

AR 71



STATE OF NEW HAMPSHIRE  
DEPARTMENT of NATURAL and CULTURAL RESOURCES  
Division of FORESTS and LANDS

172 PEMBROKE ROAD CONCORD, NEW HAMPSHIRE 03301  
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July 10, 2017

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

**REQUESTED ACTION**

The Department of Natural and Cultural Resources (DNCR) respectfully requests authorization to enter into a Memorandum of Agreement (MOA) with the Office of Strategic Initiatives (OSI, vendor #177931), in the amount of \$68,000, to provide monitoring and stewardship services of the State's interests in privately owned conservation lands held by DNCR, effective upon Governor and Council approval through June 30, 2019. **100% Other Funds (Agency Income)**

Funding in Fiscal Years 2018 and 2019 is available as follows:

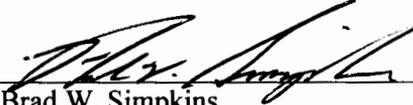
	<u>FY 2018</u>	<u>FY 2019</u>
03-35-35-351010-35050000		
Management and Protection Fund		
049-500294 Transfers to Other State Agencies	\$34,000	\$34,000

**EXPLANATION**

The purpose of this MOA (Exhibit A) is to provide funding to the OSI to monitor and provide stewardship services of the State's interests in privately owned conservation lands held by DNCR. Stewardship and monitoring of many of these easements is required under the federal funding that supported the original acquisition of these properties. The Conservation Land Stewardship Program, which is housed within the OSI, monitors and stewards the 86 state-held conservation easements acquired through the former Land Conservation Investment Program. Providing monitoring and stewardship support for other state-held easement interests through the Conservation Land Stewardship Program, minimizes duplication of effort and enables cost-saving efficiencies since many of these additional state-held easements are contiguous with properties that the program is already responsible for. It allows the same stewardship standards for all easement lands, provides staff expertise to appropriately represent the State's interests, and helps to provide a consistent interpretation of easement language. One of the primary goals of the Conservation Land Stewardship Program is to educate and work with land owners to resolve conflicts with easement restrictions that may arise, thereby avoiding costly litigation. A complete background of the Conservation Land Stewardship Program is provided in Exhibit B.

The source of funding in the Forest Management & Protection Fund is from fees collected through various land management activities and leases. In the event that these funds become no longer available, General Funds will not be requested to support this program.

Respectfully Submitted,

  
Brad W. Simpkins  
Director  
Division of Forests and Lands  
Date 7/14/17

  
Jeffrey J. Rose  
Commissioner  
Date 7/18/17 (RW)

Enclosures

**Exhibit A**

**MEMORANDUM OF AGREEMENT  
between the  
OFFICE OF STRATEGIC INITIATIVES  
(Conservation Land Stewardship Program)  
and the**

**DEPARTMENT OF NATURAL AND CULTURAL RESOURCES**

SUBJECT: Agreeing that the Conservation Land Stewardship Program (CLS), within the Office of Strategic Initiatives (OSI), will provide conservation easement monitoring capabilities for the Department of Natural and Cultural Resources (DNCR) and providing for the transfer of funds to accomplish this purpose (the AGREEMENT).

The AGREEMENT sets forth the responsibilities of DNCR and OSI (the PARTIES) relative to the administration and completion of conservation easement monitoring on those easement lands held by DNCR for the State of New Hampshire. Monitoring responsibilities are differentiated for the properties listed in Appendix A and Appendix B.

The AGREEMENT is subject to annual review and update; however, it is the intention of the PARTIES to ensure the long-term protection of these lands and the State's interest is achieved by providing for a timely renewal of the AGREEMENT. It is understood that monitoring of conservation easements, while performed annually, may not coincide perfectly with the fiscal year. The period of the AGREEMENT shall be from the date of Governor and Council approval through June 30, 2019.

For the purposes of the AGREEMENT, the PARTIES agree to cooperate as follows:

**NH Department of Natural and Cultural Resources**

For properties in Appendices A & B, DNCR agrees to:

- 1) transfer an amount not to exceed \$34,000.00 for FY 18 and \$34,000.00 for FY 19, from the Forest Management and Protection Fund to OSI upon approval by the Governor and Executive Council for the purposes of providing conservation easement monitoring support as outlined below; and
- 2) provide OSI with all necessary deeds, survey plans, maps, GIS shape files if available, photographs, addresses, and baseline documentation, as needed, for the included parcels; and
- 3) provide technical support to OSI regarding the prevention, interpretation, and /or enforcement, of violations or diminution of the terms of any conservation easement deed which is part of the AGREEMENT. DNCR shall have final determination of the disposition of the enforcement of the terms of any easement; and
- 4) provide technical advice and assistance to CLS regarding forest management and trail construction/maintenance practices as they may occur; and
- 5) assign appropriate staff to serve as the contact person to meet with OSI as needed to review progress of the program and develop the next annual AGREEMENT, and assist OSI when necessary regarding matters rising from the AGREEMENT; and
- 6) provide on an as available basis and as appropriate, a high clearance vehicle if needed for DNCR properties with difficult access; and

- 7) participate in annual meetings with the Grantor and representatives from CLS as needed for certain Forest Legacy easements; and
- 8) review and approve/disapprove stewardship management plans and amendments of the Grantor as required by any conservation easement deed which is part of the Agreement and provide copies of correspondence/approvals to CLS; and
- 9) ensure monitoring report copies are provided to USDA / WMNF personnel for 13 Mile Woods I. Jahoda, and Joahoda / Johnson Forest Legacy parcels as agreed upon between USDA and DNCR.

For properties listed in Appendix B DNCR will:

- 1) assign a Forest & Lands staff contact to perform the monitoring of North Country conservation easements listed in Appendix B; and
- 2) develop with CLS staff a detailed plan for monitoring of North Country properties; and
- 3) conduct monitoring consistent with CLS protocols; and
- 4) communicate and/ or meet regularly regarding monitoring activities, interpretation, enforcement, or other issues.

#### **NH Office of Strategic Initiatives**

For properties in Appendices A & B, OSI, through the CLS Program, agrees to:

- 1) accept the funds transferred by DNCR in an amount not to exceed \$34,000.00 for FY 18 and \$34,000.00 for FY 19 for the purpose of conducting conservation easement monitoring support; and
- 2) participate in annual meetings with the Grantor and representatives from DNCR as required for certain Forest Legacy easements.

For properties in Appendix A, CLS will:

- 1) conduct easement monitoring every 11 to 14 months on each parcel to include, where practicable, personal contact with the landowner or their representative to discuss the easement and any current and/or proposed activities related to the property; and
- 2) provide a copy of the monitoring report for each parcel upon completion of monitoring inspection, including any information regarding changes of address, land management activities, interpretation issues, a statement of overall compliance with the terms of the easement, etc.; and
- 3) update and maintain database, records, photographs, GPS information, owner contact information, parcel status, interpretation and enforcement issues, baseline documentation for each parcel; and
- 4) coordinate with DNCR to explore methods of low-cost aerial monitoring and photography to document the condition of the lands under conservation easement as practicable, necessary, or able; and
- 5) meet with DNCR as necessary to review the status of parcels and to resolve any problems, interpretation, or enforcement issues which may arise;

- 6) work with landowners and coordinate/participate in additional meetings and/or site visits as necessary to resolve problems, interpretation, enforcement, or other issues.
- 7) assign the CLS Coordinator, or other CLS staff as necessary to oversee and ensure that easement monitoring is conducted at levels consistent with the CLS monitoring protocols.

For properties in Appendix B, CLS will provide administrative coordination for the monitoring of North Country properties by Forest & Lands staff to:

- 1) maintain all monitoring records and files consistent with other DNCR conservation easement property files as provided by DNCR staff; and
- 2) provide quality assurance of DNCR monitoring and reporting through developing monitoring protocols, training and support, joint site visits, periodic meetings, regular communications, and other means; and
- 3) provide interpretation support to assure consistency of interpretation and enforcement matters

In witness whereof, the respective parties have hereunto set their hands on the dates indicated.

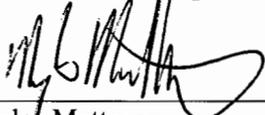
Approved By:

  
 Brad Simpkins  
 Director, Division of Forests and Lands

7/17/17  
 Date

  
 Jeffrey J. Rose  
 Commissioner, Department of Natural and Cultural Resources

7/18/17  
 Date

  
 Myles Matteson  
 Director, Office of Strategic Initiatives

7/6/17  
 Date

Approved as to form, substance and execution:

**STATE OF NEW HAMPSHIRE  
 OFFICE OF THE ATTORNEY GENERAL**

  
~~Juliano Cingenti~~ Jill Perlow  
 Assistant Attorney General

7/25/17  
 Date

# Conservation Easements

## *South Country*

<u>Property</u>	<u>Town</u>	<u>Acres</u>
Creek Farm / Noel	Portsmouth	30
Crotched Mountain	Greenfield / Fancestown / Bennington	1,165
Green Acres Woodlands - South Branch	Groton / Dorchester	324
Green Acres Woodlands - Bailey Hill	Groton / Rumney	1,436
Green Acres Woodlands - Groton Hollow	Groton / Plymouth / Hebron	3,342
Kimball Pond	Dunbarton	1,024
Moose Mountain	Brookfield / Middleton	2,197
Ossipee Mountains / Chocurua	Ossipee / Tamworth / Tuftonboro	5,372
Ossipee Pine Barrens (Target & Match)	Madison / Freedom	2,224
Palmer Group Properties, LLC	Carroll	22
Piermont Mountain	Piermont	1,650
Pillsbury - Belliveau	Lempster	218
Pillsbury Sunapee Highlands (Block A)	Washington / Bradford	2552
Pillsbury Sunapee Highlands (Block B)	Goshen/Newbury/Washington	2504
Pillsbury Sunapee Highlands (Block C)	Groton	952
Pillsbury Sunapee Highlands (Block D)	Alexandria	751
Pillsbury Sunapee Highlands (Block E)	Newbury	117
Pisgah - Woodman	Chesterfield	63
Willard Pond I - Bald Mtn	Antrim	376
Willard Pond II - Robb Reservoir	Stoddard	1,660
Rossvie Farm	Concord	547
Rhododendron - Slavic	Fitzwilliam	196
Trout Pond - Freedom Town Forest	Freedom / Madison	2,661
	<b>Total Acres</b>	<b>31,383.00</b>

# Conservation Easements

## *North Country*

<u>Property</u>	<u>Town</u>	<u>Acres</u>
Androscoggin Headwaters - North	Errol / Wentworth's Location	10,354
Androscoggin Headwaters - South	Cambridge / Dummer	12,603
Thirteen Mile Wood I - Plum Creek	Cambridge / Dummer	1,010
Thirteen Mile Wood I - Town of Errol	Cambridge / Errol	1,720
Jahoda	Pittsburg	344
Jahoda / Johnson	Clarksville	56
Pond of Safety	Randolph / Jefferson	10,198
CT Lakes Headwaters	Pittsburg / Clarksville / Stewartstown	146,326
Bunnell Mountain - TNC	Columbia	8,100
Bunnell Mountain - Bunting	Stratford	10,330
Thirteen Mile Wood II	Cambridge / Errol	5,269
Beaver Brook Falls	Colebrook	30
Jasper Mountain	Berlin	27
	<b>Total Acres</b>	

## Exhibit B

### Background on the Office of Strategic Initiatives – Conservation Land Stewardship Program

In 1994, the State of New Hampshire established a stewardship program to protect, in perpetuity, the conservation values and investments acquired through the former Land Conservation Investment Program. This stewardship program, now known as the Conservation Land Stewardship Program (CLS), is housed within the Office of Strategic Initiatives (formerly the Office of Energy and Planning).

The former Land Conservation Investment Program<sup>1</sup> was established in 1987 as Senate Bill 1. From 1987 until 1993 in cooperation with its private partner, the Trust for New Hampshire Lands, the program permanently protected over 379 individual conservation parcels totaling over 100,000 acres of land. This significant land protection effort is considered to be one of the most successful and wide reaching public-private conservation partnerships in the State's history.

At the end of the program's acquisition phase in 1993, authority for the Land Conservation Investment Program was transferred to the Council on Resources and Development (CORD) in accordance with the former RSA 221-A (now RSA 162-C). In transferring authority to CORD, the general court reaffirmed the conservation purposes of the Land Conservation Investment Program. It recognized the need to respect investments in the conservation of natural resource lands in the state for the perpetual use of the people of New Hampshire. The general court also recognized that the Land Conservation Investment Program was undertaken in part with significant donations of cash and land value by citizens of the state who intended that the conservation values of these lands be protected in perpetuity. In addition, lands and interests in lands acquired through the Land Conservation Investment Program are held in "public trust" and, per RSA 162-C:10, there can be no deviation in the uses to uses not consistent with this section. The sale, transfer, conveyance, or release of any such land from the public trust is prohibited.

Since 1994, the CLS Program has been responsible for two key functions intended to ensure that the State is meeting its responsibilities under RSA 162-C to protect its conservation resources in perpetuity. First, it monitors and stewards the 86 state-held conservation easements acquired through the Land Conservation Investment Program. It works with landowners and others to resolve potential violations or other issues and helps landowners understand the conservation values and restrictions on their land. Secondly, the CLS Program oversees the 240 municipally held interests acquired through the Land Conservation Investment Program and provides technical assistance to those 78 participating municipalities.

These stewardship and monitoring responsibilities are becoming increasingly important as easements age and land ownership changes to new owners who may not understand the legal significance of the restrictions or the unique protected conservation values of the property. One

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<sup>1</sup> Although in many ways the Land Conservation Investment Program was a predecessor to the current Land and Community Heritage Investment Program, known as "LCHIP," the former Land Conservation Investment Program should not be confused with this newer historic property and land protection program.

of the primary goals of the CLS Program is to educate and work with landowners to resolve conflicts with easement restrictions that may arise, thereby avoiding costly litigation. The CLS Program's approach of avoiding problems through direct landowner contact, pro-active discussions relating to potential uses of the land, and regular monitoring continues to be the most cost-effective method for long-term protection of the State's conservation land interests.

Since 2000, the CLS Program has provided similar annual monitoring and stewardship services for Department of Natural and Cultural Resource's (DNCR) non-Land Conservation Investment Program easement lands (through G&C approved Memoranda of Agreements). In 2004, CLS began providing monitoring and stewardship services to the NH Fish and Game Department for its other conservation easement lands as well. Today the CLS Program monitors 98 conservation easements (totaling approx. 43,000 acres) for these two agencies in addition to the original 86 easements acquired through the Land Conservation Investment Program.

Providing easement monitoring and stewardship support through the Conservation Land Stewardship Program for multiple state agencies minimizes duplication of effort and enables cost-saving efficiencies since many of these additional conservation easements are contiguous with conservation easements for which CLS is already responsible. It allows the same stewardship standards for all easement lands and approach to problem resolution, provides staff expertise to appropriately represent the State's interests, and helps to provide a consistent interpretation of easement language.

In addition, stewardship and annual monitoring of many of these additional DNCR and NHF&G easements is required under the federal funding that supported the original acquisition. This arrangement helps to ensure that these agencies are complying with federal requirements. It also helps to ensure that the State is effectively and consistently meeting its legal and ethical obligation to protect the natural resources it has invested in.