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New Hampshire Fish and Game Department

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March 30, 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 to accept, by an Amended and Restated Easement Deed, the maintenance and access rights to a parking lot adjacent to an existing access easement to Corey WMA in the Town of Deerfield, from Deborah L. Gadd, Successor Trustee of the Carl Harrison Trust, in perpetuity, upon Governor and Council approval.
2. Authorize the New Hampshire Fish and Game Department to purchase an easement right for the installation of a parking area on land abutting the Corey WMA in Deerfield from Deborah L. Gadd, Successor Trustee of the Carl Harrison Trust (Vendor Code #278317) in the amount of \$3,000 for public access parking from date of Governor and Council approval through June 30, 2017. Funding is 100% other - Wildlife Habitat Funds.

Funding for this project is available as follows:

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

020-07500-21550000-305-500845 Habitat Acquisition and Management

FY 2017
\$3,000

EXPLANATION

The Department acquired the 180-acre Corey WMA through a land donation by Michael Corey in 1986. The donated land did not include legal access. In 2011, the Department negotiated an access easement on an abutting parcel then owned by BMI Realty, currently owned by Deborah L. Gadd, Successor Trustee of the Carl Harrison Trust (“CHT”). The easement limited public vehicular access, but allowed Fish and Game full management access. In March 2016 CHT was granted town approval to subdivide the remaining portion of their lands, and sought to eliminate the Department’s access easement. The Department has since re-negotiated the easement with CHT to expand public vehicular access, including the right to install and maintain a public parking area which will allow better oversight and management of access to the WMA.

Respectfully submitted,

Glenn Normandeau
Executive Director

Kathy Ann LaBonte
Chief, Business Division

REGION 1

629B Main Street
Lancaster, NH 03584-3612
(603) 788-3164
FAX (603) 788-4823
email: reg1@wildlife.nh.gov

REGION 2

PO Box 417
New Hampton, NH 03256
(603) 744-5470
FAX (603) 744-6302
email: reg2@wildlife.nh.gov

REGION 3

225 Main Street
Durham, NH 03824-4732
(603) 868-1095
FAX (603) 868-3305
email: reg3@wildlife.nh.gov

REGION 4

15 Ash Brook Court
Keene, NH 03431
(603) 352-9669
FAX (603) 352-8798
email: reg4@wildlife.nh.gov

STATE OF NEW HAMPSHIRE

Inter-Department Communication

DATE March 22, 2017

FROM: Christopher G. Aslin
Assistant Attorney General

AT (OFFICE) Department of Justice
Environmental Protection Bureau

SUBJECT: BMI Realty Trust/Carl Harrison Trust Amended and Restated Easement Deed,
Deerfield, NH acquisition

TO: Elizabeth McNaughten, Land Agent
New Hampshire Fish and Game Department

The Office of the Attorney General has reviewed the Amended and Restated Easement Deed, and supporting plan set, for the property located in the Town of Derryfield, New Hampshire owned by the Carl Harrison Trust. The Amended and Restated Easement Deed, which amends an existing access easement and grants the State a new parking easement, is approved for form and substance only. Following approval by Governor and Council, the fully executed Easement Deed should be submitted to this office for approval of execution prior to recording in the Registry of Deeds.



Christopher G. Aslin

NH Fish & Game Department
Facilities & Lands Division
11 Hazen Drive
Concord, NH 03301

AMENDED AND RESTATED EASEMENT DEED

This Amended and Restated Easement Deed is made this ___ day of _____, 2017, by and between **DEBORAH L. GADD, SUCCESSOR TRUSTEE OF THE CARL HARRISON TRUST (“CHT”)**, with a mailing address of P.O. Box 4765, Manchester, New Hampshire, 03101, and the **STATE OF NEW HAMPSHIRE**, through its **FISH AND GAME DEPARTMENT (“State”)**, with a mailing address of 11 Hazen Drive in the City of Concord, New Hampshire, 03301, to amend and restate certain terms of the original Easement Deed dated May 24, 2011 recorded at Book 5219, Page 2342 (the “Easement”).

RECITALS

On May 24, 2011, Deborah L. Gadd, Successor Trustee of the BMI Realty Trust (“BMI”) executed the Easement, granting the State a perpetual right-of-way for pedestrian and vehicular access over certain land of BMI in connection with the public use and land management of the Corey Wildlife Management Area. The Easement was located over paved roads known as Brown’s Mill Road, Hidden Drive and Corey Road, and continuing over an unpaved way and an “old gravel pit road” as shown on Plan D-33927.

Special Condition 2 of the Easement provides that the Easement “shall run with the land and shall continue until said Easement is in part or in whole, accepted by and conveyed to the Town of Deerfield, New Hampshire.”

On January 16, 2015, the Town of Deerfield accepted Brown’s Mill Road, Hidden Drive and Corey Road as public ways as platted by Plan D-33927.

On March 23, 2016, the Deerfield Planning Board conditionally approved a plan to subdivide and develop the remaining portion of BMI’s property located to the north of Corey Road and which includes the unpaved right-of-way granted by the Easement to the State.

On December 8, 2016, CHT obtained title to the property by foreclosure deed recorded in the Rockingham County Registry of Deeds at Book 5782, Page 2911, and is the successor in interest to BMI.

In light of these changes, the parties wish to amend and restate the Easement to reflect current conditions of the now public roadways, to clarify the location of the Easement beyond Corey Road, and to include a parking area.

NOW THEREFORE, the parties agree that the Easement Deed dated May 24, 2011 recorded at Book 5219, Page 2342 is amended and restated as follows:

1. That portion of the Easement beginning on page 2 with the words "LOCATION OF EASEMENT" and continuing through the words "shall be at their sole risk" in Special Condition 9 on page 3 of the Easement is stricken in its entirety and replaced with the following:

LOCATION OF EASEMENT in its Entirety: The above conveyed easement and right of way, as shown on a plan entitled "*Tax Map 411 Lots 45-8 & 45-9 Overall Open Space Subdivision Prepared for BMI Realty Trust Land of Carl Harrison Trust Corey Road Deerfield, New Hampshire*", dated November 16, 2015, last updated February 22, 2017, prepared by Bedford Design Consultants, Inc. and recorded as Plan # _____ in the Rockingham County Registry of Deeds (the "Phase 3 Plan"), shall begin at the northeasterly terminus of Corey Road and continuing to the northeast coextensive with the 30-foot wide common driveway easement along the lot line between Lot 45-08 and Lot 45-11, then continuing as a 30-foot wide easement following the existing unpaved "gravel road" easterly over Lot 45-11 and then across Lot 45-13 between two rows of boulders and continuing to the CHT boundary line with Tax Map 411, Lot 43. Included herewith is a 40-foot by 80-foot parking area, generally located adjacent to the gravel road beginning approximately 160 feet east of the boundary between Lot 45-11 and 45-13, all as shown on the Phase 3 Plan.

Nothing herein conveyed allows the public or the Grantee to travel outside of the Easement and right of way area.

All references herein to any of the above-mentioned roads, easements, right-of-ways, parking area, or alike, will be hereby referred to as the "Easement".

SPECIAL CONDITIONS: Together with the benefit of the easement right only, in common with others:

1. Such Easement right shall run with the land and shall continue in perpetuity.
2. In the event that the Town roads known as Brown's Mill Road, Hidden Drive and Corey Road ever cease, in whole or in part, to be public roads of the Town, the Easement herein granted for vehicular and pedestrian access to and from Mount Delight Road is hereby expressed and reinstated over said roads.

3. The common driveway serving Lots 45-08 and 45-11 shall be constructed by Grantor in the location indicated on the Phase 3 Plan sheet 2 of 8. Once constructed, the Grantee and the public shall have the non-exclusive right to pass over said future developed common driveway within the easement area. Such public right shall include public pedestrian and vehicular access over the common driveway.

4. The Grantee shall have the right to construct a 4-car parking area and information kiosk in the 40-foot by 80-foot portion of the Easement on Lot 45-13 for use by Grantee and the public, and to install a gate and appropriate signage easterly of the parking area to restrict public vehicular access to the remainder of the gravel road.

5. The Grantee shall have the right but not the obligation to maintain the unpaved "gravel road" across Lot 45-11 beyond the common driveway and then across Lot 14-13 in its current condition as shown on the Phase 3 Plan pages 2 and 3 of 8. Any cost associated with the maintenance and improvements to the unimproved "gravel road" or parking area portions of this Easement for the purpose of managing Corey Wildlife Management Area, shall be borne by the Grantee.

6. Grantee and the public shall have the right to park within the 30-foot wide "gravel road" and the parking area portions of the Easement located on Lot 45-13 only, and not on Lots 45-08 and 45-11.

7. During management operations, the Grantee agrees to recognize and limit the use of the Easement during the same period of time, and to the same extent as the weight limits that are posted by the Town of Deerfield. This limitation shall not include the public's right to use the Easement during such time.

8. The Grantee shall be responsible for all signage, if necessary for the adequate management and control of the public use of the Easement, including but not limited to signage at the terminus of Corey Drive indicating public access to Corey Wildlife Management Area.

9. The Grantor shall not be liable to any person using said Easement for the purposes of ingress and egress to the property of the Grantee, said use shall be at their sole risk.

10. This Amended and Restated Easement Deed hereby confirms that the Grantee claims no right to use, and disclaims and releases any prescriptive rights it may have obtained through past use of, the "*Existing Access Road To Be Abandoned*" shown on the Phase 3 Plan extending to the south from the easterly side of the Common Driveway through Lots 45-11, 45-10 and 45-9 to Hidden Drive.

2. Except as specifically amended and modified by this Amended and Restated Easement Deed, all rights, conditions, obligations and benefits set forth in the Easement Deed dated May 24, 2011 recorded at Book 5219, Page 2342 remain in full force and effect and the entire Easement Deed, as amended herein, is hereby expressly restated by the Grantor.

3. 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.

IN WITNESS WHEREOF, we hereunto set our hands this ____ day of _____, 2017.

CARL HARRISON TRUST

Deborah L. Gadd, Successor Trustee
Duly Authorized

TRUSTEE CERTIFICATE

The undersigned trustee, as trustee of The Carl Harrison Trust, under Trust Agreement dated _____ and thereto has full and absolute power in said trust agreement to convey any interest in real estate and improvements thereon held in said trust and no purchaser or third party shall be bound to inquire whether the trustee has said power or is properly exercising said power or to see to the application of any trust asset paid to the trustee for a conveyance thereof. The trust agreement has not been revoked, modified or amended in any manner which would cause the representations contained in this Trustee Certificate to be incorrect.

Deborah L. Gadd, Successor Trustee
of the Carl Harrison Trust

STATE OF NEW HAMPSHIRE
COUNTY OF HILLSBOROUGH

I, hereby certify that Deborah L. Gadd, Successor Trustee for the Carl Harrison Trust personally appeared before me on this ____ day of _____, 2017 and as such is duly authorized to execute the foregoing instrument and acknowledged the foregoing Amended and Restated Easement and Trustee Certificate.

Notary Public/Justice of the Peace
My Commission Expires:

NEW HAMPSHIRE FISH AND GAME DEPARTMENT

Dated this ___ day of _____, 2017

Glenn Normandeau, Executive Director

STATE OF NEW HAMPSHIRE
COUNTY OF MERRIMACK

I, hereby certify that Glenn Normandeau, Executive Director of the New Hampshire Fish and Game Department, personally appeared before me on this ___ day of _____, 2017 and as such is duly authorized to execute the foregoing instrument and acknowledged the foregoing Amended and Restated Easement.

Notary Public/Justice of the Peace
My Commission Expires:

Approved by the NH Governor and Executive Council on: _____ Item _____

EXHIBIT A

Tract One – common driveway easement:

A certain parcel of land located in the Town of Deerfield, Rockingham County, New Hampshire, shown as a common driveway to Lot 45-8 and Lot 45-11, as shown on a plan entitled "*Tax Map 411 Lots 45-8 & 45-9 Overall Open Space Subdivision Prepared For BMI Realty Trust Land of Carl Harrison Trust Corey Road Deerfield, New Hampshire*", dated November 16, 2015, last updated on February __, 2017, prepared by Bedford Design Consultants, Inc. and recorded as Plan # _____ in the Rockingham County Registry of Deeds ("Plan"), and more particularly described as follows:

Beginning at a 5/8" rebar to be set at the easterly terminus of Corey Road, a Town road, at the corner of Lots 45-8 and 45-11; thence

By a curve to the left with a radius of 75.00 feet, and length of 15.00 feet by said Corey Road to a point; thence

North 51° 03' 10" East, a distance of 175.48 feet through said Lot 45-8 to a point; thence

North 33° 21' 44" East, a distance of 222.23 feet through said Lot 45-8 to a point; thence

North 22° 27' 20" East, a distance of 327.14 feet through said Lot 45-8 to a point; thence

South 67° 32' 40" East, a distance of 30.00 feet through said Lot 45-8 and through Lot 45-11 to a point; thence

South 22° 27' 20" West, a distance of 330.00 feet through said Lot 45-11 to a point; thence

South 33° 21' 44" West, a distance of 229.76 feet through said Lot 45-11 to a point; thence

South 51° 03' 10" West, a distance of 180.15 feet through said Lot 45-11 to a point at Corey Road; thence

By a curve to the left with a radius of 75.00 feet, and length of 15.00 feet by said Corey Road to the point of beginning.

Subject to rights granted in the Declaration of Common Driveway Easement dated _____ and recorded at Book _____, Page _____ in the Rockingham County Registry of Deeds

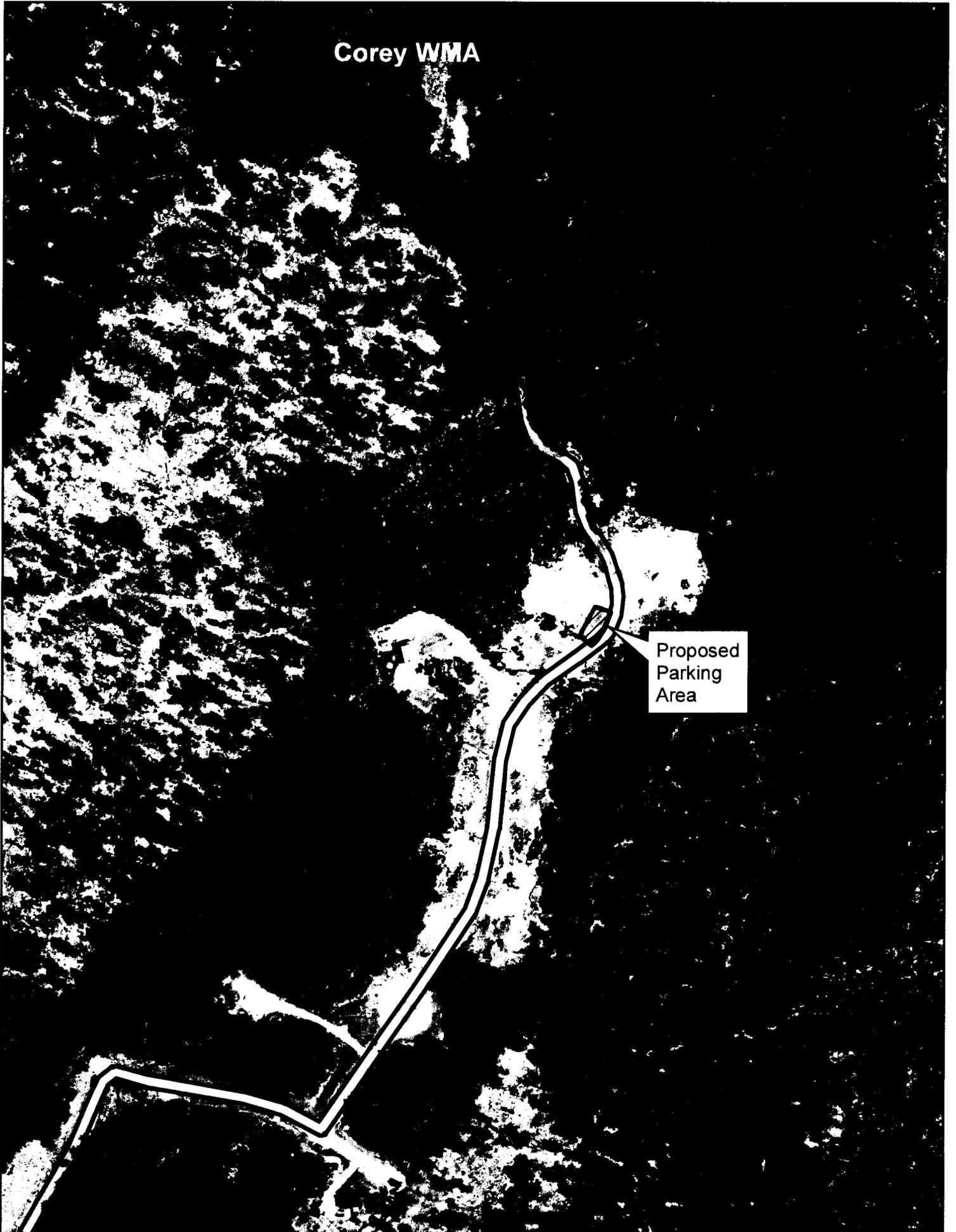
Tract Two – gravel road and parking area easement:

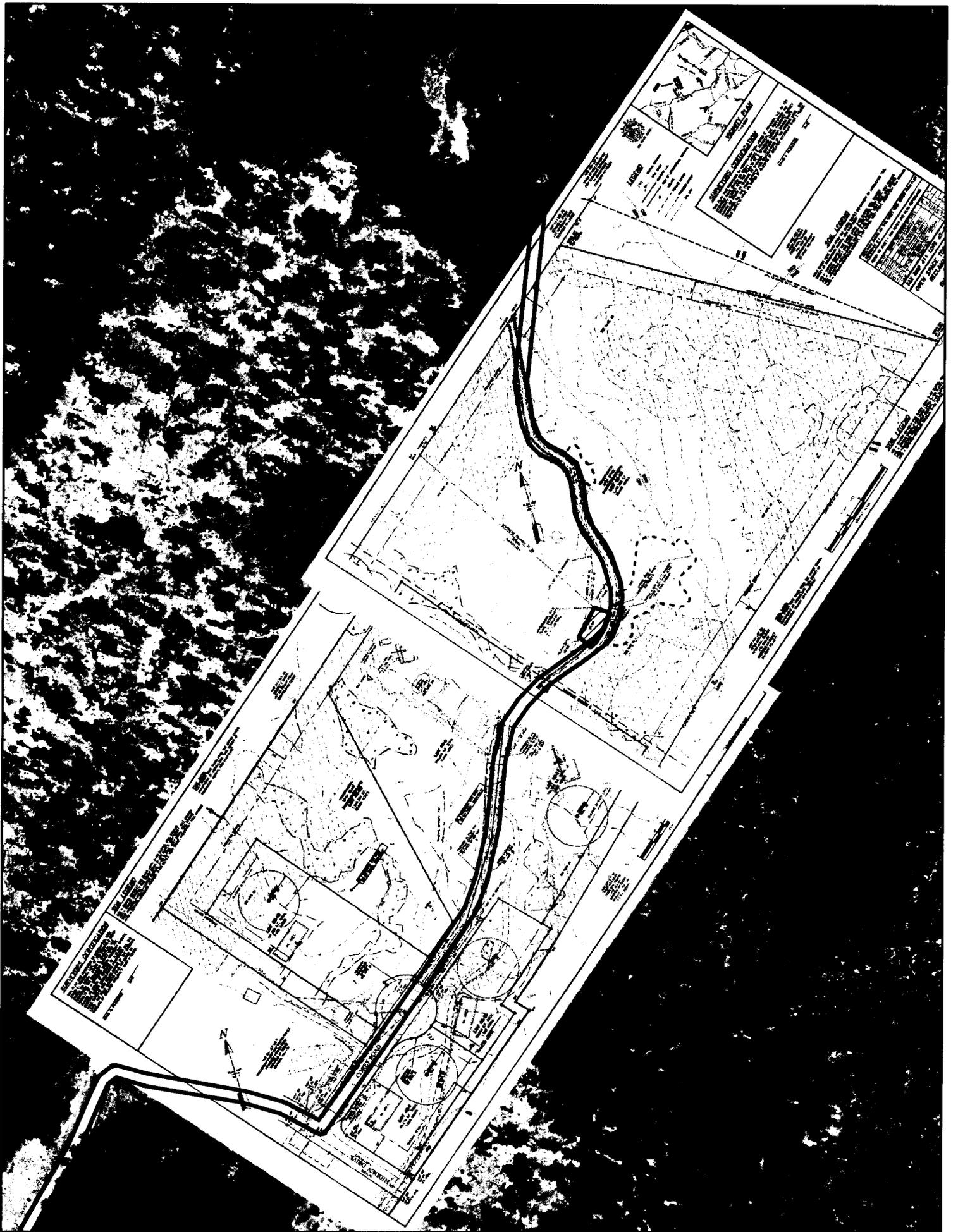
A certain parcel of land shown as a thirty-foot (30') wide easement area centered along an existing "gravel road" beginning from the common driveway described in Tract One above, continuing across the northerly corner of Lot 45-11 and onto Lot 45-13 and delineated by a row of boulders at least three (3') feet in diameter and spaced no more than three (3') feet apart, to be placed by Grantor.

Together with a forty-foot (40') by eighty-foot (80') parking area on Lot 45-13 located on the northwesterly side of the thirty-foot (30') gravel road easement and beginning approximately 160 feet east of the boundary between Lot 45-11 and Lot 45-13, also delineated by a row of boulders, and all as shown on the Plan.

Corey WMA

Proposed
Parking
Area





NEW HAMPSHIRE FISH AND GAME DEPARTMENT

AUGUST 10, 2016 COMMISSION MEETING

Meeting Location: NH Fish & Game Department, 11 Hazen Drive, Concord, NH, 03301.

Commissioners Present: T. Tichy, R. Phillipson, J. McGonagle, T. Baldwin, J. Ryan, B. Carr, V. Greco T. Hubert, D. Patch, and W. Morse.

Commissioners absent/excused: F. Clews

Executive Director Normandeau – Present

Chairman Tichy called the meeting to order at 1:03 p.m., and asked the audience to join in the pledge of allegiance. He informed the audience that the public is entitled to attend all Commission meetings and when recognized by the chairman, the public may speak on any item on the agenda. The Chair reserves the right to limit comment to the extent necessary for the orderly conduct of the meeting.

ACTION ITEMS:

1.) Commissioner Greco moved to approve the June 8, 2016 Commission Minutes as written and Commissioner Ryan seconded. The vote was unanimous in the affirmative.

2.) Consent Agenda - The following items were grouped together and were noticed as consent agenda items to expedite action on routine matters, which may not require public discussion. The Commission voted to approve these matters as presented. Commission members may remove certain items if further public input or discussion is deemed necessary.

Commissioner Ryan moved to approve consent agenda items 2a & 2g as presented below, and Commissioner Carr seconded. The vote was unanimous in the affirmative.

2a.) Commission accepted the following memorial donations to the Trapper Education Program, in memory of Arthur Whipple, Volunteer Trapper Education Instructor:

Walter & Christina Niland -	\$50.00
Carol Haley -	\$25.00
Norman Skantz-	\$25.00
Norma Callahan -	\$25.00
Laura Merrifield -	<u>\$50.00</u>
Total:	\$175.00

2b.) Commission accepted the following memorial donations to the Aquatic Education Program, in memory of Lawrence Mayer, Let's Go Fishing Volunteer Instructor:

Irving & Kathryn Richardson -	\$50.00
Sharon Smith -	<u>\$35.00</u>
Total:	\$85.00

2c.) Commission accepted the following donations to the Trapper Education Program as follows:

Shirley Bell & Family -	\$40.00
Sandra & Glen Page -	\$25.00
David & Lena Whipple -	\$30.00
Stephen & Therese Stepenuck -	<u>\$100.00</u>
Total:	\$195.00

2d.) Commission accepted the following donations to the Search & Rescue Account:

Forrest Crooks -	\$ 200.00	(\$100.00 S&R Account & \$100.00 K-9 Team).
Patrick & Laura Cook -	\$1,000.00	
Richard Nodarse -	<u>\$1,000.00</u>	
Total:	\$2,200.00	

2e.) Commission accepted the following donations to be utilized by the Inland Fisheries Division & Wildlife Division:

Harold Wyman -	\$ 50.00
Kingston Lake Association -	<u>\$ 50.00</u>
Total:	\$100.00

2f.) Commission accepted the donation of two oyster tongs from Paul Sanderson, to be utilized by the Marine Division.

2g.) Commission accepted a donation in the amount of \$7.50 to be deposited into the Small Gifts & Donations Account.

3.) Mark Ellingwood, Chief, Wildlife Division & Linda Verville, Wildlife Program Specialist, came before the Commission seeking their participation & approval to accept the below firearms to be awarded to participants in the Wildlife Division's Annual Deer Hunter Mail Survey, Small Game Survey and Ruffed Grouse Wing & Tail Survey:

Deer Hunter Mail Survey Winner:
Prize:

Alexander Schettino, Grantham, NH
Woodman Arms Patriot Muzzleloader (.50 caliber)
(Donated by Woodman Arms, Freemont, NH)

David Ross, Londonderry, NH
Ruger Certificate – American Centerfire Rifle.
(Donated by Sturm Ruger)

Small Game Survey Winner:
Prize:

Ronald Hamel, New Gloucester, ME
Ruger American Model 8301 Rimfire Rifle.
(Donated by Sturm Ruger)

Wing & Tail Survey Winner:

Prize:

Michael Amicangioli, Dover, NH
Weatherby PA-08 Upland Pump 12-Gauge Shotgun.
(Donated by the Ruffed Grouse Society)

4.) Mark Ellingwood came before the Commission seeking approval of the Wildlife Division's FY'2017 Game Management & Wildlife Habitat Account budgets as presented.

Mark reviewed the attached Game Management budget with the Commission. He reported that these figures hardly change from budget to budget.

Commissioner Patch moved to approve the Game Management budget as presented and Commissioner Hubert seconded. The vote was unanimous in the affirmative.

Mark reviewed the Wildlife Habitat Account budget with the Commission.

There was some confusion as to how to interpret/read the Wildlife Habitat Account budget as presented. Much discussion ensued.

Commissioner Phillipson moved to table this item until the September Commission Meeting and Commissioner Baldwin seconded.

Commissioner Patch stated, "This is very similar to the previous budget. I feel this is business as usual."

Commissioner Carr stated, "I have no problem with how this works. I understand how budgeting works."

Commissioner Carr moved to move the question and Commissioner Patch seconded. The vote was unanimous in the affirmative.

Commission returned to the previous tabling motion. The vote failed with 3 in favor, 5 opposed, 1 abstention, (W. Morse)

Commissioner McGonagle moved to approve the Wildlife Habitat Account budget as presented and Commissioner Carr seconded.

Chairman Tichy stated, "I appreciate the conversation today. This shows the Commission's interest and wanting to be more involved."

Commissioner Baldwin stated, "I'd like to be better educated on the budget process."

The motion carried with 8 in favor, 1 abstention (R. Phillipson). The motion carried.

Director Normandeau stated that he would provide an overview of the budget process at 10:00 a.m., the morning of the September 21, 2016, Commission Meeting at the Owl Brook Hunter Education Center.

5.) Commissioner Greco moved to approve the expenditure of up to \$3,500 of Game Management Revenue, as state match for up to \$10,500 in available federal revenue, for the purchase of 2 Honda TRX420FE ATV's for use by Region 1 Wildlife Division Staff and Commissioner Patch seconded. The vote was unanimous in the affirmative.

6.) Commissioner Carr moved to approve the expenditure of \$3,000 from the Wildlife Habitat Account to purchase the right to install a parking area on land abutting the Corey Wildlife Management Area in Deerfield, NH, to properly manage public activity on an existing management of right of way and Commissioner Phillipson seconded. The vote was unanimous in the affirmative.

INFORMATION ITEMS:

1.) Kathy LaBonte, Chief, Business Division, reviewed the monthly financial statements dated June 30, 2016 & July 31, 2016 with the Commission.

STANDING COMMITTEES:

POLICY COMMITTEE: Commissioners; Commissioners McGonagle & Clews. Commissioner McGonagle reported that the committee did not meet.

LEGISLATIVE COMMITTEE: Commissioner Morse, Chair; Commissioners Hubert, Greco, Patch, and Baldwin. Commissioner Morse reported that the committee did not meet.

RIVERS COMMITTEE: Commissioner Ryan reported that the committee did not meet as there was not a quorum. He reported that the next meeting would be on October 4, 2016.

LAKES COMMITTEE: Commissioner Clews was absent, therefore, no report.

HANDBOOK & ORIENTATION COMMITTEE: Commissioner Patch, Chair; Commissioner Carr. Commissioner Patch reported that the committee did not meet. He reported that the committee would be meeting in the near future to do some updates.

STRATEGIC PLANNING COMMITTEE: Commissioner Greco, Chair; Commissioners McGonagle, Tichy and Phillipson. Commissioner Greco reported that the committee did not meet.

WILDLIFE HERITAGE FOUNDATION: Commissioner Greco reported that the committee would be meeting next month. He reported that it was the 10th Anniversary of the Wildlife Heritage Foundation. The celebration theme is, "10, 10 & 10", standing for 10 year anniversary, 10 prizes and \$10 per raffle ticket. Raffle tickets will be on sale at Bass Pro Shop on Sunday, September 18, 2016, and will be on sale until December 30, 2016. The drawing will be conducted at the January 11, 2017, Commission Meeting. Other locations to purchase raffle tickets are:

L.L. Cote Sports Center –	25 Main Street, Errol, NH
Suds & Soda Sports Outlet–	365 Portsmouth Avenue, Greenland, NH
Morse Sporting Goods –	85 Contoocook Falls Road, Hillsboro, NH
Bass Pro Shop -	2 Commerce Drive, Hooksett, NH