

# CFA News

The Newsletter of the Catskill Forest Association, Inc.  
Volume 26, Number 3&4 - Summer/Fall 2008



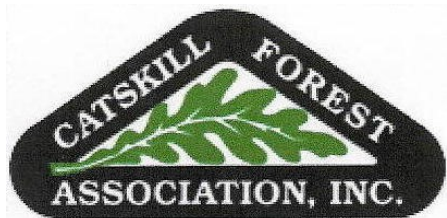
## ***INSIDE THIS ISSUE:***

3rd of a Series on Maple Sugaring  
Timber Theft on the Rise  
2008 Events

Member Showcase: Ken Christensen  
New FSI Marking Program  
Mike's Corner - A Forest Historian







CFA News  
Volume 26, Number 3 & 4  
Summer/Fall 2008  
Editor: Jim Waters  
Published Quarterly  
Catskill Forest Association, Inc.  
43469 State Highway 28  
PO Box 336  
Arkville, NY 12406-0336  
(845) 586-3054  
(845) 586-4071 (Fax)  
www.catskillforest.org  
cfa@catskill.net

#### **Copyright 2008**

The Catskill Forest Association, Inc.  
Contents may not be reproduced without permission.

#### Board of Directors:

Robert Bishop II, President, DeLancey  
Susan Doig, Secretary, Andes  
David Elmore, Treasurer, Davenport Center  
Joseph Kraus, Gilboa  
Seth LaPierre, Delhi  
Douglas Murphy, Stamford  
Jake Rosa, Arkville  
Gordon Stevens, VP, Margaretville  
Frank Winkler, Andes  
Jeff Wiegert, New Paltz

#### CFA Staff

Jim Waters, Executive Director  
Michele Fucci, Office Manager  
Ryan Trapani, Education Forester

Subscriptions: *CFA News* is mailed quarterly to members of the Catskill Forest Association. If you are interested in joining CFA, give us a call or visit our office. Contact information is located above. Please submit address changes to Michele at the address above.

#### **Cover Photo:**

*Signs of what's ahead! CFA's new woodstove and a pile of firewood ready to keep us warm. Many thanks for their donations -- Schaefer Industries (the Blue Stone Hearth), The Tinder Box (a Great Deal on the Woodstove) Neil Pekrul (the excellent installation) and Bob Greenhall & Eric Dahlberg for the firewood!*

## **Table of Contents:**

New Members.....	2 & 3
Executive Director's Message .....	3
Plant a cedar in Someone's Memory .....	3
Maple Tapping Techniques (3) .....	4 & 5
Events Held This Year.....	6a & 6b
Timber Theft On the Rise? .....	7a & 7b
Member Showcase (Ken Christensen).....	8
New FSI Marking Program.....	9 & 10
Observations of a Forest Historian: ("Shin Creek Mountain").....	11
Membership Application.....	Back Cover

## **WELCOME NEW MEMBERS!**

### **2008**

#### **April**

Lori & Tony Banchi – Hamden  
Don Harris – Delhi  
Ray Kremer – Claryville  
Ian Slome – Elizaville  
Artie & Kathy McCrossen – Halcott  
Gunter & Pauline Schmidt – Fleischmanns  
John Broekema – Kerhonkson

#### **May**

Pam Lane-Herrera – Narrowsburg  
Tomas Neira – Roxbury  
Joseph DeSiena – Lexington  
Bernard & Susan Sofronski – Andes  
Herbert VanSiclen – New Paltz

#### **June**

Gary Caso – Delhi  
Anne Slowey – Roscoe  
Hemlock Ridge Tree Service – Fleischmanns  
Janice Ketchum Piedra – Margaretville  
Jeff Wiegert – New Paltz

#### **July**

David & Margaret Leveson – Arkville  
Joseph Papernik – Stamford  
Carolyn Konheim & Brian Ketchum – Margaretville  
Francoise Jeanpierre – Denver  
John & Susan Ingoglia – Bloomville  
Jesse & Kevin Blumenthal – DeLancey  
Nancy & Bill Turick – East Meredith  
Carl Arnold – East Meredith  
Andrew Satter – New Paltz

## **NEW MEMBERS CONTINUED!**

### **August**

Alan & Rebecca Shulman - Andes  
Robert Wood  
Phillip Haemmerle - Andes  
John Riedl - Gilboa  
Steven & Laura Brown - Windsor  
Susan & David Clark - Bovina  
Marty Kiernan - Gardiner  
Gary Arndt - Franklin  
Richard & Susan Condon - Gardiner  
Louis Cariola - Bloomingburg  
Harriett Straus - Gardiner  
Bonnie Seegmiller - Downsville  
Scott Moroff - Halcott Center  
Paul Dibbell - Elka Park

### **September**

John & Rebecca Hodian - Saugerties  
Dave Arguez - Arkville  
Steve Bott - Eldred  
Ursula Beitter - Napanoch  
Jane Tompkins - Andes  
Bruce Altenburg - Bovina  
Kauneonga Estates Cooperative - Swan/White Lakes  
Chris Farrell - New Kingston

### **October**

Charles Sumprer - Arkville  
Lenny Reifinger - Andes  
Nancy White - Roxbury  
Gregory Navarro - Westkill

ble cost. 2. You can learn to mark your own crop trees. 3. You will have lots of firewood. (see pages 9 & 10) We are also looking into providing chain-saw training for landowners. We will let you know when this happens.

There is something else on the horizon that may have a very beneficial impact on forest management in the Catskills. There is talk of biomass plants being constructed here. One in particular is getting closer to becoming a reality. It is a pellet plant. It will be taking in between 10 to 16 trailer loads per day of firewood quality trees to convert into wood pellets. They will draw from a nearly 50 mile radius. We may finally have a market for our low-grade trees! Just think how this can help us manage our forests on a sustainable basis. It will also provide forest owners with income other than sawlogs while promoting the growth on those sawlog trees that are not yet ready to harvest.

CFA has had a great year. The summer was beautiful, the turnout at our workshops was great (see pgs 6a & 6b) and our membership numbers have increased. Thank you all for your help. Have a safe and happy holiday season!

Naturally,

*Jim Waters*

## **EXECUTIVE DIRECTOR'S MESSAGE**

This economic down-turn may last for a while and I see a problem looming. Forest owners will be pressured to look at their timber for financial relief. Timber prices have historically done well even during poor economies. This is why your investment in timber is safer than most and should not be liquidated for non-silvicultural reasons. That is, don't be tempted to harvest it prematurely! Remember that trees gain more value at a much faster rate as they get larger. This is because the volume is growing at a greater rate as well as the larger logs are moving up in grade, which is where the greatest increase in value occurs.

Speaking of increasing value .... I am very excited about a new program that CFA is starting up. It is designed to provide you with a much better return on investment on your timber and will help you meet your other goals, such as wildlife habitat and forest health. CFA will now mark up to 10 acres of your forest for forest stand improvement purposes. I think that you will find it useful in many ways. 1. It will help you manage part of your land at a reason-



**Contribute \$50 in the memory of someone that you have lost and CFA will plant a cedar tree making a hedge along this unsightly border. A plaque will be made up to place inside the entrance to the building with their names.**

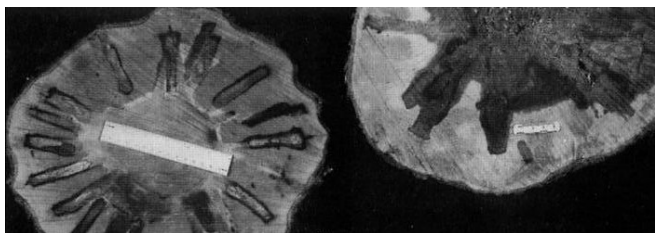
## **Article 3: Human Factors that Affect Your Sap Flow: Proper Tapping Techniques**

*This is part of a series of articles that will be dedicated to informing and educating local Sugarmakers of the Catskills. Local Sugarmakers consist of both commercial and backyard producers. Topics that will be included in this series include Factors that Affect Sap Flow, Healthy and Productive Tapping Techniques, Stand Structure, Species Composition of Maple Stands, Stand Tending, and other tricks of the trade.....Stay tuned!*

**Sugarbushes** are stands consisting of long-lasting perennials called sugar maples that may yield a crop of sugar annually for many years. Since the same trees are tapped and used for production year after year it is imperative that they are tended for and managed sustainably. More importantly, sugaring operations are difficult to “*up and move*” and finding a new sugarbush to tap can not only be labor intensive, but also expensive.

One way Maple Sugarmakers can greatly affect sustainable sap flow yields in their sugarbushes is by using proper tapping techniques. In order to better understand the importance of tapping properly, one must understand how trees react to wounding. Trees react by compartmentalization. Wood cells adjacent to the wound are formed in creating barriers to hinder the spread of pathogens and decay fungi. Decay fungi spread by air from the outside environment and cause staining and discoloration. Wood that is discolored is considered dead and unproductive. Discoloration usually spreads approximately 16” above and below a taphole and 6/10” horizontally. Tapping into discolored wood greatly increases the chances of spreading decay fungi since these microorganisms are already established. This can be seen by referring to **Figure 1 -- “Tapping into Discolored Wood.”**

**Figure 1 -- Tapping into Discolored Wood:** The tree cookie on the left represents normal discoloration after tapping has occurred. The tree cookie on the right represents what occurs when tapping is performed into discolored wood. Notice the significant spread in the zone of discoloration. This is non-functional tapping material that can no longer be used in the future.



Sustainable tapping techniques therefore revolve around minimizing the *zone of discoloration* and maximizing healthy productive sapwood-space for future maple seasons. The three tapping aspects a sugarmaker must learn to be proficient in are: 1. *Diameter & Depth* of tapholes; 2. *Number* of tapholes per tree; and 3. *Location* of tapholes on a tree.

### **1. Diameter and Depth --**

The diameter of tapholes should be as small as possible, while extracting the most sap flow. Typical diameter tapholes have been 7/16” and usually take 2 years to compartmentalize and heal over. Tapholes of 5/16” diameter are becoming more common and take only 1 year to compartmentalize and heal over.

Tapping depth is a function of tree growth. The faster a tree grows, the faster sapwood will heal over an old taphole and can be tapped in or around the area creating more years of tapping on the same tree. After many years of tapping the same trees, many tapholes may be superimposed (taps that are tapped into zones of discoloration from previous tapholes) and result in lower productivity. “*Virgin*” sugarbushes are always more productive for the first few years, but after years of tapping, yield is diminished by increases in the zone of discoloration and superimposition. Superimposition should be minimized by matching growth rates of trees with size of depth. Trees that are *free-to-grow* or that have little competition for sunlight will have the greatest growth, while trees that are growing in crowded conditions will have the least. Typically, a free-growing sugar maple will grow approximately three and one-half tenths of an inch per year in radius while a tree in crowded conditions will grow one tenths inch per year in radius. That’s three and one-half times slower! Therefore, the slower the growth, the shallower a tap should be made in order to prevent superimposed taps. (Refer to **Table 1 -- “Depth of Taphole Guidelines per Tree Growth”**).

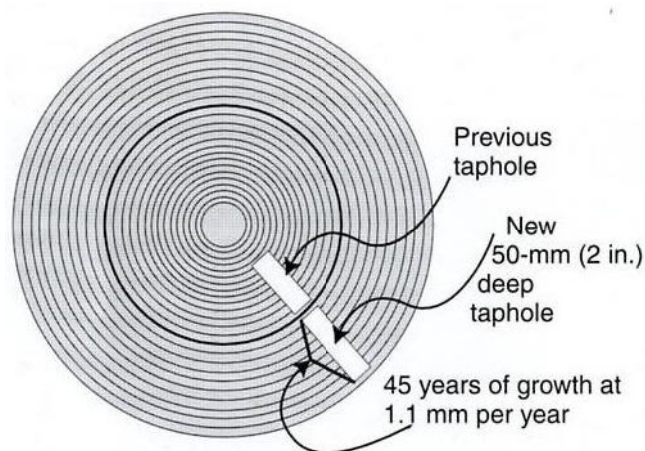
*Table 1 -- Depth of Taphole Guidelines per Tree Growth*

<i>Radial growth of maple (inches)</i>	<i>Depth of taphole (inches)</i>
0.03	1.6
0.03 to 0.06	2.0
0.06 and over	2.4

For example: In a typical sugarbush, a tree grows two tenths of an inch in radius per year. A tap that is drilled to a depth of 2” cannot be tapped in that same location for 45 years! A tap drilled on the same tree 1.6” deep could be tapped over in 36 years! Refer to **Figure 2 -- “Length of Time in Avoiding Superimposition”** in order to see how long it takes for a tree to heal over an old taphole before re-tapping. Maple producers can therefore enhance their production by 5% - 10% by adjusting the depth of tapholes based upon tree growth. Production can also be greatly increased by removing competition which enhances growth and sugar content from photosynthesis, but we’ll talk about this in the next newsletter!

**Figure 2 -- Length of Time in Avoiding Superimposition:** A sugar maple that has a growth rate of 0.04”/year in radius cannot be tapped without superimposition or tapping into non-functional wood for 45 years.





## 2. Number --

The number of tapholes made on a tree is not a function of tree growth, but instead of tree diameter. It cannot be overstated the importance of minimizing the zone of discoloration and the avoidance of tapping into it (superimposition). Smaller diameter trees cannot tolerate as many taps as larger trees since zone of discoloration spreads equally in both. **Table 2** – “Tapping Number Guidelines” explains the current tapping guidelines. Trees less than 8” in diameter at breast height (DBH – measured 4 & ½ feet above ground level) should never be tapped since the entire circumference will be tapped in a shorter time. For example: a 6” diameter tree has a circumference of 18”. A taphole creates a zone of discoloration of 1.6” wide. After 12 years, the producer will have tapped the entire circumference (1.6” wide x 12 years = 19.2”). The problem grows worse if the tree is growing under crowded conditions where growth and compartmentalization are reduced leaving the tree and sugarbush susceptible to insects, disease and other pathogens.

**Table 2 -- Tapping Number Guidelines**

Number of taps	Tree diameter (4.5 feet) above ground (inches)
0	Under 8
1	8 to 15
2	16 to 23
3	24 and over

## 3. Location --

The location of tapholes is also very important in minimizing the zone of discoloration. As mentioned earlier, when a taphole is made a zone of discoloration spreads both vertically and horizontally from the taphole. Tapping within this zone greatly enhances the spread of decay fungi and potential sapwood for tapping in the future. Therefore, it is recommended that taps be placed at least 16” vertically and 2” horizontally from any previous taphole. In addition, systematic tapping exactly 2” to the left or right from a previous taphole in a straight line should be avoided since this may create a column of discolored wood. Instead, tap on the opposite side of the tree from last year’s tapholes. Tapping on only the north, east, south, or west sides should also be avoided since it will inevitably lead to superimposition. If tubing is being used there will need to be enough slack in

the line in order to reach all sides of the tree.

### Additional Tips --

a. Taps should be driven in lightly in order to prevent cracking in the wood that will create more discoloration.

b. Some maple producers use disinfectants to clean out tapholes and prolong the sap flow season. Historically, paraformaldehyde was used because it delayed compartmentalization and increased sap flows. However, this substance is now illegal because of its toxicity. Also, it was found to be harmful to the tree since it negatively impacted its long-term ability to compartmentalize causing increases in discoloration which reduced sap flows in the future. An alternative is a 70% solution of ethyl alcohol that can be used in the taphole and in soaking taps. The alcohol is used to kill any microorganisms and bacteria and apparently does not hinder the tree’s ability to compartmentalize. Ethyl alcohol should not be confused with methyl (wood) alcohol which is harmful to humans.

c. Knowing when to tap seems to be always a subject of debate among producers. Tapping may differ from sugarbush to sugarbush depending upon weather, temperature, elevation, aspect and wind patterns. Sometimes tapping too early can result in taps *drying out* and decreased sap flows.

In conclusion, sugarbushes do not last forever even though we sometimes think they do since our lives are usually outlived by them. Until recently, I too took their healthy presence for granted, but soon realized after touring Vermont, New Hampshire and the Catskills some of the poor conditions some of these sugarbushes were in. Some producers were tapping trees from as small as 4”-6” DBH. These trees will not be productive for very long. Fortunately, we are blessed with an abundant inventory of sugar maples in our region that if tapped sustainably can supply our state with all the local sugar it needs. By tapping wisely we can tap for more sap from the same trees for a longer duration of time.

### **\*Attention Sugarmakers\***

If you would like to submit an article about something you would like to share that is related to your maple syrup production, please call CFA and let us know. Article topics may vary from fun maple stories, anecdotes and production levels to sugarbush and evaporator management. Also, any producers who would like to advertise their maple products and/or supplies should also call our office. Help us promote a forest product and keep our working forest while promoting you... the producer.



# Some of CFA's events this year...

## Maple Sugaring Workshop

February 16<sup>th</sup>, 2008: Arkville, Delaware County

- I. Identify & Plan Trees to Tap
- II. Tap Your Trees
- III. Collect Your Sap
- IV. Boil Your Sap
- V. Package Your Syrup
- VI. Savor the Flavor



## Introduction to Woodlot Management

May 31<sup>st</sup>, 2008: East Meredith, Delaware County



## Tree Planting Workshop

April 19<sup>th</sup>, 2008: Pine Hill, Ulster County

- How to plant trees properly
- Goals & objectives
- What to plant
- Where to plant
- When to plant
- End with a live demonstration



A community celebration of local history @ Walker Valley Fire House



## Old Fashion Day

June 1<sup>st</sup>, 2008: Walker Valley, Ulster County



## Tree Planting Workshop

April 19<sup>th</sup>, 2008: Pine Hill, Ulster County



## Meredith Dairy Festival

June 14<sup>th</sup>/15<sup>th</sup>, 2008: East Meredith, Delaware County





## Pond Management Workshop

July 12<sup>th</sup>, 2008: Margaretville, Delaware County

- Jeff Flack: Director of Greene County Soil & Water Conservation District
- Dick Cowan of Cowan Excavating
- Visited 2 Pond Sites



## Shawangunk Mountain

### Blueberry Festival

August 23<sup>rd</sup>, 2008: Ellenville, Ulster County



## Deposit Lumberjack Festival

July 19<sup>th</sup>, 2008: Deposit, Delaware County

Nathan  
Waterfield  
Class of 04  
NYS Ranger  
School



## Margaretville Street Fair

August 23<sup>rd</sup>, 2008: Margaretville, Delaware County



## Northeast Teacher's Tour

August 8<sup>th</sup>, 2008: Deposit, Delaware County

## Annual Meeting at the Forest House September 13<sup>th</sup>, 2008



## Grahamsville Fair

August 15<sup>th</sup> - 17<sup>th</sup>, 2008: Grahamsville, Sullivan County



## Firewood Workshop

November 8<sup>th</sup>, 2008





# **PROPERTY OWNERS - BEWARE!!!**

## **TIMBER THEFT COULD BE ON THE RISE!!!**

CFA has been receiving an increased number of calls regarding timber theft. They have ranged from just a few trees being cut along a disputed boundary line to vast areas of timber being picked through for the more valuable trees.

This may be a sign of some of the tough times that the logging industry is going through. Fuel costs are rising sharply, timber prices are depressed and large equipment payments are still due. Some loggers who continue to degrade the reputation of a very good, needed, and welcomed industry are being put under tremendous economic pressure. Somehow, a few of these, from here on out I'll call them thieves (not loggers), justify that stealing someone's trees is OK because of the backbreaking work they do and the hard times they are going through.

A recent study done by a corporate loss prevention crime investigators services has shown that 40% of people will never steal or be dishonest, regardless of the situation. Half of the remainder will steal depending on the situation and the remaining 30% of workers are likely to steal or be dishonest on a regular basis. The 30% that might steal depending on the situation are going to feel more inclined to during hard economic times.

Theft may also be on the rise due to the new make-up of forestland owners. That is, land is now owned by people not as savvy about timber and land management, and/or are absentee landowners that are not at their property a lot of the time.

Any one will tell you, once a timber theft has been discovered it is difficult to prosecute the thief and extremely expensive to sue them in a civil action. This is true, despite New York changing its law in 2003. The new law (Chapter 602 of the Laws of 2003) established timber theft as a Class 'A' misdemeanor, established procedures to help victims obtain restitution and enhanced the ability of law enforcement to prosecute crimes. (see, "Summary of NY's Timber Trespass Laws" on page 7b) Even with the new law, timber theft is still a grave problem and victims rarely recover their losses. As one CFA member said, "I am being victimized over and over again -- not only by the thief, but by the system. It has been over three years now, I lost \$30,000 worth of timber, have spent nearly \$20,000 to survey and collect the evidence needed to prosecute and even then, only got the DA to sentence the villain to paying restitution for double the timber value. I have still to receive a penny of that money. The crook is out free to log, has no money to pay me and I have received nothing for any of my expenses, time and hardship."

In many cases State troopers will not visit the site until a paid survey and forester's report are presented. Getting a survey done takes time and the survey and forester's time can be costly. Once the report is drawn up you must convince the local District Attorney to prosecute. In one case a landowner was handed the report forms by the State Trooper and had to fill out the reports himself.

Getting the DA to prosecute one's case has proven to be very difficult to do in most areas of New York. In a

prosecutor's mind there are more critical issues which they hold a much clearer understanding of. Also, the evidence needed to convict a person of timber theft can be extremely difficult and expensive to obtain. Even if the individual is convicted it may be quite some time before a landowner sees any of the money. These thieves can have most of their assets in someone else's name and they may not have much money at all.

So.....What's the answer?.....

The most effective way to protect yourself, your trees and your land is to do everything you can to prevent the theft in the first place. Here are some proactive things that you should be doing:

1. Identify and mark your boundary lines. A surveyor might be required to do so. If you do have a line surveyed, require that the lines be blazed and painted -- not just the corner pins established. The extra cost will definitely be worth it. And....maintain the boundary lines! If you do, you may never have to pay a surveyor again.

2. Walk the property on a regular basis. This is particularly crucial for absentee landowners. This will also make you aware of logging operations on adjacent properties. If you can't or don't want to do it yourself, hire someone else - or, if you lease it to a hunting group, make that part of their lease payment.

3. When adjoining landowners are performing a harvest, risk of a theft is highest. Contact them to get the name of the logger and forester just in case an issue arises. This will also ensure that your neighbors are aware of the harvesting operation on their property in case it is a theft from them.

4. Stay informed on New York timber trespass law changes. You can visit the New York Department of Conservation web-site at: [www.dec.ny.gov](http://www.dec.ny.gov)





## **Summary of New York's Timber Trespass Laws, 2007**

### **A. Real Property Actions and Proceedings Law**

#### **§861. Action for cutting, removing, injuring or destroying trees or timber, and damaging lands thereon.**

1. If any person, without the consent of the owner thereof, cuts, removes, injures or destroys, or causes to be cut, removed, injured or destroyed, any underwood, tree or timber on the land of another or on the common or other land of a city, village, town or county, or damages the land in the course thereof, an action may be maintained against such person for treble the stumpage value of the tree or timber or two hundred and fifty dollars per tree, or both, and for any permanent and substantial damage caused to the land or the improvements thereon as a result of such violation. Such reparations shall be of such kind, nature and extent as will reasonably restore the lands affected by the violation to their condition immediately before the violation and may be made by physical restoration of such lands and/or by the assessment of monetary payment to make such restoration.

2. In any action brought pursuant to subdivision one of this section, if the defendant establishes by clear and convincing evidence, that when the defendant committed the violation, he or she had cause to believe the land was his or her own, or that he or she had an easement or right of way across such land which permitted such action, or he or she had a legal right to harvest such land, then he or she shall be liable for the stumpage value or two hundred and fifty dollars per tree, or both and reasonable costs associated with maintaining an action pursuant to this section. In such case, the defendant shall also be liable for any permanent and substantial damage caused to the land or the improvements thereon as a result of such violation. Such reparations shall be of such kind, nature and extent as will reasonably restore the lands affected by the violation to their condition immediately before the violation and may be made by physical restoration of such lands and/or by the assessment of monetary payment to make such restoration.

3. For the purposes of this section "stumpage value" shall mean the current market value of a tree as it stands prior to the time of sale, cutting, or removal. Stumpage value shall be determined by one or more of the following methods: the sale price of the tree in an arm's-length sale, a review of solicited bids, the stumpage price report prepared by the department of environmental conservation, comparison with like sales on trees on state or private lands, or other appropriate means to assure that a fair market value is established within an acceptable range based on the appropriate geographic area.

**This section allows for a civil action for the taking of trees from forest lands, and for damages of treble the stumpage value or \$250 or both. Also requires restoration of lands damaged by the theft.**

**If defendant proves by "clear and convincing evidence" that defendant believed he or she was on defendant's own land or had an easement or other legal right to the timber, then damages limited to stumpage value or \$250, or both as well as recovery for damage to the land and reasonable court costs.**

### **B. Environmental Conservation Law**

**§9-1501. Removal of trees.** No person shall cut, pull or dig up for the purpose of removal, injure or destroy or cause to be so removed, injured or destroyed, any tree on the lands of another without consent of the owner. Any peace officer, acting pursuant to his or her special duties, or police officer may enforce the provisions of this section.

**§71-0703. Penalties.** In order to secure the enforcement of the several sections of article 9 the following fines and civil penalties are provided:

1. In addition to any prosecution as provided under article one hundred fifty-five of the penal law, any person who violates subdivision 1 of section 9-0303 or section 9-1501 of this chapter except where the lawful exercise of an easement or right of way on land not owned by the state is involved shall be guilty of a class 2. A misdemeanor. Upon conviction, such person shall be sentenced to a fine and/or imprisonment as provided in the penal law.

(a) In addition to any other penalty provided by law, any person who violates subdivision 1 of section 9-0303 of this chapter shall be liable to a civil penalty of two hundred fifty dollars per tree or treble damages, based on the stumpage value of such tree or both. Where the order or decision finds that the defendant established by clear and convincing evidence, that when such defendant committed the violation, he or she had cause to believe that the land was his or her own, or that he or she had an easement or right of way across such land which permitted such action, damages shall be awarded on the basis of the stumpage value of such tree or trees in the market as if they were privately owned. Notwithstanding the foregoing, this section shall not be construed to authorize the cutting of timber or removal of trees where such action would otherwise be violative of any provision of the state constitution or law.

(b) In addition to any other penalty provided by law, a person who violates section 9-1501 of this chapter shall be liable for a civil penalty of two hundred fifty dollars per tree or treble damages or both, based on the stumpage value of such tree or trees. Where the order or decision finds that the defendant established by clear and convincing evidence, that when such defendant committed the violation, he or she had cause to believe that the land was his or her own or that he or she had an easement or right of way across such land which permitted such action, damages shall be awarded on the basis of the stumpage value of such tree or trees. Notwithstanding the foregoing, this section shall not be construed to authorize the cutting of timber or removal of trees where such action would otherwise be violative of any provision of the state constitution or law.

(c) For purposes of this subdivision, "stumpage value" shall mean the current market value of a tree as it stands prior to the time of sale, cutting, or removal. Stumpage value shall be determined by one or more of the following methods: the sale of the tree in an arm's-length sale, a review of solicited bids, the stumpage price report prepared by the department of environmental conservation, comparison with like sales on trees on state or private lands, or other appropriate means to assure that a fair market value is established within an acceptable range based on the appropriate geographic area.

3. In addition to the penalties otherwise provided, any person who violates any of the provisions of subdivision 1 of section 9-0303 or section 9-1501 of this chapter may be ordered by the commissioner or the court to make reparations for any permanent and substantial damage caused to the land or the improvements thereon as a result of such violation. Such reparations shall be of such kind, nature and extent as will reasonably restore the lands affected by the violation to their condition immediately before the violation and may be made by physical restoration of such lands and/or by the assessment of a monetary payment to make such restoration.

### **C. Penal Law**

#### **§155.05. Larceny; defined.**

A person steals property and commits larceny when, with intent to deprive another of property or to appropriate the same to himself or to a third person, he wrongfully takes, obtains or withholds such property from an owner thereof.

#### **§60.27. Restitution and reparation.**

If the offense of which a person is convicted is defined in section 155.25, 155.30, 155.35, 155.40 or 155.42 of this chapter, and the property taken is timber, the court may upon conviction, in addition to any other sentence, direct the defendant to pay the rightful owner of such timber an amount equal to treble the stumpage value of the timber stolen as defined in section 71-0703 of the environmental conservation law and for any permanent and substantial damage caused to the land or the improvements thereon as a result of such violation. Such reparations shall be of such kind, nature and extent as will reasonably restore the lands affected by the violation to their condition immediately before the violation and may be made by physical restoration of such lands and/or by the assessment of monetary payment to make such restoration.

**Local District Attorneys may prosecute a timber thief for larceny under the Penal Law, but must prove that the defendant was intentionally on land not his own and was not simply mistaken as to a boundary or as to who owned the trees taken.**

#### **Penal Law:**

**§155.25: larceny of any property (class A misdemeanor)**

**§155.30: larceny of property over \$1,000 (class E felony)**

**§155.35: larceny of property over \$3,000 (class D felony)**

**§155.40: larceny of property over \$50,000 (class C felony)**

**§155.42: larceny of property over one million dollars (class B felony).**

**When timber is taken the defendant may also be required to pay treble the stumpage value and reparations for damage to the land. Makes the penalties under the Penal law identical to those under the Real Property Actions and Proceedings law and the Environmental Conservation law.**

# Member Showcase: Ken Christensen

CFA covers a large region. Within the region we cover (Delaware, Greene, Otsego, Schoharie, Sullivan and Ulster Counties) are all types of members with varying goals and objectives, with the accompanying *forest management challenges* that are specific to each site. In most cases, a Forest Manager's greatest challenge is in establishing or regenerating a stand of trees. Regeneration in the understory is essentially the *future forest*. Foresters refer to regeneration currently in a stand as *advanced regeneration*. Although advanced regeneration is made up of small, tiny seedlings they can be exciting. From a Forest Manager's perspective, the presence of regeneration indicates forest renewal & sustainability since this is the future crop or rotation of trees that will succeed the taller, mature trees in the overstory. The presence of advance regeneration indicates a healthy seed bank of that species within the forest floor as well. When the overstory is removed, this seedbank can be counted upon in filling the space that sunlight allows and providing yet again a healthy forest crop. This is not always the case!

Not all forested properties are created equally within a landscape as a result of ecological circumstances! Some areas have more abundant and/or diverse species of advance regeneration than others. Why? The influence of one particular, large woodland herbivore: White-tailed deer. Deer primarily browse upon herbaceous growth, grass, leaves, twigs, buds, nuts, apples, berries, corn, shrubs, etc. Similar to humans, they too prefer some food to others. During the growing season, there is plenty of forage to feed upon. However, after snowfall covers over the more accessible, succulent growth, deer return to the forest to feed upon buds, leaves and seedlings or the forest regeneration a landowner was counting on for the next crop of trees. For the most part, the most valuable trees to humans turn out to be extremely palatable and tasty to deer: sugar maple, red maple, oak and white ash. Species less desirable are therefore found in most abundance in heavily browsed areas. In the Catskills, an over-browsed area containing beech, striped maple and fern is a typical scenario. The heaviest browsed areas may include a barren *desert* where no vegetation grows.

In areas with a diversity of food for deer to eat there will most likely be more advanced regeneration than in areas without. This summer, on an *On-Site Visit* to a member's property in southern Ulster County plenty of advanced regeneration could be seen. The forested property consisting of 75 acres was located on a ridge. Below this ridge in the valleys on either side were apple tree farms, small and large openings in the form of transmission lines, wetlands, and beaver ponds that allowed plenty of sunlight for herbaceous growth for wildlife to feed upon. Sugar maple, white ash and red oak seedlings were scattered abundantly throughout the forest. Any opening in the overstory was occupied by desirable seedlings in the understory. This landowner had many options. He could make small partial cuts to allow shade-tolerant species such as sugar maple, or larger cuts to favor shade-intermediate to shade-intolerant species.

In other areas, landowners have to be more aggressive in establishing regeneration. In August, CFA and one of its members, Ken Christensen, led a woodswalk on his property in the Town of Wawarsing, Ulster County. The area is located near the Catskill Forest Preserve where a mature forest dominates the landscape. Since the overstory is rarely disturbed, very little sunlight is allowed to reach the understory. As a result, there is a scarcity of herbaceous growth in the understory



From Left to right: Steven, Claire, Raymond and Ken.

for early-successional dependent wildlife to feed upon. In this environment, any small disturbance which results in seedling germination by a Forest Manager within the contextual landscape will result in heavy browsing. In fact, deer browsing of undesirable vegetation such as beech could even be seen.

In order to establish desirable regeneration, Ken Christensen has been busy protecting desirable seedlings. He has protected hundreds of seedlings by the use of tree shelters or tubes. These tubes are 5 feet long since deer rarely browse above this height. Some of the seedlings he has protected are ones he has planted: sugar maple, black walnut, red oak, white oak and tulip poplar. Others he has found and protected on the spot before the deer discovered them. (Tree tubes can be purchased through CFA.)

Ken also manages the trees in the overstory through *Crop Tree Management* (CTM). Similar to a vegetable garden, he releases healthy desirable timber crops such as red oak, black cherry and sugar maple by removing competing, poorly formed trees for firewood. In this way, Ken is not only improving the health and value of his forest, but also providing a renewable, locally grown heating source for his home. CTM also allows more sunlight into the understory which would result in regeneration if there were less browse pressure. Ken is hoping to reduce the deer herd by hunting so that these smaller cuts will enhance *natural* regeneration while providing him with a source of meat.

Ken and his two brothers Raymond and Steve can also be found working the property. Sometimes they are busy sawing up cherry, beech, and hemlock boards for use around the property. They use a portable sawmill made by *Woodmizer*. Recently, the brothers restored the barn on the property using hemlock boards. In addition, Ken also made his first batch of maple syrup last March using some pans he welded together himself.

After visiting Ken for the first time on an *On-Site Visit* last year I soon realized that he knew where each and every crop tree on the property was located. Surely, the forest on his property will be healthier for it! Good luck to the Christensens!



# *New CFA Tree Marking Program!*

**This is a great way to get an area marked that will provide you and others with firewood as well as improve the health of your forest. You are welcome to join us during the marking to learn how to do it yourself. This could save you money down the road as it will sharpen your understanding of forest management and you will be developing your own tree selection skills. Thinning out the forest will make it more resistant to insects and disease, a better water filter, better wildlife habitat and increase the value of the timber.**

## **DETAILS:**

1. You must be a CFA member.
2. An "on-site-visit" fee of \$100 plus mileage will be charged for selecting, designating on the ground the area to be marked, and determining the acreage to be included.
3. After reviewing the forest management plan (if there is one) and taking into account the landowner(s)' objectives, a prescription for that stand will be recommended by the representative and the marking guidelines agreed upon by both the representative, the landowner(s)' forester (if there is one) and the landowner.
4. A maximum of 10 acres will be marked for each landowner in any one calendar year.
5. A fee of \$45 per acre will be charged for the marking.
6. \$15 of this \$45 can be claimed as a tax deductible contribution to CFA, a 501-c-3 not-for-profit organization.
7. The trees marked will be the trees that are considered "crop" trees (These are the trees that are the "keepers".) They will be marked by tree-marking paint at or just below eye height, most of the way around the bole of the tree, and on the stump.
8. It will then be up to the landowner to remove or kill all of the trees without paint. In most cases these trees will not be useful for anything but firewood. There may be an occasional saw-log tree, but unless there are a sufficient number of them, it will not be worth-while to have them delivered to a mill. The goal with this program is to improve the forest by removing the "weed trees". In some cases the trees can be left as fertilizer and wildlife habitat.
9. In the case that the landowner does not want to do the work themselves, a list of professionals will be given to them by CFA to contact in order to have the work done.
10. There is a limited amount of this we can get to, so sign up soon! Just fill out the application below and mail it in. We will call to schedule.

**A thinning typically removes about 4 to 5 cords per acre. If you had 10 acres marked, that would be about 45 cords of firewood being made available to you! That means that for an on-site fee and somewhere around \$10/cord you would get a rare and valuable educational experience along with the wood marked by a professional forester from CFA.**

**(See Other Side)**

## **CFA TREE MARKING APPLICATION**

Name \_\_\_\_\_

Address of Property \_\_\_\_\_

Email address \_\_\_\_\_ Date \_\_\_\_\_

Phone Number and best time to call, where you can be reached during the weekday \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_





## *Notice*



CFA is exploring a special program in chainsaw safety and use for landowners. Insurance requirements may be the limiting factor, but if that can be overcome by paying a reasonable fee, courses will be offered in various areas throughout the region. We will keep you informed.



**Marked for  
Forest Stand Improvement  
Do not damage or  
remove marked trees!**

**[www.catskillforest.org](http://www.catskillforest.org)**

11/20/06-1/10/07

10888 2006, LLC, MARBLE, NY 12054-2452 1-800-473-2666 [www.Vermont.com](http://www.Vermont.com)





## ***Mike's Corner: Observations by a Forest Historian --*** (Part 3 of a Series)

### **"The Oaks of Cold Spring Hollow"**

I had never hiked the Cold Spring Hollow Trail, a short connector to the main Dry Brook Ridge Trail, before it was abandoned in the mid-1970s. I have since then wanted to see the forest through which this trail had passed and to determine how far down the slope one had to go to leave the first growth forest which clothes the crest of Dry Brook Ridge.

On September 13, 2007, CFA Education Forester Ryan Trapani and I climbed Dry Brook Ridge, just across the valley from the CFA offices, but from the back side. Because access to the former Cold Spring Hollow trailhead is now blocked by private lands, we had to climb to the crest of Dry Brook Ridge via the new Huckleberry Brook Ridge Trail from Hill Road. We then followed the Dry Brook Ridge Trail for about one third of a mile to the point where the old Cold Spring Hollow Trail diverged; there is no longer any evidence of this old trail so we had to bushwhack down as best we could, approximating its former route.

What we found was a lot more than the first growth – second growth forest boundary, but something that caused me to overhaul my thinking about the origin of the northern red oak forests around the periphery of Dry Brook Ridge, and in addition the oak forest on the hill directly behind the CFA offices!

I had, for several decades, known about the Treyz, later Lucerne, Chemical Company's cutting of hardwoods for their acid wood factory in Arkville, beginning in 1901. I had assumed that the great bulk of all the oak, white ash, and black birch, now maturing along the German Hollow, Pakatakan Mountain, and Huckleberry Hollow Trails, had first come into this region as a result of the acid wood cut. They are less

shade tolerant than sugar maple and beech and typically enter a forest after some disturbance.

But a stump on private land along the forest preserve blaze in the area of the old Cold Spring Hollow Trail dated to about 1985. The stump was an oak 140 years old when it was cut. On nearby state land, we found a broken oak which we estimated to be between 125 and 150 years old. If this is so, then the oaks were established in the 1840s, much earlier than I had previously thought, not after 1901.

I couldn't believe this. I needed to verify the age of the oaks with ring counts from more stumps. So, on September 18, 2007, I re climbed the Huckleberry Brook Trail from Hill Road and needed to go only as far as the crest of Dry Brook Ridge, at 3100 feet. I was able to obtain ring counts from at least a half-dozen more oaks, logged in the late 1960s before Lots 73 and 74 were sold to the state some time between 1970 and 1983 (I remember the logging had just ended when I climbed Dry Brook Ridge for the first time in 1969). The Huckleberry Brook Ridge Trail, built in 1994, follows some of the log roads from this 1960s operation.

The stumps had only partly rotted in the ca. 40 years since they were cut. The oaks ranged in age from 85 to 125 years, with an establishment period of between 1840 and 1880.

The result? The Treyz-Lucerne cut in 1901 did NOT bring the oak, ash, and black birch into the area at all. They had been here at the very least for several decades prior. The 1901 cut had only increased their abundance.





PO Box 336  
Arkville, NY 12406

## **MEMBERSHIP APPLICATION**

I believe in enhancing the quality of the forest land in the Catskill Region through proper forest management.  
To that end, I am interested in joining the Catskill Forest Association and supporting its efforts.

Name \_\_\_\_\_

Mailing Address \_\_\_\_\_

Phone #: \_\_\_\_\_ E-mail: \_\_\_\_\_

### **Membership Categories (Select the level & if you'd like, make an additional donation):**

<b>Membership</b>	<b>\$50 + \$</b> _____
<b>Contributing</b>	<b>\$75 + \$</b> _____
<b>Business / Supporting</b>	<b>\$100 + \$</b> _____
<b>Supporting</b>	<b>\$150 + \$</b> _____
<b>Sustaining</b>	<b>\$250 + \$</b> _____
<b>Benefactor</b>	<b>\$750 + \$</b> _____

Do you own land in the Catskill Region? Yes \_\_\_\_\_ No \_\_\_\_\_

Property address: \_\_\_\_\_

Telephone #: \_\_\_\_\_ County: \_\_\_\_\_

Total acres: \_\_\_\_\_ Forested acres: \_\_\_\_\_ Pond Y / N Stream Y / N River Y / N

Amount enclosed \$ \_\_\_\_\_

All membership dues and donations are fully tax deductible to the extent allowed by law. A copy of the most recent financial statement filed with the New York Department of State is available upon request.