



New Hampshire Fish and Game Department

HEADQUARTERS: 11 Hazen Drive, Concord, NH 03301-6500
(603) 271-3421
FAX (603) 271-1438

www.WildNH.com
e-mail: info@wildlife.nh.gov
TDD Access: Relay NH 1-800-735-2964

July 8, 2013

Her Excellency, Governor Margaret Wood Hassan
and the Honorable Executive Council
State House
Concord, New Hampshire 03301

REQUESTED ACTION

The New Hampshire Fish and Game Department (NHFG) respectfully requests authorization to enter into a Memorandum of Agreement (MOA) with the Council on Resources and Development (CORD) and the Office of Energy and Planning (OEP) relative to stewardship and funding of conservation easement monitoring, pursuant to RSA 162-C:8, for a term of ten (10) years time period from the date of Governor and Council approval through June 30, 2023. **No Cost.**

EXPLANATION

The NHFG periodically receives gifts, donations, or grants to provide for long-term stewardship monitoring of certain conservation easements held by the NHFG. RSA 162-C:8 authorizes such funds to be deposited into the Land Conservation Endowment, which is administered by CORD, for this purpose.

The proposed MOA enables NHFG to deposit funds into the Land Conservation Endowment so that they will generate interest and provide the OEP Conservation Land Stewardship Program with funding for long-term monitoring and stewardship support of NHFG conservation easements that receive endowments for those purposes.

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 landowners 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 A.

REGION 1

629B Main Street
Lancaster, NH 03584-3612
(603) 788-3164
FAX (603) 788-4823
email: reg1@wildlife.nh.gov

REGION 2

PO Box 417
New Hampton, NH 03256
(603) 744-5470
FAX (603) 744-6302
email: reg2@wildlife.nh.gov

REGION 3

225 Main Street
Durham, NH 03824-4732
(603) 868-1095
FAX (603) 868-3305
email: reg3@wildlife.nh.gov

REGION 4

15 Ash Brook Court
Keene, NH 03431
(603) 352-9669
FAX (603) 352-8798
email: reg4@wildlife.nh.gov

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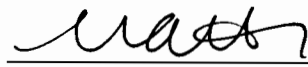
The NHFG will seek Governor and Council approval prior to accepting future gifts, donations and grants subject to this MOA.

Respectfully submitted,

Concurred,



Glenn Normandeau, Executive Director
Fish and Game Department



Meredith Hatfield, Director
Office of Energy and Planning

MEMORANDUM OF AGREEMENT
Between the
COUNCIL ON RESOURCES AND DEVELOPMENT
and the
OFFICE OF ENERGY AND PLANNING - Conservation Land Stewardship Program
and the
NEW HAMPSHIRE DEPARTMENT OF FISH AND GAME
for the
Monitoring of Conservation Easements under Endowment

This Memorandum of Agreement (MOA) is entered into by the Council on Resources and Development (CORD), Office of Energy and Planning, Conservation Land Stewardship Program (OEP-CLS), and New Hampshire Fish and Game Department (NHFG).

Whereas, NHFG is mandated by RSA 206:4-a to conserve, protect and manage fish, wildlife, and marine resources and to acquire, develop and manage lands and waters for recreational purposes; and

Whereas, NHFG acquire conservation easements in perpetuity to protect fish and wildlife habitat and to provide public access to said lands; and

Whereas, NHFG periodically receives gifts, donations and grants as endowment to ensure that stewardship monitoring and enforcement will occur in perpetuity on said lands; and

Whereas, CORD is authorized under RSA 162-C:8 to accept gifts, donations, and grants to the Land Conservation Endowment to be utilized for monitoring and enforcing land conservation interests that may be acquired by the state; and

Whereas, CORD, through the OEP-CLS, has the technical expertise to efficiently carry out easement stewardship, monitoring, and enforcement activities and currently carries out these activities pursuant to RSA 162-C for conservation interests acquired through the Land Conservation Investment Program (LCIP) ;

Now Therefore, all parties agree as follows:

- 1) This Agreement applies to all gifts, donations and grants deposited into the Land Conservation Endowment by NHFG pursuant to RSA 162-C:8, and to stewardship of the associated non-LCIP conservation easements held by NHFG for which the funds were received.
- 2) This Agreement covers a ten (10) year time period commencing on the date of Governor and Council approval through June 30, 2023. It is the intention however of the parties to continue the long-term stewardship of conservation lands through timely renewal of this Agreement. This Agreement may be amended in writing if necessary with the consent of all parties.
- 3) CORD, OEP-CLS, and NHFG agree to cooperate as follows:

NHFG agrees to:

- 1) at NHFG's discretion, deposit funds into the Land Conservation Endowment in accordance with RSA 162-C:8 for the purpose of providing conservation easement stewardship support for the

specific easement lands for which the funds were received. The donated amount shall be agreed upon by NHFG and OEP/CLS prior to deposit into the endowment and shall be deemed to be sufficient to generate interest in the long-term to support stewardship efforts for the easement land in perpetuity; and

- 2) provide technical and enforcement support to OEP-CLS regarding the prevention or enforcement of violations or diminution of the terms of any conservation easement deed which is part of this Agreement. NHFG shall have final determination of the disposition of enforcement of the terms of any easement; and
- 3) review and approve/disapprove actions of the Grantor as required by any conservation easement deed which is part of this Agreement; and
- 4) assign responsible staff to serve as the contact person with OEP-CLS regarding any provision of the Agreement.

CORD agrees to:

- 1) at CORD's discretion, in consultation with OEP-CLS, accept endowment contributions from NHFG into the Land Conservation Endowment and allow expenditures from the endowment in accordance RSA 162-C:8 for the purpose of providing conservation easement stewardship support for each of the specific easement lands for which the funds were received; and
- 2) authorize OEP-CLS to carry out stewardship support responsibilities as stated herein.

OEP-CLS agrees to:

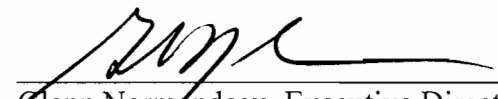
- 1) conduct easement monitoring on each of the easement lands associated with the endowment contribution which generally will include:
 - a. conducting easement monitoring to ensure that conditions of the conservation easement are being met annually (every 12 – 14 months) on each parcel. This shall include, when practical, a personal contact/visit with the landowner(s) or their representative(s) to discuss the easement and any proposed or undertaken activities related to it; and
 - b. maintaining hard and electronic copies of all correspondence, monitoring reports and information regarding changes of address, changes in land management that may affect wildlife habitat, other land management issues etc. for each parcel; and
 - c. developing and maintaining a database to track parcels, landowners, status, etc. and
 - d. conducting aerial monitoring and photography as necessary or desirable to document the condition of the parcels; and
 - e. resolving, to the extent practicable, any and all conflicts which arise from the enforcement of the conditions of the easement
- 2) provide NHFG with copies of all monitoring reports and correspondence for each parcel; and
- 3) meet with NHFG as necessary to resolve any problems which may arise; and

4) serve as the point of contact for requests by the Grantor of activities requiring prior Grantee approval and coordinate with NHFG as necessary to insure that review and approval/disapproval is conducted as required by any conservation easement deed that is part of this Agreement;

5) report annually to CORD on stewardship responsibilities under agreement.

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

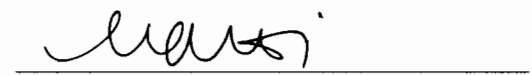
Approved By:


Glenn Normandeau, Executive Director
NH Fish and Game Department

6/18/13
Date


Joanne Cassulo, Senior Planner
NH Office of Energy and Planning

6/24/13
Date


Meredith A. Hatfield, Chair
Council on Resources and Development

6/21/13
Date

Approved by the ATTORNEY GENERAL this 25 day of June, 2013.

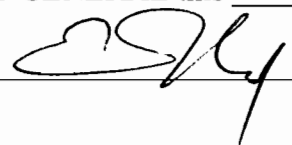
Assistant Attorney General 

Exhibit A

Background on the Office of Energy and Planning – 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 Energy and Planning.

The former Land Conservation Investment Program¹ 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 of the primary goals of the CLS Program is to educate and work with landowners to resolve

¹ 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.

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 Resources and Economic Development's (DRED) 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 89 conservation easements (totaling approximately 38,000 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 DRED 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.