

AR 56



# New Hampshire Fish and Game Department

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Glenn Normandeau  
Executive Director

October 11, 2017

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

## REQUESTED ACTION

Authorize the New Hampshire Fish and Game Department (NHFG) to acquire a conservation easement on 1,525.62 acres in Barrington and Nottingham, New Hampshire from Bruton & Berube, PLLC, Attorneys at Law (Vendor Code 281335) as agent for the Southeast Land Trust of New Hampshire for \$1,750,000, effective upon Governor and Council approval through December 31, 2017. Funding is 100% Federal.

Funding for this purchase is available as follows:

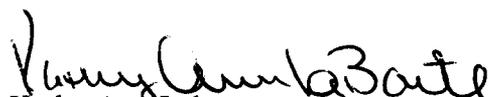
### 03 75 75 751520-2155 Wildlife Program – Wildlife Habitat Conservation

		<u>FY2018</u>
020-07500-21550000-033-500150	Habitat Acquisition and Management	\$1,750,000

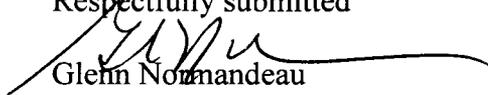
## EXPLANATION

The New Hampshire Fish and Game Department and the Southeast Land Trust of New Hampshire (SELT) are partnering to protect 1,527.72 acres in Barrington and Nottingham. Working together we applied for and received a \$1,000,000 grant from the US Fish and Wildlife Service (USFWS) National Coastal Wetlands Conservation Program. The Department has also received approval to use \$750,000 of USFWS Wildlife Restoration Program funds. These funds, totaling \$1,750,000 will be used to acquire a conservation easement on the property.

This acquisition project presents an extraordinary and rare opportunity to protect substantial acreage and vast wetlands complexes in an area of the state that has traditionally experienced, and is again experiencing, rapid growth and development. Working with a willing seller, the project partners will be protecting a wide array of wildlife habitat types and ensuring the large parcel will be available for public use, including hunting and fishing, in perpetuity.

  
Kathy Ann Labonte  
Chief, Business Division

Respectfully submitted

  
Glenn Normandeau  
Executive Director

# STATE OF NEW HAMPSHIRE

Inter-Department Communication

**DATE** September 20, 2017

**FROM:** Christopher G. Aslin  
Assistant Attorney General

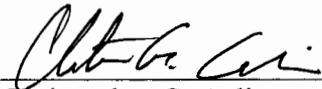
**AT (OFFICE)** Department of Justice  
Environmental Protection Bureau

**SUBJECT:** Stonehouse Forest Project, Barrington, NH

**TO:** Richard Cook, Land Agent  
New Hampshire Fish and Game Department

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The Office of the Attorney General has reviewed the title work, purchase and sale agreements, Warranty Deed, Conservation Easement Deed, and supporting documents, as outlined in your memo dated August 28, 2017, for the properties located in the Town of Barrington, New Hampshire, and pursuant to RSA 212:7 approves the title of the property for acquisition of a conservation easement. The deeds provided are approved for form and substance only. Following approval by Governor and Council, the fully executed Conservation Easement Deed should be submitted to this office for approval of execution prior to recording in the Registry of Deeds.

  
\_\_\_\_\_  
Christopher G. Aslin

THIS IS A TRANSFER TO A STATE AGENCY  
AND IS THEREFORE EXEMPT FROM THE NEW  
HAMPSHIRE REAL ESTATE TRANSFER TAX.  
PURSUANT TO NEW HAMPSHIRE RSA 78-B:2,I.  
THIS TRANSFER IS ALSO EXEMPT FROM THE  
LCHIP SURCHARGE PURSUANT TO NEW HAMPSHIRE  
RSA 478:17-g, II(a).

## CONSERVATION EASEMENT DEED

**SOUTHEAST LAND TRUST OF NEW HAMPSHIRE**, a non-profit corporation duly organized and existing under the laws of the State of New Hampshire, with a principal place of business at 6 Center Street, PO Box 675, Town of Exeter, County of Rockingham, State of New Hampshire, 03833, 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 "Grantor", which word where the context requires includes the plural and shall, unless the context clearly indicates otherwise, include the Grantor's administrators, legal representatives, devisees, successors and assigns),

for consideration paid, with WARRANTY covenants, grants in perpetuity to

the **STATE OF NEW HAMPSHIRE**, acting by and through the **FISH AND GAME DEPARTMENT**, with a principal office at 11 Hazen Drive, City of Concord, New Hampshire 03301, (hereinafter referred to together 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 area of land (herein referred to as the "Property") with any and all buildings, structures, and improvements thereon, consisting of approximately one-thousand five hundred (1,500) acres, situated along Merry Hill Road, Marsh Road, Cricket Lane, Swain Road, and Franklin Pierce Highway in the Town of Barrington, County of Strafford, and the Town of Nottingham, County of Rockingham, State of New Hampshire, more particularly bounded and described in Appendix "A" attached hereto and made a part hereof and shown on a survey plan entitled "Conservation Easement Plan "Stonehouse Forest" NH Routes 9 & 202, Cricket Lane, Marsh, Merry Hill, and Swain Roads Barrington & Nottingham, NH", prepared by Eric C. Mitchell and Associates, Inc., dated August 8, 2017 and recorded at the Strafford County Registry of Deeds as Plan # \_\_\_\_\_ and the Rockingham County Registry of Deeds

as Plan # \_\_\_\_\_ (herein referred to as the “Survey”),

and grants a **THIRD PARTY RIGHT OF ENFORCEMENT** to the **TOWN OF BARRINGTON** (hereinafter referred to as “Third Party Holder”, a New Hampshire municipal corporation duly organized, with a principal mailing address of PO Box 660, Town of Barrington, County of Strafford, State of New Hampshire 03825, a “qualified organization” within the meaning of Section 170(b)(1) of the Internal Revenue Service Code of 1986, as amended and a governmental body eligible to hold a “Conservation Easement” within the meaning of NH RSA 477:45-47, as further described in Section 11 below,

The conservation attributes and present conditions of the Property are further described and set forth in a Baseline Documentation Report with the original on file with the New Hampshire Fish and Game Department and copies provided to the Grantor and Third Party Holder.

## 1. PURPOSES

The Easement hereby granted is pursuant to NH RSA 477:45-47, exclusively for the following conservation Purposes (herein referred to as the “Purposes”) for the public benefit:

- A. The protection of the natural habitat of state designated, threatened, endangered and species of greatest conservation need that occur and may occur in the future on the Property, the protection of any known or potential exemplary natural communities that occur or may occur in the future on the Property, and the protection of rare or vulnerable forest and wetland communities that occur or may occur in the future on the Property; and
- B. The conservation and protection of open spaces, particularly the conservation of the productive forest land of which the Property consists and of the wildlife habitat thereon including wetland, upland, and waterfowl/migratory bird habitat and the long-term protection of the Property’s capacity to produce economically valuable forestry products; and
- C. The assurance that forestry activities conducted on the Property are performed in a manner that maintains or enhances wildlife habitats, including habitat for waterfowl and neotropical migrant species; and
- D. The enlargement and enhancement of a block of abutting and nearby conservation land that totals approximately 365 acres and an additional 900 acres nearby that includes, but is not limited to the following conservation properties: 230 acre SELT Stonehouse Pond property, 99 acre Newhall conservation easement, 84 acre Forest Ridge conservation easement, the 132 acre Comte property, and the 50 acre Barrington Town Forest; and
- E. The protection of the Property’s diverse microtopography, habitat connectivity and variety of landforms that have been documented as being part of a climate resilient landscape that is likely to continue to harbor rich biodiversity even in the face of climate change; and

- F. The enjoyment by the general public of the scenic rural views of the Property as viewed from any future public parking areas on the Property or from the more than 830 feet of frontage on the Franklin Pierce Highway, a state-maintained highway, 570 feet of frontage on Merry Hill Road and 280 feet of frontage on Swain Road, both town-maintained public roads, and the views from the approximately 4,830 feet of frontage along the unmaintained Marsh Road; and
- G. The protection of the quality of ground water, aquatic habitat, and surface water resources on and under the Property which are all within the watershed of the Federally designated Wild & Scenic Lamprey River; the Bellamy River, which is a primary drinking water supply for the City of Portsmouth; and the Great Bay estuary; and the protection of the Property's over 188 acres of wetlands, vernal pools, and nearly 5 miles of streams; and
- H. To further the goals of the NH Wildlife Action Plan and the Wildlife Restoration Program administered by the Department of Interior, U.S. Fish and Wildlife Service (the "Service"), including but not limited to the protection, management and enhancement of wild birds and mammals and their habitats; and
- I. The long-term conservation of coastal wetland ecosystems, thereby preserving and protecting in perpetuity these multiple, interrelated land features which are critical to coastal fish, wildlife and their habitats; and
- J. To protect the Property for public pedestrian access including, but not limited to hunting, fishing, hiking, cross country skiing and nature observation.

The above Purposes are consistent with the clearly delineated open space conservation goals and/or objectives as stated in the 2004 Strategic Master Plan Update of the Town of Barrington, which states in Strategic Objective NR-1 "The Town of Barrington should endeavor to protect and enhance key natural resources in the community that define the town's rural character such as scenic vistas, river corridors, lakes and ponds, wetlands, groundwater supplies, woodlands, fields and farmland" and Strategic Objective NR-4 "Promote the preservation of large tracts of unfragmented open space that provide important wildlife habitat and offer opportunities for traditional recreation activities such as hunting, fishing, and hiking";

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 space, thus providing a healthful and attractive outdoor environment for work and recreation of the state's citizens, maintaining the character of the state's landscape, and conserving the land, water, forest, agricultural and wildlife resources;"

and with The Land Conservation Plan for New Hampshire's Coastal Watersheds (Zankel et al, 2006), which identifies the "Bumfagging Focus Area," of which the Property is a part, as a priority for permanent conservation, with the goal of said conservation plan to "focus

conservation on those lands and waters that are most important for conserving living resources – native plants, animals and natural communities – and water quality in the coastal watersheds”.

The New Hampshire Fish and Game Department has identified the Property and area around the Property as critical wildlife habitat which includes extensive wetland and shoreland habitat, and the Property provides significant habitat for waterfowl and numerous other species of wildlife.

All of these Purposes are 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)

The Property shall be maintained in perpetuity as open space subject to the following use limitations:

A. There shall not be conducted on the Property any industrial or commercial activities, except Forestry or low-impact outdoor commercial recreation, as described below and herein, and provided that the productive capacity of the Property to yield forest products shall not be degraded by on-site activities.

i. **Description of Forestry**

a. **Forestry:** For the purposes hereof, “Forestry” shall include the growing, stocking, cutting, and sale of forest trees of any size capable of producing timber or other forest products, all as not detrimental to the Purposes of this Easement.

1. **Commercial Forestry:** For the purposes hereof, “Commercial Forestry” shall include all forestry and forest management activities performed for commercial or industrial purposes, including barter transactions, or wildlife habitat improvement that includes the commercial sale of forest products.

2. **Non-commercial Forestry:** For the purposes hereof, “Non-commercial Forestry” shall include non-commercial timber stand improvement activities, wildlife habitat improvement, and the small-scale cutting or harvesting of wood products for the use of the Grantor, such as clearing trees to maintain the edge of a meadow or thinning the forest stand to maintain an existing view. Non-commercial Forestry shall not include activities conducted for the contemporaneous production of sale proceeds or other consideration.

ii. **Requirements for Forestry:**

Any and all Commercial and Non-commercial Forestry shall be carried out in

accordance with all applicable local, state, and federal laws and regulations, and, to the extent reasonably practicable, in accordance with then-current, generally accepted best management practices for the sites, soils, and terrain of the Property and shall not be detrimental to the Purposes of the Easement. No Commercial or Non-Commercial Forestry shall occur within the “Recommended No Harvest Zones” identified in Chapter 4.3 of “Good Forestry in the Granite State: Recommended Voluntary Forest Management Practices for New Hampshire”, or similar successor publications; and furthermore, the “Recommended No Harvest Zones” distances for first and second order streams shall also apply to forested, emergent and scrub-shrub wetlands. Exceptions to this limitation may be granted by mutual agreement in writing by the Grantor and Grantee. For references on best management practices see:

- New Hampshire Best Management Practices for Erosion Control on Timber Harvesting Operations” (N.H. Division of Forests and Lands, 2016 ); and
- “Good Forestry in the Granite State: Recommended Voluntary Forest Management Practices for New Hampshire” (New Hampshire Forest Sustainability Standards Work Team, 2010), or similar successor publications.

iii. **Requirements for Commercial Forestry:** In addition to the requirements outlined in Section 2.A.ii above, Commercial Forestry shall be performed using silvicultural practices that enhance or maintain the value of timber while recognizing that the ecological, wildlife, aesthetic, or other non-timber values are important components of the forest. To the extent reasonably practicable, forestry shall meet the following goals:

a. The goals are:

- maintenance of soil productivity;
- protection of surficial geologic features such as, but not limited to, cliffs, talus slopes, and boulders;
- protection of water quality, wetlands, and riparian zones;
- maintenance or improvement of the overall quality of forest products;
- conservation of scenic quality and recreational access and trails;
- protection or enhancement of significant or fragile natural areas, exemplary natural communities, and threatened endangered and species of greatest conservation need, including their habitats;
- maintenance of habitat connectivity by minimizing construction of new roads, log landings, stream crossings and other activities that can impair wildlife movement;
- protection of significant historic and cultural features; and
- conservation or enhancement of native plant and animal species populations.

b. Forest Management Plan Required. Any and all Commercial Forestry shall be performed in accordance with a written Forest Management Plan consistent with this Easement, prepared by a licensed professional forester, or by other qualified person approved in advance and in writing by the Grantee. Said Forest Management Plan shall have been prepared not more than ten (10) years prior to

the date any commercial timber harvesting is expected to commence.

- c. Forest Management Plan Approval Process. The Grantor's licensed professional forester, or other qualified person approved in advance and in writing by the Grantee, shall draft a Forest Management Plan, prepared as outlined in Section 2.A.iii.(d) herein.
1. Prior to submitting the Forest Management Plan to Grantee for its final approval (see next paragraph), the Grantor shall submit a draft Forest Management Plan to Grantee for review and input regarding the wildlife habitat impacts, consistency with the Purposes stated in Section 1, the stewardship goals stated in Section 2.A.iii.(a), the required content stated in Section 2.A.iii.(d), and compliance with this Easement.
  2. After receiving the input from the Grantee, the Grantor shall submit the proposed Forest Management Plan to the Grantee for final approval at least sixty (60) days prior to forest management activities are proposed to be initiated.
  3. Within forty-five (45) days after Grantee's receipt of said Forest Management Plan, the Grantee shall approve or disapprove the Forest Management Plan with respect to its wildlife habitat impacts, consistency with the Purposes stated in Section 1, stewardship goals stated in Section 2.A.iii.(a), the required content stated in Section 2.A.iii.(d), and compliance with this Easement, and so inform the Grantor in writing. Any disapproval shall specify in detail the reasons therefor. If the Grantee fails to so approve or disapprove the Forest Management Plan within said period, Grantor may proceed with Commercial Forestry activities in accordance with the terms and provisions of the Forest Management Plan previously submitted and as further described below.
- d. Forest Management Plan Content. Said Forest Management Plan shall include a statement of landowner objectives, and shall specifically address:
- the accomplishment of those Purposes for which this Easement is granted;
  - the goals in Section 2.A.iii.(a) above;
  - the protection of the water quality and minimizing disturbance around and the crossing of ponds, streams and wetlands;
  - a map showing the Property's boundaries, access roads, trails, and forest stand types;
  - a description of the Property's low-impact noncommercial recreational and educational uses and the boundary conditions;
  - a description and mapping of the Property's existing conditions and natural features including land cover, topography, soils, geology, wetlands, streams and ponds, and wildlife habitat features;
  - the identification of rare and threatened plant and wildlife species and species of greatest conservation need, and how management will enhance habitat for said plant or wildlife species or avoid detrimental impacts to said plant and

- wildlife species;
    - a description and mapping of any proposed structures as described in Section 2.C. below;
    - the proposed management prescriptions for wildlife habitat management, forestry, conservation, low-impact non-commercial recreation, and education; and
    - the proposed schedule of implementation of management prescriptions, including a schedule for boundary, road and trail maintenance.
  - e. Forest Management Plan Updates. The Grantor shall submit an updated or revised Forest Management plan to the Grantee for approval if said Forest Management Plan is more than ten (10) years old or the Grantor proposes Commercial Forestry Activities that are not as described in the Forest Management Plan previously approved by the Grantee.
  - f. Forest Management Plan Approval Required. Prior to the Grantor conducting Commercial Forestry activities on the Property, the Grantor shall have a Forest Management Plan, or an updated or revised Forest Management Plan, that has been approved by the Grantee.
  - g. Forestry Compliance. The Grantor and Grantee acknowledge that the Forest Management Plan's purpose is to guide Commercial Forestry in compliance with this Easement and that the actual activities will determine compliance therewith.
  - h. Notification of Harvest. At least fifteen (15) days prior to any commercial timber harvest, the Grantee and the Third Party Holder shall have received from the Grantor a written certification, signed by a licensed professional forester, or other qualified person approved in advance and in writing by the Grantee, that a commercial timber harvest will occur on the Property and that the proposed harvest is in compliance with the Forest Management Plan and the terms of this Easement.
  - i. Supervision of Harvest. Timber harvesting with respect to any Commercial Forestry shall be conducted in accordance with said Plan and be supervised by a licensed professional forester, or by other qualified person approved in advance and in writing by the Grantee.
- B. The Property shall not be subdivided and none of the individual tracts which together comprise the Property shall be conveyed separately from one another, except that a lease for a period of ten (10) years or less of any portion of the Property for any use permitted by this Easement shall not violate this provision.
- C. The following provisions shall apply to structures or improvements on the Property:
- i. No structure or improvement shall be constructed, placed, introduced, enlarged, relocated, used, maintained, repaired, replaced, rebuilt, or improved on, above, or

below the Property, except for structures and improvements which:

- a. Assist in the accomplishment of the forestry, conservation, habitat management, or low-impact outdoor recreational and educational uses of the Property and which may include but shall not be limited to a road, fence, bridge, culvert, warming huts, wildlife blinds or tree stands; and
  - b. Do not cause the total impervious surface coverage of the Property to exceed zero point seven-five percent (0.75%) of the Property's overall size, or eleven and twenty five hundredths (11.25) acres; for the purposes of this restriction, impervious surfaces are defined as material that does not allow water to percolate into the soil on the Property. Impervious surfaces include, but are not limited to buildings with or without flooring, paved areas, and any other surfaces that are covered by asphalt, concrete, or roofs; Notwithstanding the foregoing, impervious surfaces shall specifically exclude bridges; boardwalks; culverts; impervious surfaces not in place year-round such as tents and awnings; and roadways, or other improvements established on the Property by third parties exercising lawful rights obtained prior to the date of this Easement; and
  - c. Are not detrimental to the Purposes of this Easement; and
  - d. Are included in the Forest Management Plan or Recreation Trail Management Plan (described in Section 3.B., below) if they are structures for forestry, conservation, habitat management or low-impact outdoor recreational or educational uses.
- ii. Prior to the Grantor's construction, placement, introduction, enlargement, or relocation of any structure or improvement with a footprint exceeding two hundred and fifty (250) square feet, the Grantor must obtain written approval of the same from the Grantee. However, under no circumstances shall any structure exceed a total of five hundred (500) square feet. Parking lots shall not be considered a structure. The footprint of any roofed structure shall include the area within the dripline. For an enlargement of a structure, the square footage calculation under this provision shall only be the enlargement and shall not include the original structure.
    - a. At least forty-five (45) days prior to the commencement of any such construction, placement, introduction, enlargement, relocation, or on-site preparation therefor including but not limited to land clearing, the Grantor shall provide the Grantee with written notice with details of said structure or improvement including but not limited to scope, size, and location, and method and timing of said construction/installation. Within thirty (30) days after Grantee's receipt of such notice, the Grantor shall inform the Grantee in writing of its approval, approval with conditions, or disapproval of the proposed structure or improvement, such approval not to be unreasonably withheld. Any disapproval shall specify the reasons therefor.
  - iii. Notwithstanding the above provisions of this Section 2.C., there shall not be

constructed, placed, introduced, enlarged, relocated, used, maintained, repaired, replaced, rebuilt, or improved on, under, or above the Property any of the following structures or improvements: dwelling, mobile home, barn, indoor or outdoor riding ring, cabin, residential driveway, any portion of a septic system, tennis court, swimming pool, dock, athletic field, golf course, tower, or aircraft landing area.

- D. No removal, filling, or other disturbances of soil surface, nor any changes in topography, surficial geology, surface or subsurface water systems, wetlands, or natural habitat shall be allowed unless such activities:
- i. are commonly necessary in the accomplishment of the forestry, conservation, habitat management, or low-impact noncommercial outdoor recreational or educational uses of the Property; and
  - ii. do not harm state or federally recognized threatened, endangered or species of greatest conservation need, or exemplary natural communities, such determination of harm to be based upon information from the New Hampshire Natural Heritage Bureau or the agency then recognized by the State of New Hampshire as having responsibility for identification and/or conservation of such species and/or natural communities; and
  - iii. are not detrimental to the Purposes of this Easement.

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

- E. No outdoor advertising structures shall be displayed on the Property except as desirable or necessary in the accomplishment of the forestry, conservation, outdoor educational, or low-impact outdoor recreational uses of the Property, and provided such structures are not detrimental to the Purposes of this Easement. No sign on the Property shall exceed twenty-four (24) square feet in size, and no sign shall be artificially illuminated.
- 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 Sections 2.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 on the Property of man-made materials or materials then known to be environmentally hazardous or the dumping, injection, burning, or burial on the Property of natural materials, including but not limited to rocks, dirt, and stumps, that did not originate from the Property.
- H. No rights-of-way or easements of ingress or egress in favor of any third party shall be created or developed into, on, over, or across the Property without the prior written approval of the Grantee, and without the written consent of the Regional Director of U.S.

Fish and Wildlife Service, except those of record as of the execution of this Easement.

- I. The Property shall in no way be used to satisfy the density, frontage, or setback requirements of any applicable zoning ordinance or land use regulation with respect to the development of any other property.
- J. The Grantor shall not operate or grant permission to operate motorized vehicles on the Property, except as allowed in Sections 3.A., 3.B., 3.C., and 4.B. below.

### 3. RESERVED RIGHTS

Subject to and notwithstanding the Affirmative Rights of the Grantee in Section 4:

- A. Motorized Vehicles. The Grantor reserves the right to operate motorized vehicles, and permit others to operate said vehicles, for the purposes of maintaining and managing the Property, including but not limited to emergency rescue operations, forestry, conservation, habitat management, outdoor recreational and educational activities, and to control or remove non-native or invasive species. This provision is an exception to Section 2.J., above.
- B. Trails. The Grantor, subject to the review and approvals required in this Section, shall have the right to clear, construct and maintain trails for walking, cross country skiing, snowmobiling, horseback riding, mountain biking, and low impact outdoor recreational activities within and across the Property. Said trails shall comply with the other paragraphs of this Section 3 as applicable and said trails shall be consistent with and not detrimental to the Purposes of this Easement. The Grantor shall bear the cost of constructing, maintaining and repairing said trails.
  - i. Best Management Practices. Any and all trail creation and maintenance shall be carried out in accordance with all applicable local, state, and federal laws and regulations, and, to the extent reasonably practicable, in accordance with then-current, generally accepted best management practices for the sites, soils, and terrain of the Property and shall not be detrimental to the Purposes of the Easement. For references on best management practices see:
    - “Best Management Practices for Erosion Control During Trail Maintenance and Construction” (N.H. Division of Parks & Recreation; Bureau of Trails, 2017); and
    - “Planning Trails with Wildlife in Mind: A Handbook for Trail Planners” (Colorado State Parks and Hellmund Associates, 1998), or similar successor publications.
  - ii. Recreation Trail Management Plan Required. Any and all recreation trail construction, maintenance, and relocation shall be performed in accordance with a written Recreation Trail Management Plan consistent with this Easement, approved in advance and in writing by the Grantee.

- iii. Recreation Trail Management Plan Approval Process. Within one (1) year of the date of this Easement, the Grantor shall draft a Recreation Trail Management Plan (RTMP).
- a. The Grantor shall submit a draft RTMP to Grantee and the Third Party Holder for review and input, said review to consider wildlife habitat impacts, consistency with the Purposes of this Easement, and compliance with the Easement.
  - b. After receiving the input from the Grantee and the Third Party Holder, the Grantor shall submit the final draft of the proposed RTMP to the Grantee for final approval at least sixty (60) days prior to new trail construction or relocation activities are proposed to be initiated.
  - c. Within forty-five (45) days after Grantee's receipt of said RTMP, the Grantee shall inform the Grantor in writing that the RTMP has been approved or disapproved with said review considering its wildlife habitat impacts, consistency with the Purposes of this Easement, and compliance with the Easement. Any disapproval shall specify in detail the reasons therefor. If the Grantee fails to so approve or disapprove the RTMP within said period, Grantor may proceed with recreation trail construction activities recognizing that the following Section 3.B.vii. applies.
- iv. Recreation Trail Management Plan Content. Said RTMP shall include a statement of landowner objectives, and shall specifically address:
- the protection of the water quality and minimizing disturbance around and the crossing of ponds, vernal pools, streams and wetlands;
  - the protection of habitat for rare, threatened, and endangered species and species of conservation concern, with the minimization disturbance of said habitat from new trail construction and, to the maximum extent practicable and appropriate, using trails existing at the time of the granting of this Easement as documented in the Baseline Documentation Report. The Parties acknowledge and understand, that at the time of the granting of this Easement, the Grantor intends to create a loop trail connecting the existing trails on the Easement Property to the abutting Stonehouse Pond conservation area owned by the Grantor;
  - a map showing the Protected Property's boundaries, access roads, topography, soils, current and proposed trails, and proposed recreational structures;
  - a map showing current and proposed trails and recreational structures as they relate to forest and wildlife habitat types including wetlands, vernal pools, and streams, and identified locations of rare and threatened plant and wildlife species, exemplary natural communities, and species of greatest conservation need and a description of how management avoids detrimental impacts to said habitats, and plant and wildlife species;
  - a description of any proposed structures and trails including methods and materials for building and maintenance, the approximate proposed trail widths, and the proposed uses for the trails; and any water crossing or erosion

- control devices that may be needed;
- limiting mountain biking and horseback riding to trails appropriately constructed and maintained for that use, with said determination of appropriateness to be determined by the Grantee through the Trail Management Plan approval process; and
- the proposed schedule of implementation of the RTMP, including a description of how trails will be monitored and maintained.

v. Recreation Trail Management Plan Updates. The Grantor shall submit an updated or revised RTMP to the Grantee for approval if said RTMP is more than ten (10) years old or the Grantor proposes activities that are not as described in the RTMP previously approved by the Grantee.

vi. Recreation Trails Management Plan Approval Required. Prior to the Grantor conducting new trail construction or relocation activities on the Property, the Grantor shall have an approved RTMP, or an updated or revised RTMP that has been approved by the Grantee.

vii. Recreation Trail Management Plan Compliance. The Grantor, Third Party Holder and Grantee acknowledge that the RTMP's purpose is to guide trail construction, relocation and maintenance in compliance with this Easement and that the actual activities will determine compliance therewith.

viii. Notification of Construction. At least fifteen (15) days prior to the commencement of any new trail construction or relocation, the Grantee and Third Party Holder shall have received from the Grantor a written certification, that trail construction or relocation is in compliance with the RTMP and the terms of this Easement.

C. Horses, Snowmobiles and Mountain Bikes. The Grantor reserves the right to use, and invite guests to use, the Property on a non-commercial basis for the riding of horses, snowmobiles and mountain bikes on trails on the Property subject to the following conditions. i) All said trails shall be approved by the Grantee for said use through the RTMP under Section 3.B above and shall be designed, constructed and maintained to support the proposed use; and ii) All said snowmobile trails shall connect the Property to a regional network of snowmobile trails and not be disconnected loops within the Property. The Grantee, at its sole discretion, can deny said uses or require trail closures if the Grantee finds the use and/or trail conditions inconsistent with this Easement or detrimental to the Purposes of the Easement. The Grantor shall notify the Grantee and Third Party Holder in writing at least fifteen (15) days before constructing new trails or relocating existing trails. The Grantor shall bear the cost of constructing, maintaining and repairing said trails.

D. Signs and Kiosks. The Grantor shall have the right to place, maintain, and replace signs and kiosks on the Property as follows:

- i. Signs to facilitate such inspection of the Property and to identify the Property as

conservation land protected by the Grantee, said signs located along the Property's boundaries with each sign not to exceed thirty (30) square inches in size.

- ii. Signs to identify to the public that the Property is conserved land and to recognize funding entities who contributed funding toward the conservation of the Property, as may be required. Said signs shall be located at a visible location(s) on the Property, said location(s) to be mutually agreed upon by the Grantor and Grantee. The Grantor shall be responsible for ensuring that said sign(s) conform with applicable local, state, and federal regulations and shall bear the cost of installation.
- iii. Up to five (5) informational kiosks that are no more than eight (8) feet wide by ten (10) feet high within which the Grantor can display information related to its missions, the Property, the effort to conserve the Property and the conservation context of the Property. The Grantor and Grantee shall work together on mutually agreeable locations for said kiosks.

E. Parking. The Grantor shall have the right to construct, use, repair and maintain up to three (3) permeable-surface parking areas on the Property, subject to the review and approval of the Grantee, said approval not to be unreasonably withheld. The Grantor and Grantee shall work together on mutually agreeable locations and sizes for said parking areas. The maintenance of said parking areas shall be the responsibility of the Grantor.

#### 4. AFFIRMATIVE RIGHTS OF GRANTEE

A. Public Access. Through the auspices of the Grantee and the Land and Community Heritage Investment Program (LCHIP), the public has the right of pedestrian access, in perpetuity, on and across the Property for low-impact, non-commercial recreational activities including but not limited to hunting, fishing, trapping in accordance to RSA 210:11 (as may be amended), hiking, cross country skiing and nature observation. The right of overnight camping, non-recreational motorized access or construction of fires on the Property by the public is not hereby conveyed. The Grantee agrees to cooperate with the Grantor, with prior approval of the LCHIP, to limit allowed public access and use of the Property if the public use is not consistent with the Purposes listed in Section 1 of this Easement, and/or the forest management goals listed in Section 2.A.iii(a) of this Easement, and/or the RTMP in Section 3.B. of this Easement, and/or when public safety may be at risk. The Grantor reserves the right to post the Property against public access to forestland during harvesting or other management activities that puts public safety at risk.

B. Grantee Access. The Grantee, Third Party Holder and LCHIP shall have reasonable access to the Property and all of its parts for such inspection as is necessary to determine compliance with 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.

#### 5. STEWARDSHIP RESPONSIBILITIES OF GRANTEE

To comply with its obligations under this Easement, Grantee shall:

- A. Ensure an on-the-ground annual monitoring inspection sufficient to confirm that Property is being protected and maintained according to the terms of the Easement.
- B. Communicate with Grantor annually to insure Grantor understanding and familiarity with their obligations under the terms of this Easement.
- C. Ensure a report summarizing the scope, scale and findings of the annual monitoring inspection is submitted to the LCHIP, Third Party Holder and the U.S. Fish and Wildlife Service on or before December 31st each year, or promptly upon discovery of any violation with the terms of this Easement. The annual monitoring report shall contain the following minimum components:
  - i. a description of route taken during the inspection, and
  - ii. a description of the physical conditions and uses of the Property as observed.
- D. Promptly following the sale, conveyance or transfer of the Property, Grantee shall forthwith contact the successor Grantor and inform them of the Easement provisions and obligations.

#### 6. NOTIFICATION OF TRANSFER, TAXES, MAINTENANCE

- A. The Grantor agrees to notify the Grantee, Third Party Holder, and the LCHIP in writing at least ten (10) days before the transfer of title to the Property.
- B. The Grantee shall be under no obligation to maintain the Property or pay any taxes or assessments thereon. The Grantee may, in its sole discretion, pay property taxes to avoid a tax sale of the Property by either municipality.

#### 7. BENEFITS AND BURDENS

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 transferable 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, agrees to and is capable of protecting the conservation purposes of this Easement, and has the resources to enforce the restrictions of this Easement. Provided that by virtue of the Wildlife Restoration Program Grant and the National Coastal Wetland Grant from the U.S. Fish and Wildlife Service for purchase of this Easement and the Grantor's purchase of the Property, and the provisions set forth in the Notices of Grant Agreement recorded herewith and attached hereto as Appendix B & C, the Easement may not be assigned, transferred, 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. Any such assignee or transferee shall have like power of assignment or transfer.

## 8. RESOLUTION OF DISAGREEMENTS

- A. The Grantor and the Grantee desire that issues arising from time to time concerning uses or activities in light of the provisions of the Easement will first be addressed through candid and open communication between the parties rather than unnecessarily formal or adversarial action. Therefore, the Grantor and the Grantee agree that if either party becomes concerned whether any use or activity (which together for the purposes of this Section, "Resolution of Disagreements," shall be referred to as the "Activity") complies with the provisions of 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. If informal dialogue does not resolve a disagreement regarding the Activity, the Grantee may pursue its remedies in accordance with Section 9.
- C. If the Grantee believes that some action or inaction of the Grantor or a third party is causing irreparable harm or damage to the Property, 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, to enforce the terms of this Easement, to enjoin any violation by permanent injunction, and to require the restoration of the Property to its condition prior to any breach.

## 9. BREACH OF EASEMENT – GRANTEE'S REMEDIES

- A. If the Grantee determines that a breach of this Easement has occurred or is threatened, the Grantee shall notify the Grantor in writing of such breach and demand corrective action to cure the breach and, where the breach involves injury to the Property, to restore the portion of the Property so injured to its prior condition.
- B. The Grantor shall, within thirty (30) days after receipt of such notice or after otherwise learning of such breach, undertake those actions, including restoration, which are reasonably calculated to cure swiftly said breach and to repair any damage. The Grantor shall promptly notify the Grantee of its actions taken hereunder.
- C. If the Grantor fails to perform its obligations under the immediately preceding paragraph above, or fails to continue diligently to cure any breach until finally cured, the Grantee may undertake any actions that are reasonably necessary to repair any damage in the Grantor's name or to cure such breach, including an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Easement, to enjoin the violation, *ex parte* as necessary, by temporary or permanent injunction, and to require the restoration of the Property to the condition that existed prior to any such injury.

- D. If the Grantee, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the conservation features of the Property, the Grantee may pursue its remedies under this Section, "Breach of Easement...", without prior notice to the Grantor or without waiting for the period provided for cure to expire.
- E. The Grantee shall be entitled to recover damages from the party directly or primarily responsible for violation of the provisions of this Easement or injury to any conservation features protected hereby, including, but not limited to, damages for the loss of scenic, aesthetic, or environmental attributes of the Property. Without limiting the Grantor's liability therefor, the Grantee, in its sole discretion, may apply any damages recovered to the cost of undertaking any corrective action on the Property.
- F. The Grantee's rights under this Section, "Breach of Easement...", apply equally in the event of either actual or threatened breach of this Easement, and are in addition to the provisions of the preceding Section, "Resolution of Disagreements," which section shall also apply to any disagreement that may arise with respect to activities undertaken in response to a notice of breach and the exercise of the Grantee's rights hereunder.
- G. The Grantor and the Grantee acknowledge and agree that should the Grantee determine, in its sole discretion, that the conservation features protected by this Easement are in immediate danger of irreparable harm, the Grantee may seek the injunctive relief described in the third paragraph of this Section, "Breach of Easement...", both prohibitive and mandatory, in addition to such other relief to which the Grantee may be entitled, including specific performance of the terms of this Easement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. The Grantee's remedies described in this Section, "Breach of Easement...", shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.
- H. Provided that the Grantor is directly or primarily responsible for the breach, all reasonable costs incurred by the Grantee in enforcing the terms of this Easement against the Grantor, including, without limitation, staff and consultant costs, reasonable attorneys' fees and costs and expenses of suit, and any costs of restoration necessitated by the Grantor's breach of this Easement shall be borne by the Grantor; and provided further, however, that if the Grantor ultimately prevails in a judicial enforcement action each party shall bear its own costs. Notwithstanding the foregoing, if the Grantee initiates litigation against the Grantor to enforce this Conservation Easement, and if the court determines that the litigation was initiated without reasonable cause or in bad faith, then the court may require the Grantee to reimburse the Grantor's reasonable costs and reasonable attorney's fees in defending the action.
- I. Forbearance by the Grantee to exercise its rights under this Easement in the event of any breach of any term thereof by the Grantor shall not be deemed or construed to be a waiver by the Grantee of such term or of any subsequent breach of the same or any other term of this Easement or of any of the Grantee's rights hereunder. No delay or omission

by the Grantee in the exercise of any right or remedy upon any breach by the Grantor shall impair such right or remedy or be construed as a waiver. The Grantor hereby waives any defense of laches or estoppel.

- J. 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, disease, infestation 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. The Grantee and the Grantor reserve the right, separately or collectively, to pursue all legal and/or equitable remedies, as set forth in this Section, "Breach of Easement..." against any third party responsible for any actions inconsistent with the provisions of this Easement.

#### 10. MERGER

The Grantor and Grantee explicitly agree that it is their express intent, forming a part of the consideration hereunder, that the provisions of the Easement set forth herein are to last in perpetuity, and that to that end no purchase or transfer of the underlying fee interest in the Property by or to the Grantee or any successor or assign shall be deemed to eliminate the Easement or any portion thereof granted hereunder under the doctrine of "merger" or any other legal doctrine.

#### 11. THIRD PARTY RIGHT OF ENFORCEMENT

If the Grantee ceases to enforce the Easement conveyed hereby or fails to enforce it within thirty (30) days after receipt of written notice from the Third Party Holder, a qualified organization as specified in the Section "Benefits and Burdens" above, to the Grantee requesting such enforcement delivered in hand or by certified mail, return receipt requested, then the Third Party Holder giving notice shall have the right to enforce this Easement.

#### 12. NOTICES

All notices, requests and other communications, required to be given under this Easement shall be in writing, except as otherwise provided herein, and shall be delivered in hand or sent by certified mail, postage prepaid, return receipt requested to the appropriate address set forth above or at such other address as the Grantor or the Grantee may hereafter designate by notice given in accordance herewith. Notice shall be deemed to have been given when so delivered or so mailed.

#### 13. 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, by confirmation of an arbitration award or otherwise, 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.

#### 14. EXTINGUISHMENT & CONDEMNATION

- A. Extinguishment. If circumstances arise in the future such as render the Purposes of this Easement impossible or impracticable to accomplish, this Easement can only be terminated or extinguished, whether in whole or in part, by judicial proceedings in a court of competent jurisdiction. The amount of the proceeds to which Grantee shall be entitled, after the satisfaction of prior claims, from any sale, exchange, or involuntary conversion of all or any portion of the Property subsequent to such judicial termination or extinguishment, shall be determined in accordance with Section 14.C. below. In making this grant of Easement, Grantor has considered and acknowledges the possibility that uses prohibited by the terms of this Easement may become more economically viable than the uses specifically reserved by Grantor pursuant to this Easement. It is the intent of both Grantor and Grantee that any such change in economic conditions shall not be deemed to be circumstances justifying the termination or extinguishment of this Easement pursuant to this Section.
- B. Condemnation. If all or any part of the Property is taken, in whole or in part, by exercise of the power of eminent domain or is acquired by purchase in lieu of condemnation, whether by public, corporate or other authority, so as to terminate this Easement, in whole or in part, Grantor and Grantee shall act jointly to recover the full value of their interests in the Property subject to the taking or in lieu purchase and to recover all direct or incidental damages resulting therefrom. All expenses reasonably incurred by Grantor and Grantee in connection with the taking or in lieu purchase shall be paid out of the amount recovered. The amount of the proceeds to which the Parties shall be entitled, after payment of any expenses, shall be determined in accordance with Section 14.C. below.
- C. Valuation. This Easement constitutes a real property interest immediately vested in Grantee. For the purposes of Sections 14.A and 14.B above, the fair market value shall be determined by an appraisal of the Conservation Easement interest in the Property prepared by a qualified appraiser as of the time of said extinguishment or condemnation. The balance of the amount recovered, after payment of any expenses, shall be divided between the Grantor, Grantee, U.S. Fish and Wildlife Service and the Town of Barrington in proportion to the fair market value of the conservation easement, as determined by the appraisal, and of their respective interests in that part of the Property extinguished or condemned.
- D. Service Proceeds. By virtue of the Wildlife Restoration Program Grant and the National Coastal Wetlands Conservation Program Grant received by NH Department of Fish and Game (Grantee) from the U.S. Fish and Wildlife Service (the "Service") for the Grantor's purchase of this Conservation Easement, and of the provisions set forth in the Notice of Grant Agreements (attached hereto as Appendix B), the Wildlife Restoration Program shall be entitled to 24.12% and the National Coastal Wetlands Conservation Grant

Program shall be entitled to 32.15% of the portion of the proceeds payable to the Grantee pursuant to this Section 14 unless the Regional Director of the Service consents to or requires the Grantee's use of the Service's portion of the proceeds to acquire other land or interests in land of equal or greater monetary and resource value.

E. Third Party Proceeds. By virtue of the funding from the Town of Barrington as Third Party Holder for purchase of the conservation easement, the Town shall be entitled to 11.62% of the portion of proceeds payable to the Grantee pursuant to this Section 14.

F. Grantee Proceeds. By virtue of the bargain sale from the grantor to the grantee, and applied as match to both the Wildlife Restoration Program and National Coastal Wetlands Conservation Grant Program, the grantee shall be entitled to 31.83% of the portion of proceeds payable to the Grantee pursuant to this Section 14 which shall be used in a manner consistent with the Conservation Purposes of this Conservation Easement.

G. Use of Proceeds. The Grantee and the Town of Barrington shall use its share of the proceeds in a manner consistent with and in furtherance of one or more of the conservation purposes set forth herein.

#### 15. 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, said additional easement is approved in advance by the Grantee, Third Party Holder, and the Service, and that a public agency or qualified organization described in the Section "Benefits and Burdens," above, accepts and records the additional easement.

#### 16. AMENDMENT

If, owing to unforeseen or changed circumstances, Grantor and Grantee agree that an amendment to, or modification of, this Easement would be appropriate and desirable, Grantor, Grantee, Third Party Holder, and may jointly amend this Easement pursuant to: the provisions and limitations of this section; the then-current amendment policies of the Grantee; notification is given to the New Hampshire Attorney General's Office at least thirty (30) days prior to the adoption of the amendment; and applicable state and federal law. Any amendment shall be consistent with the Purposes of this Easement, and shall not impair the conservation attributes of the Property protected by this Easement. No amendment shall affect the qualification of this Easement or the status of the Grantee under any applicable laws, including Sections 170(h) and 501(c)(3) of the Internal Revenue Code of 1986, as amended, and NH RSA 477:45-47 as may be amended from time to time, nor shall any amendment affect the perpetual duration of this Easement. Any amendment shall be executed by the Grantor, Grantee, and Third Party Holder and shall be recorded in the Strafford County Registry of Deeds and Rockingham County Registry of Deeds. Nothing in this paragraph shall require Grantor, Grantee, and Third Party Holder to agree to any

amendment or to consult or negotiate regarding any amendment.

#### 17. GENERAL DISCLAIMER

The State of New Hampshire and its employees, agents, and assigns disclaim and will not be held responsible for negligent acts or omissions or breach of any representation, warranty, covenant, or agreements contained in this Easement by the other parties to this Easement, or violations of any Federal, State, or local laws, including all Environmental Laws including, without limitation, those that give rise to liabilities, claims, demands, losses, expenses, damages, fines, fees, penalties, suits, proceedings, actions, costs of actions, or sanctions asserted by or on behalf of any person or governmental authority, and other liabilities (whether legal or equitable in nature and including, without limitation, court costs, and reasonable attorneys' fees and attorneys' fees on appeal) to which the State of New Hampshire acting through its interest in this Easement may be subject or incur relating to the Property.

#### 18. ENVIRONMENTAL WARRANTY

Grantor warrants that it is in compliance with, and will remain in compliance with, all applicable Environmental Laws. Grantor warrants that there are no notices by any governmental authority of any violation or alleged violation of, noncompliance or alleged noncompliance with, or any liability under, any Environmental Law relating to the operations or conditions of the Property. Grantor further warrants that it has no actual knowledge of a release or threatened release of Hazardous Materials, as such substances and wastes are defined by applicable Federal and State law. Moreover, Grantor hereby promises to hold harmless and indemnify the Grantee and the Third Party Holder against all litigation, claims, demands, penalties and damages, including reasonable attorneys' fees, arising from or connected with the release or threatened release of any hazardous materials on, at, beneath or from the Property, or arising from or connected with a violation of any Environmental Laws by Grantor or any other prior owner of the Property. Grantor's indemnification obligation will not be affected by any authorizations or approvals provided by Grantee and the Third Party Holder, with respect to the Property. "Environmental Law" or "Environmental Laws" means any and all Federal, State, local or municipal laws, rules, orders, regulations, statutes, ordinances, codes, guidelines, policies, or requirements of any governmental authority regulating or imposing standards of liability or standards of conduct (including common law) concerning air, water, solid waste, hazardous materials, worker and community right-to-know, hazard communication, noise, radioactive material, resource protection, subdivision, inland wetlands and watercourses, health protection, and similar environmental health, safety, building, and land use as may now or at any time hereafter be in effect. "Hazardous Materials" means any petroleum, petroleum products, fuel oil, waste oils, explosives, reactive materials, ignitable materials, corrosive materials, hazardous chemicals, hazardous wastes, hazardous substances, extremely hazardous substances, toxic substances, toxic chemicals, radioactive materials, infectious materials, and any other element, compound, mixture, solution, or substance that may pose a present or potential hazard to human health or the environment.

19. TITLE WARRANTY

Grantor warrants that it has good title to the Property and shall defend against all claims that may be made against it; that they have the right to convey this Easement; and that the Property is free and clear of any encumbrances, other than those of record.

20. FEDERAL GRANT

The conservation easement on the above-described Property is acquired, in part, with Wildlife and Sport Fish Restoration funding received by the Grantee from Grant Agreement Number F14AF01270 NH-W-108-L-1 and a National Coastal Wetlands Conservation Grant, Grant Number F17AP00557 between the Service and the State of New Hampshire Fish and Game Department as Grantee and the fee interest of the Grantor was pledged as match to the National Coastal Wetlands Conservation Grant Number Agreement F17AP00557 between the Service and the State of New Hampshire Fish and Game Department as Grantee and the Southeast Land Trust of NH as sub-grantee. All present and future terms and conditions of the Property are and shall remain subject to the terms and conditions described in the Notice of Grant Agreements (attached hereto as Appendix B), and to the other administrative requirements of the applicable grant funding program of the Service.

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.

Nothing in this Easement shall be interpreted as a waiver of the State of New Hampshire's sovereign immunity.

IN WITNESS WHEREOF, We have hereunto set our hands this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

GRANTOR  
SOUTHEAST LAND TRUST OF NEW HAMPSHIRE

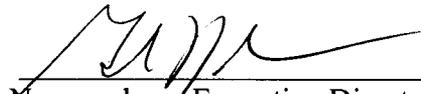
\_\_\_\_\_  
Brian Hart, Executive Director

STATE OF NEW HAMPSHIRE  
COUNTY OF ROCKINGHAM, ss.

On this \_\_\_\_\_ day of \_\_\_\_\_, 2017, before me personally appeared \_\_\_\_\_, known to me, or satisfactorily proven, to be the person whose name is subscribed to the foregoing instrument, and acknowledged that he/she executed the same as his/her free act and deed for the purposes therein contained.

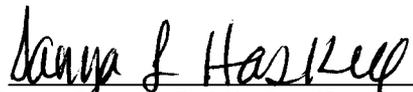
\_\_\_\_\_  
Notary Public/Justice of the Peace  
My commission expires:

ACCEPTED: STATE OF NEW HAMPSHIRE FISH & GAME DEPARTMENT

By:   
Glenn Normandeau, Executive Director

STATE OF NEW HAMPSHIRE  
COUNTY OF MERRIMACK.ss.

Personally appeared Glenn Normandeau, Executive Director of the New Hampshire Fish and Game Department, this 16 day of October, 2017 and being duly authorized acknowledged the foregoing on behalf of the State of New Hampshire.

Before me,   
Justice of the Peace/Notary Public [seal]  
My commission expires: \_\_\_\_\_

**TANYA L. HASKELL, Notary Public**  
**My Commission Expires November 4, 2020**

Approved by the Governor and Executive Council:  
Approval Date: \_\_\_\_\_, Item #: \_\_\_\_\_



**APPENDIX A**  
**Property Description**

The "Property" subject to this Easement are those tracts of land with any and all structures and improvements thereon situated on Swain Road, Merry Hill Road, Cricket Lane, Marsh Road, and the Franklin Pierce Highway, so-called, in the Town of Barrington, County of Strafford, and Town of Nottingham, County of Rockingham, State of New Hampshire, consisting of approximately \_\_\_\_\_ acres, shown on a plan entitled "Conservation Easement Plan "Stonehouse Forest" NH Routes 9 & 202, Cricket Lane, Marsh, Merryhill, and Swain Roads Barrington & Nottingham, NH", prepared by Eric C. Mitchell and Associates, Inc., dated August 8, 2017, recorded as Plan # \_\_\_\_\_ at the Strafford County Registry of Deeds and Plan # \_\_\_\_\_ at the Rockingham County Registry of Deeds (hereafter "Survey Plan"), and more particularly bounded and described as follows:

All bearings of this description are turned from grid north based on the New Hampshire State Plane Coordinate System and all distances are based on the Survey Plan.

Beginning at . . .

, , , , to a \_\_\_\_\_ at the point of beginning. Containing \_\_\_\_\_ acres, more or less.

**SPECIFICALLY EXCEPTING AND RESERVING THEREFROM** a 0.86-acre area shown on the Survey Plan as "Excluded Area 1" and further described as follows:

Beginning at . . .

. . . . to a \_\_\_\_\_ at the point of beginning. Containing 0.86 acres more or less.

**AND SPECIFICALLY EXCEPTING AND RESERVING THEREFROM** a 1.85-acre area shown on the Survey Plan as "Excluded Area 2" and further described as follows:

Beginning at . . .

. . . . to a \_\_\_\_\_ at the point of beginning. Containing 1.85 acres more or less.

**SUBJECT TO** \_\_\_\_\_.

**TOGETHER WITH,** \_\_\_\_\_.

**MEANING AND INTENDING** to describe the premises conveyed by the following deeds recorded in the Strafford County Registry of Deeds: Book \_\_\_\_\_, Page \_\_\_\_\_; \_\_\_\_\_.

This is not homestead property of the Grantor.

## APPENDIX B

### *Notice of Grant Agreement*

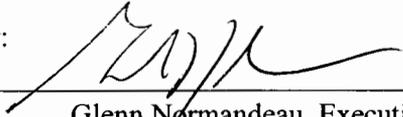
The State of New Hampshire, Fish and Game Department and its successors and assigns (hereinafter "DEPARTMENT") acknowledges that the above described Conservation Easement (hereinafter "EASEMENT") is acquired in part with federal funds received from the Wildlife Restoration Program and National Coastal Wetlands Conservation Grant Program administered by the U.S. Fish and Wildlife Service, Division of Federal Assistance and its successors and assigns (hereinafter "SERVICE") and that the Easement is subject to all the terms and conditions of Grant Agreement Number F14AF01270, NH-W-108-L-1 and F17AP00557 (hereinafter "GRANT AGREEMENTS" between the Service and the Department). Copies of the Grant Agreements are 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.

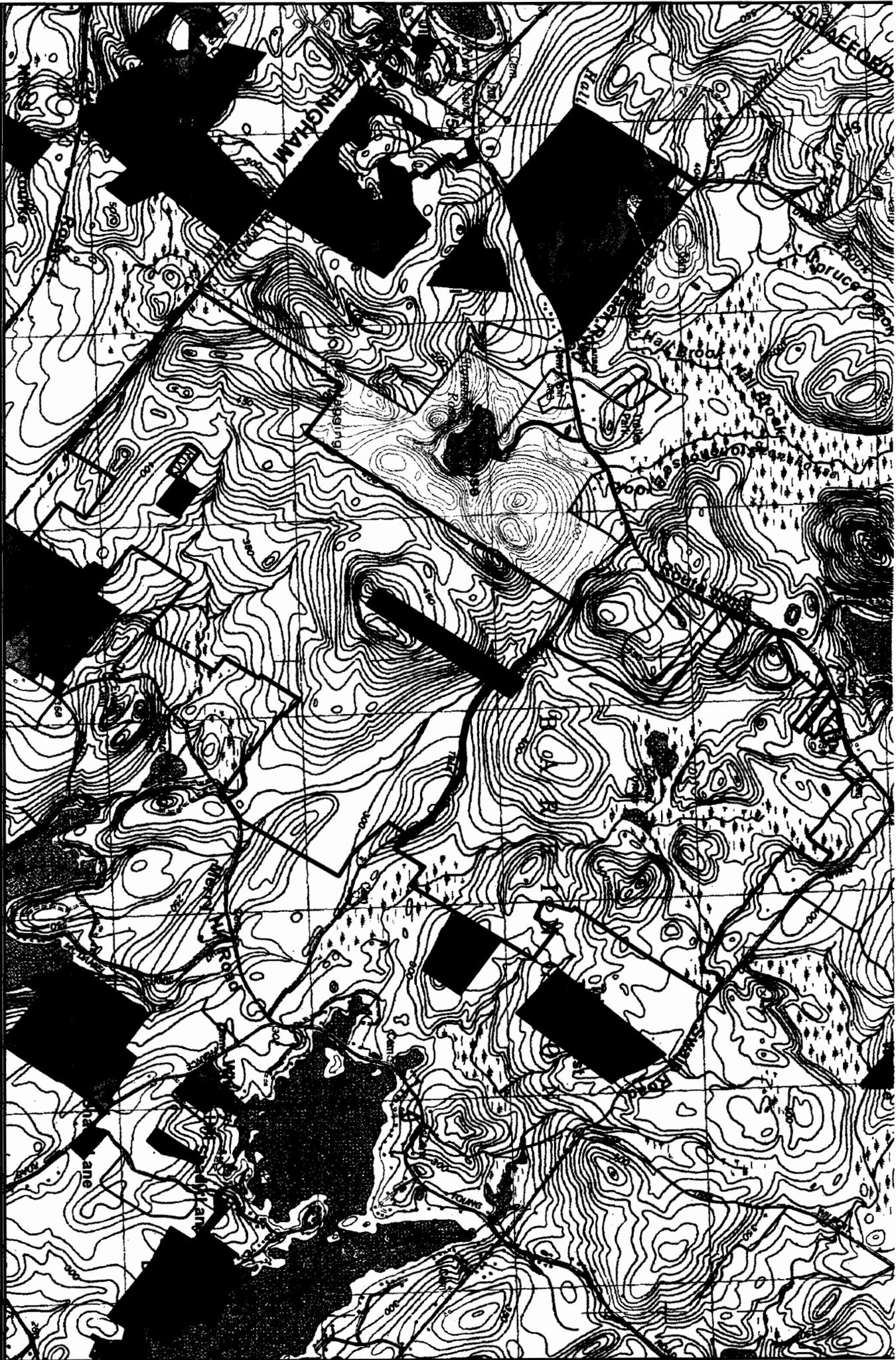
The Department acknowledges that the Easement, which is the subject of these Grant Agreements, is acquired for the approved purpose of wild birds and mammals and their habitats and the long-term conservation of coastal wetland ecosystems, thereby preserving and protecting in perpetuity these multiple, interrelated land features which are critical to coastal fish, wildlife and their habitats. The Department further acknowledges that the EASEMENT will be used for the long-term conservation of said lands and waters and the hydrology, water quality and fish and wildlife dependent thereon. The Department, as the Grant Recipient hereby acknowledge that they are responsible for ensuring that the Easement is used and will continue to be used for the approved purpose for which it is acquired and that the Easement 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 Easement, control must be fully restored to the Department or the property must be replaced, within three years, with a like Easement of equal value at current market prices and equal benefits. Further, if the Easement 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 Easement 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 conservation easement or other interest in land of equal value that serves the same approved purpose as the original property and manage the newly acquired conservation easement or other interest in land for the same purposes specified in the original Grant Agreements, 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 Easement, or any portion thereof, whichever is higher, or (3) as a last resort, transfer the Easement 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 and F17AP00557 .

By:   
\_\_\_\_\_  
Glenn Normandeau, Executive Director  
Date: 10/5/2017,  
2017



-  Stonehouse Forest
-  Stonehouse Pond Conservation Area
-  Existing Conservation & Public Lands
-  Rivers/Streams
-  Town Boundary

**Topographic Map**  
**Stonehouse Forest**  
**Barrington, NH**



Boundary and feature locations are approximate.  
 Property boundary based on tax maps.

Map prepared by  
 Southeast Land Trust of NH  
 June 2017

