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STATE OF NEW HAMPSHIRE
DEPARTMENT of RESOURCES and ECONOMIC DEVELOPMENT
DIVISION OF FORESTS AND LANDS
172 Pembroke Road P.O. Box 1856 Concord, New Hampshire 03302-1856

603-271-2214
FAX: 603-271-6488
www.nhdfl.org

His Excellency, Governor John H. Lynch
and the Honorable Executive Council
State House
Concord, New Hampshire 03301

October 4, 2012

REQUESTED ACTIONS

1. Pursuant to RSA 227-H:3, I, authorize the Department of Resources and Economic Development to purchase for $46,075 ($475/acre x 97 acres) approximately 97 acres of undeveloped forestland abutting Vincent State Forest in the Town of Deering from Mrs. Lucy F. Davison. A recent appraisal by Scot Heath of Heath Appraisal Services places the value at $58,200. 100% Forest Improvement Fund

2. Pursuant to RSA 227-H:3, I, further authorize the Department to purchase for a recently appraised value of $15,800 approximately 21 acres of undeveloped forestland abutting Vincent State Forest in the Town of Deering from the Society for the Protection of New Hampshire Forests (SPNHF). 100% Forest Improvement Fund

Funding is available in account titled, Forest Improvement Fund, as follows:

		FY 2013
03-35-35-351010-72000000-033-509033	Land Acquisition and Easement	$61,875

EXPLANATION

The Department of Resources and Economic Development (DRED), Division of Forests and Lands has targeted two parcels of unimproved forest land for purchase. Both parcels are surrounded on three sides by Vincent State Forest.

The SPNHF and our staff had been having discussion about the state acquiring their tract and they noted that Mrs. Davison has recently put her property up for sale.

After a careful review by DRED staff it was agreed that these parcels would be a good addition to Vincent State Forest for the following reasons:

- Reduces DRED boundary line maintenance costs by straightening the property line;
- Will add timber resources to the existing forest management area; and
- Protects an additional portion of the snowmobile trail that now crosses state land.

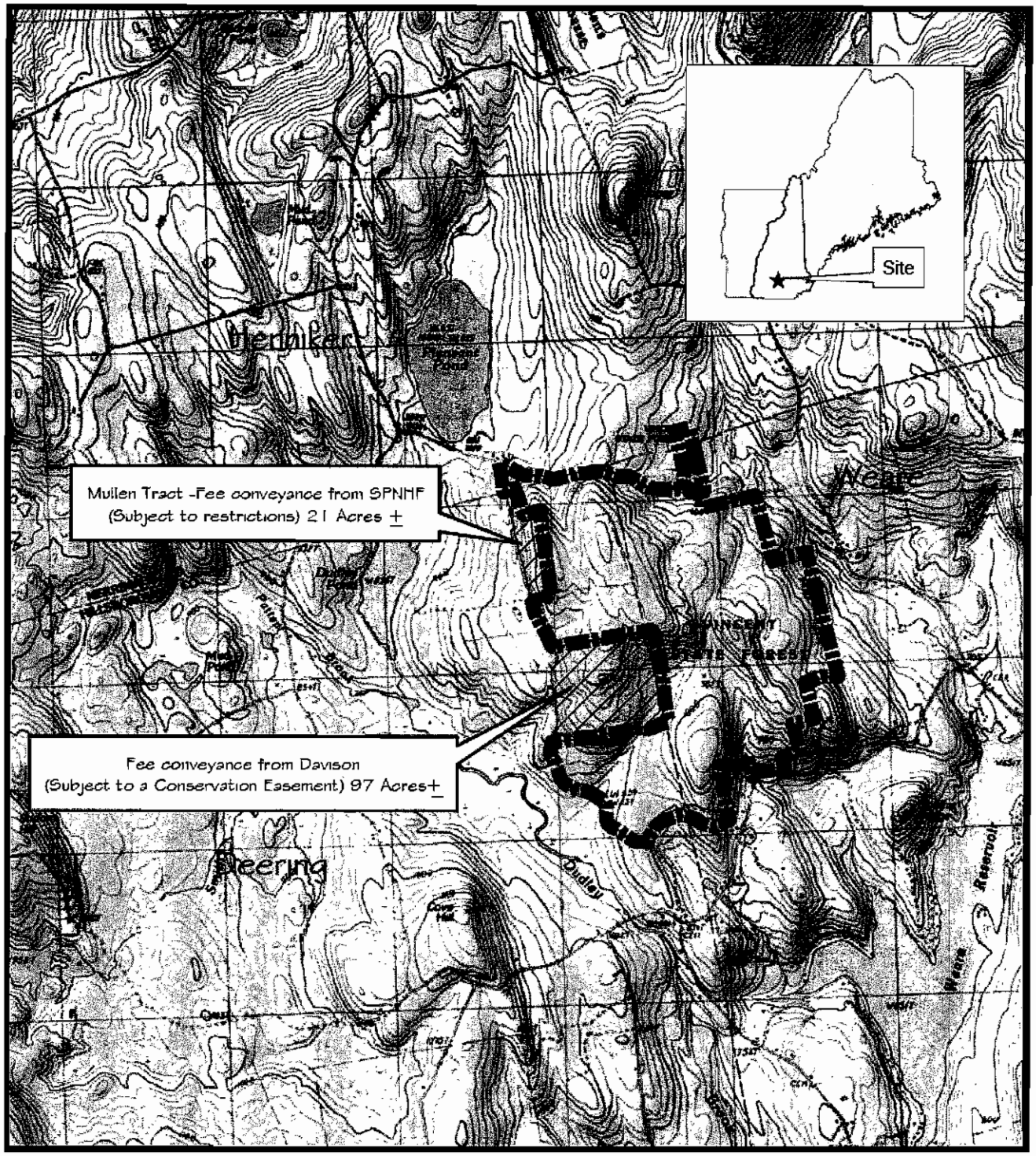
Your approval shall be subject to the deeds final approval by the Department of Justice.

Respectfully submitted,

Brad W. Simpkins, Interim Director

Approved by,

George M. Bald, Commissioner



June, 2012

Plan of Proposed Acquisitions
to Vincent State Forest
Deering, New Hampshire

N
W E
S

2,640 1,320 0 Feet

ArcGIS: Vincent Acquisitions for GC

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

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

WARRANTY DEED

I, Lucy F. Davison, sole trustee of the Shirley L. Davison and Lucy F. Davison Revocable Family Trust (Grantor), having a mailing address of; c/o Lucy F. Davison, 149 East Side Drive #156, Concord, NH, 03301, for consideration paid, grants to the **State of New Hampshire,** through its **Department of Resources and Economic Development (Grantee)** at 172 Pembroke Road, PO BOX 1856, Concord, NH, 03302-1856, with Warranty Covenants to the Grantee:

A certain tract or parcel of land situated in the Town of Deering, Hillsborough County, State of New Hampshire, and bounded and described as follows:

Beginning on the east side of the highway leading from the land now or formerly of Benjamin L. Bartlett to land now or formerly of Henry Ashby by land now or formerly of James B. Brown;

Thence easterly by land now or formerly of said James B. Brown;

Thence easterly by land now or formerly of said James B. Brown to the Weare town line;

Thence southerly on the town line to land now or formerly of Benjamin L. Bartlett;

Thence westerly by land now or formerly of said Bartlett to the highway;

Thence northerly by the highway to the point or place of beginning.

Containing ninety-seven acres, more or less.

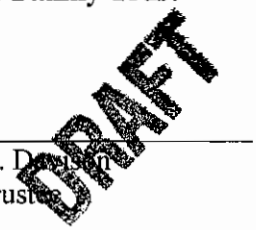
Meaning and intending: to describe the premises conveyed to The Shirley L. Davison and Lucy F. Davison Revocable Family Trust, under agreement dated July 25, 2001 , by Shirley L. Davison and Lucy F. Davison by Warranty Deed, dated July 25, 2001 recorded at the Hillsborough county Registry of deeds at Book 6462, Page 1908.

Being the same as "Parcel C" in the Conservation Easement Deed conveyed to the Society for the Protection of New Hampshire Forests, dated December 29, 2009 recorded at the Hillsborough County Registry of Deeds at Book 8166, Page 2951

This is not homestead premises

Executed this _____ day of _____, 2012.

Shirley L. Davison and Lucy F. Davison Revocable Family Trust



_____
Lucy F. Davison
Sole Trustee

STATE OF NEW HAMPSHIRE
_____, SS

On this _____day of _____, 2012, personally appeared the above-named Lucy F. Davison, Sole Trustee of Shirley L. Davison and Lucy F. Davison Revocable Family Trust, known to me or satisfactorily proven to be the person described in the foregoing instrument, and acknowledged that she was duly authorized and executed the same in the capacity therein stated and for the purposes therein contained.

_____
Notary Public/Justice of the Peace
My Commission Expires: _____

(seal)

This conveyance was authorized by vote of New Hampshire Governor and Executive Council at a meeting held in Executive Council Chambers, Concord, New Hampshire on _____, 2012, Agenda Item No. _____.

Approved as to form, substance:

STATE OF NEW HAMPSHIRE
OFFICE OF THE ATTORNEY GENERAL

_____
Dated

_____
Anthony Blenkinsop, Esquire
Senior Assistant Attorney General

THIS IS A NON-CONTRACTUAL
CONVEYANCE PURSUANT TO NEW
HAMPSHIRE RSA 78-B:2 AND IS
EXEMPT FROM THE NEW HAMPSHIRE
REAL ESTATE TRANSFER TAX.

WARRANTY DEED

SOCIETY FOR THE PROTECTION OF NEW HAMPSHIRE FORESTS (hereinafter referred to as the "Grantor" which shall, unless the context clearly indicates otherwise, include the Grantor's successors and assigns), a corporation duly organized and existing under the laws of the State of New Hampshire, with a principal place of business at 54 Portsmouth Street, City of Concord, County of Merrimack, State of New Hampshire, 03301-5400,

for consideration paid, grants with **WARRANTY COVENANTS** to

STATE OF NEW HAMPSHIRE, c/o the Department of Resources and Economic Development, with a mailing address of P.O. Box 1856, Concord, New Hampshire 03302-1856 (hereinafter referred to as the "Grantee", which word where the context requires includes the plural and shall, unless the context clearly indicates otherwise, include the Grantee's executors, administrators, legal representatives, devisees, heirs, successors and assigns),

that certain area of unimproved land, consisting of approximately 21 +/- acres, situated on Quaker Street in the Town of Deering, County of Hillsborough and State of New Hampshire, more particularly bounded and described in Appendix "A" attached hereto and made a part hereof, and hereinafter referred to as the "Property"

SUBJECT TO the following conservation restrictions (hereinafter referred to as the "Restrictions") pursuant to RSA 477:45-47, which by accepting and recording this deed the Grantee, for itself and its legal representatives, heirs, and assigns, accepts and agrees to observe:

1. PURPOSES OF RESTRICTIONS

The purposes of the following Restrictions (herein referred to as the "Purposes") for the public benefit are:

A. The protection and conservation of open spaces, particularly the conservation of the 21 acres, more or less, of productive farm and/or forest land of which the land area subject to these Restrictions granted hereby consists, and the long-term protection of

the Property's capacity to produce economically valuable agricultural and forestry products; and

B. The protection and conservation of the undeveloped road frontage on Quaker Street for the scenic enjoyment of the general public; and

C. The preservation, protection and conservation on the Property of natural habitats of plants and animal species native to New Hampshire; and

D. The protection of the quality of ground water and surface water resources on and under the Property;

The above purposes are consistent 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."

All of these purposes are consistent and in accordance with the U.S. Internal Revenue Code, Section 170(h).

The Restrictions on the Property are as follows:

2. <u>USE LIMITATIONS</u> (Subject to the Grantee's 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 agriculture and forestry (including timber harvesting) as described below, and provided that the productive capacity of the Property to yield forest and/or agricultural crops shall not be degraded by on-site activities.

i. For the purposes of these Restrictions , "agriculture" shall include but not be limited to: animal husbandry, floriculture, and horticulture activities; the production of plant and animal products for domestic or commercial purposes; the growing of food crops; the construction of roads or other accessways for the purpose of removing agricultural products from the Property; and the processing and sale of products produced on the Property (such as pick-your-own fruits and vegetables).

For the purposes of these Restrictions , "forestry" shall include but not be limited to: the growing, stocking, cutting, and sale of Christmas trees or forest trees of any size capable of producing timber or other forest products; the construction of roads or other accessways for the purpose of removing forest products from the Property; and the processing and sale of products produced on the Property (such as firewood and

maple syrup).

ii. Any agriculture for industrial or commercial purposes shall be performed, to the extent reasonably practicable, in accordance with a written, coordinated management plan for the sites and soils of the Property. Said agriculture shall not be detrimental to the Purposes of these Restrictions , nor materially impair the scenic quality of the Property as viewed from public waterways, great ponds, public roads, or public trails. Said agricultural management activities shall be in accordance with the then-current scientifically based practices recommended by the University of New Hampshire's Cooperative Extension, by the U.S. Department of Agriculture's Natural Resources Conservation Service, by the New Hampshire Department of Agriculture, Markets, and Food, including but not limited to recommended practices in said NH Department's "Manual of Best Management Practices (BMPs) for Agriculture in New Hampshire" last revised June 2011 and as may be revised, updated, or superseded from time to time, or by other governmental natural resource conservation and management agencies then active.

iii. If any forestry is conducted for industrial or commercial purposes, it shall be performed, to the extent reasonably practicable, as hereinafter specified in accordance with the following goals, and in a manner not detrimental to the Purposes of these Restrictions .

a. The goals are:
   - maintenance of soil productivity;
   - protection of water quality, wetlands, and riparian zones;
   - maintenance or improvement of the overall quality of forest products;
   - conservation of scenic quality;
   - protection of unique or fragile natural areas, such as habitat for state or federally recognized rare, threatened, or endangered species, or such as exemplary natural communities, such habitat or communities as identified by the New Hampshire Natural Heritage Bureau, the New Hampshire Fish and Game Department, 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;
   - protection of unique historic and cultural features; and
   - conservation of plant and animal species.

b. Such forestry shall be performed in accordance with a written forest management plan consistent with these Restrictions , prepared by a licensed professional forester, or by other qualified person approved in advance and in writing by the Grantee. Said plan shall have been prepared not more than ten (10) years prior to the date any harvesting is expected to commence, or shall have been reviewed and updated as required by such a forester or other qualified person at least thirty (30) days prior to said date.

c. At least thirty (30) days prior to harvesting, Grantor shall submit to Grantee a written certification, signed by a licensed professional forester, or by other qualified person approved in advance and in writing by the Grantee, that such plan has been prepared in compliance with the terms of these Restrictions . Upon request by the Grantee, the Grantor shall submit the plan itself to Grantee within ten (10) days of such request. It is acknowledged that the plan's purpose is to guide forest management activities in compliance with these Restrictions , and that the actual activities will determine compliance therewith.

d. The plan shall include:

* A statement of landowner objectives;
* Forest type map showing stands related to the prescriptions provided in the plan;
* A map showing soil types as determined by the U.S. Department of Agriculture's Natural Resources Conservation Service (or by other similarly charged successor governmental agency), access roads, wetlands, and surface waters;
* Prescriptions for each described stand, including commercial and non-commercial treatments; and
* Explanation of how wetlands, riparian areas, vernal pools, and soils will be protected in association with road construction, other soil disturbing activities, and the implementation of stand prescriptions;

and shall specifically address:

- the accomplishment of those Purposes for which these Restrictions is granted;
- the goals in Section 2.A.iii.a above.

e. Timber harvesting with respect to such 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.

f. Such forestry shall be carried out in accordance with all applicable local, state, federal, and other governmental 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 recommended by governmental natural resource conservation and management agencies then active, including but not limited to recommended practices in "Good Forestry in the Granite State: Recommended Voluntary Forest Management Practices for New Hampshire" (New Hampshire Forest Sustainability Standards Work Team, 1997, revised 2010), or similar successor publications.

B. The Property shall not be subdivided, and none of the tracts which together may comprise the Property shall be conveyed separately from one another, except that the lease of any portion of the Property for any use permitted by these Restrictions shall not violate this provision.

C. No structure or improvement shall be constructed, placed, or introduced onto the Property, except for structures and improvements which are: i) necessary in the accomplishment of the agricultural, forestry, conservation, habitat management, or

noncommercial outdoor recreational uses of the Property and which may include but not be limited to roads, trails, dams, fences, utility lines, bridges, culverts, barns, maple sugar houses, farmstands, ponds or sheds; and ii) not detrimental to the Purposes of these Restrictions . The Grantor shall provide the Grantee with forty-five (45) days' written notice prior to any construction of a permitted structure with a footprint exceeding two thousand (2,000) square feet. Notwithstanding the above, there shall not be constructed, placed, or introduced onto the Property any of the following structures or improvements: dwelling, residence, cabin, residential driveway, any portion of a septic system, tennis court, swimming pool, athletic field, golf course, tower, storage trailer, or aircraft landing area.

D. No removal, filling, or other disturbances of soil surface, nor any changes in topography, surface or subsurface water systems, wetlands, or natural habitat shall be allowed unless such activities:

   i. are commonly necessary in the accomplishment of the agricultural, forestry, conservation, habitat management, or noncommercial outdoor recreational uses of the Property; and

   ii. do not harm state or federally recognized rare, threatened, or endangered species, or exemplary natural communities, such determination of harm to be based upon information from the New Hampshire Natural Heritage Bureau, the New Hampshire Fish and Game Department, or the agency then recognized by the State as having responsibility for identification and/or conservation of such species and/or natural communities; and

   iii. are not detrimental to the Purposes of these Restrictions.

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 agricultural, forestry, conservation, or noncommercial outdoor recreational uses of the Property, or as necessary for public safety, and in any case provided such structures are not detrimental to the Purposes of these Restrictions . No sign on the Property shall exceed sixteen (16) 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 and consistent with 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, disposal, injection, burning, or burial on the Property of man-

made materials or materials then known to be environmentally hazardous.

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, except those of record as of the execution of these Restrictions and those specifically permitted in the provisions of these Restrictions .

I. The Property shall not be posted against, and the Grantor shall keep access to and use of the Property open for such, non-wheeled, pedestrian, non-commercial, outdoor recreational and outdoor educational purposes as will have minimal impact on the Property, such as but not limited to hiking, wildlife nature observation, cross-country skiing, fishing, and hunting, but the Grantor shall not be required to keep the Property open to the public for camping. However, the Grantee shall be under no duty to supervise said access, use, or purpose.

3. GRANTEE'S RIGHTS

A. **Posting of Property Against Public Access:** The Grantor reserves the right to post portions of the Property against public access to: agricultural cropland during the planting, growing, or harvesting season; lands actively used by livestock; and forestland during establishment of plantations, harvesting, or other active forest management operations such as planting and thinning of trees and construction or maintenance of woods roads. Subject to prior approval in writing by Grantee to limit or prohibit public access to and use of any portion of the Property for an appropriate period of time to halt problematic or abusive uses or behaviors by said public. Said problematic or abusive uses or behaviors may include, but are not limited to, too many hunters using the property at one time, loitering, partying or other large gatherings of people, noisy activities, making of fires or development of unauthorized trails or structures. Grantor may post all or any portions of the Property for the communication of the restrictions or limitations contained in or established under this Section.

4. **NOTIFICATION OF TRANSFER, TAXES, & MAINTENANCE**

A. The Grantor agrees to notify the Grantee in writing within ten (10) days of the transfer of title to the Property [or any division of ownership thereof permitted hereby], including any change in Trustee for Property held in trust.

B. The Grantee shall be under no obligation to maintain the Property or pay any taxes or assessments thereon.

5. **BENEFITS & BURDENS**

The burden of theRestrictions conveyed hereby shall run with the Property and shall be enforceable against all future owners and tenants in perpetuity. The benefits of these Restrictions 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 these Restrictions ; and has the resources to enforce the restrictions of these Restrictions . Any such assignee or transferee shall have like power of assignment or transfer.

6. AFFIRMATIVE RIGHTS OF GRANTEE

A. The Grantee 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 these Restrictions and exercise the rights conveyed hereby and fulfill the responsibilities and carry out the duties assumed by the acceptance of these Restrictions .

B. To facilitate such inspection and to identify the Property as conservation land protected by the Grantee, the Grantee shall have the right to place signs, each of which shall not exceed twenty-four (24) square inches in size, along the Property's boundaries.

C. The Grantee shall have the rights to post, and to authorize others to post, the Property against or otherwise limit public access only with the consent of the Grantor and only if such access is shown to degrade the conservation attributes of the Property, to be inconsistent with the Purposes of these Restrictions , or to threaten public safety.

7. RESOLUTION OF DISAGREEMENTS

A. The Grantor and the Grantee desire that issues arising from time to time concerning the interpretation of the provisions of theRestrictions , or any use or activity on the Property, 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 proposed or actual use, activity, or failure to take action (which together for the purposes of this Section, "Resolution of Disagreements," shall be referred to as the "Activity") complies with the provisions of these Restrictions , 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, and if the Grantor agrees not to proceed or continue with the Activity pending resolution of the disagreement concerning the Activity, either party may refer the disagreement to

mediation by written notice to the other. Within ten (10) days of the delivery of such a notice, the parties shall agree on a single impartial mediator. Mediation shall be conducted in Concord, New Hampshire, or such other location as the parties shall agree. Each party shall pay its own legal fees and other associated costs, and the costs of mediation shall be split equally between the parties.

C. If the parties cannot agree upon the selection of a mediator, if all parties agree to bypass mediation, if any party refuses to participate in or continue with mediation, or if the parties are unable to resolve the disagreement, the disagreement shall be submitted to binding arbitration in accordance with New Hampshire RSA 542 as may be amended from time to time. The Grantor and the Grantee shall each choose an arbitrator within twenty (20) days of the delivery of written notice from either party referring the matter to arbitration. The arbitrators so chosen shall in turn choose a third arbitrator within twenty (20) days of the selection of the second arbitrator. The arbitrators so chosen shall forthwith set as early a hearing date as is practicable, which they may postpone only for good cause shown. The arbitration hearing shall be conducted in Concord, New Hampshire, or such other location as the parties shall agree. A decision by two of the three arbitrators, made as soon as practicable after submission of the matter, shall be binding upon the parties and shall be enforceable as part of these Restrictions . Each party shall pay its own legal fees and other associated costs, and the costs of arbitration shall be split equally between the parties.

D. Notwithstanding the availability of mediation and arbitration to address disagreements concerning the compliance of any Activity with the provisions of these Restrictions , if the Grantee believes that some use, activity, or failure to take action of the Grantor or of a third party is causing irreparable harm or damage to the Property, or creates an imminent threat of same, 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 or threat of same; enforce the terms of these Restrictions ; enjoin any violation by permanent injunction; and require the restoration of the Property to its condition prior to any breach.

8. BREACH OF RESTRICTIONS – GRANTEE'S REMEDIES

A. If the Grantee determines that a violation or breach of these Restrictions has occurred (which together shall hereinafter be referred to as "breach"), the Grantee shall notify the Grantor in writing of such breach and demand corrective action to cure the breach and, where the breach involves damage, disturbance, or harm (hereinafter referred to as "damage") to the Property, to restore the portion of the Property so damaged 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 B. above, or fails to continue diligently to cure any breach until finally cured, the Grantee may undertake any actions, in the Grantor's name, that are reasonably necessary to repair any damage or to cure such breach, including an action at law or in equity in a court of competent jurisdiction to enforce the terms of these Restrictions , 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 damage.

D. If the Grantee, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to any conservation attribute of the Property, the Grantee may pursue its remedies under this Section, "Breach ofRestrictions …," 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 the breach or for damage to any conservation attributes 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 Restrictions …," are in addition to the provisions of the 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 conservation attributes protected by these Restrictions are in immediate danger of irreparable damage, the Grantee may seek the injunctive relief described in the third paragraph of this Section, "Breach of Restrictions …," both prohibitive and mandatory, in addition to such other relief to which the Grantee may be entitled, including specific performance of the terms of these Restrictions , 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 Restrictions …," shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.

H. Unless otherwise determined by the arbitrators or courts each party shall bear its own costs of any enforcement action.

I. Forbearance by the Grantee to exercise its rights under these Restrictions in the event of

any breach of any term hereof by the Grantor shall not be deemed or construed to be a waiver by the Grantee of: such term or any subsequent breach of the same; any other term of these Restrictions ; or 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 these Restrictions shall be construed to entitle the Grantee to bring any action against the Grantor for any damage to, or change in, the Property, or to any person, 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 damage to the Property or to any person 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 Restrictions ...," against any third party responsible for any actions inconsistent with the provisions of these Restrictions , and, further, prior to either party taking any such separate action, the Grantee and Grantor shall first discuss with one another opportunities for taking collective action.

9. NOTICES

All notices, requests and other communications, required to be given under these Restrictions 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, or by prepaid overnight delivery service providing a signed receipt for delivery, 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.

10. SEVERABILITY

If any provision of these Restrictions, 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 these Restrictions 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.

11. CONDEMNATION/ EXTINGUISHMENT

A. Whenever all or part of the Property is taken in exercise of eminent domain by public, corporate, or other authority so as to abrogate in whole or in part the Restrictions imposed hereby, or whenever all or a part of the Property is lawfully sold without the Restrictions imposed hereunder in lieu of exercise of eminent domain, the Grantor and the Grantee shall thereupon act jointly to recover the full damages resulting from such taking with all incidental or direct damages and expenses incurred by them thereby to be paid out of the

damages recovered.

B. The balance of the land damages recovered from such taking or lawful sale in lieu of exercise of eminent domain shall be divided between the Grantor and the Grantee in proportion to the fair market value, at the time of condemnation, of their respective interests in that part of the Property condemned. For this purpose and that of any other judicial extinguishment of these Restrictions, in whole or in part, the values of the Grantor's and Grantee's interests shall be determined by an appraisal prepared by a qualified appraiser at the time of condemnation or extinguishment.

C. The Grantor shall use its share of the proceeds resulting from condemnation or extinguishment in a manner consistent with and in furtherance of one or more of the conservation purposes set forth herein.

12. ADDITIONAL RESTRICTIONS

Should the Grantee determine that the expressed Purposes of these Restrictions could better be effectuated by the imposition of additional Restrictions on the Property, the Grantee may execute an additional instrument to that effect, provided that the conservation purposes of these Restrictions are not diminished thereby and that a public agency or qualified organization described in the Section "Benefits and Burdens," above, accepts and records such instrument.

13. **AMENDMENT**

If, owing to unforeseen or changed circumstances, Grantor and Grantee agree that an amendment to, or modification of, these Restrictions would be appropriate and desirable, Grantor and Grantee may jointly amend these Restrictions pursuant to: the provisions and limitations of this section; the then-current amendment policies of the Grantee; and applicable state and federal law. Any amendment shall be consistent with the Purposes of these Restrictions, and shall not impair the conservation attributes of the Property protected by this Easement. No amendment shall affect the qualification of these Restrictions 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 these Restrictions. Any amendment shall be executed by the Grantor and the Grantee and shall be recorded in the Hillsborough County Registry of Deeds. Nothing in this paragraph shall require Grantor or Grantee to agree to any amendment or to consult or negotiate regarding any amendment.

16. ENTIRE AGREEMENT

This instrument sets forth the entire agreement of the parties with respect to these Restrictions and supersedes all prior discussions, negotiations, understandings, and agreements relating to these Restrictions, all of which are merged herein.

17. GOVERNING LAW & INTERPRETATION

these Restrictions shall be interpreted under and governed by the laws of the State of New Hampshire, and shall be liberally construed to effect the Purposes of these Restrictions.

Witness the hand of the Society for the Protection of New Hampshire Forests by its duly authorized officer this ____ day of _____, 2012.

SOCIETY FOR THE PROTECTION OF NEW HAMPSHIRE FORESTS

By: _____

Title: _____
Duly Authorized

DRAFT

The State of New Hampshire
County of Merrimack

The foregoing instrument was acknowledged this _____day of

_____, 2012, by _____
(print name/title)

of the Society for the Protection of New Hampshire Forests on behalf of the Corporation.

Before me, _____
Justice of the Peace/Notary Public

My commission expires: _____

APPENDIX A

The "Property" conveyed hereby, and subject to the Restrictions above, is that certain parcel of unimproved land, containing 21 acres, more or less, situated on Quaker Street , so-called, in the Town of Deering, County of Hillsborough, State of New Hampshire, more particularly bounded and described as follows:

Beginning at a point on the east side of Quaker Street, formerly known as Old Henniker Road, said point being the northwest corner of the premises herein conveyed and the southwest corner of land shown as Lot 7, Tax Map 202 of the Town of Deering;

Thence running easterly a distance of approximately 623 feet to a point which is the southeast corner of the lot identified as Lot 7 on Tax Map 202 at land known as the Vincent State Forest;

Thence turning and running southerly a short distance to a point on the south side of an old roadbed known as the Old Road;

Thence running easterly a distance of approximately 314 feet, crossing said Old Road and running along the southerly side of land known as the Vincent State Forest to a point, said point being the northeasterly corner of the premises herein conveyed;

Thence turning and running southerly approximately 1,653 feet along land known as the Vincent State Forest to a point, said point being the southeasterly corner of the premises herein conveyed;

Thence turning and running westerly to the east side of Quaker Street, formerly known as Old Henniker Road, said point being the southwesterly corner of the premises herein conveyed;

Thence turning and running in a northerly direction along the east side of Quaker Street, formerly known as Old Henniker Road, to the point or place of beginning.

Meaning and intending to describe and convey the same premises conveyed to Society for the Protection of New Hampshire Forests by Warranty Deed of the Tyrrell Foundation, dated March 11, 2008, recorded at Book 7960, Page 2458 in the Hillsborough County Registry of Deeds.

Subject to Town of Deering current use assessment recorded in the Hillsborough County Registry of Deeds at Book 2366, Page 289; Book 2931, Page 173; Book 2368, Page 841 and Book 5114, Page 1155.

Subject to utility easement to Public Service Company of New Hampshire recorded in the Hillsborough County Registry of Deeds at Book 1209, Page 148.

Subject to a right-of-way for Walter and Bonita B. Morse and their direct family members over, and the ability to maintain, the Old Road running through the property. This right includes the right to cross and re-cross by pedestrian and motorized, wheeled or non-wheeled vehicles.

The property shall not be posted against outdoor recreational purposes, such as but not limited to hiking, wildlife observation, cross-country skiing, fishing and hunting. In addition, the Grantor shall keep access to and use of the property open to the public for non-wheeled, pedestrian non-commercial use.