It is anticipated that public recreation access to, and use of, the Tooley Pond Tract will be addressed and planned for in an amendment to the Unit Management Plan for the adjacent Grass River Forest Preserve unit.

Croghan Tract

The Croghan Tract comprises just over 13,000 acres in the Towns of Croghan, Diana, and Watson in Lewis County. The Croghan Tract lies in a transitional area between the primarily agricultural area of the Black River valley to the west and the more remote and higher elevation area of the Adirondack Mountains to the east. Forest Preserve lands border the eastern boundary of the Easement lands. The Croghan Tract contains 2,295 acres of classified wetlands, amounting to approximately 17.5% of the tract. Sugar maple, American beech, and yellow birch are the most prevalent hardwood species on the Croghan Tract, while red spruce, hemlock, and balsam fir represent the majority of the softwood component. Softwoods are dominant in forested wetlands, which resemble boreal forests commonly found farther north, and contain species such as tamarack and black spruce. Wildlife present in the area is typical of that found in the western Adirondack foothills eco-zone, with common large mammals being white-tailed deer and black bear, and typical fur-bearing species being beaver, coyote, fisher, otter, and bobcat. Although uncommon, moose may also be present, and pine marten have also recently become established in the general area. Bird diversity in the area is relatively high due to the transitional nature of the landscape from agricultural fringe to Adirondack forest; the Breeding Bird Atlas 1980 census data identified 124 confirmed, probable, and possible breeding bird species in the 20 census blocks

covering the Croghan Tract. People often use the Croghan Tract to access the Beaver River and recreational opportunities in the adjacent Forest Preserve. Opportunities for stream fishing are readily available on the Croghan Tract; however, the small size and remoteness of most of the streams, coupled with the small average size of the brook trout that inhabit these waters, make them generally unpopular to non-local anglers. Public recreation access to, and use of, the Croghan Tract has been addressed and planned for in the Draft Unit Management Plan (September 2006) for the adjacent Watson's East Triangle Forest Preserve unit.

V. Potential Significant Environmental Impacts

A. Beneficial Impacts of the Proposed Action

Commercial working forest operations must be economically viable to be sustainable and to ensure their long-term existence and success. The Landowner's ability to continue leasing traditional hunting camps on the private forest lands will provide them with additional revenue that contributes to the profitability of the commercial forestry use of the Easement lands, and which helps to meet the Easements' original purpose of maintaining the lands as productive, sustainable working forests.

Continued camp leasing on the Easement lands for hunting, fishing, and other recreational opportunities will contribute significantly to the long-standing social, cultural, and economic benefits to the surrounding Adirondack communities. Strong public sentiment has been expressed in support of the continuation of hunting camp leasing on these properties, both at meetings held prior to the initial acquisition of the Conservation Easements, and since the modification was proposed. The modification will perpetually provide a balanced mix of both public and private means whereby people can access and use the Easement lands.

Additionally, hunting clubs and families have leased the camps on these properties for decades and hold a personal knowledge of, and investment in, the Easement lands. This personal attachment to the lands benefits DEC by helping staff meet stewardship responsibilities on such extensive and remote lands. Camp lessees generally respect the land and the lease terms that they are invested in, following all necessary rules and regulations so that they do not jeopardize their leases, and they also act as the eyes and ears on the properties for DEC and the Landowner.

The proposed modification, will grant the public full, year-round recreational use and access to the entirety of the Easement lands, except for the one-acre Recreational Camp Envelopes, including hunting during the big game season, sooner than they would have under the original Conservation Easements. The People of the State of New York will also enjoy ownership and full recreational access and use of approximately 2,500 acres of land that will be conveyed to the State in fee, as well as access to a previously inaccessible parcel of detached Forest Preserve.

Currently, lessees are permitted unrestricted motor vehicle access, including ATV's, on all roads and trails within their posting lease, with any instances of damage and degradation addressed by the Landowner on a case-by-case basis. The proposed modification will establish limits and restrictions on the private use of motor vehicles, including ATV's, on the Easement lands, thereby furthering the protection of natural resources and other values on the properties. Under the terms of the original Champion/HFFIII Working Forest Conservation Easements, the State may designate certain routes for public use of motor vehicles, including ATV's, but does not have a specific right to limit motor vehicle use on the Easement lands. As an example, the Landowner currently enjoys almost unrestricted use motor of vehicles for forestry operations and may in turn grant motor vehicle access to lessees, guests, or other private individuals for motorized recreational use, also without any limits specified by the current versions of the Easements. Presumably, this right of the Landowner could be exercised in perpetuity, even if the hunting and fishing camps are removed from the property in accordance with the terms of the original Conservation Easements, and DEC would have limited ability to control such private use of motorized vehicles unless damage to natural resources or other obvious Easement violations could be established. Therefore, restrictions included in the proposed modification on the Landowner's right to permit private motor vehicle use, including ATVs, on the Easement lands will provide additional natural resource protections that do not exist under the current terms and conditions of the Easements. The increased restrictions proposed by the modification will significantly reduce the patterns, levels, and frequency of lessee motor vehicle and ATV use that currently exists on the Easement lands, and that which could occur in the future.

Since the time the State acquired the Champion/HFFIII Conservation Easements in 1999, the State has also acquired several other large working forest conservation easements on more than 500,000 acres of additional forest land in the Adirondack and Tug Hill regions. Unlike the 1999 Champion Easements, these more recent easements allow the commercial forestry landowners to lease traditional hunting camps in perpetuity, as it is mutually acknowledged by the State, the Landowner, and many constituents to be beneficial to both the landowner and the local communities, and helps the State achieve its goal of protecting and maintaining large tracts of sustainable working forest lands. The proposed modification will therefore make the Champion/HFFIII Working Forest Easements consistent with other, more recent working forest conservation easements acquired by the State of New York.

B. Potential Adverse Impacts of the Proposed Action

1. Potential Adverse Impacts on the Easement Lands

Modification of the Working Forest Easements to allow the Landowner to continue leasing up to 220 hunting, fishing, and recreation camps on one-acre Recreation Camp Envelopes may cause adverse aesthetic or environmental impacts on the

Easement lands that may or may not be considered significant.

If hunting and fishing lease camps remain on the Easement lands in perpetuity, the following adverse impacts to the Easement lands may result:

- A cumulative total of up to 220 acres (0.2%) of the Easement lands will be unavailable for the growth of forest products or public recreational use.
- Continued use of outhouses associated with the camps could potentially result in bacterial contamination of surface water or groundwater. It should be noted, however, that even without the continuation of the permanent camps, the public would be able to apply for DEC permits to set up and use temporary hunting camps (tents, trailers, etc.) on the Easement lands, and the temporary structures may be less likely than the permanent camps to have adequate sanitary facilities associated with them.
- Permanent continuation of the lease camps will likely result in a greater number of people using the property for outdoor recreation activities at all times of year, thereby resulting in a greater potential for disruption of wildlife or over-harvesting of certain fish or game animals, however whitetail deer population control is likely to have beneficial impacts on forest regeneration, which can help to achieve forest management goals.
- Continued use of the Easement lands by private lessees may have the effect of discouraging use of the Easement lands by the public. Because the Easement lands remain working forests and are located in a remote section of the northwestern Adirondacks, however, hunting through private lease arrangements will remain the predominant recreational use of these properties and public recreationists from outside the local area are more likely to seek out the quieter and more primitive experience of nearby Forest Preserve lands for non-motorized recreational opportunities. This has been the pattern observed to date on other large working forest conservation easement properties in the Adirondacks. Regardless of this situation, public hunting (in addition to hunting by private lessees) is expected to be the principle public use of the Easement lands because of extensive road access to the Easement lands and the fact that deer populations are likely to be higher in actively managed forests than they are on Forest Preserve lands where no timber harvesting occurs.
- Continuation of the lease camps will likely (but not necessarily) result in a level of private motor vehicle use on the Easement properties that is greater than would occur without the continuation of the lease camps, even though such use by lessees would be limited to certain specific designated routes. Motor vehicle use has the potential to contribute to the disruption of wildlife, erosion of roads or trails, and generation of noise and dust. The Landowner's use of motor vehicles for forest management activities may also contribute to these potential impacts, but would not be reduced or otherwise affected by the proposed modification. Roads and trails designated for lessee motor vehicle use were constructed by the current and previous landowners as a means to access various parts of the Easement lands for forest management purposes, and therefore these roads are typically of improved gravel construction and built to handle use by heavy trucks and logging equipment. In consideration of these facts, controlled, limited motor

vehicle use, including use of ATV's by lessees is not likely to result in serious road damage or subsequent natural resource degradation.

- The potential exists for illegal use of motor vehicles, including ATV's, on roads, trails, or other areas of the Easement properties that are not specifically designated as open for such use, and such illegal use may result in wildlife disruption, natural resource damage, and noise.

2. Potential Adverse Impacts on Neighboring Forest Preserve Lands

Modification of the Working Forest Easements to allow the Landowner to continue leasing up to 220 hunting, fishing, and recreation camps on one-acre Recreation Camp Envelopes may cause adverse aesthetic or environmental impacts on adjacent or nearby Forest Preserve lands. DEC does not consider these potential impacts, which are described below, to be significant or likely threats to Forest Preserve.

The proximity of the Easement lands to State-owned Forest Preserve lands in the area ranges from parcel contiguity to separations of several miles. The Easement lands are continually being managed for forest products, and in cases where Easement and Forest Preserve lands are contiguous or close, logging operations and road construction activities are often seen or heard by public recreationists using the Forest Preserve. In addition, legal motor vehicle access to nearby or contiguous private in-holdings, coupled with deeded permanent and reciprocal easements that give the Easement Landowner rights of motor vehicle use and maintenance across existing Forest Preserve roads leading to the Easement lands, further contribute to ambient noise and odor levels that affect the Forest Preserve recreational experience. These activities will not change with the proposed modification, and Forest Preserve recreationists in the area should continue to expect a recreation experience that is impacted by such activities as they have in the past.

When considering the continued use of motor vehicles, including ATV's, on the Easement lands by camp lessees in a dispersed and limited way that would occur under the proposed modification, the impacts of noise and odor on neighboring Forest Preserve lands is not likely to exceed current ambient levels, and as such, will have a relatively minor or negligible adverse impact, if any, on the recreational experience of Forest Preserve users. The potential adverse impacts of permitted lessee ATV use on the experiential value of users of the nearby Forest Preserve lands will likely remain static or lessen as a result of the limitations set forth in the proposed Easement modification, especially considering that lessee ATV use on the Easement lands will only be permitted at times when public use of neighboring Forest Preserve is light, such as spring "mud season."

The potential for ATV trespass on neighboring Forest Preserve lands is a more likely adverse impact. With the exception of certain deeded permanent and reciprocal private right-of-ways, almost none of the existing roads through Forest Preserve in the surrounding area have been legally opened or designated for motorized use. Overall, the number of observed locations where ATV trespass has occurred on Forest Preserve lands in the area is considerably less than other similar areas in the Adirondack Park. According to DEC Forest Rangers, the few locations in the area where ATV trespass onto Forest Preserve does occur are most frequently accessed directly from adjacent County and Town roads that have been opened to public ATV riding by a resolution of the appropriate governing body and in accordance with §2405(1) of the Vehicle and Traffic Law. By comparison, instances of ATV trespass originating from the Easement Landowner's posting leases have steadily declined to near-negligible levels, with Forest Rangers reporting only a handful of Environmental Conservation Appearance Tickets (ECATs) issued to HFFIII lessees for violations of prohibitions on motorized use in the Forest Preserve since 1999. This situation is largely attributed to the lessee's investment in the lease, interest in maintaining the lease, and the desire to have a private recreation experience separate from that of public recreationists using State lands. Roads and trails designated as ingress/egress routes are located wholly within the Easement lands and do not travel over or through Forest Preserve lands for the purposes of access. In all but a very few cases, designated ingress/egress routes are far-removed in proximity from nearby Forest Preserve lands, and as such, the potential of trespass on, and degradation of, neighboring Forest Preserve lands attributed to lessee ATV use will be substantially reduced. In consideration of these factors, the levels and patterns of ATV trespass that occur on Forest Preserve lands in the area will likely remain static and will not result in a significantly increased adverse impact as a result of the proposed Easement modification.

C. Adverse Impacts that Cannot Be Avoided or Adequately Mitigated

Some of the potential adverse impacts related to the proposal to continue leasing up to 220 hunting and fishing camps on one-acre Camp Envelopes on the Working Forest Easement lands, as described above, may be unavoidable, however most are either not significant or can be mitigated. The proposed modification will require that all Camp Envelopes and the permitted structures therein, whether currently existing or constructed in the future, comply with any and all Adirondack Park Agency (APA) permits and regulations. Camp and accessory structure siting and construction must be approved by DEC and APA to insure compliance with existing regulations such as wetland setbacks, and building size limitations. The majority of camps on the Easement properties are modest in size and provide a minimum level of comfort for extended over-night hunting purposes (*see Appendix A - Typical Camp Structures*).

D. Irreversible and Irretrievable Commitments of Environmental Resources

A combined total of up to two hundred-twenty (220) acres of land, comprised of 220 individual one-acre Camp Envelopes (some isolated, some adjoining), will remain unavailable for forest management and off-limits to public use and access on portions of the Easement tracts. This represents 0.2% of the total Easement land area. The permanent use of that acreage for buildings and improvements (hunting camps and their accessory structures), however, will be more than compensated for by the conveyance of approximately 2,500 acres of new public lands from HFFIII to the People of the State of New York, approximately 500 acres of which would be permanently protected for the first time. The proposed modification will therefore result in a significant net increase in the amount of publicly accessible land (this considers only the approximately 500 acres of currently private unprotected land, not the approximately 2,000 acres of easement land that is already publicly accessible under the original conservation easement).

E. Growth-Inducing Aspects of Proposed Action

Continuation of the private camp leasing program on the Easement lands is expected to have direct positive fiscal impacts to the local communities, in terms of generating local tax revenue and providing customers for local businesses. The more indirect positive fiscal impact of the leasing program is that it will help to make the sustainable forestry use of the Easement properties more economically viable, which in turn protects local jobs and commerce related to the forest products industry in northern New York. It is not expected, however, that the proposed action will significantly induce or promote further development or growth in the region.

VI. Mitigation Measures to Avoid or Minimize Potential Adverse Impacts

Under the proposed action, the Parties will agree to Conservation Easement terms, conditions, and restrictions in the proposed modification that will serve to mitigate potential adverse impacts related to the principle change of allowing the continuation of the recreational camp leasing program, in the following ways:

- i) Each camp may not occupy more than five hundred (500) square feet of ground area, may not exceed twenty (20) feet in height, and must be constructed in compliance with the terms and conditions of the Easements and any applicable laws and regulations.
- ii) Camp accessory structures, such as outhouses and storage sheds, may not exceed twenty (20) feet in height.
- iii) All camp buildings and structures must be located entirely within the specified one-acre Recreation Camp Envelope.
- iv) The Landowner must comply with all terms and conditions of NYS Adirondack Park Agency (APA) Permit 98-313, as amended, which pertain to built structures and subdivided parcels on the Easement properties.

- v) DEC will be given 30 days prior written notice of any camp that is to be relocated.
- vi) No camp or camp accessory structure may be located or relocated within one hundred (100) feet of a river, pond, lake, perennial stream, or government-regulated wetland.
- vii) The Landowner and DEC must agree on the location of each of the existing one-acre Recreation Camp Envelopes and all designated ingress/egress routes to each Recreation Camp Envelope, as shown on a "Camp Access Map" that may be revised and updated on an annual basis.
- viii) Any additional roads or trails the Landowner designates for camp lessees' use by passenger car, truck, or snowmobile (but not ATV's), must appear on the "Camp Access Map," and will be subject to DEC review and approval.
- ix) Construction and maintenance of designated and approved camp ingress/egress routes and designated roads and trails open to the public must meet or exceed the specifications and standards agreed upon by the DEC and Landowner, and as may be amended from time to time.
- x) The Landowner must continue to ensure that Recreation Camp Envelopes and designated motor vehicle access routes do not restrict or impede the public's use of roads or trails that are open to the public.
- xi) Motor vehicle use by lessees will be restricted to only those designated roads and trails shown on the Camp Access Map, or those roads and trails specifically designated for use by the public. Use of ATVs by lessees will be only for the purposes of ingress and egress to Camp Envelopes on designated camp ingress/egress routes.
- xii) Lessee use of ATV's on designated private routes will be further restricted to only those time periods such as the "mud season," when travel on Easement roads and trails with passenger vehicles is likely to cause serious road damage and potential adverse impacts to natural resources.
- xiii) The Landowner will provide, and require each camp lessee to display, a sticker or other such device that clearly identifies lessee motor vehicles as belonging to a camp lessee.
- xiv) The Landowner will assure that any guests of camp lessees possess a pass allowing access by passenger vehicle only, and will ensure that such guests are restricted in accessing the Easement lands by ATV or snowmobile.
- xv) Motor vehicles using any roads open to public use by car, truck, or other passenger vehicle on the Easement lands, must comply with applicable traffic laws and regulations.
- xvi) The continued, regular presence of DEC law enforcement (Forest Rangers) in the area, supported by the commitment of the Landowner to promote regulatory compliance by lessees, will help to ensure that lessees continue to adhere to restrictions on motor vehicles and other regulated uses of the Easement lands. Such compliance will also be self-enforced by lessees who have a desire to meet Landowner expectations and thereby preserve the private recreational opportunities that they have invested in.
- xvii) DEC will plan for public use of the Easement lands, and implement actions according to such plans, including the development of appropriate signage,

designation of roads and trails for public use, and installation of other recreation improvements. Such planning and implementation of public recreation rights, coupled with public outreach on such rights, will help assure members of the public that they are welcome to use the Easement lands for permitted outdoor recreation opportunities despite the fact that the lands are also being used by private lessees.

All of the above restrictions will serve to ensure that any potentially significant adverse impacts will be avoided or minimized to the maximum extent feasible.

VII. Alternatives

A. Reasonable Alternatives

Only the “No Action” alternative is a reasonably feasible alternative to the proposed action, as the proposed modification is the result of negotiations regarding possible changes to an existing Working Forest Conservation Easements previously granted to the State by a private landowner.

B. No Action

If the original Champion/HFFIII Working Forest Conservation Easements are not modified and remain unchanged, then the result will be the removal of all leased hunting and fishing camps on the Easement lands within three (3) years of the June 30, 2014 camp leasing termination date.

The Sustainable Certification option would not be offered as a substitute and the landowner would continue to manage the property under the approved forest management plan provisions in the Easement and DEC staff would continue to monitor compliance with the forestry provisions.

1. Beneficial Impacts of Not Taking the Proposed Action

Removal of all of the camps on the Easement properties may result in the following beneficial impacts:

- A relatively minor increase in undeveloped land on the Easement properties, although it is likely that the sites would continue to be used as log landings and/or browsed by deer, thus delaying eventual reforestation.
- Outhouses associated with the camps would no longer be used and would be removed, resulting in the reduced or eliminated potential for bacterial contamination of groundwater.
- A decrease in the number of people using the Easement lands for outdoor recreation, which could result in less disruption to wildlife.
- There would likely (but not necessarily) be less motor vehicle traffic, including ATV use, on the Easement lands.

2. Adverse Impacts of Not Taking the Proposed Action

Removal of all of the camps on the Easement properties may result in the following adverse impacts:

- Degradation or loss of the social, cultural, and economic values that permanent hunting and fishing lease camps provide to the surrounding rural communities, and the loss of one means whereby people can engage in outdoor recreation on the properties (acknowledging, however, that the public will be able to apply for DEC permits to set up and use temporary hunting camps (tents, trailers, etc.) on the Easement lands during the big game season).
- Economic losses to the commercial working forest landowner that would diminish the viability of the Easement properties' use for sustainable forestry purposes and weaken the State's goal to use Working Forest Conservation Easements as a tool in keeping large tracts of forest land in private ownership and contributing to the State's forest products industry.
- DEC will have a very limited ability to limit the Landowner's reserved right to allow private use of motor vehicles on the Easement lands, despite the fact that the camps would be removed.
- Loss of an opportunity for the State to acquire approximately 2,500 acres of land in fee for the use and benefit of the public.
- The modification is intended to encourage industrial forestland owners to enroll the lands in an approved forestry certification program. Without the modifications, DEC would lose the benefit of having the presence of an independent auditing and inspecting entity to help monitor compliance with the sustainable forestry terms of the Conservation Easements.

VIII. Conclusion

Other, more recent Working Forest Conservation Easements acquired by the State have provided for the retention of private recreational lease programs, while at the same time allowing public access and continued forest management. The continued private recreational leasing on easement lands has not been determined to cause substantial negative impacts to the properties under easement or to neighboring lands. It is the position of DEC that the benefits of the modification, to allow the perpetual continuation recreational camp leasing on the Working Forest Conservation Easements, outweighs the more modest benefits of removing of the camps according to the terms of the original Easements, and conversely, the adverse impacts associated with removing the camps from the Working Forest Easement lands are deemed to be greater than the adverse impacts that could occur from the perpetual continuation of the recreational lease camps. Further, it is the position of DEC that the proposed modification supports the original Easements' goal and purpose of ensuring the long-term use and sustainability of the lands under easement as productive working forests accompanied by protection of natural resource values and accommodation of the public for a variety of recreational uses of the lands.

VIII. References

Conservation Easements:

Proceeding 10088; Champion/Tooley Pond Tract; St Lawrence 239B; Champion/Santa Clara Tract; St. Lawrence 246B; St. Lawrence County - Instrument No.1999-00013119; Recorded on July 1, 1999.

Proceeding 5963; Champion/Northern Flow Rivers ("Santa Clara")Tract; Franklin 231B; Franklin County - Liber 726 at Page 127; Recorded on July 1, 1999.

Proceeding 10001; Croghan Tract; Lewis 207B; Lewis County - Liber 643 at Page 188; Recorded on July 1, 1999.

New York State Department of Environmental Conservation Draft Exchange Agreement, Heartwood Forestland Fund III, LP, *date finalized on signing*

Amended APA Permit 98-313, *date finalized on APA renewal*

Santa Clara Tract Conservation Easement
Recreation Management Plan, *March 2007*

Tooley Pond Tract Conservation Easement
Interim Recreation Management Plan, *June 1, 2000*

Watson's East Triangle Draft Unit Management Plan, *September 2006*
- Croghan Tract Conservation Easement Recreation Management Plan

New York State Open Space Conservation Plan, *2009*

Appendix A

Typical Camp Structures

