

AR 54



New Hampshire Fish and Game Department

11 Hazen Drive, Concord, NH 03301-6500
Headquarters: (603) 271-3421
Web site: www.WildNH.com

TDD Access: Relay NH 1-800-735-2964
FAX (603) 271-1438
E-mail: info@wildlife.nh.gov

September 26, 2017

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

REQUESTED ACTION

1. Authorize the New Hampshire Fish and Game Department (NHFG) to acquire restricted fee title to 672+/- acres in Rindge and Fitzwilliam, New Hampshire from the Law Office of Mark R. Dunn (Vendor Code 160143), acting as agent for Pearly Lake Forest, LLC at the fair market value of \$765,000, effective upon Governor and Council approval through December 31, 2017. Funding is 100% Federal.

Funding for this purchase is available as follows:

03 75 75 751520-2155 Wildlife Program – Wildlife Habitat Conservation

020-07500-21550000-033-500150 Land Acquisitions & Easements

FY 2018
\$765,000.00

2. Authorize NHFG to work with the Society for the Protection of New Hampshire Forests to amend the conservation easement on the Pearly Lake Forest property to remove language requiring the parties to the conservation easement to enter into binding arbitration.

EXPLANATION

NHFG proposes to purchase 672+/- acres for \$765,000, provided by the U.S. Fish and Wildlife Service Wildlife Restoration Program, which is fair market value as determined by a New Hampshire certified general appraiser. The Society for the Protection of New Hampshire Forests has held a conservation easement on the property since 1993. While the conservation easement protected the property from some levels of development it does not guarantee public access. This acquisition will enable the creation of a new wildlife management area in a part of the state in which NHFG owns little property and provides new lands for wildlife habitat management and public access for hunting, fishing and other wildlife related recreational activities.

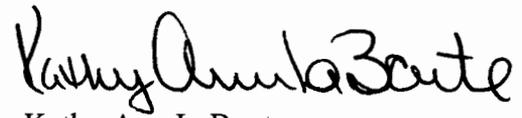
His Excellency, Governor Christopher T. Sununu
And the Honorable Council
State House
September 26, 2017

The conservation easement contains a clause that requires the parties to the easement to enter into binding arbitration to resolve potential disputes. The State has a long-standing prohibition on binding arbitration that does not come from statute, but rather from an inability to enter into an obligation to pay future unappropriated funds. This language will be replaced by more up-to-date language to address alternative approaches to conflict resolution.

Respectfully submitted,



Glenn Normandeau
Executive Director



Kathy Ann LaBonte
Chief, Business Division

Inter-Department Communication

DATE: October 19, 2017

FROM: Gordon P. Landrigan
Attorney

AT (OFFICE): Department of Justice
Environmental Protection Bureau

SUBJECT: Pearly Lake Forest Acquisition and Conservation Easement Amendment

TO: Richard A. Cook
Fish & Games Department

The Office of the Attorney General has reviewed the above-referenced acquisition, the contemporaneously executed conservation easement amendment, and the supporting documents provided. The Office of the Attorney General approves the acquisition and conservation easement amendment for form and substance. Please note that once approved by the Governor and Council, and signed by all parties, the acquisition must be returned to this office for final review of execution before it is recorded in the appropriate county registry of deeds.



Gordon P. Landrigan

/cmc
Attachments

STATE OF NEW HAMPSHIRE
Inter-Department Memo

DATE October 9, 2017

FROM: Richard Cook

TO: Chris Aslin, Assistant Attorney General

RE: Pearly Lake Forest Acquisition and Conservation Easement Amendment

Attached are the documents associated with the acquisition of the restricted fee of the 672 acre Pearly Lake Forest property in Rindge and Fitzwilliam. The property is restricted by a conservation easement donated to the Society for the Protection of NH Forests in May of 1993 and amended October of 2007. The original easement had language requiring binding arbitration to settle disputes. A second amendment to remove that language and replace it with more up-to-date dispute resolution language is proposed to occur simultaneously with the acquisition.

Enclosed please find:

- Draft G&C Cover Letter
- Draft warranty deed
- Executed P&S
- Opinion of Title
- Environmental Site Assessment Cover Letter
- Amendment Request Letter as sent to Charitable Trust Division of the Attorney General's Office
- Proposed Conservation Easement Amendment
- Original Conservation Easement Deed
- First Amendment to Conservation Easement

Please review the enclosed documents and, if appropriate, provide a form and substance memo. I am hoping to make the October 25 deadline for the November 8 G&C meeting.

Thank you.

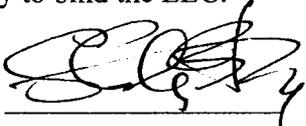
Stanley B. Fry

LLC Certification of Authority

I, Stanley B. Fry, hereby certify that I am the Manager of a limited liability company,
Pearly Lake Forest, LLC, under RSA 304-C.

I certify that I am authorized to bind the LLC.

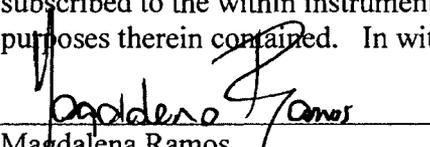
I further certify that it is understood that the State of New Hampshire will rely on this
certificate as evidence that I currently occupy the position indicated and that I have full
authority to bind the LLC.

Signed: 

Date: October 11, 2017

State of New Hampshire, County of Hillsborough

On this the 11th day of October 2017, before me, Magdalena Ramos, the undersigned
officer, Stanley B. Fry, personally appeared and is known to be the person whose name is
subscribed to the within instrument and acknowledged that he executed the same for the
purposes therein contained. In witness whereof, I hereunto set my hand and official seal.


Magdalena Ramos

Mark R. Dunn

**Attorney-At-Law
Admitted in NH & ME**

**24 Montgomery Street
Concord, NH 03301**

**Tel: (603) 228-4413
Fax: (603) 224-3055**

October 12, 2017

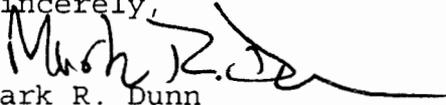
Mr. Richard Cook
Land Agent
NH Fish & Game Department
11 Hazen Drive
Concord, NH 03301

RE: Authorization of Mark R. Dunn, Esq. to act as
Closing Agent for the acquisition of the
Pearly Lake Forest, Rindge, NH

Dear Mr. Cook:

This is to authorize Mark R. Dunn, Esq., the sole practitioner, sole employee and paralegal of the Law Office of Mark R. Dunn to accept funds and sign documents associated with the acquisition of the Pearly Lake Forest property in Rindge, NH on behalf of Mark R. Dunn, Esq. and the Law Office of Mark R. Dunn.

Sincerely,


Mark R. Dunn

STATE OF NEW HAMPSHIRE
COUNTY OF MERRIMACK, SS

On this the 12th day of October, 2017, before me, the undersigned officer, personally appeared Mark R. Dunn, Esq., known to me (or satisfactorily proven) to be the persons whose name is subscribed to the within instrument and acknowledged that he executed the same for the purposes therein contained.

Before me,



Notary Public/Justice of the Peace
Printed Name: Kathleen Pelland
My Commission Expires:

**KATHLEEN A. PELLAND
Notary Public - New Hampshire
My Commission Expires September 21, 2021**

THIS IS A CONVEYANCE TO AN INSTRUMENTALITY OF THE STATE OF NEW HAMPSHIRE WHICH IS EXEMPT FROM THE NEW HAMPSHIRE REAL ESTATE TRANSFER TAX PUSUANT TO NEW HAMPSHIRE RSA 78-b:2, I AND FROM THE LCHIP SURCHARGE PUSUANT TO RSA 478:17-g, II.

WARRANTY DEED

KNOW ALL PERSONS BY THESE PRESENTS PEARLY LAKE FOREST, LLC with a mailing 69 Pine Street, Town of Peterborough, County of Hillsborough, State of New Hampshire 03458 (Grantor), for consideration paid, grants to THE STATE OF NEW HAMPSHIRE acting by and through its FISH AND GAME DEPARTMENT, with an address of 11 Hazen Drive, City of Concord, County of Merrimack, State of New Hampshire 03301 (the State), the following:

Being all right, title and interest of Pearly Lake Forest, LLC, in and to a certain tract of land in Rindge and Fitzwilliam, in the County of Cheshire and State of New Hampshire identified as Rindge Tax Map 9, Lot 31 and Fitzwilliam Tax Map 16, Lot 3 and Map 12, Lot 44 and further described in Exhibit A, attached hereto.

This property was acquired with funding received by the State through Grant Agreement F14AF01270 between the U.S. Fish and Wildlife Service (the Service) and the State of New Hampshire Fish and Game Department as grantee. All present and future uses of the protected property are and shall remain subject to the terms and conditions described in the Notice of Grant Agreement, attached hereto as Exhibit B and recorded herewith in the Cheshire County Registry of Deeds, and to other administrative requirements of the applicable grant funding program of the Service.

IN WITNESS WHEREOF, we have hereto set our hands on this ___ day of May, 2017

SELLER:

Stanley B. Fry, Manager
Pearly Lake Forest, LLC

STATE OF NEW HAMPSHIRE
COUNTY OF _____

I, hereby certify that Stanley B. Fry, Manager of Pearly Lake Forest LLC, personally appeared before me on this _____ day of _____, 2017, (known to me or satisfactorily proven) to be the person described in the foregoing instrument and acknowledged that he executed the same in the capacity therein stated and for the purpose therein contained.

Notary Public/Justice of the Peace
My Commission Expires:

ACCEPTED: STATE OF NEW HAMPSHIRE, FISH & GAME DEPARTMENT

The State of New Hampshire, acting through its Fish and Game Department on this day ____ of _____, 2017.

Glenn Normandeau, Executive Director

STATE OF NEW HAMPSHIRE
COUNTY OF MERRIMACK

Personally appeared before me on this _____ day of _____, 2017, Glenn Normandeau, who acknowledges himself to be the Executive Director for the New Hampshire Fish and Game Department, and as such is duly authorized to executed the foregoing instrument for the purposes therein contained, by signing his name on behalf of the State of New Hampshire.

Notary Public/Justice of the Peace
My Commission Expires:

Approved by the Governor and Executive Council: _____, Item ____.

EXHIBIT A
Property Description
TO BE ADDED

EXHIBIT B
Notice of Federal Grant Agreement

The State of New Hampshire, Fish and Game Department and its successors and assigns (hereinafter "DEPARTMENT") acknowledges that the above described Property(hereinafter "PROPERTY") is acquired with federal funds received from the Wildlife Restoration Program administered by the U.S. Fish and Wildlife Service, Division of Federal Assistance and its successors and assigns (hereinafter "SERVICE") and that the PROPERTY is subject to all the terms and conditions of Grant Agreement F14AF01270, NH W-108-L-1 (hereinafter "GRANT AGREEMENT" between the Service and the Department). A copy of the Grant Agreement is kept on file at the offices of the Service, 300 Westgate Center Drive, Hadley, MA 01035-9589 and at the offices of the Department, 11 Hazen Drive, Concord, NH 03301.

The Department acknowledges that the PROPERTY, which is the subject of this Grant Agreement, is acquired for the approved purpose of permanent protection of wild birds and mammals and their habitats. The Department further acknowledges that the PROPERTY will be administered for the long-term protection of these habitats and species dependent thereon. The Department, as the Grant Recipient hereby acknowledge that they are responsible for ensuring that the PROPERTY is used and will continue to be used for the approved purpose for which it is acquired and that the PROPERTY may not be conveyed or encumbered, in whole or in part, to any other party or for any other use, whatsoever, without the written consent of the Regional Director of the U.S. Fish and Wildlife Service.

If the Department loses control of the PROPERTY, control must be fully restored to the Department or the PROPERTY must be replaced, within three years, with a like PROPERTY of equal value at current market prices and equal benefits. Further, if the PROPERTY is used for activities that interfere with the accomplishment of the approved purpose, the violating activities shall cease and any resulting adverse effects shall be remedied.

If the Department determines that the PROPERTY is no longer needed or useful for its original purpose and the Service concurs, the Department may, with the prior written consent of the Service, either (1) acquire a property or other interest in land of equal value that serves the same approved purpose as the original property and manage the newly acquired property or other interest in land for the same purposes specified in the original Grant Agreement, or (2) repay the Service, in cash, the proportionate federal share of funds invested in the original purchase price, or to repay the Service, in cash, the proportionate federal share of the current fair market value of the PROPERTY, or any portion thereof, whichever is higher, or (3) as a last resort, transfer the PROPERTY to the Service or to a third-party designated or approved by the Service.

The Department, as Grant Recipient hereby confirms its obligations and responsibilities with regards to the acquired property pursuant to terms and conditions associated with Grant Agreement F14AF01270, NH W-108-L-1.

By: _____ Date: _____, 2017

Glenn Normandeau, Executive Director

Purchase and Sale Agreement

AGREEMENT, made on the _____ day of July, 2017:

SELLER PEARLY LAKE FOREST, LLC
69 PINE STREET
PETERBOROUGH, NH 03458

BUYER STATE OF NEW HAMPSHIRE
FISH & GAME DEPARTMENT
11 HAZEN DRIVE
CONCORD, NH 03301

1. **PROPERTY DESCRIPTION:**

672 GIS acres located in the Towns of Rindge and Fitzwilliam, New Hampshire the property referenced in two deeds recorded in the Cheshire County Registry of Deeds with the larger parcel recorded in Book 2361, Pages 959-963 and the 6-acre Fitzwilliam parcel recorded in Book 2499, Pages 467-469. The property is further referenced in Attachment #1 which approximates the parcel boundaries on USGS topographic map.

2. **PRICE IS SEVEN HUNDRED SIXTY-FIVE THOUSAND DOLLARS (\$765,000). PAID AS FOLLOWS:**

Deposit upon Seller signing P&S	\$ <u>00.00</u>
Cash at Closing	\$ <u>765,000</u>
TOTAL PRICE	\$ <u>765,000</u>

3. **CLOSING** to occur on or before 120 DAYS FROM LAST DATED SIGNATURE of this agreement. The parties shall, subsequent to execution of this Agreement, select a mutually-acceptable date and location for the closing.

4. **CONVEYANCE** - At closing, the Seller shall deliver Warranty Deed conveying a good and marketable title to the Premises, subject, however, to municipal land use, current use, and zoning ordinances, utility and other rights and easements of record, and such further conditions and encumbrances of record which do not have a material adverse affect on the marketability of the title to the property, the value thereof or the uses to be made thereof by Buyer.

5. **TITLE EXAMINATION** - If the Buyer desires an examination of Title, he shall pay the cost thereof. If upon examination of Title, it is found that seller does not have clear record, marketable title, this agreement may be rescinded upon the termination of the thirty-day extension set forth below and the deposit refunded to Buyer, if Buyer so elects.

6. **DEFAULT** - Either party may have thirty-day extension from the scheduled date of closing to cure any defect found in title. If Seller is prevented from performing by defect not caused by him, he shall return any deposit. If the Buyer shall default in their performance of their obligations under this agreement, the amount of the deposit will become the property of the Seller, as liquidated damages. Said retention of Buyer's deposit shall be Seller's sole and exclusive remedy at law or in equity. If Seller defaults in the performance of any of Seller's obligations hereunder, Buyer, at Buyer's option, may elect to (a) terminate this Agreement (whereupon all deposits shall be refunded to Buyer), or (b) seek specific performance for Seller to transfer such title as Seller has to the Premises, or (c) extend the closing date of this agreement by up to thirty (30) days, during which period Seller shall use reasonable efforts to correct any title defects discovered which prevent Seller from complying with Seller's obligations hereunder.
7. **CONDEMNATION, DESTRUCTION, & EXPLOITATION** - If before transfer the property is taken in whole or in part by eminent domain or damaged by casualty in some material respect, the Buyer may decline to take the property, deposit to be repaid to Buyer and no damages claimed; or may take the property with all rights to any insurance or other compensation for damage or taking. For the purposes of this agreement, any fire damage whatsoever shall constitute "material damage." Seller warrants that he has not, and shall not sever any timber or convey any other rights attaching to the Premises, including but not limited to water or mineral rights, such resources being deemed by Buyer as a material part of the value of the Premises.
8. **ADJUSTMENTS** - All taxes shall be apportioned to date of closing. At or before closing, Seller shall pay any and all betterments attaching prior to this Agreement. All bank wiring fees related to this transaction shall be paid for by the party responsible for wiring the funds unless otherwise communicated in advance with the receiving party.
9. **EXTENSION** - If the Seller shall be unable to give Title or to make conveyance or to deliver possession of the Premises, all as herein stipulated, or if at the time of the delivery of the Deed the Premises do not conform with the provision hereof, then the Seller shall use reasonable efforts to remove any defects in Title, or to deliver possession as provided herein, or to make the said Premises conform to the provisions hereof, as the case may be, and thereupon the time for performance hereof shall be extended for a period of thirty days.
10. **ACCEPTANCE** - Except as specifically set forth in this agreement, the acceptance of a Deed by the Buyer or his nominee as the case may be shall be deemed to be a full performance and discharge of every agreement and obligation of Seller herein contained or expressed, but shall not relieve or discharge Seller of the representations and warranties contained in paragraph 17 below, or otherwise as set forth within this Agreement, all of which shall survive Closing.
11. **LIABILITY** - This contract shall be binding upon the Buyer and Seller and heirs and assigns and nominees, of such and each.

12. **POSSESSION** - Full possession of said Premises free of all tenants and occupants is to be delivered at the time of the delivery of the Deed, said Premises to be then in the same condition as they now are.
13. **COMMISSION** - The parties to this agreement agree that **Fountains Land** is the exclusive agent of the Seller, acting solely as an agent of the Seller and therefore represents the Seller's interests and is not the agent of the Buyer in this transaction. Seller agrees, in consideration of Buyers execution of this Agreement, that Seller is solely liable for a brokerage fee payable to **Fountains Land**.
14. **SIGNATURES** - No material representation, agreement or promise has been made except as herein stated. Time is of the essence of this contract. This contract shall not be varied, waived or extended orally.
15. **PRIOR STATEMENTS** - All representations, statements and agreements, if any, heretofore made by and between the parties are merged in this agreement, which alone fully and completely expresses their respective obligations, and this agreement is entered into by each party after opportunity for investigations, neither party relying on any statements or representations not embodied in this agreement, made by the other on his or its behalf. Except as set forth in paragraphs 7, 8, 12, 13 and 17, Buyer hereby agrees to accept the Premises "as is" with no warranty as to the condition, or acreage of the Premises.
16. As a material inducement to Buyer to enter into this Agreement, Seller warrants and represents to Buyer now, and at the time of closing:
 - a) to the best of Seller's knowledge there are no hazardous wastes on the Premises;
 - b) to the best of Seller's knowledge there are no unrecorded easements or other rights to the Premises which are not of public record;
 - c) Seller has made no conveyances of timber rights, water rights, or mineral rights (subsurface or otherwise) to any person;
 - d) there are no disputes with abutters or others concerning the boundaries of the Premises or easements or rights of way on the Premises;
 - e) Seller has provided Buyer with copies of all surveys of the Premises in the possession or control of Seller.
 - f) Seller has received no notices, warnings, or other communications from governmental officials (town, state, or federal) concerning environmental issues affecting the Premises or immediate abutters, or zoning issues or infractions;
 - g) Seller is not a party to any pending or threatened litigation, including material administrative action (e.g. environmental cleanup order under environmental or public health law), zoning, or other litigation or administrative action, which relate to the Premises;
 - h) there are no lawsuits currently pending or threatened which will in any way affect title to the Premises;
 - i) Seller has received no notice of any current or future eminent domain proceedings that would affect the Premises.
 - j) Seller believes there is legal access to the Premises via Bowers Hill Road, a Class VI Town Road and Bemis Tavern Road as shown on Attachment #1.

17. In matters respecting the title to the Premises, current title standards of the New Hampshire Bar Association shall be determinative.

18. DUE DILIGENCE:

- a) The Buyer must obtain approval from the New Hampshire Governor and Executive Council to use the Buyer's funds to purchase the property. Buyer agrees to promptly seek such approval and shall provide notice to the Seller within fourteen (14) days of receipt of such approval or the withholding thereof.
- b) The Buyer must obtain approval from the U.S. Fish and Wildlife Service to expend Wildlife Restoration Funds to purchase the property. Buyer agrees to promptly seek such approval and shall provide notice to the Seller within fourteen (14) days of receipt of such approval or the withholding thereof.
- c) The Buyer may perform, at its cost, any of the following activities to confirm that the Premises meet the Buyer's programmatic objectives and comply with applicable federal and state land acquisition laws and regulations, such activities to be completed within forty-five (45) following the effective date of this Agreement, and the Buyer to return the Premises to their original condition if this transaction is not completed:
 - 1) level of hazardous waste (Seller has provided to the Buyer);
 - 2) federal and state endangered/threatened plants & animals;
 - 3) federal and state historic/prehistoric resources;
 - 4) floodplains and wetlands protection;
 - 5) farmland preservation policies.

WITNESS the signatures hereto on the date first above written.

SELLER



7-25-17

Date: _____

PEARLY LAKE FOREST, LLC (Seller)

By: Stanley B. Fry

As its: Manager

BUYER



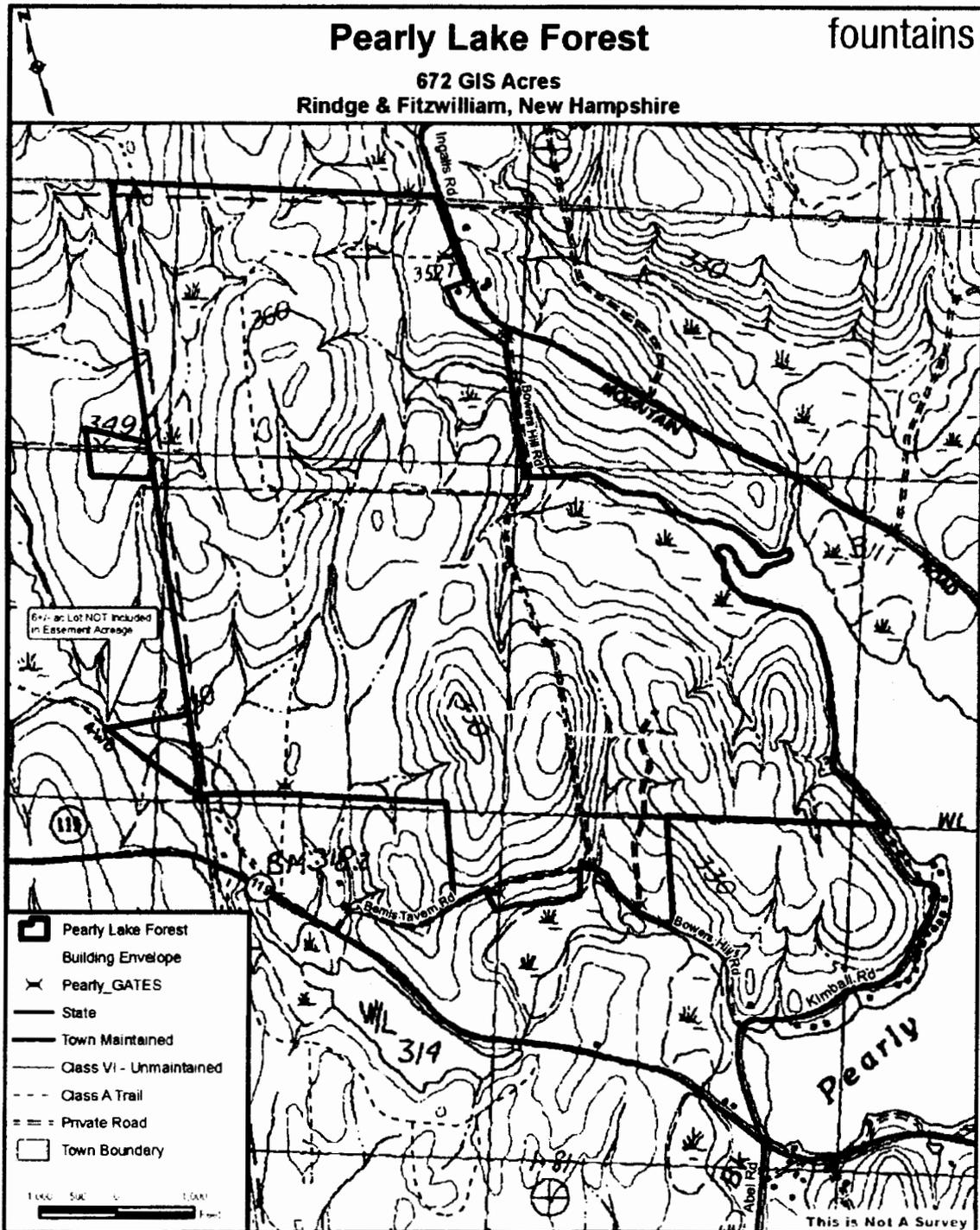
Date: 7/24/2017

NH FISH & GAME DEPARTMENT (Buyer)

By: Glenn Normandeau

As its: Executive Director

Attachment #1



Map produced from the best available information including town tax maps, hand held GPS data, aerial photography and reference information obtained from NHGIS. Boundary lines portrayed on this map are approximate and could be different than the actual location of boundaries found in the field.

Mark R. Dunn

Attorney-At-Law
Admitted in NH & ME

24 Montgomery Street
Concord, NH 03301

Tel: (603) 228-4413
Fax: (603) 224-3055

September 4, 2017

Mr. Richard Cook
Land Agent
NH Fish & Game Department
11 Hazen Drive
Concord, NH 03301

RE: Examination of Title to property on the S/W side of Mountain Road, the N/E side of Bowers Hill Road and north of Bemis Tavern Road, Rindge, NH being Tax Lot 9-31-1, Rindge, NH and Tax Lot 16-30, Fitzwilliam and shown on plan at Cabinet 11, Drawer #8, Plan #929 and Tax Lot 12-44, Fitzwilliam, NH which abuts the aforesaid land on plan at Cabinet 11, Drawer 8, Plan #929

Opinion of Title

Dear Mr. Cook:

Pursuant to your request, I have examined the properly indexed records in the Cheshire County Registry of Deeds and Probate relating to the title to this real estate commencing on June 8, 1954 and ending on August 30, 2017 @ 4:00 PM. I believe that the following report of title correctly refers to all properly indexed items made of record during this period that presently affect the title, except as stated below. All instruments appear to be in the proper form and to have been properly signed, sealed, witnessed and acknowledged, except as noted herein.

During the period of the search, I found record title to the premises to be as followed:

Vested in the Pearly Lake Forest, LLC by virtue of Warranty Deed of Thendra, Inc. dated June 29, 2006 and recorded Book 2361, Page 959 (as to all land in Rindge as well as Tax Lot 16-30 in Fitzwilliam, all as shown on plan at Cabinet #11, Drawer #8, Plan #929) and by virtue of a Fiduciary Deed of L. Phillips Runyon, III, Executor u/w/o John K. Rathburn dated March 24, 2008 and recorded at Book 2499, Page 467 (as to Tax Lot 12-44 in Fitzwilliam) all as recorded in the Cheshire County Registry of Deeds.

I found no further conveyances, undischarged mortgages, unredeemed tax sales, attachments or other instruments affecting the title to the subject premises to have been recorded during the period covered by the examination, except as noted below.

Based on the results of my examination as of the latter date, I am of the opinion that good and marketable title to the premises is vested in the above named entity subject, however, to the following reservations and encumbrances:

- A. Subject to a mortgage given by Pearly Lake Forest, LLC to TD Banknorth, N.A. to secure the payment of \$400,000.00 dated July 7, 2006 and recorded at Book 2361, Page 966 in the Cheshire County Registry of Deeds. **This mortgage encumbers only Tax Lot 9-31-1, Rindge, NH and Tax Lot 16-30, Fitzwilliam and shown on plan at Cabinet 11, Drawer #8, Plan #929. It does not encumber Tax Lot 12-44 in Fitzwilliam;**
- B. Subject to Current Use Tax Notice in favor of the Town of Rindge recorded July 12, 1974 at Book 885, Page 583 in the Cheshire County Registry of Deeds placing Tax Lots 9-11, 9-13 & 9-19 in current use tax classification. No acreage is given;
- C. Subject to Current Use Tax Notice in favor of the Town of Rindge recorded August 1, 1975 at Book 902, Page 145 in said Registry placing Tax Lots 9-11, 9-13 & 9-19 in current use tax classification. No acreage is given;
- D. Subject to Current Use Tax Notice in favor of the Town of Rindge recorded July 23, 1976 at Book 918, Page 763 in said Registry placing Tax Lots 9-2, 9-11, 9-13 & 9-19 in current use tax classification containing 797 acres;
- E. Subject to Current Use Tax Notice in favor of the Town of Rindge recorded July 29, 1977 at Book 934, Page 78 @ 80 in said Registry placing Tax Lots 9-2, 9-11, 9-13 & 9-19 in current use tax classification containing 951 acres;
- F. Subject to Current Use Tax Notice in favor of the Town of Fitzwilliam recorded September 3, 1982 at Book 1021, Page 409 in said Registry placing Tax Lot 16-30 in current use tax classification. No acreage is given;

- G. Subject to a Conservation Easement in favor of the Society for the Protection of New Hampshire Forests dated May 7, 1993 and recorded at Book 1447, Page 150 in said Registry placing all of the land described in the deed at Book 2361, Page 959 (being Tax Lots 9-13-1, Rindge & 16-30, Fitzwilliam and all shown on plan at Cabinet #11, Drawer #8, Plan #929). Said Easement contains an envelope of 5 acres outside of conservation for a house lot on Parcels 1, 2 or 3 of the land shown on the aforesaid Plan. Said Easement has been amended by an Amendment to Conservation Easement granted by Pearly Lake Forest, LLC and approved by the Society for the Protection of New Hampshire Forests dated September 18, 2007 and recorded at Book 2468, Page 429 in said Registry allowing the 5 acre envelope to be placed on Parcels 9, 12 or 13 on said Plan and not on Parcels 1, 2 or 3;
- H. Subject to easements in favor of Russell B. Lowe, Jr., and his heirs for access by the old "Doll House Road" and by "Easement Area for Foot Path" to the "Arthur Lowe Tree Planting Monument" all as shown on a plan entitled "Plan of Easement Areas, . Rindge, NH prepared for Russell B. Lowe, Jr." drawn by Dennis McKenney, scale 1" = 50', dated February 10, 1993, recorded at Cabinet #11, Drawer #7, Plan #376 and referenced in deed of Russell B. Lowe, Jr. to Thendra, Inc. dated May 7, 1993 and recorded at Book 1447, Page 168 @ Page 171 in said Registry;

Please note that Tax Lot 12-44, Rindge, NH is not in current use tax classification of record based on the run of the title from June 8, 1954, preceding the date of enactment of the current use tax law in 1974. Likewise, said Lot is not within the conservation easement to SPNHF since said Lot comes through a different title chain than Russell B. Lowe, Jr. who granted the CE to SPNHF.

There are certain possible or latent defects in some titles to real property which an examining attorney cannot discover from a search of registry records. For this reason, the following matters are excepted from this Opinion of Title.

1. Unpaid semi-annual and/or annual real estate taxes on the premises, if any.
2. Any conditions or state of facts which would be disclosed by inspection of the premises and/or an adequate engineering survey (including the exact geographical location of the premises).

3. The rights of persons in possessions and of those claiming under leases for a term of less than seven years.
4. Any bankruptcy proceedings other than those of the immediate grantor and any and all provisions of any public or private laws, whether federal, state, county, municipal or otherwise, and any codes, ordinances, regulations or rulings promulgated thereunder or in relation thereto, affecting the disposition, use and/or occupancy of the premises.
5. Liens, whether presently existing or hereafter arising in account of any indebtedness or liability to the State of New Hampshire arising pursuant to the provisions of NH RSA 147-B (Hazardous Waste Clean-up Fund) not disclosed by public records, and any forfeitures or confiscation of property under NH RSA 147-A (Hazardous Waste Management Act).
6. Examination indicates that there are no mechanic's or labor liens if record against the premises, but liens of this nature may be perfected within one hundred twenty (120) days from the last date services are rendered or materials furnished by contractors and/or suppliers.
7. Questions as to possible encroachments, whether or not the buildings and improvements are located entirely within the described premises, whether or not the roadways serving the premises are accepted, or are private, and the availability of public water supply, septic or storm drainage and other utilities to the premises.
8. Any disability of the grantors in the chain of title, any forgery on an instrument in the chain of title, any fraudulent or mistaken identity of a record title holder due to similar or identical names, any registry error in the record, the rights, if any, of undisclosed heirs, any exercise of a power of attorney under death or disability of the creator of the power and any defects in conveyances in the chain due to the lack of delivery.
9. Federal tax liens and other liens on after-acquired property.

This Opinion of Title is for the exclusive use of the New Hampshire Fish & Game Department with regard to purchasing the subject property on or about the date hereof. Any other use by any other person or entity without prior written permission of the undersigned attorney is prohibited and without any force and effect.

Any unpermitted use of this Opinion of Title by any other person or entity imposes no liability on the undersigned attorney for any purported claim arising thereunder.

Sincerely,


Mark R. Dunn

ABENAKI ENVIRONMENTAL SERVICES

October 05, 2017

Rich Cook, Land Agent
New Hampshire Fish and Game Department
11 Hazen Drive
Concord, New Hampshire 03301

RE: Phase I Environmental Site Assessment
Pearly Lake Forest Property
Fitzwilliam and Rindge, NH

Dear Rich:

Abenaki Environmental Services is pleased to present the New Hampshire Fish and Game Department with the final report for the All Appropriate Inquiry, Phase I Environmental Site Assessment (ESA) on the Pearly Lake Forest Property in Fitzwilliam and Rindge, New Hampshire. This report was sent to you using "Send6."

The ESA was completed in accordance with the scope, limitations, guidelines and standards as set forth in ASTM Practice E 2247-16, "Standard Practice for Environmental Site Assessments, Phase I Environmental Site Assessments Process for Forestland or Rural Property."

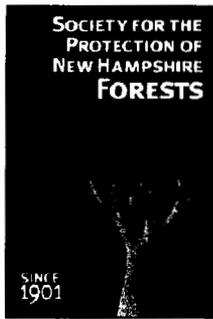
This ESA revealed no evidence of *recognized environmental conditions* in connection with the Property.

Thank you for the opportunity to provide this service. Please do not hesitate to contact me if you have any questions.

Sincerely,



Irene Grace Garvey
Environmental Professional



54 Portsmouth Street
Concord, NH 03301
Tel. 603.224.9945
Fax 603.228.0423
info@forestsociety.org
www.forestsociety.org

September 13, 2017

Thomas Donovan, Director
Office of the Attorney General
Charitable Trusts Unit
33 Capitol Street
Concord, New Hampshire 03301-6397
Attn: Conservation Easement Amendment

Re: Amendment to the Lowe Easement, Rindge & Fitzwilliam, NH

Dear Tom:

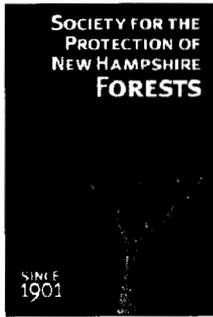
The State of New Hampshire, who will soon be the owner of the land subject to the below referenced conservation easement, and the Society for the Protection of New Hampshire Forests (the “**Forest Society**”) proposes to amend the Conservation Easement Deed dated May 7, 1993 between Russell B. Lowe, Jr. and the Forest Society (the “**Lowe Easement**”). The Forest Society is contacting the Attorney General pursuant to the process outlined in the publication entitled Amending or Terminating Conservation Easements: Conforming to State Charitable Trust Requirements: *Guidelines for New Hampshire Easement Holders* (the “**AG Amendment Guidelines**”).

As requested in the AG Amendment Guidelines, the Forest Society is submitting to the Attorney General notice of this proposed “low risk” amendment at least 30 days prior to the execution of the amendment. The amendment is consistent with the AG Amendment Guidelines and the Forest Society’s amendment policy.

Summary of Amendment

The Lowe Easement covers approximately 700 acres of property in Rindge and Fitzwilliam (the “**Property**”). The State of New Hampshire, through the Fish and Game Department, intends to purchase the Property from the current owner, Pearly Lake Forest LLC, in late October.

Section 10 of the Lowe Easement requires binding arbitration for the resolution of disputes. The State of New Hampshire cannot accept binding arbitration as a matter of policy, as it could require the State to be obligated to pay future unappropriated funds. The State has agreed to replace Section 10 with the Forest Society’s new model easement section for resolving disagreements. The new language encourages (but doesn’t require) the use of informal dialogue, mediation, and legal action if warranted—in that order—to resolve disputes.



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Concord, NH 03301

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We propose to amend the Lowe Easement immediately after the State acquires the Property from the current owner.

“Low Risk” Amendment

The amendment is a “low-risk” amendment because it simply changes the dispute resolution mechanism from requiring binding arbitration to allowing for the use of informal dialogue, mediation, and legal action if warranted.

Compliance with Seven Principles

In the Forest Society’s estimation, the amendment complies with the seven principles set forth in the AG Amendment Guidelines. Each of those principles is listed below along with the Forest Society’s rationale for why the amendment complies with each principle.

The amendment:

1. **Clearly serves the public interest and is consistent with the easement holder’s mission.** The amendment serves the public interest by allowing the State of New Hampshire to acquire this property for public use.
2. **Does not jeopardize the holder’s tax exempt status or status as a charitable organization under federal or state law.** The amendment will not jeopardize the Forest Society’s tax exempt status or status as a charitable organization under federal or state law.
3. **Does not result in private inurement or confer impermissible private benefit.** The slight language modification will not result in any private inurement or confer impermissible private benefit.
4. **Is consistent with the conservation purpose(s) and intent of the easement.** The slight language modification is consistent with the intent of the easement.
5. **Is consistent with the documented intent of the donor, grantor, and any direct funding source.** The modification is consistent with the intent of Russell B. Lowe, Jr. the donor and grantor of the easement. There were no direct funding sources for this easement, which was donated as a full value gift.
6. **Has a net beneficial or neutral effect on the relevant conservation values or attributes protected by the easement.** Changing the mechanism for resolving disputes has a neutral effect on the conservation values or attributes protected by the easement.

Compliance with the Forest Society's Amendment Policy

This amendment also complies with the Forest Society's amendment policy. According to the Forest Society's amendment policy, an amendment to a conservation easement will be authorized only under exceptional circumstances and then only when the amendment meets all of the requirements outlined in a fourteen part test. The test in the Forest Society's amendment policy mirrors the seven principles addressed above and also adds the following seven requirements:

1. The amendment will not adversely affect the qualification of the easement (under IRS regulations);
2. The amendment is acceptable to the State of New Hampshire, acting through the Office of the Attorney General, Charitable Trusts Division and/or the Probate Court, if applicable;
3. Other parties that hold a legal interest in the easement agree to the amendment;
4. The amendment complies with the Forest Society's conflict of interest policy;
5. The amendment results in conditions that are able to be reasonably monitored and enforced by the Forest Society;
6. Any party requesting an amendment shall pay all Forest Society costs including staff time and direct costs for reviewing the request, regardless of whether the amendment is granted, and for developing the amendment, if approved; and,
7. The amendment is acceptable to the Forest Society's Board of Trustees in its absolute discretion.

The Forest Society's Board of Trustees will review the amendment and is expected to confirm that the amendment is consistent with the Forest Society's amendment policy on October 4, 2017. Given the late October closing anticipated by the State, I am sending this notice prior to the vote by the Forest Society's Board of Trustees. Of course, should the Board not vote to approve this amendment, we will not complete it.

In addition, the State will be conducting a title search for the Property to ensure no encumbrances exist. We will review such title research to confirm that no encumbrances exist that would interfere with the Forest Society's interest in the amended easement.

If you have any questions with regards to the Lowe Easement amendment, please feel free to contact me.

Sincerely,



Reagan Bissonnette
Director of Easement Stewardship & Counsel

Enclosures:

- Original Easement: Conservation Easement deed dated May 7, 1993, between Russell B. Lowe, Jr. and the Forest Society, as amended September 18, 2007
- Amendment: Draft Second Amendment to Conservation Easement Deed

Copied by email:

Terry Knowles, Assistant Director, Charitable Trusts Unit
Brian Hotz, Vice President for Land Conservation, Forest Society

SECOND AMENDMENT TO CONSERVATION EASEMENT DEED

This Second Amendment to Conservation Easement Deed is made this _____ day of November, 2017 by and between the State of New Hampshire, acting by and through the Fish and Game Department with an address of 11 Hazen Drive, Concord, NH 03301 (hereinafter referred to as the "Grantor", which word shall include the Grantor's successors and assigns) and the Society for the Protection of New Hampshire Forests, a corporation duly organized and existing under the laws of the State of New Hampshire with a principal place of business at 54 Portsmouth Street, Concord, New Hampshire 03301-5400, having been determined by the United States Internal Revenue Service to be an income tax exempt, publicly supported corporation, contributions to which are deductible for federal income tax purposes pursuant to United States Internal Revenue Service Code (hereinafter referred to as "Grantee", which word shall, unless the context clearly indicates otherwise, include the Grantee's successors and assigns).

WITNESSTH THAT:

WHEREAS the Grantee holds a Conservation Easement on certain real estate (the "Property") consisting of approximately 700 acres situated in the Town of Fitzwilliam and Rindge located in Cheshire County in the State of New Hampshire, by virtue of a Conservation Easement Deed, dated May 7, 1993 from Russell B. Lowe, Jr., recorded in the Cheshire County Registry of Deeds at Book 1447, Page 0154, under which it remains the Grantee;

WHEREAS the Property subject to said Conservation Easement has been conveyed by said Russell B. Lowe, Jr. to Thendra Inc. by Quitclaim and Warranty Deeds dated May 7, 1993 and recorded in the Cheshire County registry of Deeds at Book 1447, Page 166 and Book 1447, Page 168, respectively, and in turn was conveyed by Thendra Inc. to Pearly Lake Forest LLC by Warranty Deed dated June 29, 2006, recorded in said Registry at Book 2361, Page 0959;

WHEREAS Pearly Lake Forest LLC amended the Conservation Easement Deed by a certain Amendment to Conservation Easement Deed dated September 18, 2007, recorded in the Cheshire Country Registry of Deeds at Book 2468, Page 0429;

WHEREAS the Property was conveyed by Pearly Lake Forest LLC to the State of New Hampshire acting by and through the Fish and Game Department by Warranty Deed dated

_____, recorded at said Registry at Book _____, Page _____ by reason the State of New Hampshire became the Grantor under said Conservation Easement Deed;

WHEREAS Section 10 of said Conservation Easement Deed requires binding arbitration for the resolution of disputes and as a matter of policy the Grantor cannot accept binding arbitration as a means to resolve disputes as it could require the Grantor to be obligated to pay future unappropriated funds;

WHEREAS the Grantor desires to amend the Conservation Easement Deed to remove the language requiring binding arbitration and to replace it with language redefining the approach to the resolution of disagreements; and

WHEREAS the Grantee is willing to accept such an amendment to the Conservation Easement Deed to satisfy the needs of the Grantor and to insert language more commonly used in current conservation easement deeds.

NOW THEREFORE, the Grantor and the Grantee herein, each in consideration of the agreement of the other, hereby amend the Conservation Easement Deed by striking the entirety of Section 10 and replacing it with the following:

“Section 10: RESOLUTION OF DISAGREEMENTS

A. Informal Dialogue. The Grantor and the Grantee desire that issues arising from time to time concerning the interpretation of this Easement, or any use or activity on the Property, will first be addressed through candid and open communication between the parties rather than unnecessarily formal or adversarial action. Therefore, if either party becomes concerned about whether any proposed or actual use, activity, or failure to take action (which together for the purposes of this Sect. 10 “Resolution of Disagreements” shall be referred to as the “Activity”) complies with this Easement, wherever reasonably possible the concerned party shall notify the other party of the perceived or potential problem, and the parties shall explore the possibility of reaching an agreeable resolution by informal dialogue.

B. Mediation. If informal dialogue does not resolve a disagreement regarding the Activity, and if the Grantor agrees not to proceed or continue with the Activity pending resolution of the disagreement concerning the Activity, either party may refer the disagreement to mediation by written notice to the other. Within ten (10) days of the delivery of such a notice, the parties shall agree on a single impartial mediator. Mediation shall be conducted in Concord, New Hampshire, or such other location as the parties shall agree. Each party shall pay its own legal fees and other associated costs, and the costs of mediation shall be split equally between the parties.

C. Legal Action. Notwithstanding the availability of mediation to address disagreements concerning the compliance of any Activity with this Easement, if the Grantee believes that some use, activity, or failure to take action of the Grantor or of a third party is causing irreparable harm or damage to the Property, or creates an imminent threat of same, the Grantee may seek a temporary restraining order, preliminary injunction or other form of equitable relief from any

court of competent jurisdiction to cause the cessation of any such damage or harm or threat of same.”

AS FURTHER AMENDED HEREBY and in all other respects said Conservation Easement Deed is hereby reconfirmed and shall remain in full force and effect.

IN WITNESS HEREBY, the State of New Hampshire has set its hand by its duly authorized officer on this ____ day of November, 2017.

THE STATE OF NEW HAMPSHIRE,
acting through its Fish and Game Department

Glenn Normandeau, Executive Director

STATE OF NEW HAMPSHIRE
COUNTY OF MERRIMACK

Personally appeared before me on this _____ day of _____, 2017, Glenn Normandeau, who acknowledges himself to be the Executive Director for the New Hampshire Fish and Game Department, and as such is duly authorized to executed the foregoing instrument for the purposes therein contained, by signing his name on behalf of the State of New Hampshire.

Notary Public/Justice of the Peace
My Commission Expires:

Approved by the Governor and Executive Council: _____, 2017, Item ____.

ACCEPTED: SOCIETY FOR THE PROTECTION OF NEW HAMPSHIRE FORESTS

Jane A. Difley, President/Forester

STATE OF NEW HAMPSHIRE
COUNTY OF MERRIMACK

Personally appeared Jane A. Difley, President/Forester of the Society for the Protection of New Hampshire Forests this _____ day of November, 2017 and acknowledged the forgoing on behalf of the Society for the Protection of New Hampshire Forests.

Notary Public/Justice of the Peace
My Commission Expires:

THIS IS A NON-CONTRACTUAL
CONVEYANCE PURSUANT TO NEW
HAMPSHIRE RSA 78-B:2 AND IS
EXEMPT FROM THE NEW HAMPSHIRE
REAL ESTATE TRANSFER TAX.

CONSERVATION EASEMENT DEED

RUSSELL B. LOWE, JR., Grantor, married of 156 Roxbury Street, City of Keene, County of Cheshire, State of New Hampshire, (hereinafter referred to as the "Grantor", which word where the context requires includes the plural and shall, unless the context clearly indicates otherwise, include the Grantor's executors, administrators, legal representatives, devisees, heirs, and assigns),

for consideration paid, with WARRANTY covenants, except with respect to the last described tract in Appendix A (Parcel 16) which is with QUITCLAIM covenants, grants in perpetuity to

the Society for the Protection of New Hampshire Forests, a corporation duly organized and existing under the laws of the State of New Hampshire, with a principal place of business at 54 Portsmouth Street, City of Concord, County of Merrimack, State of New Hampshire, 03301-5486, having been determined by the Internal Revenue Service to be an income tax exempt, publicly supported corporation, contributions to which are deductible for federal income tax purposes pursuant to the United States Internal Revenue Code, (hereinafter referred to as the "Grantee" which shall, unless the context clearly indicates otherwise, include the Grantee's successors and assigns),

the Conservation Easement (herein referred to as the "Easement") hereinafter described with respect to that certain parcel of land (herein referred to as the "Property") being unimproved land situated on Old Marlboro Road in the Towns of Rindge and Fitzwilliam, County of Cheshire, State of New Hampshire, more particularly described in Appendix "A" attached hereto and made a part hereof.

1. PURPOSES

The Easement hereby granted is pursuant to NH RSA 477:45-47, exclusively for the following conservation purpose:

The preservation of open spaces, particularly the 700 acres more or less of productive forest land of which the land area subject to the Easement granted hereby consists, including the undeveloped water frontage along Pearly Lake, to which the land area subject to the Easement granted hereby provides access and upon which it fronts, for the scenic enjoyment of the general public. This purpose is consistent with the clearly delineated open space conservation goals and objectives as stated in the 1990 Master Plan of the Town of Rindge, which are: "To preserve and enhance the natural and cultural environment of Rindge" and "Discourage the encroachment of development that threatens to degrade the natural condition of the Town's lakes, ponds, wetlands and/or adjacent shorelines as well as areas with high water tables".

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CHESHIRE COUNTY

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and with New Hampshire RSA Chapter 79-A which states: "It is hereby declared to be in the public interest to encourage the preservation of open spaces in the state by providing a healthful and attractive outdoor environment for work and recreation of the state's citizens, by maintaining the character of the state's landscape, and by conserving the land, water, forest, and wildlife resources."

This purpose is consistent and in accordance with the U.S. Internal Revenue Code, Section 170(h).

The Easement hereby granted with respect to the Property is as follows:

2. USE LIMITATIONS (Subject to the reserved rights specified in Section 3 below)

A. The Property shall be maintained in perpetuity as open space without there being conducted thereon any industrial or commercial activities, except agriculture and forestry as described below, and provided that the productive capacity of the Property to produce forest and/or agricultural crops shall not be degraded by on-site activities.

i. For the purposes hereof, "agriculture" and "forestry" shall include animal husbandry, floriculture, and horticulture activities: the production of plant and animal products for domestic or commercial purposes; the growing, stocking, cutting, and sale of Christmas trees or forest trees of any size capable of producing timber or other forest products; and the processing and sale of products produced on the Property (such as pick-your-own fruits and vegetables and maple syrup) all as not detrimental to the scenic purposes of this Easement.

ii. Agriculture and forestry on the Property shall be performed, to the extent reasonably practicable, in accordance with a coordinated management plan for the sites and soils of the Property. Forestry and agricultural management activities shall be in accordance with the current scientifically based practices recommended by the U.S. Cooperative Extension Service, U.S. Soil Conservation Service, or other government or private, nonprofit natural resource conservation and management agencies then active. Management activities shall not materially impair the scenic quality of the Property as viewed from Pearly Lake and maintained public roads.

B. The Property shall not be subdivided or otherwise divided in ownership except as provided for in Paragraph 3.A., below.

C. No structure or improvement, including, but not limited to, a dwelling, any portion of a septic system, tennis court, swimming pool, dock, aircraft landing strip, tower or mobile home, shall be constructed, placed, or introduced onto the Property. However, ancillary structures and improvements including, but not limited to, a road, dam, fence, bridge, culvert, barn, maple sugar house, or shed may be constructed, placed, or introduced onto the Property only as necessary in the accomplishment of the agricultural, forestry, conservation, or noncommercial outdoor recreational uses of the Property and provided that they are not detrimental to the scenic purposes of

COPY

this Easement.

D. No removal, filling, or other disturbances of soil surface, nor any changes in topography, surface or subsurface water systems, wetlands, or natural habitat shall be allowed unless such activities:

i. are commonly necessary in the accomplishment of the agricultural, forestry, conservation, habitat management, or noncommercial outdoor recreational uses of the Property; and

ii. do not harm state or federally recognized rare, threatened, or endangered species, such determination of harm to be based upon information from the New Hampshire Natural Heritage Inventory or the agency then recognized by the State of New Hampshire as having responsibility for identification and/or conservation of such species; and

iii. are not detrimental to the scenic purposes of this Easement, and

Prior to commencement of any such activities, all necessary federal, state, and local permits and approvals shall be secured.

E. No outdoor advertising structures such as signs and billboards shall be displayed on the Property except as desirable or necessary in the accomplishment of the agricultural, forestry, conservation, or noncommercial outdoor recreational uses of the Property, and provided such signs are not detrimental to the purposes of this Easement.

F. There shall be no mining, quarrying, excavation, or removal of rocks, minerals, gravel, sand, topsoil, or other similar materials on the Property, except in connection with any improvements made pursuant to the provisions of paragraphs A., C., D., or E., above. No such rocks, minerals, gravel, sand, topsoil, or other similar materials shall be removed from the Property.

G. There shall be no dumping, injection, burning, or burial of man-made materials or materials then known to be environmentally hazardous.

3. RESERVED RIGHTS

A. The Grantor reserves the right to withdraw from this Conservation Easement a house site area not to exceed 5 acres for the purpose of constructing a single family residence, appurtenant utilities and structures. Said withdrawal shall be permitted only from Parcels 1, 2 and 3 known as "Jewell of 10/30/18", "Jewell of 5/6/31", and "Jewell of 6/22/20", as described in Appendix A below, being three tracts of land near or fronting on Old Marlboro Road in Rindge. Said withdrawal shall be previously approved by the Grantee, after determination that the house site selected does not unnecessarily diminish the conservation and scenic purposes for which this conservation easement is granted. Said approval is not to be unreasonably withheld. A survey plan for said house site shall be prepared by a licensed surveyor, at the expense of the Grantor, and a copy of the survey provided to the Grantee. Said house site may be subdivided from the Property pursuant to Section 3.B. below.

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CHESTER COUNTY
PROPERTY OFFICE

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B. The Grantor reserves the right to subdivide the property into not more than 5 separate tracts. For the purposes of this subparagraph the entire Property shall be considered one Tract at the time this Conservation Easement is granted. No subdivision may create a tract of less than 100 acres in size, unless such subdivision shall be proposed for the purpose of conveying a tract to an adjoining property owner or creating the house site mentioned in 3.A. above, in which case there shall be no minimum size limitation. Any subdivisions created for the purpose of withdrawing the house site described in 3.A. above, or for conveyances to abutters shall be considered to create a separate tract for the purposes of this section. This provision is an exception to 2.B. above.

C. The Grantor reserves the right to construct a dock at Pearly Lake for non-commercial recreational use, said dock to be designed and constructed so as not to be detrimental to the scenic purposes of this conservation easement. This provision is an exception to 2.C. above.

D. The Grantor reserves the right to construct and maintain a septic system and water well on the Property to serve the single family residence permitted under 3.A. above, provided, however, that it is demonstrated such septic system or water well cannot be constructed on the house site withdrawn from the conservation easement. This provision is an exception to 2.C. above.

E. The Grantor reserves the right to erect, maintain, utilize, repair or replace utilities and one driveway, not wider than 20 feet, on the Property, as necessary to serve the single family residence and appurtenant structures on the withdrawn house site. This provision is an exception to 2.C. above.

F. The Grantor must notify the Grantee in writing at least thirty (30) days before exercising the aforesaid reserved rights.

4. NOTIFICATION OF TRANSFER, TAXES, MAINTENANCE

A. The Grantor agrees to notify the Grantee in writing 10 days before the transfer of title to the Property [or any division of ownership thereof permitted hereby].

B. The Grantee shall be under no obligation to maintain the Property or pay any taxes or assessments thereon.

5. BENEFITS, BURDENS, AND ACCESS

A. The burden of the Easement conveyed hereby shall run with the Property and shall be enforceable against all future owners and tenants in perpetuity; the benefits of this Easement shall not be appurtenant to any particular parcel of land but shall be in gross and assignable or transferrable only to the State of New Hampshire, the U.S. Government, or any subdivision of either of them, consistent with Section 170(c)(1) of the U.S. Internal Revenue Code of 1986, as amended, or to any qualified organization within the meaning of Section 170(h)(3) of said Code, which organization has among its purposes the conservation and preservation of land and water areas and agrees to and is

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capable of enforcing the conservation purposes of this Easement. Any such assignee or transferee shall have like power of assignment or transfer.

B. The Grantee shall have reasonable access to the Property and all of its parts for such inspection as is necessary to determine compliance and to enforce this Easement and exercise the rights conveyed hereby and fulfill the responsibilities and carry out the duties assumed by the acceptance of this Easement.

6. BREACH OF EASEMENT

A. When a breach of this Easement, or conduct by anyone inconsistent with this Easement, comes to the attention of the Grantee, it shall notify the Grantor in writing of such breach or conduct, delivered in hand or by certified mail, return receipt requested.

B. The Grantor shall, within thirty (30) days after receipt of such notice or after otherwise learning of such breach or conduct, undertake those actions, including restoration, which are reasonably calculated to cure swiftly said breach, or to terminate said conduct, and to repair any damage. The Grantor shall promptly notify the Grantee of its actions taken under this section.

C. If the Grantor fails to take such proper action under the preceding paragraph, the Grantee shall, as appropriate to the purposes of this deed, undertake any actions that are reasonably necessary to cure such breach or to repair any damage in the Grantor's name or to terminate such conduct. The cost thereof, including the Grantee's expenses, court costs, and legal fees shall be paid by the Grantor, provided that the Grantor is directly or primarily responsible for the breach.

D. Nothing contained in this Easement shall be construed to entitle the Grantee to bring any action against the Grantor for any injury to or change in the Property resulting from causes beyond the Grantor's control, including, but not limited to, unauthorized actions by third parties, natural disasters such as fire, flood, storm, and earth movement, or from any prudent action taken by the Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Property resulting from such causes.

E. The Grantee and the Grantor reserve the right, separately or collectively, to pursue all legal remedies against any third party responsible for any actions detrimental to the conservation purposes of this Easement.

7. SEVERABILITY

If any provision of this Easement, or the application thereof to any person or circumstance, is found to be invalid by a court of competent jurisdiction, after a court hearing, or by confirmation of an arbitration award, the remainder of the provisions of this Easement or the application of such provision to persons or circumstances other than those to which it is found to be invalid, as the case may be, shall not be affected thereby.

EX 1447PG0159

8. CONDEMNATION

A. Whenever all or part of the Property is taken in exercise of eminent domain by public, corporate, or other authority so as to abrogate in whole or in part the Easement conveyed hereby, the Grantor and the Grantee shall thereupon act jointly to recover the full damages resulting from such taking with all incidental or direct damages and expenses incurred by them thereby to be paid out of the damages recovered.

B. The balance of the land damages recovered (including, for purposes of this subsection, proceeds from any lawful sale, in lieu of condemnation, of the Property unencumbered by the restrictions hereunder) shall be divided between the Grantor and the Grantee in proportion to the fair market value of their respective interests in that part of the Property condemned on the date of execution of this Easement. For this purpose, the Grantee's interest shall be the amount by which the fair market value of the Property immediately prior to the execution of this Easement is reduced by the use limitations imposed hereby. The value of the Grantee's interest shall be determined by an appraisal prepared for federal income tax purposes by a qualified appraiser within one year of the date of this Easement, and submitted to the Grantee.

C. The Grantee shall use its share of the proceeds in a manner consistent with and in furtherance of the conservation purposes set forth herein.

9. ADDITIONAL EASEMENT

Should the Grantor determine that the expressed purposes of this Easement could better be effectuated by the conveyance of an additional easement, the Grantor may execute an additional instrument to that effect, provided that the conservation purposes of this Easement are not diminished thereby and that a public agency or qualified organization described in Section 5.A., above, accepts and records the additional easement.

10. ARBITRATION OF DISPUTES

A. Any dispute arising under this Easement shall be submitted to arbitration in accordance with New Hampshire RSA 542.

B. The Grantor and the Grantee shall each choose an arbitrator within 30 days of written notice from either party. The arbitrators so chosen shall in turn choose a third arbitrator within 30 days of the selection of the second arbitrator.

C. The arbitrators so chosen shall forthwith set as early a hearing date as is practicable which they may postpone only for good cause shown.

D. A decision by two of the three arbitrators, made as soon as practicable after submission of the dispute, shall be binding upon the parties and shall be enforceable as part of this Easement.

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11. MONUMENT MAINTENANCE AND ACCESS

Nothing in this Conservation Easement Deed shall be construed to prohibit the following:

A. The right of Russell B. Lowe, Jr. and his heirs to an easement for pedestrian access only running from said Lowe's property on the Jaffrey portion of deed described at Volume 386, Page 435 to an old road known as Doll House Road, the purpose being to reach the "Arthur Lowe Tree Planting Monument" easement area located on PARCEL 4, the Lowe Lot. Also the right of said Lowe and his heirs to remove cordwood for personal use from the area defined by said easement. Said easement contain 1.4 acres more or less and is shown on "Plan of Proposed Easement Areas, Rindge, NH Prepared for Russell B. Lowe, Jr., February 10, 1993, Scale: 1" = 50'", said plan to be recorded of near or even date. Said Lowe his heirs, successors and assigns will leave no logging slash in this easement area. The above described easement and right are personal to the said Russell B. Lowe, Jr. and his heirs and do not run with any land.

B. The right of Russell B. Lowe, Jr. and his heirs to an easement on property in the vicinity of the "Arthur Lowe Tree Planting Monument" for access to visit the monument and to maintain the area including tree maintenance. Also the right of said Lowe and his heirs to remove cordwood for personal use from the area defined by said easement. The easement area measures 0.3 acre plus or minus and is shown on "Plan of Proposed Easement Areas, Rindge, NH Prepared for Russell B. Lowe, Jr., February 10, 1993, Scale: 1" = 50'", said plan to be recorded of near or even date. Said Lowe his heirs, successors and assigns will leave no logging slash in this easement area. The above described easement and right are personal to the said Russell B. Lowe, Jr. and his heirs and do not run with any land.

C. The right of Russell B. Lowe, Jr. and his heirs to right of way over an existing woods road known as Doll House Road for vehicular travel, from the Old Marlboro Road to the so-called "Arthur Lowe Tree Planting Monument" easement area on Parcel 4 so as to allow for the said Lowe and his heirs access to and maintenance of said monument easement area. Said road is shown on "Plan of Proposed Easement Areas, Rindge, NH Prepared for Russell B. Lowe, Jr., February 10, 1993, Scale: 1" = 50'", said plan to be recorded of near or even date. The above described right of way is personal to the said Russell B. Lowe, Jr. and his heirs and does not run with any land.

The Grantee, by accepting and recording this Easement, agrees to be bound by and to observe and enforce the provisions hereof and assumes the rights and responsibilities herein granted to and incumbent upon the Grantee, all in the furtherance of the conservation purposes for which this Easement is delivered.

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CHESHIRE COUNTY

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IN WITNESS WHEREOF, I have hereunto set my hand this 7TH day of MAY, 1993.

Russell B. Lowe, Jr.
Russell B. Lowe, Jr., Grantor

The State of New Hampshire
County of CHESTER

Personally appeared Russell B. Lowe, Jr. this 7TH day of MAY, 1993 who acknowledged the foregoing to be his voluntary act and deed.

Before me, Christopher V. Bean
Justice of the Peace/Notary Public

My commission expires: _____

ACCEPTED: SOCIETY FOR THE PROTECTION OF NEW HAMPSHIRE FORESTS

By: PAUL A. DOSCHER

Title: VICE PRESIDENT
Duly Authorized

Date: MAY 7, 1993

THE STATE OF NEW HAMPSHIRE

Merrimack County, ss.

The foregoing instrument was acknowledged before me this 7 day of May, 1993, by PAUL A. DOSCHER,

VICE PRESIDENT of Society for the Protection of New

Hampshire Forests, a New Hampshire voluntary corporation, on behalf of the corporation.

Christopher V. Bean
Justice of the Peace/Notary Public

My Commission expires: _____

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APPENDIX A

PARCEL 1

A certain tract of land situated in Rindge, County of Cheshire and State of New Hampshire being the entire Rindge portion of property known as "Jewell of 10/30/18", conveyed by deed dated October 28, 1918 and being a portion of the premises recorded at Volume 386, Page 435 of the Cheshire County Registry of Deeds.

Reserving to the public any public highway rights over said premises. See also release at Volume 694, Page 427 of said Registry.

PARCEL 2

A certain tract of land situated in Rindge, County of Cheshire and State of New Hampshire known as "Jewell of 5/6/31" conveyed by deed dated April 29, 1931 and recorded at Volume 446, Page 200 of the Cheshire County Registry of Deeds.

PARCEL 3

A certain tract of land situated in Rindge, County of Cheshire and State of New Hampshire shown on hereinafter plan as "Jewell of 6/22/20" conveyed by deed dated May 26, 1920 and recorded at Volume 396, Page 29 of the Cheshire County Registry of Deeds.

PARCEL 4

A certain tract of land situated in Rindge, County of Cheshire and State of New Hampshire known as the "Lowe" Lot and conveyed by deed dated February 16, 1914 and recorded at Volume 369, Page 536 of the Cheshire County Registry of Deeds.

PARCEL 5

A certain tract of land situated in Rindge and Fitzwilliam, both in the County of Cheshire and State of New Hampshire known as the "Converse" Lot conveyed by deed dated November 10, 1919 and recorded at Volume 390, Page 346 of the Cheshire County Registry of Deeds.

PARCEL 6

A certain tract of land situated in Rindge, County of Cheshire and State of New Hampshire known as the "Davidson" Lot and being the Second Tract conveyed in a deed dated November 11, 1919 and recorded at Volume 390, Page 343 of the Cheshire County Registry of Deeds.

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PARCEL 7

A certain tract of land situated in Rindge, County of Cheshire and State of New Hampshire known as the "Farrington" Lot conveyed in a deed dated September 9, 1925 and recorded at Volume 417, Page 577 of the Cheshire County Registry of Deeds.

PARCEL 8

A certain tract of land situated in Rindge, County of Cheshire and State of New Hampshire known as the "Jewell Lot of 6/5/20", also known as the "Wm. Stearns Pasture", conveyed in a deed dated January 2, 1920 and recorded at Volume 391, Page 542 of the Cheshire County Registry of Deeds.

PARCEL 9

A certain tract of land situated in Rindge, County of Cheshire and State of New Hampshire known as the "Bailey" Lot and being the Fourth Tract conveyed in a deed dated November 11, 1919 and recorded at Volume 390, Page 343 of the Cheshire County Registry of Deeds.

PARCEL 10

A certain tract of land situated in Rindge, County of Cheshire and State of New Hampshire known as "Jewell of 12/9/19", also known as the "John Smith Pasture", conveyed by deed dated November 25, 1919 and recorded at Volume 391, Page 478 of the Cheshire County Registry of Deeds.

PARCEL 11

A certain tract of land situated in Rindge, County of Cheshire and State of New Hampshire known as the "Whitney" Lot and being the First Tract conveyed in a deed dated November 11, 1919 and recorded at Volume 390, Page 343 of the Cheshire County Registry of Deeds.

PARCEL 12

A certain tract of land situated in Rindge, County of Cheshire and State of New Hampshire shown on hereinafter referenced plan as the "Diamond Match - Jewell" Lot and being the Sixth Tract in a deed dated November 19, 1919 and recorded at Volume 390, Page 343 of the Cheshire County Registry of Deeds.

PARCEL 13

A certain tract of land situated in Rindge, County of Cheshire and State of New Hampshire known as the "Smith" Lot, and being the Fifth Tract in a deed dated November 19, 1919 and described at Volume 390, Page 343 of the Cheshire County Registry of Deeds.

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PARCEL 14

A certain tract of land situate in Rindge, County of Cheshire and State of New Hampshire known as the "Hecker" Lot and being the Third Tract in a deed dated November 19, 1919 and recorded at Volume 390, Page 343 of the Cheshire County Registry of Deeds.

PARCEL 15

A certain tract of land situate in Rindge, County of Cheshire and State of New Hampshire known as "Jewell of 11/4/20", conveyed by deed dated October 26, 1920 and recorded at Volume 396, Page 548 of the Cheshire County Registry of Deeds.

The above parcels are shown on a plan of "Property owned by Arthur H. Lowe located in Rindge, Fitzwilliam and Jaffrey N.H., dated March 18, 1926, Amended by R. B. Lowe, Jr. Dec. 27, 1965", said plan to be recorded at the Cheshire County Registry of Deeds of near or even date.

For title of Grantor to the above fifteen parcels see Estate of Arthur H. Lowe, State of New Hampshire, Cheshire County Probate Court #795 and Deed of James A. Fish, et al recorded at Vol. 761, Page 296 of the Cheshire County Registry of Deeds. Refer also to Death Certificate of Annie P. Lowe, widow of Arthur H. Lowe, to be recorded herewith in said Registry. See also deeds recorded at Volume 412, Page 597, Vol. 763, Pg. 206 and Vol. 539, Pg. 113 of said registry.

Including all rights of way over and through the above referenced parcels and easements and exceptions as set forth in said deeds which are a matter of record.

PARCEL 16

A certain tract of land situated in Rindge, County of Cheshire and State of New Hampshire located and described as follows;

Beginning at a stake and stones on the north side of the highway leading from the house formerly occupied by Timothy Metcalf to the house formerly occupied by Gilman Bowers; thence

Westerly and northerly on the highway to the northwest corner of Lot No. 20 in the Eighth Range of lots in said Rindge; thence

Easterly on the south line of land formerly of O. W. Mead to the Northwest corner of land formerly of E. S. Kimball and Brothers; thence

Southerly on the west side of land formerly of said Kimball and brothers to the place of beginning.

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Excepting the highway situated on the south and west of the above described premises.

Estimated to contain twelve (12) acres, be the same more or less.

Being the same premises conveyed by William H. Brown to Arthur H. Lowe by Quitclaim Deed dated June 27, 1930 and recorded at Volume 443, Page 499 at the Cheshire County Registry of Deeds. For title of Grantor see Estate of Arthur H. Lowe, State of New Hampshire, Cheshire County Probate Court #795 and Deed of James A. Fish, et al recorded at Vol. 761, Page 296 of the Cheshire County Registry of Deeds. Refer also to Death Certificate of Annie P. Lowe, widow of Arthur H. Lowe, to be recorded herewith in said Registry. See also deeds recorded at Volume 412, Page 597, Vol. 763, Pg. 206 and Vol. 539, Pg. 113 of said registry.

The above parcel is known as the "Brown" Lot and is shown on a plan of "Property owned by Arthur H. Lowe located in Rindge, Fitzwilliam and Jaffrey N.H., dated March 18, 1926, Amended by R. B. Lowe, Jr. Dec. 27, 1965", said plan to be recorded at the Cheshire County Registry of Deeds of near or even date.

Including all rights of way over and through the above referenced parcel and easements and exceptions as set forth in deeds which are a matter of record.

HOMESTEAD RIGHTS

None of the above parcels is a Homestead Property.

RECEIVED
4-15 P.M.
MAY 7 1993
CHESHIRE COUNTY
REGISTRY OF DEEDS

COPIES

Ret; Society for the Protection
of NH Forests (Label)

W/C

Doc # 0011661 Oct 4, 2007 9:30 AM
Register of Deeds, Cheshire County
Cynthia S. Akel

BK2468PG0429

THIS IS A NON-CONTRACTUAL
CONVEYANCE PURSUANT TO NEW
HAMPSHIRE RSA 73-B:2 AND IS
EXEMPT FROM THE NEW HAMPSHIRE
REAL ESTATE TAX

AMENDMENT TO CONSERVATION EASEMENT DEED

This Amendment to Conservation Easement Deed is made this 18th day of September, 2007, by and between Pearly Lake Forest LLC, a Limited Liability Company organized and existing under the laws of the State of New Hampshire, with its principal place of business at 69 Pine Street, Town of Peterborough, County of Hillsborough, State of New Hampshire (hereinafter referred to as "Grantor", which word shall include the Grantor's successors and assigns) and the Society for the Protection of New Hampshire Forests, a corporation duly organized and existing under the laws of the State of New Hampshire, with a principal place of business at 54 Portsmouth Street, City of Concord, County of Merrimack, State of New Hampshire, 03301-5400, having been determined by the Internal Revenue Service to be an income tax exempt, publicly supported corporation, contributions to which are deductible for federal income tax purposes pursuant to the United States Internal Revenue Code (hereinafter referred to as "Grantee", which word shall, unless the context clearly indicates otherwise, include the Grantee's successors, and assigns).

WITNESSETH THAT:

WHEREAS the Grantee holds a Conservation Easement on certain real estate (the "Property") consisting of approximately 700 acres situated in the Towns of Fitzwilliam and Rindge, both in the County of Cheshire in said State, by virtue of Conservation Easement Deed, dated May 10, 1993, from Russell B. Lowe, Jr., recorded in the Cheshire County Registry of Deeds at Book 1447, Page 0162, under which it remains the Grantee; and

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CHESHIRE COUNTY

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WHEREAS the Property subject to said Conservation Easement was conveyed by said Russell B. Lowe, Jr. to Thendra, Inc. by Quitclaim and Warranty Deeds, dated May 7, 1993 and recorded in said Registry at Book 1447, Page 166 and Book 1447, Page 168, respectively, and in turn was conveyed by said Thendra, Inc. to the Grantor by Warranty Deed dated July 11, 2006, recorded in said Registry at Book 2361, Page 0959, by reason of which it became and is the Grantor under said Conservation Easement Deed; and

WHEREAS, while the expressed purpose of said Conservation Easement is for the preservation of open space for the scenic enjoyment of the general public, there was reserved therein the right to withdraw therefrom an up to 5 acre house site area from within three designated parcels of the Property, namely parcels 1, 2 and 3 as identified in Appendix A to said Conservation Easement Deed, and also the right to subdivide the Property into not more than 5 separate tracts, each of which to be no less in size than 100 acres unless sold to an adjacent landowner or constituting said 5 acre house site; and

WHEREAS it has been recently determined that the selection and withdrawal of said 5 acre house site within said parcels 1, 2 and 3 would potentially adversely affect areas of significant cultural value in the Merrymeeting Community, an historic village within the Town of Rindge, where buildings stood prior to the time of the Civil War, as well as large areas of undisturbed wetland and geologic features unique to that area; and

WHEREAS the Grantor, in contemplation of such adverse effects, desires to amend the Conservation Easement to relocate within the Property the area for the selection and withdrawal of said one 5 acre house site from said parcels 1, 2 and 3 to parcels 9, 12 and 13 thereof as identified in said Appendix A; and

WHEREAS the Grantor also desires to amend the Conservation Easement to reduce the number of separate tracts into which the Property may be subdivided from five to four; and

WHEREAS the relocation of the area from which the selection and withdrawal of the said one 5 acre house site may be made to said parcels 9, 12 and 13, will not adversely impact the scenic features of the Property when viewed from any road or from Pearly Lake and not adversely affect any known cultural sites or wetlands; and

WHEREAS the Grantee is willing to accept such amendments to the Conservation Easement for the reasons above-stated so as to effect a significant improvement to and strengthening of the Conservation Easement and the said purpose for which it was granted.

COPY

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NOW THEREFORE, the Grantor and the Grantee herein, each in consideration of the agreements of the other herein contained, hereby amend the said Conservation Easement Deed by striking therefrom paragraphs A. and B. from Section 3., thereof, entitled "Reserved Rights", and substituting therefore the following new paragraphs A. and B.:

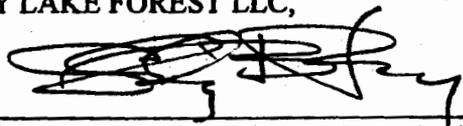
"A. The Grantor reserves the right to withdraw from this Conservation Easement a house site area not to exceed 5 acres for the purpose of constructing a single-family residence, appurtenant utilities and structures. Said withdrawal shall be permitted only from Parcels 9, 12, and 13 known respectively as "Bailey", "Diamond Match-Jewell", and "Smith", as described in Appendix A below, being three tracts of land near or fronting on Bowers Hill Road in Rindge. Said withdrawal shall be previously approved by the Grantee, after determination that the house site selected does not unnecessarily diminish the conservation and scenic purposes for which this Conservation Easement is granted. Said approval is not to be unreasonably withheld. A survey plan for said house site shall be prepared by a licensed surveyor, at the expense of the Grantor, and a copy of the survey provided to the Grantee. Said house site may be subdivided from the Property pursuant to Section 3.B. below.

B. The Grantor reserves the right to subdivide the Property into not more than 4 separate tracts. For the purpose of this subparagraph the entire Property shall be considered one Tract at the time this Conservation Easement is granted. No subdivision may create a tract of less than 100 acres in size, unless such subdivision shall be proposed for the purpose of conveying a tract to an adjoining property owner or creating the house site mentioned in 3.A. above, in which case there shall be no minimum size limitation. Any subdivisions created for the purpose of withdrawing the house site described in 3.A. above, or for the conveyance to abutters shall be considered to create a separate tract for the purposes of this section. This provision is an exception to Section 2.B. above."

AS AMENDED HEREBY and in all other respects said Conservation Easement Deed is reconfirmed.

IN WITNESS WHEREOF, the parties hereto have set their hands by their duly authorized officers this 18th day of September, 2007.

PEARLY LAKE FOREST LLC,

By: 
Stanley B. Fry, Manager, Duly Authorized

COPY

CHESHIRE COUNTY
REGISTERED CLERK
11/1/2007

BK2468PG0432

THE STATE OF NEW HAMPSHIRE
COUNTY OF Hillsborough

Personally appeared Stanley B. Fry, duly authorized manager of Pearly Lake Forest LLC, this 19th day of September, 2007, and acknowledged the foregoing on behalf of the limited liability company.

Before me, Magdalena Ramos
Justice of the Peace/Notary Public

My commission expires: _____
MAGDALENA RAMOS, Notary Public
My Commission Expires June 4, 2008



SOCIETY FOR THE PROTECTION OF NEW HAMPSHIRE FORESTS

BY: Jane A. Ditley

TITLE: President / Forester
Duly Authorized

THE STATE OF NEW HAMPSHIRE
COUNTY OF Merrimack

Personally appeared JANE A. Ditley President / Forester of the Society for the Protection of New Hampshire Forests, this 20th day of September, 2007, and acknowledged the foregoing on behalf of the Society for the Protection of New Hampshire Forests.

Before me, Karina M. Rose
Justice of the Peace/Notary Public

My commission expires: 12-21-2010



ATTEST
EVELYN S HUBAL
Cheshire Register of Deeds