



JDR 35

STATE OF NEW HAMPSHIRE  
DEPARTMENT of RESOURCES and ECONOMIC DEVELOPMENT  
DIVISION OF FORESTS AND LANDS

172 Pembroke Road Concord, New Hampshire 03301  
Phone: 271-2214 Fax: 271-6488 www.nhdf.org

January 11, 2017

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

REQUESTED ACTION

Pursuant to RSA 227-H:3, I, authorize the Department of Resources and Economic Development (DRED) to purchase 288 acres of working forestland known as the "Heon Tract" abutting Cape Horn State Forest in the Town of Northumberland from The Nature Conservancy (TNC) (VC #177785 B002) of Concord, NH in the amount of \$100,000 upon Governor and Executive Council approval. **100% Forest Improvement Fund**

Funding is available as follows:

	<u>FY 2017</u>
03-35-35-351010-72000000	
Forest Improvement Fund	\$100,000
033-509033 Land Acquisition & Easements	

EXPLANATION

The 288-acre Heon Tract rises steeply from Route 3 in the Town of Northumberland to the Cape Horn ridgeline and its red pine rocky ridge natural community. The lower elevation is young northern hardwoods with some rich forest pockets on the steeper slopes where seeps occur. The Heon Tract abuts the original 2000-acre Cape Horn State Forest to the east as well as property donated by TNC to the State in 2010 to the north. The NH Corridor 3A snowmobile trail also runs along the western section of the tract. The Cape Horn ridgeline and its unique volcanic ring-dike formation on the Heon Tract contain three NH Natural Heritage Bureau-documented exemplary natural communities. The tract has long been a target of acquisition for DRED due to these unique features, the snowmobile trail, and because it is the last remaining non-state-owned portion of the ring-dike. The TNC has determined that this parcel is within an important wildlife corridor between Kilkenny and West Mountain in VT therefore it provides valuable wildlife connectivity values. Lastly, the Heon Tract will provide important access to the State Forest from US Route 3 in Northumberland.

The TNC received a \$75,000 grant from the Land and Community Heritage Investment Program and therefore is able to offer the Heon Tract to the State at a sale price of \$100,000. A recent appraisal by McManus & Nault Appraisal Company, Inc. places the value of the Heon Tract at \$178,000. A copy of that appraisal is attached for your information.

Your approval is subject to final approval as to execution of the Warranty Deed by the Department of Justice.

Respectfully submitted,

Approved by,

BC  
  
Brad W. Simpkins  
Director

Jeffrey J. Rose  
Commissioner

Potter  
Farm  
Floodplain

Potter

Cape Horn  
State Forest

Northumberland

3

HEON

Cape Horn  
State  
Forest

Cape Horn  
State  
Forest

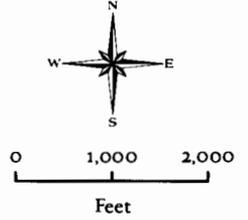
Deer Brook

Deer Brook

The Nature Conservancy 

Protecting nature. Preserving life.™

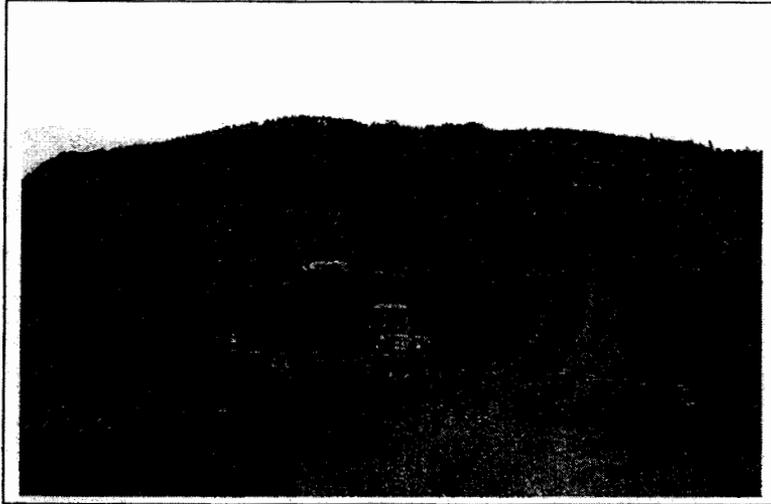
New Hampshire Chapter  
22 Bridge Street, Fourth Floor  
Concord, New Hampshire 03301



**APPRAISED PROPERTY**

256 acres of land without and with a lease of 25 acres.

Owned By: Raymond L. and Cynthia E. Heon  
Off Route 3  
Northumberland, NH



*Prepared For:*

Jan McClure  
Director of Land Protection  
The New Hampshire Chapter of The Nature Conservancy  
22 Bridge St., 4<sup>th</sup> Floor  
Concord, NH 03301

*Prepared By:*

Peter I. Nault

Date of Value: June 3, 2015

Copyright

McManus & Nault Appraisal Company, Inc.  
1496 Route 3A, Suite 6, Bow, NH 03304  
Tel. (603) 230-9788 FAX (603) 856-7829  
E-mail Address: [peternault@comcast.net](mailto:peternault@comcast.net)  
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June 16, 2015

Jan McClure  
Director of Land Protection  
The New Hampshire Chapter of The Nature Conservancy  
22 Bridge St., 4<sup>th</sup> Floor  
Concord, NH 03301

**RE: Appraisal of 256 acres of land off Route 3 in Northumberland, NH without and with a 10 year lease of 25 acres.**

Dear Mrs. McClure:

In accordance with your request, I have prepared, and am submitting herewith, an appraisal report of an appraisal of 256 acres of land off Route 3 in Northumberland, NH. The appraised property is owned by Raymond L. and Cynthia E. Heon. This appraisal provides my opinion of the market value, as defined herein, of the fee simple interest in the appraised property as is (Before) and as subject to a 10 year lease (2 five year options) of 25 acres of the site (After).

It should be noted that the After analysis is performed under the hypothetical condition that the landowners will lease back 25 acres of the site at market lease rates, as shown on the maps included in the report, for a period of 10 years (5 year lease with right to renew for 5 additional years). It is also assumed in the Hypothetical Condition that the remainder of the property will have legal access through the leased area for any purpose. If this appraisal was completed without this hypothetical condition, it would result in different value conclusions.

The intended use of this appraisal is to assist in decisions regarding purchasing the property. This report was prepared for and my professional fee billed to Jan McClure with the NH Nature Conservancy (client). The intended users include Jan McClure, the NH Nature Conservancy, and at the discretion of the client, the landowners. The report may not be distributed to or relied upon by other persons or entities without our written permission. The report was prepared to meet the Uniform Standards of Professional Appraiser Practice (USPAP). To the best of my knowledge, all statements are true and unbiased. I have no financial interest in the property and my fee is not contingent upon the reporting of any value conclusion. We recognize that this work is being funded with U.S. Government funds and that we are responsible for ensuring that all work performed and related travel is carried out in compliance with the regulations and laws listed in the regulations entitled "U.S. Government Laws and Regulations".

I have made a careful and thorough analysis of the property and the reader is referred to the Scope of Work section of this report. Based upon the scope of work completed for this appraisal, I have formed my opinion that the market value of the appraised property, subject to the

Heon - Northumberland

definitions, certifications, limiting conditions, and extraordinary assumptions and hypothetical conditions set forth in the attached Report, as of June 3, 2015, is as follows:

256 Acres without lease	\$178,000
256 Acres with lease of 25 acres	<u>\$173,000</u>
Indicated difference due to lease	\$5,000

Respectfully submitted,



---

Peter I. Nault  
President, NHCG-499

## PURCHASE AND SALE AGREEMENT

**For  
Land in Northumberland, NH  
Between  
State of New Hampshire  
And  
The Nature Conservancy**

THE NATURE CONSERVANCY, a non-profit corporation organized under the laws of the District of Columbia, with an address of 4245 North Fairfax Drive, Arlington, Virginia 22203, and maintaining a New Hampshire Field Office at 22 Bridge Street, 41h Floor, Concord, NH 03301 (the "Seller"), agrees sell, and the STATE OF NEW HAMPSHIRE, by and through its Department of Resources and Economic Development, (the "Buyer") of 172 Pembroke Road, Concord, NH 03301 agrees to purchase fee title to a certain property in accordance with the terms and conditions set forth below:

1. Premises: The property which will be conveyed, through one (1) deed, consists of 288 acres, more or less, with improvements within the Town of Northumberland, County of Coos, and State of New Hampshire, and further shown on Town of Northumberland Tax Map 230, Lot 01.
  2. Purchase Price: The purchase price (the "Purchase Price") will be \$100,000, which shall be paid to the Seller by a State of New Hampshire Treasurer's check from the Department of Resources and Economic Development.
  3. Title and Deed: The Seller shall convey the Premises as is to the Buyer by Warranty deed in the form of good, clear, and marketable title, free from all liens and encumbrances except easements, restrictions and reservations of record and the Warranty Deed of Executory Interest granted by Seller to the State of NH through the Land and Community Heritage Investment Program
- The Buyer acknowledges that Seller will be entering into a Project Agreement with the Land and Community Heritage Investment Program (LCHIP) and that Buyer will be required to join in this agreement with respect to the obligations affecting the property to be conveyed.
4. Closing: The Deed shall be delivered to the Buyer, and the Buyer shall tender the Purchase Price to the Sellers at Closing, which shall occur on or before March 31, 2017.
  5. Tax on Transfer of Real Property: The Buyer represents this conveyance is exempt from the real estate transfer tax under RSA 78-B.
  6. Payment of Real Property Taxes: The Seller and the buyer shall be jointly responsible for payment of all real estate property taxes assessed for the Premises which shall be pro-rated at the date of closing by the Town of Northumberland.
  7. Examination of Title: If, upon examination of the title, it is found that the title is not marketable, this Agreement may be rescinded at the option of the Buyer.
  8. Buyer's Use of Garage on Premises Prior to Closing. Buyer has requested use of the garage located on the premises during the period of Seller's ownership prior to closing with Buyer. Seller grants this request, but assumes no liability for loss or damage to any objects stored in the garage or any damage to the garage incurred due to Buyer's use of same. Furthermore, should this Purchase and Sale Agreement become null and void, Buyer will be fully responsible for removing the equipment no later than May 1, 2017, and making any necessary repairs to the property if it was damaged as a result of Buyer's use.

8. Conditions Precedent: The Buyer's obligations under this agreement, including its obligation to purchase the Premises, are subject to each of the following conditions, which run to the Buyer's exclusive benefit:

a. The Buyer shall obtain approval from the New Hampshire Governor and Executive Council to use the Buyer's funds to purchase the Premises. Buyer agrees to promptly seek such approval and shall provide notice to the Seller within fourteen (14) days of receipt of such approval.

b. The Buyer may perform, at its sole cost, any necessary activities to assure that the Premises meets the Department's programmatic objectives and complies with applicable federal and state land acquisition laws and regulations, including but not limited to the following:

- i) level of hazardous waste
- ii) federal and state endangered/threatened plants & animals
- iii) federal and state historic/prehistoric resources
- iv) floodplains and wetlands protection

If not satisfied with the findings of its review or the above, the Buyer may terminate this Agreement without penalty.

c. The Buyer must be satisfied with the level of hazardous waste or contaminated materials, if any, upon the Premises. The Buyer shall provide notice to the Seller within thirty (30) days of the execution hereof of the results of such assessment, including in such notice a statement as to whether the Buyer is satisfied with the state of the Premises with regard to hazardous waste or contaminated materials.

d. If the Buyer perceives anytime before closing that it will need additional time in order to complete any necessary approval process, it shall notify the Seller in writing of the remaining approvals necessary and the expected time frame in which such approvals can be reasonably obtained. The Seller shall grant all reasonable requests for extensions of time by the Buyer.

In the event that the Conditions Precedent referred to herein is not satisfied (or waived) by the Buyer, then this Agreement shall terminate without recourse by or against either party.

9. Conditions Precedent: The Sellers' obligations under this agreement, including its obligation to sell the Premises, are subject to the following conditions (if any), which run to the Sellers' exclusive benefit:

a. The Seller shall have received good and marketable title to the property from Cynthia and Raymond Heon.

10. Risk of Loss: Risk of loss relative to any damage or loss to the Premises shall be on the Seller commencing as of the date on which it takes title to the Property until closing. In case of loss during such period, any and all sums recoverable from insurance shall be paid or assigned at Closing to the Buyer.

11. Time: Time is of the essence of all dates and time periods in this Agreement.

12. Default: If either party defaults hereunder, then the other party shall have available to it all rights provided under law and in equity.

13. Notices: All notices shall be sent to the parties at their addresses set forth above.

14. Merger: All representations, statements, and agreement heretofore made by and between the Buyer and the Sellers are merged in this Agreement, which alone fully and completely expresses their respective rights and obligations.

15. Governing Law: This Agreement is made in accordance with New Hampshire law and shall be interpreted, governed and enforced under New Hampshire law.

16. Counterparts: This Agreement may be executed in two (2) or more counterparts, all of which shall constitute but one (1) agreement.

**This document has been executed in triplicate.**

IN WITNESS WHEREOF, the parties have caused this instrument to be executed this 30 day of JANUARY, 2017.

**SELLER**

**The Nature Conservancy**

Witness: Jan McClure

Mark Zankel  
Mark Zankel, NH Chapter, Director

**BUYER**

**NH DEPARTMENT OF RESOURCES AND ECONOMIC DEVELOPMENT**

Witness: Lisa M. Lavin

Jeffrey J. Rose  
Jeffrey J. Rose, Commissioner  
Duly Authorized

Approved as to form, substance and execution by the Office of the Attorney General.

1/30/17  
Date

Jeanine Girgenti  
Jeanine Girgenti  
Associate Attorney General  
Assistant

Return to:  
 NH Land and Community  
 Heritage Investment Program  
 (LCHIP)  
 13 West St., Suite 3  
 Concord, NH 03301

**PROJECT  
 AGREEMENT**

Between the **Land and Community Heritage Investment Program** and its successors and assigns represented by the Executive Director of LCHIP (“LCHIP”) and **The Nature Conservancy** and its successors and assigns.

**Municipality:** Northumberland

**Project Name:** Cape Horn Connectivity Project

**Project Completion Date:** April 1, 2017

**Property Description:** Protection of 288 acres of forest land on the ridgeline and slopes of Cape Horn

**Grant Recipient:** The Nature Conservancy

**TIN #:**

**PROJECT SCOPE:** The Nature Conservancy will utilize a \$75,000 financial assistance grant awarded by LCHIP in Grant Round 15 to acquire a fee interest in the Property, and subsequently transfer fee ownership of the Property to the State of New Hampshire’s Department of Resources and Economic Development (“DRED”). An Executory Interest in the DRED fee ownership will be conveyed to LCHIP (the “Project”).

**INTERESTS TO BE CONVEYED:** Fee Interest and Executory Interest on fee ownership.

<b>Grantor, Fee Interest (Fee Owner of Heon property):</b>	<b>Grantee, Fee Interest (Proposed Fee Owner of Heon property):</b>
The Nature Conservancy – New Hampshire Chapter 22 Bridge St., 4 <sup>th</sup> Floor Concord, NH 03301	State of New Hampshire (DRED) Department of Resources & Economic Development PO Box 1856 Concord, NH 03302-1856
<b>Grantor, Conservation Easement:</b>	<b>Grantee, Conservation Easement:</b>
N/A	N/A
<b>Grantor, Executory Interest:</b>	<b>Grantee, Executory Interest:</b>
The Nature Conservancy – New Hampshire Chapter 22 Bridge St., 4 <sup>th</sup> Floor Concord, NH 03301	LCHIP 13 West St. Suite 3 Concord, NH 03301

**AMOUNTS TO BE AUTHORIZED:**

The Land and Community Heritage Investment Program hereby obligates a grant payment of \$75,000 from the LCHIP Trust Fund in support of the Project outlined above, to be delivered in the form of a check made payable to The Nature Conservancy or its agent, at a place and time mutually agreed upon between the parties. Upon completion of the Project, LCHIP will transfer \$ \_\_\_\_\_ from the LCHIP Trust Fund to the LCHIP Community Conservation Endowment fund.

**LCHIP funds outlined herein are authorized for the following purposes:**

Direct cost of acquisition of on Property	\$ 75,000
Community Conservation Endowment Contribution (from LCHIP Trust Fund)	\$ [CCE]
<hr/>	
<b>Total</b>	<b>\$ [total impact]</b>

The State of New Hampshire, its successors and assigns represented by the Executive Director of LCHIP and The Nature Conservancy and its successors and assigns, hereby agree to perform this agreement in accordance with NH RSA 227-M, all other pertinent New Hampshire laws, and all applicable sections of LCHIP’s *Criteria, Guidelines, and Procedures* (“CGP”).

**LCHIP’S LIMITED OBLIGATION, DUE DILIGENCE REQUIREMENTS & TERMINATION CLAUSE:**

Notwithstanding anything in this agreement to the contrary, all obligations of the State hereunder, including without limitation the continuance of payments hereunder, are contingent upon the availability of funds and in no event shall the State be liable for any payments hereunder in excess of such available funds. In the event of a reduction or termination of such funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate this agreement immediately upon giving the **Grant Recipient** notice of such termination. The State shall not be required to transfer funds from any other account to the LCHIP Trust Fund in the event funds in that account are reduced or unavailable.

The **Grant Recipient** must act in compliance with all statutory and guideline requirements of LCHIP, and must perform all obligations of this Grant no later than the Project Completion Date. Prior to distributing any payment, LCHIP shall determine, at its sole discretion, whether the Project and associated work product complies with the terms of this Project Agreement and all statutory or other requirements of LCHIP. The LCHIP Authority reserves the right to terminate the grant award outlined herein if it determines that any aspect of the Project or work product is inconsistent with the foregoing.

**Obligations of Grant Recipient**

As **Grant Recipient**, The Nature Conservancy hereby agrees:

1. to return to LCHIP any funds herein provided to the extent of any loss due to any title that proves to be less than clear and marketable for any portion of the Property,
2. to return to LCHIP any funds herein provided to the extent of any loss due to material misrepresentations during the application process or incompleteness of this Project by the Project Completion Date unless a deadline extension is requested and approved in writing by LCHIP in accordance with its *CGP*,
3. to limit the use of the Property to conservation purposes in perpetuity as specified by New Hampshire RSA 227-M, any other applicable laws, and LCHIP’s *CGP*,

4. to monitor compliance with and otherwise enforce the terms of this Agreement and of the deed described herein. Said monitoring shall
  - i. be conducted no less than annually, in accordance with the best practices for stewardship identified in "*Land Trust Standards and Practices*" published by the Land Trust Alliance and in LCHIP's *CGP*, and
  - ii. be sufficient to reasonably determine that no activities or uses inconsistent with the Purposes of deed or the purposes of the LCHIP as specified by New Hampshire RSA 227-M, are occurring on the Property,
5. to take all reasonable steps to proactively address any challenge, known or suspected, to the terms of the deed described herein, and to cure any violation of those terms that may be discovered,
6. to obtain written approval of LCHIP prior to approving any conveyance, transfer, mortgage, pledge, or other encumbrance of the Property, all as specified by the terms and provisions of the deed,
7. to provide the names and addresses of successor Grantors in the Property to LCHIP no more than ten days following notice of any sale, transfer or conveyance of any portion of same,
8. to ensure that materials produced to promote or publicize the Property, including on-site kiosks or informational signs, will include the following statement: "This property (name may be used) protected with assistance from the NH Land and Community Heritage Investment Program",
9. to place a sign, if provided by LCHIP, at prominent locations on the Property and to accept financial responsibility for the replacement or repair of said sign,
10. to perform all public access obligations provided for in the terms of the described herein in accordance with all state and federal laws and regulations applicable to private, non-profit organizations.
11. Grant Recipient hereby acknowledges that, in the event a violation is discovered and not cured, LCHIP has reserved the right to assume the fee interest in the Property all as specified by the terms and provisions of the deed.

SIGNATURE PAGES TO FOLLOW

**FOR THE STATE OF NEW HAMPSHIRE**

By: \_\_\_\_\_ Date \_\_\_\_\_  
Dorothy T. Taylor, Executive Director  
Land and Community Heritage Investment Program  
Duly Authorized



THE STATE OF NEW  
HAMPSHIRE MERRIMACK  
COUNTY, SS.

On the \_\_\_\_\_ day of \_\_\_\_\_ 2017, before me personally appeared Dorothy T. Taylor, known to me (or satisfactorily proven) to be the person whose name appears above, and she acknowledged that she executed this document in the capacity indicated above.

\_\_\_\_\_  
Notary Public/Justice of the Peace  
My commission expires:

**FOR GRANT RECIPIENT**

BY: \_\_\_\_\_ Date \_\_\_\_\_  
Mark Zankel, State Director  
The Nature Conservancy  
Duly Authorized

THE STATE OF NEW  
HAMPSHIRE MERRIMACK  
COUNTY, SS.

On the \_\_\_\_\_ day of \_\_\_\_\_ 2017, before me personally appeared Mark Zankel, known to me (or satisfactorily proven) to be the person whose name appears above, and he acknowledged that he executed this document in the capacity indicated above.

\_\_\_\_\_  
Notary Public/Justice of the Peace  
My commission expires:



**Return to:**

Bill Carpenter  
Division of Forests and Lands  
PO Box 1856  
Concord, NH 03302-1856

**This transfer is exempt from  
the payment of real estate  
transfer tax pursuant to  
NH RSA 78-B:2(I)**

**WARRANTY DEED**

**The Nature Conservancy**, a non-profit corporation incorporated under the laws of the District of Columbia having its headquarters at 4245 North Fairfax Drive, Suite 100, Arlington, Virginia 22203-1606 and a local address of 22 Bridge Street, 4<sup>th</sup> Floor, Concord, New Hampshire 03301 (“Grantor”), for consideration paid grants to the **State of New Hampshire, through its Department of Resources and Economic Development**, with a principal office at 172 Pembroke Road, Concord, New Hampshire 03301 (“State”), with Warranty Covenants, the following described property:

A certain tract or parcel of land containing 288.16 acres, more or less, located in Northumberland, County of Coos, State of New Hampshire, being shown on a plan of land entitled “Plat of Property Surveyed land of Raymond & Cynthia Heon Tax Map 230, Parcel 1 Northumberland, New Hampshire, Prepared for The Nature Conservancy” drawn by York Land Services, LLC, dated May 10, 2016, to be recorded in the Coos County Registry of Deeds, more particularly described as follows:

Beginning at an iron pin at a point 463.49 feet easterly of the easterly sideline of U.S. Route 3;  
Thence S52°29'04"E for 1827.58 feet to an iron pin;  
Thence N38°38'59"E for 950.27 feet to an iron pin;  
Thence S53°49'06"E for 1523.98 feet to an iron pin;  
Thence S34°30'21"W for 4793.96 feet to an iron pin;  
Thence N49°10'37"W for 1869.05 feet to an iron pipe;  
Thence N39°53'57"E for 1487.45 feet to an iron pipe;  
Thence N50°14'27"W for 2465.60 feet to a concrete monument;  
Thence N50°58'16"E for 728.52 feet to a concrete monument;  
Thence S49°48'34"E for 90.61 feet to an iron pin;  
Thence N50°46'18"E for 410.05 feet to an iron pin;  
Thence S51°32'58"E for 46.23 feet to an iron pipe;  
Thence N50°56'32"E for 450.47 feet to an iron rod;  
Thence N51°25'23"E along the end of a 50 foot wide access Right-of-Way for 51.25 feet to an iron pin;  
Thence N51°25'23"E for 536.42 feet to the point of beginning.

Together with a 50 foot wide access Right-of-Way to the above described property, as shown on the Plan, being described as follows:

Beginning at an iron pin on the easterly sideline of U.S. Route 3;  
Thence S51°08'09"E for 451.79 feet to an iron pin at land described above;  
Thence S51°25'23"W along land described above for 51.25 feet to an iron pin;  
Thence N51°09'02"W for 450.89 feet to an iron pin on the easterly sideline of U.S. Route 3;  
Thence N50°24'44"E 51.18 feet to the point of beginning.

Meaning and intending to describe all and the same land and Right of Way conveyed to The Nature Conservancy by Warranty Deed of Raymond and Cynthia Heon dated \_\_\_\_\_, 2016 and recorded at Book \_\_\_, Page \_\_\_ in the Coos County Registry of Deeds.

Subject to:

- 1) Notes, restrictions and easements as set forth in the deed recorded in the Coos County Registry of Deeds at Book 693, Page 487;
- 2) 100' wide right of way as shown on said Plan;
- 3) A non-exclusive right over a 50' right of way as shown on said Plan;
- 4) Easement to Public Service Company recorded in the Coos County Registry of Deeds at Book 392, Page 21;
- 5) 50' right of way as shown on said Plan; and
- 6) Non-perpetual, unrecorded in gross, 12' wide snowmobile trail easement as shown on said Plan.

Meaning and intending to describe and convey the same premises acquired by the Grantor by Warranty Deed of Raymond L. Heon and Cynthia E. Heon recorded prior hereto.

Executed as an instrument under seal this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

THE NATURE CONSERVANCY

By: \_\_\_\_\_

**DRAFT**

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2017 by \_\_\_\_\_, the \_\_\_\_\_ of The Nature Conservancy, who upon oath stated that he was duly authorized by appropriate corporate vote to execute this Warranty Deed and that he/she did so on behalf of The Nature Conservancy.

\_\_\_\_\_  
Notary Public/Justice of the Peace  
My Commission Expires: