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STATE OF NEW HAMPSHIRE
DEPARTMENT of NATURAL AND CULTURAL RESOURCES
DIVISION OF PARKS AND RECREATION

172 Pembroke Road Concord, New Hampshire 03301
Phone: (603) 271-3556 Fax: (603) 271-3553 E-Mail: nhparks@dred.nh.gov
Web: www.nhstateparks.org

June 4, 2018

His Excellency, Governor Christopher T. Sununu
and the Honorable Executive Council
State House
Concord, New Hampshire 03301

REQUESTED ACTION

1. Pursuant to RSA 216-A:3-g and RSA 227-H:9, authorize the Department of Natural and Cultural Resources, Division of Parks and Recreation (Department) to enter into a Special Use Permit (Permit) with the Appalachian Mountain Club (AMC) of Boston, Massachusetts, for use of certain State-owned land collectively known as the Lonesome Lake Hut upon Governor and Executive Council approval through June 30, 2019.
2. Further authorize the Department to accept a one-time payment of \$6,528.50 from the AMC in accordance with the terms of the Permit. The payment is based on the FY 2018 permit fee plus a 2% annual increase and will be deposited into the accounting unit #03-35-35-351510-37020000 "State Parks Fund."

EXPLANATION

In 1965, the State constructed a cabin on Lonesome Lake in Franconia Notch State Park and entered into a lease arrangement with the AMC to occupy and operate the cabin as part of their mountain hut system. In 1979, the State transferred ownership of the cabin to the AMC for the purpose of providing dining and lodging services to the general public.

The Department of Revenue Administration has nearly completed an appraisal of the value of the site and associated rights. The year-long Permit will allow us to continue this mutually beneficial partnership while providing the parties the time to complete a longer-term agreement that reflects fair market value for AMC's use of the property and other associated rights and to consider potential in-kind services acceptable to the Department that may be used to offset a portion of the fair market value of the AMC's use of the property. The Office of the Attorney General has reviewed and approved the Permit as to form, substance, and execution.

Respectfully submitted,

Philip A. Bryce, Director

PAB/ttl-060418

Attachments

Concurred,

Sarah L. Stewart, Commissioner



JUN - 8 2018



STATE OF NEW HAMPSHIRE
DEPARTMENT OF NATURAL AND CULTURAL RESOURCES
DIVISION OF PARKS AND RECREATION

SPECIAL USE PERMIT

The Department of Natural and Cultural Resources, Division of Parks and Recreation (the "State" and "Department"), through its Director and under the authority granted in RSA 216-A:3-g and RSA 227-H:9, hereby grants a Special Use Permit (the "Permit") to the **APPALACHIAN MOUNTAIN CLUB** (the "Permittee"), 10 City Square, Boston, MA 02129, to use the below described State property for purposes as follows:

State Land: The State-owned property and land immediately adjacent to the rustic structures, collectively known as the Lonesome Lake Hut owned by the Permittee and situated on the northwesterly side of Lonesome Lake, identified as Lot No. 15, Range 10, in the Town of Lincoln, New Hampshire, and defined as the "Use Boundary" in Appendix A and referred to herein as "Premises".

Purpose of Permit: To allow the Permittee to utilize said State Land as part of its high mountain hut system and to provide dining and lodging services to the general public, as described herein.

Period of Use: To hold for a period of one (1) year from the date of Governor and Executive Council approval to June 30, 2019, unless sooner terminated in accordance with this Permit.

Fee: \$6,528.50, payable upon signing.

The Permit is granted under the following conditions:

1. Before the expiration date of this Permit, it is the intent of the parties to enter into a minimum five (5) year agreement that:
 - a. Reflects the fair market value for the Permittee's use of the Premises and other associated rights granted concurrently including the Permittee's use of the Lafayette Place Campground parking area and storage shed, and
 - b. Potential in-kind services acceptable to the Department that may be used to offset a portion of the fair market value of the Permittee's use of the Premises and other associated rights granted to the Permittee.
2. The Permittee and all persons using these Premises with the consent of the Permittee shall comply with all laws and regulations of the State of New Hampshire governing state forests, state parks and state owned or leased lands.
3. It is the intent of the parties hereto that the Permittee shall be legally considered as an independent contractor and that neither the Permittee nor its employees shall, under any circumstances, be considered servants or agents of the State of New Hampshire, and that the State shall, at no time be legally responsible for any negligence on the part of said Permittee, its servants or agents resulting in either personal or property damage to any individual, firm or corporation.
4. The Permittee may operate to provide such services to the public at such rates as is its custom, but shall not sublet use of the Premises by any other person or persons without the written permission of

**SPECIAL USE PERMIT
APPALACHIAN MOUNTAIN CLUB – LONESOME LAKE HUT**

the State, or his/her duly authorized agent.

5. The Permittee shall provide to the State accurate annual attendance figures and financial statements for the 2018-2019 season, including income and expense reports, as are directly related to the use of the Premises. Such reports are due no later than June 30, 2019.
6. The Permittee agrees that no wood or timber, except dead or downed trees, which may be used for fuel purposes, shall be cut for use by the Permittee or anyone using these Premises with the consent of the Permittee, except with the approval of the State, or his/her duly authorized agents.
7. The Permittee agrees that the State or any of his/her duly authorized agents at any time may examine and inspect any and all property located and situated on and within these Premises. Furthermore, the Permittee agrees to comply with all reasonable requests of the State or any of his/her agents.
8. The Permittee shall be responsible for all costs associated with the ownership of the structures, including improvements, painting and grounds keeping. Additionally, the Permittee shall maintain the structures and associated areas in a clean and presentable manner.
9. Any substantial alterations, changes or improvements made to the structures or surrounding grounds must be first approved in writing by the State.
10. The Permittee shall be responsible for any and all permits required by federal, state, or local rules and regulations.
11. This Permit may be amended only by an instrument in writing and signed by both parties.
12. This Permit shall be subject to cancellation by the Director of the Division of Parks and Recreation, through the Commissioner of the Department, in the event of failure of the Permittee to perform, keep and observe any of the conditions of the Permit and the failure of the Permittee to correct the default or breach within a reasonable time specified by the Director of the Division of Parks and Recreation, by giving the Permittee thirty (30) days written notice of cancellation.
13. The Permittee shall carry insurance coverage in the amount of Two Million Dollars (\$2,000,000). Said insurance shall include personal liability in the amount of One Million Dollars (\$1,000,000) for injuries to any one person and Two Million Dollars (\$2,000,000) for injury to two or more persons and Five Hundred Thousand Dollars (\$500,000) for damage to property, which insurance shall be extended to cover the State in respect to the foregoing indemnification.
14. The Permittee shall defend, indemnify, and hold harmless the State, and its officers and employees, from and against any and all losses suffered by the State, its officers and employees, and any and all claims, liabilities or penalties asserted against the State, its officers and employees, by or on behalf of any person, on account of, based or resulting from, arising out of (or which may be claimed to arise out of) the acts or omissions of the Permittee or its subcontractors, agents or assignees. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State, which immunity is hereby reserved to the State. This covenant shall survive the termination of this Permit.
15. All property of every kind on the Premises shall be at the sole risk of the Permittee and the State shall not be liable to the Permittee or any other person for any injury, loss, damage, or inconvenience occasioned by any cause whatsoever to said property. In case the Premises, or any part thereof, shall,

**SPECIAL USE PERMIT
APPALACHIAN MOUNTAIN CLUB – LONESOME LAKE HUT**

during the said term of this Permit, be destroyed by fire or unavoidable casualty so the same shall be rendered unfit for use and habitation, then, and in such case, the rents hereinbefore reserved or a just proportionate part thereof, according to the nature and extent of the injuries sustained, shall be suspended or abated until said Premises shall have been put into proper condition for use by the Permittee, or, at the option of the State, the Permit shall be terminated.

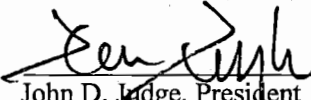
16. During the term of this Permit, any extension thereof, or in the event of non renewal, the State of New Hampshire shall have the right to purchase the Permittee's improvements, to remove them, or to require the Permittee to remove them, at the option of the State. The State shall be obligated to pay an equitable consideration for the improvements, or for the State's removal of the improvements and damages to the improvements resulting from their removal. The Permittee shall be responsible for the cost of removal of the improvements, if undertaken by the Permittee. The amount of consideration shall be fixed by mutual agreement between the State and the Permittee and shall be accepted by the Permittee in full satisfaction of all claims against the State of New Hampshire under this clause. If mutual agreement is not reached, the State of New Hampshire shall determine the amount and if the Permittee is dissatisfied with the amount thus determined to be due the Permittee, the Permittee may first appeal the determination in writing to the Commissioner of the Department. Upon the payment to the Permittee of 75% of the amount fixed by the Commissioner, the right of the State of New Hampshire to remove or require the removal of the improvements shall not be stayed pending final decision on appeal.

The parties hereto have set their hands the date herein named.

[SIGNATURE PAGE FOLLOWS.]

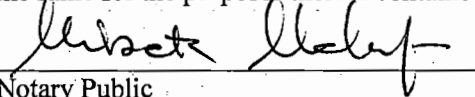
**SPECIAL USE PERMIT
APPALACHIAN MOUNTAIN CLUB – LONESOME LAKE HUT**

APPALACHIAN MOUNTAIN CLUB

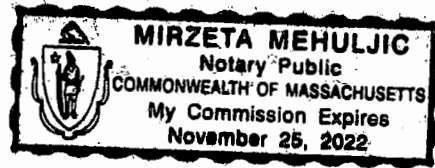

John D. Judge, President 6/1/2018 Date
Duly Authorized

STATE OF Massachusetts
COUNTY OF Suffolk

On this the 1st day of June, 2018, before me Mirzeta Mehuljic the undersigned officer,
personally appeared John Judge, known to me or satisfactorily proven to
be the person whose name is subscribed to the within instrument and acknowledged that he/she executed
the same for the purposes therein contained. In witness whereof, I hereunto set me hand and official seal:

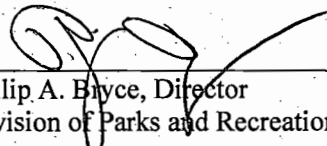

Notary Public

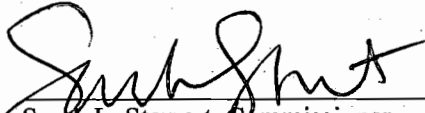
My Commission Expires: November 25, 2022



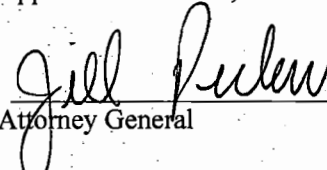
**STATE OF NEW HAMPSHIRE
DEPARTMENT OF NATURAL AND CULTURAL RESOURCES**

Concur:


Philip A. Bryce, Director 6/8/18 Date
Division of Parks and Recreation


Sarah L. Stewart, Commissioner 6/8/18 Date
Dept. of Natural and Cultural Resources

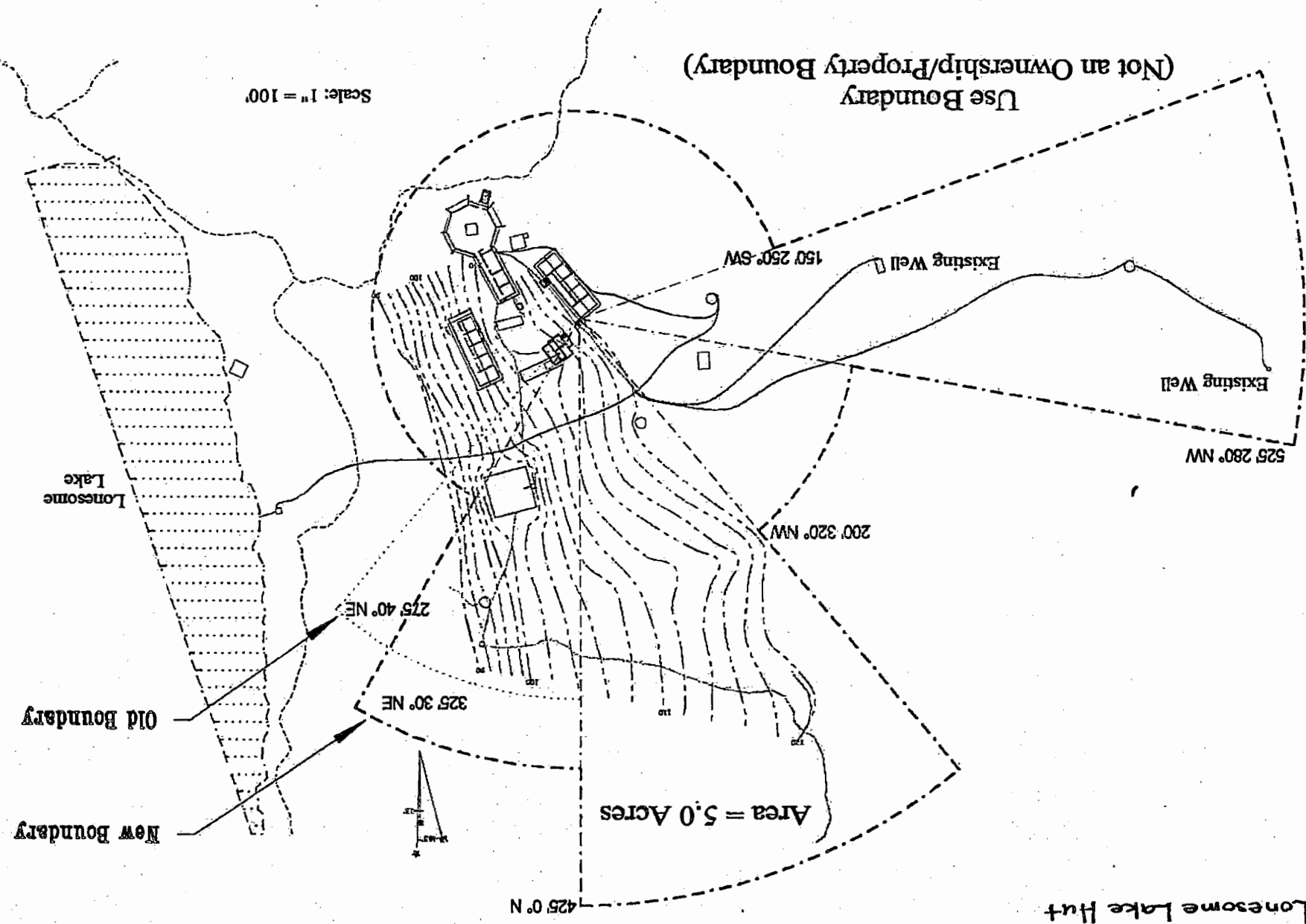
Approved as to form, substance and execution:


Gill Trulsen 6/8/18 Date
Attorney General

Governor and Executive Council Approved: Date _____ Item # _____

PAB/ttl-053018

Appendix A: Premises
Lonesome Lake Hut





APPAMOU-03

DKULICK

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
06/08/2018

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).


PRODUCER License # 1780862 HUB International New England 600 Longwater Drive Norwell, MA 02061-9146	CONTACT NAME: PHONE (A/C, No, Ext): (781) 792-3200	FAX (A/C, No): (781) 792-3400
	E-MAIL ADDRESS:	
INSURER(S) AFFORDING COVERAGE		NAIC #
INSURER A : Philadelphia Indemnity Insurance Company		18058
INSURER B : California Insurance Company		38865
INSURER C : Ohio Casualty Insurance Company		24074
INSURER D :		
INSURER E :		
INSURER F :		

COVERAGES	CERTIFICATE NUMBER:	REVISION NUMBER:
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THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:			PHPK1755014	01/01/2018	01/01/2019	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 20,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 3,000,000 PRODUCTS - COMP/OP AGG \$ 3,000,000
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY			PHPK1755019	01/01/2018	01/01/2019	COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ 1,000,000 PROPERTY DAMAGE (Per accident) \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 10,000			PHUB611985	01/01/2018	01/01/2019	EACH OCCURRENCE \$ 15,000,000 AGGREGATE \$ 15,000,000
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	738656450111	02/01/2018	02/01/2019	PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ 500,000 E.L. DISEASE - EA EMPLOYEE \$ 500,000 E.L. DISEASE - POLICY LIMIT \$ 500,000
C	Excess Umbrella			ECO1857068561	01/01/2018	01/01/2019	Excess 10,000,000
A	Errors & Omissions/P			PHSD1324506	02/26/2018	02/26/2019	Tour/Travel liab. 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER State of New Hampshire Department of Natural and Cultural Resources 172 Pembroke Road Concord, NH 03301	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE 
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