

FRIENDS OF MOUNT SUNAPEE NEWS



View from Silver Mountain, Lempster
Photo Credit: Sue Lichty

Ashuelot River Headwaters Conservation Project: A Joint Public and Private Effort

“The more we learn about preserving water quality, the more we understand the importance of protecting the headwaters of the New Hampshire rivers that provide our drinking water. Today we need your help to purchase 1,750 acres of forestland and streams that are the source of the Ashuelot River.” THE FOREST SOCIETY

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For more than a year, the Society for the Protection of New Hampshire Forests has been working to conserve the headwaters of the Ashuelot River. The Ashuelot River Watershed encompasses 25 towns and its waters flow from the Ashuelot River to the Connecticut River, providing drinking water to the citizens of Keene and others.

The efforts of the Forest Society to conserve 1,750 acres around the Ashuelot River headwaters recently received a boost. Five Lempster landowners have pledged to donate an additional 1,300 acres if the Forest Society is successful! The combined value of the donated 1,300 acres exceeds \$1 million.

The 1,750 acre project is located in Lempster just south of the conserved lands surrounding Mount Sunapee and Pillsbury State Park. If successful, the project would conserve the bald summit of Silver Mountain (a popular hiking and blueberry-picking destination with spectacular views), two miles of undeveloped frontage on Long and Sand Ponds, and more than 11,000 feet of frontage on the Ashuelot River. (Continued on page 2)

Visit FOMS on the web at

www.FriendsofMountSunapee.org

For news and information about Mount Sunapee, our beloved state park, and conservation of the Lake Sunapee watershed and Sunapee highlands. We've just launched our new website!



(Continued from page 1)

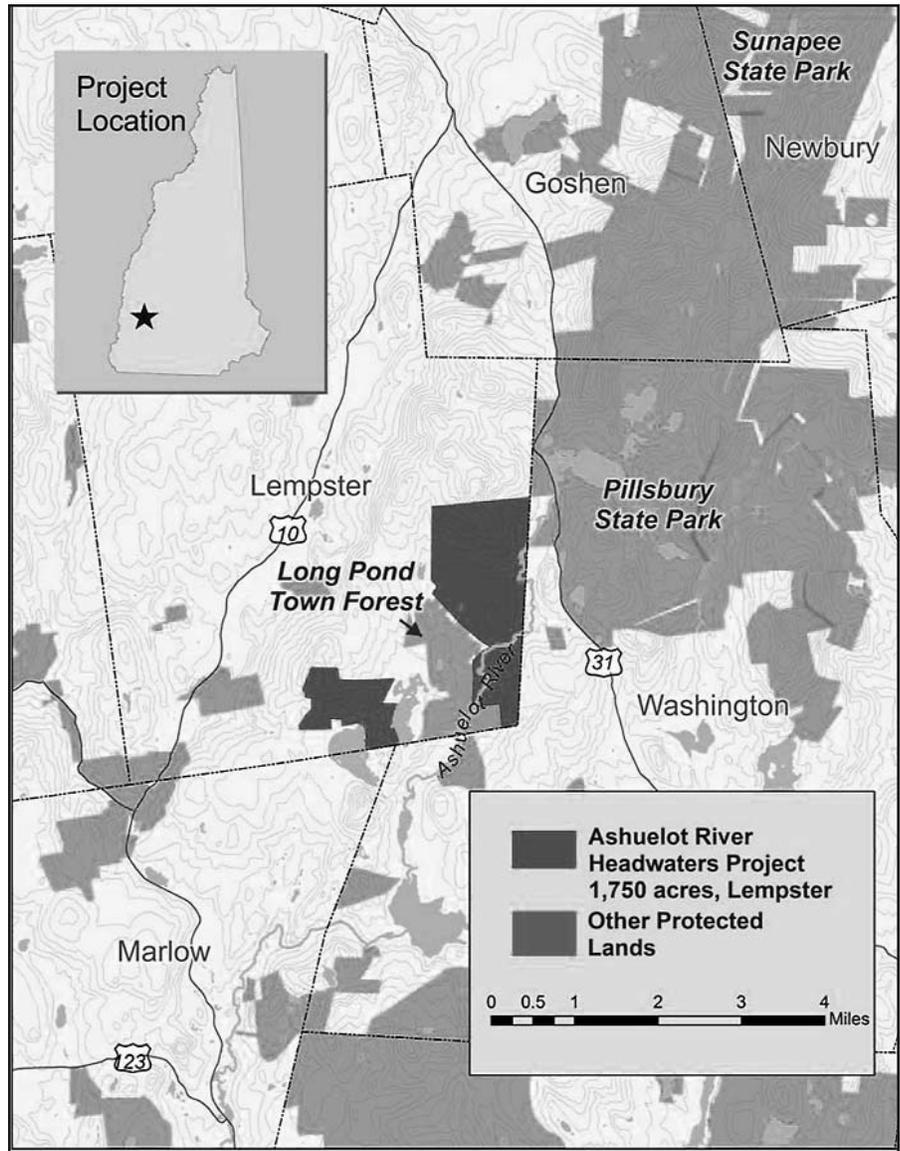
The land along Long and Sand ponds is especially vulnerable to development and increased risk to water quality.

The project would ensure the continuation of an uninterrupted greenway stretching south from Pillsbury State Park to the 11,000-acre Andorra Forest, two of the largest blocks of forestland south of the White Mountains. This dovetails with the NH Wildlife Action Plan and the bi-state Quabbin-to-Cardigan Conservation Plan that calls for protecting intact, interconnected and ecologically important forestlands.

“The potential to conserve an additional 1,300 acres raises the stakes,” said Brian Hotz, Forest Society director of land protection. **“Thanks to the generosity of these individuals, we stand to conserve more than 3,000 acres in the region.”**

The goal of the Forest Society is to purchase the property and protect it for long-term multiple uses. According to Brian Hotz, “Our goal is to establish a permanent Forest Society Reservation. If we’re successful, the land will remain open to the public for the hiking, blueberry picking, hunting, fishing and other activities that people have enjoyed on the mountain for generations.”

The state-funded Land and Community Heritage Investment Program (LCHIP) has contributed \$500,000 toward the \$2.18 million project, and the



New Hampshire Fish and Game Landowner Incentive Program (LIP) granted \$100,000.

Private donations have made up the balance of funding

received so far.

However, another \$750,000 is needed. The project deadline of December 1, 2009 is fast approaching. Donations are

For more information contact the Forest Society at www.forestsociety.org or Brian Hotz at 603-224-9945 / bhotz@forestsociety.org

Make contributions payable to:
The Forest Society—Ashuelot River Headwaters

Mail contributions to:
Kibler-Hacker, The Forest Society
54 Portsmouth Street, Concord NH 03301.

Mount Sunapee State Park Report

It may seem to have been a quiet summer for Mount Sunapee State Park. Beneath the surface, however, several important issues simmered, including Okemo's submission of its master development plan for the next five years.

Okemo submitted its proposed Five Year Master Development Plan (MDP III) in June to the Division of State Parks & Recreation and George Bald, Commissioner of the Dept. of Resources and Economic Development. (The Parks division is part of the larger agency, DRED.)

As you read on, if you want more detailed information about how the state manages the ski area at Mount Sunapee State Park, we point you to the Lease Oversight policy, a state document available on-line at :

www.friendsofmountsunapee.org.

For historical context, Okemo has presented three master development plans since they took over the ski area at Mount Sunapee in 1998. The most recent draft is for 2009-2014. In January 2000, Okemo submitted MDP I to Commissioner Bald, who approved it in September 2000. In June 2004, Okemo submitted a MDP II to Commissioner Sean O'Kane and he approved it in May 2005. The first two master plans for the ski area resulted in strong public opposition to various project proposals. Most memorable, of course, was Okemo's proposed expansion of the leasehold area and related real estate development in Goshen, con-



tained in MDP II.

In June 2009, Okemo submitted MDP III, as required. Despite Governor Lynch's unambiguous 2005 denial of their request to expand the leasehold, Okemo decided to resubmit that plan again, which remains "dead on arrival" at the State House. Considering the court's dismissal, this past spring, of Okemo's lawsuit against the State of New Hampshire regarding their initial expansion plan, their resubmission of this plan in MDP III is even more perplexing. The case now awaits a Supreme Court decision sometime in 2010. (See related article about the lawsuit on page 6).

With Governor Lynch's unwavering opposition and the defeated lawsuit as subtext, Commissioner Bald held a single public hearing regarding MDP III on July 14th. Unfortunately, the hearing resulted in rehashing the same private development vs. public interest issues that became moot five years ago with Lynch's election.

Less explored were several long-proposed, yet still troubling, requests for activities within the existing leasehold. Okemo's proposals include:

- Increased water withdrawals and snowmaking
- Night skiing with its related visual and wildlife impacts
- Significant new tree cutting and trail clearing all over the lease area, including some within forested areas known to have old growth characteristics
- Construction of long-discussed Parking Lot 4 with its impact on erosion and wetlands
- Development of several resort-style and non-traditional park activities including a golf driving range, drive-in movie theater, alpine slide, water slide, mini-golf, and climbing wall.

When viewed as a whole, these "inside the existing leasehold" proposals would result in an unmistakably larger and heavier footprint on our treasured public park. Water quality, air quality, and the park's sense of wildness would be further compromised, and fewer acres of the park would remain open to quiet nature-focused public enjoyment.

Given the declining state of the ski industry due to climate change, economic recession, and an over-reliance on real estate development as profit driver, there is little reason to believe that compromising our public park in the ways pro-

(Park Report continued on page 7)

Who NOW Owns the Lease at Mount Sunapee?

It has been eleven years since Okemo Mountain, Inc. leased the ski area located within Mount Sunapee State Park from the State of New Hampshire. Since then, the lease has been transferred to Sunapee Difference LLC to Triple Peaks LLC and, finally in December 2008, to CNL Lifestyle Properties based in Florida. Okemo has also used the lease as collateral interest to secure loans for improvements at Mount Sunapee and Okemo Mountain and for refinancing related to Triple Peaks' acquisition of Crested Butte Mountain Resort.

For a timeline of the lease transfers, see FOMS website at: <http://www.friendsofmountsunapee.org>

Who exactly is CNL Lifestyle Properties?

CNL is an investment trust, formed under federal law, that purchases developed real property and holds it as an appreciable asset. CNL purchases properties such as water parks, marinas, merchandise marts, golf courses and ski and mountain attractions and then immediately enters into a "lease back" agreement with a professional resort (i.e. Triple Peaks LLC) or facility management company. By federal law CNL is not allowed to be involved in the so-called "day to day operations" of its properties, nor is it allowed to own undeveloped property for future development. Therefore, the roughly 700 acres of undeveloped land in Goshen owned by Okemo remain in the hands of an



Mount Sunapee from Route 103B

Watercolor by Bea Jillette

Okemo-controlled entity (Sunapee Land Holdings LLC, Newbury).

CNL paid \$19 million for the Sunapee lease and assets, as a part of a larger \$133 million deal for all of Okemo's assets in Colorado and Vermont, according to SEC filings. CNL is now the official owner of the lease and all the fixed assets of the ski area. It is responsible for making the annual lease payments to the state.

CNL and Okemo, in a 20 year "lease back" agreement with options of renewal for another 20 years, keeps Okemo in charge of the day-to-day operations of the ski area. In recent SEC filings, CNL reported that the Initial Annualized Base Rent to be received from Okemo will be \$1.724 million. One can assume this rent will rise over time with inflation.

Future investment in infrastructure at the ski area will likely be funded by CNL, putting it in an important position for planning future projects within the lease area. The char-

acter and intensity of development within Mount Sunapee State Park, as we have seen, can have far reaching impacts affecting the park's culture and traditional values.

FOMS continues to monitor the movements of CNL and Okemo as this relationship unfolds, particularly regarding the continued threat of expansion and development onto undeveloped land still owned by Okemo in Goshen as well as development within the park.

For more information about CNL and its role in the ski industry, visit these websites:

<http://www.cnllifestylereit.com>

<http://bit.ly/cnlreit1>

<http://bit.ly/enlreit2>

Because CNL is a regulated financial instrument and subject to SEC disclosure laws, many details about the relationship between CNL and Okemo are available. You can search the SEC database EDGAR for "CNL Lifestyle Properties" and find quarterly reports, financial statements and more. ♦

The Future of NH State Parks

For the past four years, the future of New Hampshire's state parks has been discussed and examined by a series of public committees and the New Hampshire Legislature. The process continues this fall with the expected release of a draft 10-year Strategic Plan by the Division of Parks and Recreation. Overseeing the development of the plan is the State Parks Advisory Commission, or SPAC. Comprised of many citizen volunteers and legislators, including the Sunapee region's Senator Bob Odell, the SPAC meets in Concord regularly to review the agency's progress on the strategic plan.

Stay tuned to friendsofmountsunapee.org to follow along with the release of the upcoming 10-year Strategic Plan and related public hearings and comment period. Once approved, the strategic plan will form the basis for legislation to be introduced in the legislature in early 2010. This legislation may lead to major systemic changes to the way we fund and manage our priceless public assets, and will not be easy to pass without enormous grassroots support.

FOMS encourages you to engage in these discussions and demonstrate your passion for a better funded, more transparent, and better managed state park system for the people of New Hampshire. In addition to our website, you can follow along with the SPAC strategic planning process here:

<http://www.nhstateparks.org/about-us/commissions-and-committees/state-park-system-advisory-council.aspx>

Get involved and stay tuned!

Ledge Pond

Sunapee voters can look forward to a town warrant article in 2010 that seeks to permanently protect over 85 acres of land on Ledge Pond in the northwest part of town.

In late October, the Sunapee Conservation Commission held a public walkabout of the area to explain the plan and seek input, and is now working on a warrant article for Town Meeting. In association with the Ausbon Sargent Land Preservation Trust, the commission wants to place a conservation easement on the Ledge Pond lot, which is just under 80 acres and designated as Town Forest. The proposal will also include the Gore lot (1.2 acres of town-owned land) and a 7-acre parcel on the northwest side of the pond.

Ledge Pond is a 110-acre, shallow water body that once served as a surface reservoir for Georges Mills. The land around the pond is largely undeveloped. Loons are still known to return to Ledge Pond to nest in the spring. The conservation of land around Ledge Pond is consistent with the Commission's natural inventory plan for protecting Sunapee's important ecological assets including unfragmented forestlands, wildlife habitat and water resources.

A Ledge Pond trail map, prepared by the Sunapee Conservation Commission, is available at FOMS website. ♦



Mount Sunapee from Sunapee
Watercolor by Bea Jillette

❁ *“Keep up the good work. Respect the action of those who gave up land under the policy of eminent domain.”* A FOMS Member Quote

Lawsuit over expansion dismissed. Okemo appeals.

This past April, the Merrimack Superior Court dismissed the lawsuit filed by the operators of Okemo/Mount Sunapee Resort over its controversial proposal to expand the ski lease area. The case is now under appeal.

As FOMS reported in our March 2008 newsletter, threat of a lawsuit emerged publicly in 2005 after Governor John Lynch refused to bring forward and approve the Resort's request for an additional 175 acres of parkland to facilitate cross-border expansion and private, condo development on adjoining land in Goshen.

In October 2007, the Resort filed its complaint against the State of New Hampshire in the Merrimack court that led to the dismissal.

In the decision, Judge Diane M. Nicolosi said the Resort had "no valid right to use the land outside the bound, and therefore no right has been taken. Without a valid property right, Sunapee (the Resort) cannot maintain a cause of action..."

In short, the operating lease and the contract to operate the ski area at Mount Sunapee State Park did not assure expansion as the Resort asserts.

In June 2009, Okemo/MSR filed notice of appeal with the NH Superior Court and submitted a brief in August. The State's response was due October 15th.

As many recall, strong opposition emerged over leasing the ski area at Mount Sunapee State Park. At public meetings and hearings leading up to the State's decision in 1998, citizens expressed concern over the potential of real estate development and the use of public land for private gain.

In the dismissal, Judge Nicolosi acknowledged the controversy and found that the State attempted to lessen public opposition at the time by intentionally limiting the leasehold area to the existing ski area.

The decision, related documents and articles are available on-line at:

<http://www.friendsofmountsunapee.org>



View from Lake Solitude Trail

Watercolor by Bea Jillette

FOMS is monitoring the situation and will continue to provide updates on its website.

In 2005 Gov. John Lynch said, "...we must have a higher test for private use of our public lands, which are a treasure and a trust that belong to all of our citizens. As I have consistently said, my basic test for leasing state lands to a private business is that there must be compelling proof of a public benefit." ♦

"Thousands of tired, nerve-shaken, over-civilized people are beginning to find out that going to the mountains is going home; that wildness is a necessity; and that mountain parks and reservations are useful not only as fountains of timber and irrigating rivers, but as fountains of life." John Muir

**Send FOMS your favorite nature quotes
to add to our website to:**

info@friendsofmountsunapee.org

Parks Report continued from page 3

posed by Okemo would result in any positive outcome for the park system or the public. Indeed, these very external factors have kept Okemo from moving forward with approved projects. We think it is time for DRED to carefully reevaluate the previously proposed projects, including those approved by former Commissioner O'Kane in 2005.

Commissioner Bald confirmed directly to FOMS in July 2009 that approvals made by O'Kane do not constrain DRED from denying similar projects now on the table. This is good

news and leaves open the possibility of a reversal of agency policy regarding Mount Sunapee State Park in small, but important ways.

As of this writing, Commissioner Bald has not announced his decision regarding MDP III. DRED's published public comment period ended on September 14th. However, FOMS encourages you to communicate at any time with your government leaders about issues of importance. If you have specific comments about Okemo's proposed master plan, contact Commissioner Bald at the following addresses:

Email

mtsunapeecomments@dred.state.nh.us

Fax

603-271-2629

Mail

Commissioner George Bald
DRED, PO Box 1856
Concord, NH 03302

Feel free to share your comments with FOMS via fax, email, or mail. FOMS volunteers monitor the activities and plans for the leasehold at Mount Sunapee State Park. If you have any information or would like to help us maintain a watchful presence, please contact us. ♦

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FOMS is a New Hampshire non-profit charity and 501c(3) charitable organization. Donations are tax deductible to the full extent of the law.

Friends of Mount Sunapee advocates for protection of Mount Sunapee State Park for its essential public values; conservation of the Lake Sunapee watershed and Sunapee highlands; and preservation of the unique character and natural beauty of the rural communities in the mountain's shadow.



Donation and Membership Form

Please make checks payable to FOMS and mail to:
Friends of Mount Sunapee, PO Box 199, Georges Mills, NH 03751
Phone/Fax 603-863-0045

NAME: _____

MAILING ADDRESS: _____

TEL: _____ EMAIL: _____

- ___ \$15 Student or Limited Income
- ___ \$25 Regular
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- ___ Conservation Award Sponsor (See cover article): \$ _____
- ___ \$100 Supporting
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- ___ \$1,000+ Life Member

Please check your areas of interest:

- Public Policy and Public Lands
- Land Conservation
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- Serving as a Community Contact
- Helping with Membership & Events
- Helping with FOMS Newsletter



Friends of Mount Sunapee
PO Box 199
Georges Mills, NH 03751

“Conservation is humanity caring for the future.” Nancy Neuhall

Greetings from the Friends of Mount Sunapee

We hope this newsletter and update finds all of you well after a soggy summer and beautiful autumn. As leaves now blow past us, we need to remain aware that change is constant, ecologically and otherwise.

Within this publication you will find, among other topics, updates regarding the ownership of the lease of Mount Sunapee ski area, the master plan, and the status of the suit brought by Sunapee Difference LLC against the State of New Hampshire.

Among other notes relevant to park protection and conservation issues is information regarding the very important and really impressive Ashuelot Watershed protection project involving thousands of acres and several towns, and many

supportive donors of money and property rights.

The economy may have slowed development pressure, but now is the time to act, not relax.

Thank you all for your time, support, and appreciation of our unique corner of the New England ecological landscape. We must not lose what we have. Our children, and their children, will not be able to get it back.

We are always looking for people who would like to volunteer and/or serve on the FOMS Board of Directors. If you are interested please contact us by email, telephone or mail.

Jolyon Johnson,

President, FOMS
