



The State of New Hampshire
Department of Environmental Services

Clark B. Freise, Assistant Commissioner



January 5, 2017

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

REQUESTED ACTION

Authorize the New Hampshire Department of Environmental Services (DES) to enter into a Memorandum of Agreement with the New Hampshire Fish and Game Department (NHFG) (Vendor Code #177911) in the amount of \$400,000 to conserve two parcels of land containing approximately 149 acres of land in Londonderry, effective upon G & C approval through December 31, 2017. 100% ARM Funds.

Funding is available in the account as follows:

	<u>FY'17</u>
03-44-44-442010-38710000-073-500581	\$400,000

Dept. Environmental Services, In-Lieu Wetland Mitigation, Grants – Non - Federal

EXPLANATION

New Hampshire RSA 482-A:3 requires a wetland permit for any proposed project that involves dredging or filling of a wetland. Before a wetland permit is issued, applicants must show that the proposed project will avoid adverse impacts to wetlands and will minimize and provide compensation for those wetland impacts which are unavoidable.

The DES wetlands program adopted a set of mitigation rules that establish what is necessary for an applicant to provide for wetland compensation. The current department rules spell out ratios for wetland compensation that include creating a new wetland, restoring a former wetland site, or protecting a high-quality aquatic resource by preserving adjacent upland habitat. The newest improvement, begun in 2006, to the mitigation options is commonly referred to as an *in-lieu fee program*. This mitigation option is ideal for projects that have difficulty in locating an appropriate mitigation site. The Aquatic Resource Mitigation Fund (ARM) authorizes the collection of mitigation funds in lieu of other forms of wetland mitigation as part of a Wetlands Permit Application.

The Department issued the request for proposals for ARM Funds available in the Merrimack River watershed in April, 2016. The NHFG application was received and on November 28, 2016, DES announced the decision to fund the NHFG project in the Merrimack River watershed. The project proposed by the NHFG was recommended for funding by the ARM Fund Site Selection Committee. Attachment A lists the proposals received and Committee members involved in the decision. The review of the awards by the Army Corps of Engineers and the New Hampshire Wetland Council resulted in full support of the recommendations.

www.des.nh.gov

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The attached Memorandum of Agreement outlines the scope of work for NHFG to utilize its ARM funds to protect approximately 149 acres of land that includes perennial and intermittent streams that are tributaries to Nesenkeag Brook. The properties are identified within a highest priority landscape for Blanding's turtles and within a focus area for New England cottontail, as well noted as the highest ranked habitat (tier 1 and 2) in the NHFG Wildlife Action Plan (2015). The Town has identified the Mathes parcels as one their highest priorities for conservation. Attachment B includes a map of the property.

In the event that other funds no longer become available, general funds will not be requested to support this program. This agreement has been approved as to form, content, and execution by the Attorney General's Office.

We respectfully request your approval.

A handwritten signature in black ink, appearing to read 'C. Freise', written over a horizontal line.

Clark B. Freise, Assistant Commissioner

**MEMORANDUM OF AGREEMENT
BETWEEN
THE NEW HAMPSHIRE DEPARTMENT OF ENVIRONMENTAL SERVICES
AND
THE NEW HAMPSHIRE FISH AND GAME DEPARTMENT**

I. PURPOSE

The purpose of this Memorandum of Agreement (MOA) is to outline the responsibilities of the parties for tasks associated with the Aquatic Resource Mitigation Fund award for conservation of land owned by the Mathes Family Limited Partnership (hereinafter the "Property") in Londonderry, New Hampshire.

II. PARTIES

The parties to this MOA are the New Hampshire Department of Environmental Services (hereinafter "DES") and the New Hampshire Fish and Game Department (hereinafter "NHFG").

III. AUTHORITY

The DES Aquatic Resource Mitigation Fund Program (hereinafter "ARM Fund Program") grant supports activities associated with the acquisition of the fee to two parcels of land totaling 149 +/- acres identified on the Londonderry tax records as Tax Map 8, Lots 10 & 21. The ARM Fund Program grant will cover approved expenses and associated transaction costs incurred in securing Conservation Restrictions on the Property. The award will result in the unique opportunity to protect over 149 acres of land that will connect three town owned conservation parcels in the area which are currently unconnected, the 806 acre Musquash Conservation Area, the 136 George parcel, and the 76 acre Lorden parcel, creating a 1,150 acre block of fee-owned conservation land.

IV. SCOPE OF WORK

The DES agrees to apply the funding provided under this MOA for the approved expenses associated with the acquisition of the fee on the Property. The Conservation Restrictions shall limit the use of the Property as hereinafter defined to conservation purposes in perpetuity. The Property acquired through this project will be monitored on an annual basis in accordance with the *Standards and Practices* for stewardship of the Land Trust Alliance, to ensure that the terms of the Conservation Easement are being adhered to, and to ensure that no actions are occurring which could be detrimental to the conservation attributes of the Property. The NHFG agrees to submit a copy of the annual monitoring report to DES to document the actions taken.

The NHFG agrees to place a sign, subject to its acceptability to the Mathes Family Limited Partnership, to be provided by NHFG, at a prominent location on or near the Property. The sign should contain as a minimum the DES logo and the following statement: "This property has been protected with assistance from the New Hampshire Aquatic Resource Mitigation Fund." Should the DES sign be damaged or destroyed, the NHFG agrees to work with the Department to repair or replace it with identical signage and to share any costs associated with that repair or replacement to the extent reasonably practicable. The NHFG also agrees that where significant signage is placed at major access points, the ARM Fund Program will be identified as a contributing partner to the acquisition of the fee interests and the long-term protection of the Property.

V. FUNDING

The DES will provide funding in the amount of \$400,000 to the account #20 07500 21550000 405234. NHFG agrees to return to ARM Fund Program any funds herein provided to the extent of any loss due to any title that proves to be less than clear and marketable for all properties protected under this contract. In addition, NHFG agrees to return to ARM Fund Program any funds if NHFG fails to complete the Property acquisition.

VI. TERMINATION

Either party may terminate this MOA by providing notice to the other thirty (30) days prior to termination.

VII. DURATION

This MOA shall continue in effect from the starting date of this MOA until December 31, 2017, unless terminated earlier by

either party.

VIII. AGREEMENT

In WITNESS THEREOF, the parties hereto have executed this MOA, which shall become effective on the date the Governor and Executive Council of the State of New Hampshire approve the agreement.

NH Department of Environmental Services

NH Fish and Game Department



Clark B. Freise
Assistant Commissioner



Glenn Normandeau
Director

1/20/17

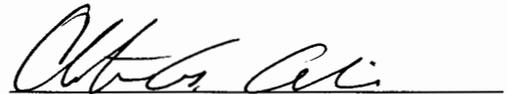
Date

1/19/2017

Date

Approved by the Attorney General this 27th day of January, 2017, as to the form, execution and substance.

OFFICE OF THE ATTORNEY GENERAL



**Attachment A
2016 Aquatic Resource Mitigation Fund Grants**

Applications and Funding Amounts

Grant Applicant	Location/Town	Requested Funding Amount	Score	Approved for Funding
New Hampshire Fish & Game Department	Londonderry	\$400,000	68	Yes - \$400,000
Society for the Protection of NH Forests	Hooksett & Candia	\$400,000	68	Yes - \$400,000
Brookline Conservation Commission	Brookline	\$250,000	53	Yes -\$89,000
Town of Salem	Salem	\$150,000	50	Yes - \$150,000
Fracestown Land Trust	Fracestown	\$83,850	48	Yes - \$83,850
City of Concord	Concord	\$200,000	43	Yes - \$100,000
Milford Conservation Commission	Milford	\$7,500	40	Yes - \$8,260
South East Land Trust	Londonderry	\$65,000	42	No
Town of Barnstead	Barnstead	\$100,000	40	No

(Note: Each Committee member scores the projects and their scores are combined to create the total score.)

Site Selection Committee List

Name	Agency/Organization	Title	Years of Experience
Craig Rennie	NHDES, Land Resource Management Program	Land Resource Specialist	21
Amy Lamb	NH Dept. of Resources & Economic Development	Ecological Information Specialist	2
Michael Marchand	NH Fish and Game Department	Senior Biologist	15
Tracey Boisvert	Office of Energy and Planning	CLSP Director	25
Peter Steckler	The Nature Conservancy	Director Freshwater Science & Conservation	15

ATTACHMENT B

Mathes Property, Londonderry



Data sources: NH GRANIT (UNH)
and OpenStreetMap, 10 July 2016.
Not intended for legal use

0 0.25 0.5 Kilometers

0 0.25 0.5 Miles

-  Parcel boundary
-  Road or Street
-  Trail (NHOEP/NHFG)
-  Trail (Open Street Map)

Map prepared: 8/30/2016