



THE STATE OF NEW HAMPSHIRE  
DEPARTMENT OF TRANSPORTATION

27



William Cass, P.E.  
Commissioner

David Rodrigue, P.E.  
Assistant Commissioner

Andre Briere, Colonel, USAF (RET)  
Deputy Commissioner

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

Bureau of Right-of-Way  
September 5, 2023

**REQUESTED ACTION**

Pursuant to RSA 4:39-c and 228:31, authorize the New Hampshire Department of Transportation (Department) to grant a permanent access easement (Easement) over state-owned property to a parcel of land located at 36 Horse Point Road, in the Town of Belmont. The Easement will be granted to JCB, LLC (Grantee) at zero cost. This Easement will be subject to conditions as specified in this request, effective upon Governor and Executive Council approval.

**EXPLANATION**

The Grantee owns a 20 +/- acre parcel of land located at the address mentioned above. The proposed location for the Easement will be approximately 254'-304' north of the endpoint of the Lake Winnisquam Scenic Trail on Leslie E Roberts Drive (f/n/a Town Beach Access Drive) and will provide a 50' right-of-way. This Easement will impact three parcels of state-owned land, one of which is a portion of the state-owned Concord-Lincoln railroad corridor right-of-way identified in the town tax records as Map 104, Lot 001. The other two parcels, identified in the town tax records as Map 201, Lots 10 and 14, were acquired as Limited Access Right of Way (LAROW) for the Franklin-Laconia, F-029-1(2), P-3962D Project (Franklin-Laconia Project), which was never constructed.

Access to the Grantee's parcel was granted via a Temporary Encroachment and Access Agreement (Agreement), between the Department and Alton Bay Realty Trust executed in 1998. The Agreement states in paragraph 1) "*The Encroachment is herein described as the right to pass and repass along the existing gravel driveway for use by the owner, over property of the Department for the purposes of gaining access to property of the owner adjacent to the highway corridor acquired as part of the above-referenced project*". The Agreement further states in paragraph 2) "*This Agreement shall be temporary pending execution of a permanent deeded access point through the Limited Access Right-of-Way of the above-referenced project. Said Agreement and access shall run with the property and is transferable to subsequent owners of the property*". The Department has no evidence that a permanent deeded access point was conveyed and as stated previously, the Franklin-Laconia Project was not constructed. Included for your reference is the 1998 Agreement and aerial photograph depicting the gravel driveway, the project plan, the Lake Winnisquam Scenic Trail Phase I Title Sheet, and the relevant tax map. The Grantee is currently accessing their property over a portion of the Lake Winnisquam Scenic Trail.

If approved, this Easement will be conveyed at the request of the Grantee and not at the option of the Department, as discussed in paragraph 5) of the Agreement, thus the cost involved with the construction of a new access road serving the Grantee's lot will not be incurred by the Department. Given the information provided, the Department is requesting to convey the Easement at no cost to the Grantee.

The Department reviewed this request and determined the area of interest is surplus to the Department's operational needs. The sale will include the following conditions:

- The Grantee is required to commission a Land Surveyor licensed in New Hampshire, to survey and prepare a plan depicting the location and limits of the Easement and right-of-way, meeting the NH Code of Administrative Rules 503.09, to be submitted to the Department for review and approval. Upon approval by the Department, the plan shall be recorded under RSA 478:1-a, in the Belknap County Registry of Deeds, from which the Department will prepare the Easement Deed.
- The Grantee will be required to obtain all local and state land use approvals precedent to the closing.

At the September 15, 2023, meeting of the Long-Range Capital Planning and Utilization Committee, the request (LRCP 23-022) was approved allowing the Department to grant this Easement directly to JCB, LLC at zero cost and to waive the administrative fee of \$1,100.

The Department respectfully requests authorization to grant this Easement as noted above.

Respectfully,



William J. Cass, P.E.  
Commissioner

WJC/SJN  
Attachments

STATE OF NEW HAMPSHIRE  
DEPARTMENT OF TRANSPORTATION

TEMPORARY ENCROACHMENT AND ACCESS AGREEMENT

812099

THIS AGREEMENT entered into this day between Alton Bay Realty Trust, whose address is 100 Federal Street, Boston, MA 02110, by Elizabeth B. Pugh, Trustee whose address is 3 Rock Street, Cold Spring, NY 10516, and by BankBoston N.A., Trustee, whose address is BankBoston N.A., 100 Federal Street, Boston, MA 02110, hereinafter collectively referred to as the Owner ("Owner" to include any individual or entity but only during their time of recorded ownership of the premises for which this Agreement is executed); and the State of New Hampshire Department of Transportation, whose address is 1 Hazen Drive, PO Box 483, Concord, NH 03302-0483, hereinafter referred to as the Department.

WITNESSETH, THAT, the Owner and the State of New Hampshire, Department of Transportation, do hereby covenant and agree to the following stipulations relative to a certain portion of a premises, herein termed an Encroachment, located within the highway right-of-way as shown on a plan of Franklin - Laconia P-3962-D on file in the Department of Transportation.

- 1) The Encroachment is herein described as the right to pass and repass along the existing gravel driveway for use by the Owner, over property of the Department for the purposes of gaining access to property of the Owner located adjacent to the highway corridor acquired as part of the above-referenced project, said property of the Owner being referred to as Parcel 4-A and being formerly owned by Winnisquam Realty Trust.
- 2) This Agreement shall be temporary pending execution of a permanent deeded access point through the Limited Access Right-of-Way of the above referenced project. Said Agreement and access shall run with the property and is transferable to subsequent owners of the property. Approval for granting this access point shall also be requested of the Governor and Executive Council prior to the execution of the access deed. However, upon execution of a permanent access deed the Owner shall still be accountable for all maintenance and liability issues regarding this access as described in this Agreement.
- 3) The Owner is fully responsible for all maintenance and liabilities that may be required for and associated with the use of this access and Encroachment. However, the Owner shall not cut or remove any trees, shrubs, or vegetation in the Encroachment area other than those that specifically require removal for maintenance of the driveway access in the Encroachment area.
- 4) The Encroachment area shall never be used for any other purposes. Any relocation or reconstruction of the driveway and approach proposed by the Owner shall require prior concurrence from the NHDOT District 3 office (603-524-6667).
- 5) In the event that an approach or access road ever is constructed to serve the adjacent Belmont Town Beach area by means of a signalized intersection with US Route 3 and the westbound off-ramp of the existing Laconia By-Pass, the access driveway and Encroachment being used by the Owner may, at the Department's option, be relocated and connected to this new signalized access and approach to US Route 3. Said driveway access relocation shall be constructed at no cost to the Owner and shall replace and eliminate the existing driveway access of the Owner.
- 6) The Encroachment area and use thereof shall not interfere, prevent, or obstruct adequate sight distance for the safe movement of all types of traffic entering or leaving the subject premises, as stipulated by standard highway design requirements as determined by the Commissioner of the Department of Transportation, nor shall the Encroachment allow any permanent fixtures. However, fixtures erected by the Owner to prevent unauthorized access to the property shall be allowed, providing prior concurrence is obtained from the NHDOT District 3 office (603-524-6667).
- 7) The Encroachment and use thereof shall in no way interfere, prevent, or obstruct any or all highway maintenance activities.
- 8) If the Encroachment and use thereof is found to interfere, prevent, or obstruct either the safe movement of all types of traffic, or highway maintenance and repair activities, the obstruction shall be removed promptly by the owners, their successors, or assigns upon notification by the State of New Hampshire. If the Owner, its successors, or assigns do not promptly remove said obstructions when so notified, the State of New Hampshire will eliminate the obstruction as necessary with no liability for damages to any or all items whatsoever.

BK 1487 PG 4 88

9) By signing this Agreement, the Owner hereby agrees to defend, indemnify and hold harmless the State of New Hampshire, its officers and employees, from and against any and all claims, liabilities, or penalties brought or assessed against the State, its officers and employees, by or on behalf of any person, on account of, based on, resulting from, arising out of (or which may be claimed to arise out of), the privileges granted by this Agreement. This covenant shall survive the termination of this Agreement.

10) Further, by signing this Agreement, the Owner hereby agrees to defend, indemnify and hold harmless the State of New Hampshire, its officers and employees, from and against any and all claims, liabilities, or penalties brought or assessed against the Owner, its officers and employees, by or on behalf of any person, on account of, based on, resulting from, arising out of (or which may be claimed to arise out of), the privileges granted by this Agreement. This covenant shall survive the termination of this Agreement.

By: Elizabeth B. Pugh  
Elizabeth B. Pugh, Trustee, Alton Bay Realty Trust

SS. August 27, 1998 A.D., 1998

Personally appeared the above named individual(s) and acknowledged the foregoing instrument to be (his/her/their) voluntary act and deeds. Before me: Elizabeth B. Pugh

Blair U. Brooks  
Notary Public/Justice of the Peace  
My commission expires on 12/31/98

By: William J. Fournier  
BankBoston (Trustee), Trustee, Alton Bay Realty Trust

SS. September 1, 1998 A.D., 1998

Personally appeared the above named individual(s) and acknowledged the foregoing instrument to be (his/her/their) voluntary act and deeds. Before me:

Katherine M. Brennan  
Notary Public/Justice of the Peace  
My commission expires on 12/31/99

Executed this 1 day of September

Matthew W. Richardson

Leon S. Kenison  
Leon S. Kenison, Commissioner  
Department of Transportation

STATE OF NEW HAMPSHIRE Merrimack SS. September 1998

On this 1<sup>ST</sup> day of September 1998 before me, David M. Clifford the undersigned officer, personally appeared

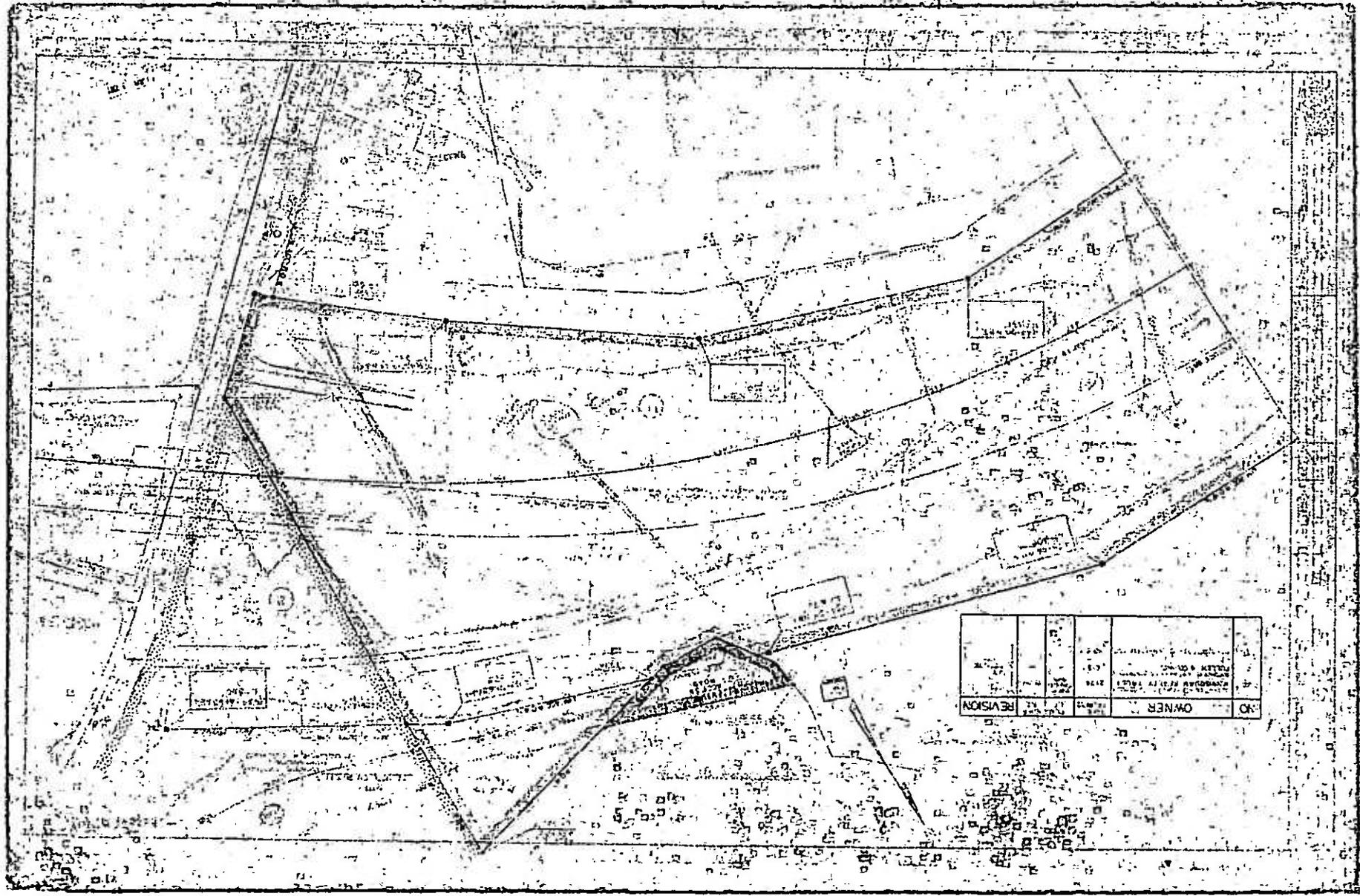
Leon S. Kenison, who acknowledged as being the Commissioner of the Department of Transportation, and that as such Commissioner, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the State of New Hampshire as the Commissioner of the Department of Transportation.

IN WITNESS WHEREOF I have hereunto set my hand and seal  
RECEIVED

98 SEP -1 PM 1:39  
Rachel M. Normandin  
BELKNAP COUNTY  
Registrar

David M. Clifford  
Notary Public/Justice of the Peace  
My commission expires on 4/6/99

BK1487 PG489



NO.	OWNER	DATE	REVISION

2  
1  
1  
1

# Gravel Driveway 1998

US Route 3 and Laconia By-Pass

## Legend

- Belmont Trail
- Big Lots
- Leslie E. Roberts Beach & Recreation Area
- Planet Fitness
- Sharon E. Johnson, DMD Periodontics &?
- Shaw's



**INDEX OF SHEETS**

SHEET	TITLE
1	TITLE SHEET
2	TYPICAL SECTIONS
3-10	PLAN AND PROFILE
11-17	CROSS SECTION
18-20	CONSTRUCTION DETAILS

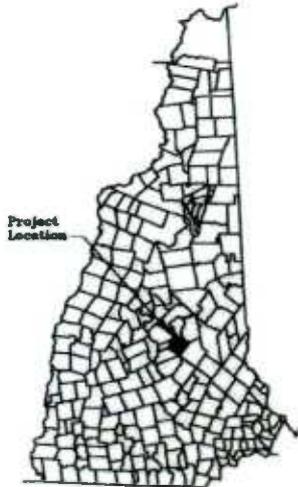
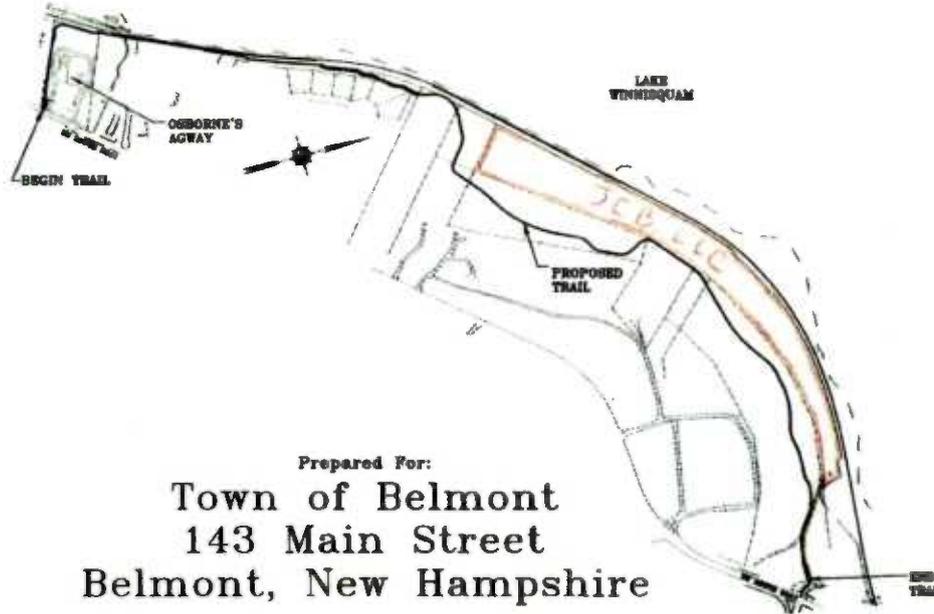
**GENERAL NOTES**

1. WETLAND RESOURCE BOUNDARIES WERE DELINEATED BY CHRIS GALESKO OF THE LOUIS BERGER GROUP, INC. UNDER THE SUPERVISION OF CRAIG WOOD, CERTIFIED WETLAND SCIENTIST #109 OF THE LOUIS BERGER GROUP, INC. ON 8/7-8/4 2008.
2. WETLANDS DELINEATED IN ACCORDANCE WITH THE NEW HAMPSHIRE WETLAND RULES AND THE 1987 FEDERAL MANUAL: ARMY CORPS OF ENGINEERS WETLANDS DELINEATION MANUAL (1987).
3. BASE PLAN BASED ON FIELD SURVEY PERFORMED BY RICHARD BARTLETT ASSOC. INC.
4. HORIZONTAL REFERENCE IS BASED ON STATE PLANE COORDINATES
5. VERTICAL REFERENCE IS BASED ON MAND 88.

**BELMONT, NH**  
**LAKE WINNISQUAM SCENIC TRAIL**  
**PHASE I**  
**NHDOT PROJECT NO. 14400**  
**FEDERAL PROJECT NO. X-A000(340)**  
**FINAL PLANS**  
**APRIL 1, 2015**

**LEGEND**

	RAILROAD TRACKS(RAIL)
	RAILROAD TRACKS CENTERLINE
	RAILROAD TRACKS(RAIL)
	PROPERTY LINE
	EDGE OF PAVEMENT
	LIMIT OF WORK
	WETLAND DELINEATION
	EXISTING ROW
	PROPOSED EASEMENT
	OVERHEAD WIRES
	DRAINAGE LINE
	SEWER LINE
	RETAINING WALL
	EDGE OF WOODS
	CONCRETE
	W/P-RAP
	IRON PIPE OR REBAR
	GRANITE OR CONCRETE BOUND
	DRILL HOLE
	UTILITY POLE
	SEWER MANHOLE
	DRAIN MANHOLE
	CATCH BASIN
	SIGN
	WETLAND FLAG
	BOULDER
	HARDWOOD TREE
	SOFTWOOD TREE
	SHRUB OR BUSH



**LOCATION MAP**



**LOCUS MAP**

Prepared For:  
**Town of Belmont**  
**143 Main Street**  
**Belmont, New Hampshire**



**THE Louis Berger Group, INC.**  
180 Commercial Street, 2nd Floor, Belmont, Massachusetts 02149  
 Tel: 603 644 3000  
 Fax: 603 644 3250  
 www.louisberger.com

**LAKE WINNISQUAM SCENIC TRAIL**  
**PHASE I**  
**TITLE SHEET**

DATE: 04/01/15  
 DRAWN BY: [Name]  
 CHECKED BY: [Name]  
 PROJECT NO: 14400  
 SHEET NO: 1



**STATE OF NEW HAMPSHIRE  
INTER-DEPARTMENT COMMUNICATION**

**LOCP 23-022**

**FROM:** Stephen G. LaBonte  
Administrator



**DATE:** July 31, 2023

**AT:** Dept. of Transportation  
Bureau of Right-of-Way

**SUBJECT:** Granting of an Access Point in Belmont  
RSA 4:39-c

Approved by the Long Range  
Capital Planning & Utilization  
Committee September 15, 2023

**TO:** Representative Mark McConkey, Chairman  
Long Range Capital Planning and Utilization Committee

**REQUESTED ACTION**

The New Hampshire Department of Transportation (Department), pursuant to RSA 4:39-c, requests authorization to convey a permanent access easement across state-owned land, to a parcel located at 36 Horse Point Road in the Town of Belmont. This access will be granted to JCB, LLC (Grantee) at zero cost and will be subject to conditions as specified in this request.

Pursuant to RSA 4:40, III-a, the Department requests that the Long-Range Capital Planning and Utilization Committee waive the \$1,100 administrative fee.

**EXPLANATION**

The Grantee owns a 20 +/- acre parcel of land located at the address mentioned above. The proposed location for the access easement will be approximately 254'-304' north of the end point of the Lake Winnisquam Scenic Trail on Leslie E. Roberts Drive (f/k/a Town Beach Access Drive) and will provide a 50' right-of-way. This access easement will impact three parcels of state-owned land, one of which is a portion of the New England Southern Railroad right-of-way identified on the town tax records as Map 104, Lot 001. The other two parcels, identified on the town tax records as Map 201, Lots 10 and 14, were acquired as Limited Access Right of Way (LAROW) for the Franklin-Laconia, F-029-1(2), P-3962D Project (Franklin-Laconia Project), which was never constructed.

Access to the Grantee's parcel was granted via a Temporary Encroachment and Access Agreement (Agreement), between the Department and Alton Bay Realty Trust executed in 1998, allowing the Grantee's predecessor in interest "the right to pass and repass along the existing gravel driveway." See Agreement, ¶ 1. The Agreement further states that "the access shall be temporary pending execution of a permanent deeded access point through the LAROW" of the Franklin-Laconia Project and will run with the property. Agreement, ¶ 2. The Department has no evidence that a permanent deeded access point was subsequently conveyed and as stated previously, the Franklin-Laconia Project was not constructed. The Temporary Encroachment and Access Agreement, a 1998 aerial photograph depicting the gravel driveway, the project plan, the Lake Winnisquam Scenic Trail Phase I Title Sheet, and relevant tax map have been included for your reference. The Grantee is currently accessing the property over a portion of the Lake Winnisquam Scenic Trail.

If approved, this access easement will be conveyed at the request of the Grantee and not at the option of the Department, as discussed in ¶ 5 of the Agreement, thus the cost involved with the construction of a new access road serving the Grantee's lot will not be incurred by the Department. Given the information provided, the Department is requesting to convey the access easement at no cost to the Grantee.

After a departmental review, it was determined that conveying the proposed access easement is surplus to the Department's operational needs and available for disposal. This access point will be conveyed with the following conditions:

- The Grantee will commission a Land Surveyor licensed in New Hampshire, to survey and prepare a plan depicting the location and limits of the access driveway and the limits of the right-of-way, meeting the NH Code of Administrative Rules 503.09, to be submitted to the Department for review and approval. Upon approval by the Department, the plan shall be recorded under RSA 478:1-a, in the Belknap County Registry of Deeds, from which the Department will prepare the Access Deed.
- The Grantee will be required to obtain all local and state land use approvals precedent to the closing.

The Department respectfully requests authorization to grant this permanent access point as outlined above.

SGL/SJN/  
Attachments