

Vermont Department of Environmental Conservation
Watershed Management Division
430 Asa Bloomer State Office Building
Rutland, VT 05701



Agency of Natural Resources

MEMORANDUM

To: Sarah London, General Counsel
From: Shannon Pytlik, DEC Rivers Program
Date: October 21, 2015
RE: Governor's Approval for acquiring three easements on the Nulhegan River in Bloomfield

These three acquisitions are easements on properties along the Nulhegan River in Bloomfield, Vermont. The properties are as follows:

- 72+/- acre easement on the Merck Property with frontage on the East Branch and mainstem of the Nulhegan. This property will be owned and managed by the Vermont River Conservancy.
- 120 +/- acre easement along the Norcott property with frontage on the East Branch of the Nulhegan
- 7.2 +/- acre easement along the Dumain property with frontage on the East Branch of the Nulhegan. This property will be owned and managed by the Vermont River Conservancy.

Included with the Governor's approval memo are maps of the properties and surrounding area and a letter from the Bloomfield Selectboard dated October 15, 2015 in support of the acquisition.

If you have any questions regarding this acquisition, please contact me at 802 490-6158 or at shannon.pytlik@vermont.gov , thank you.



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Rutland, VT 05701



Agency of Natural Resources

MEMORANDUM

TO: Peter Shumlin, Governor

THROUGH: Deborah L. Markowitz, Secretary, Agency of Natural Resources *DM*

FROM: Alyssa B. Schuren, Commissioner, Department of Environmental Conservation *(Signature)*

DATE: October 21, 2015

SUBJECT: Approval for Acquisition of an easement on 72 +/- acre Merck Property along the East Branch of the Nulhegan in Bloomfield

Your approval is requested pursuant to Title 10, Chapter 103, Section 4144, VSA, for the acceptance of the acquisition referenced above. This acquisition was reviewed and recommended for acquisition by the Agency of Natural Resources Land Acquisition Review Committee on June 4, 2015 and subsequently approved by the Secretary on September 21, 2015.

Description

The Merck parcel is a 72 acre parcel with river frontage on both the Nulhegan and the East branch of the Nulhegan. The property contains a very dynamic river system that provides significant water quality and flood resiliency benefits. The property was purchased in June of 2015 by the Vermont River Conservancy (VRC).

Ownership and Management

The Merck property will be owned and managed by the Vermont River Conservancy. The State of Vermont, Department of Environmental Conservation will co-hold a River Corridor Easement with VRC on the land which will restrict the management of the floodplain, river corridor and in channel work. The property will be available to visitors for dispersed, pedestrian public access.

Budget and Funding

The State of Vermont will co-hold a conservation easement on the property. Associated closing costs are expected to be approximately \$ 51,736 and will be paid with funds from the Ecosystem Restoration Program (grants # 2016-ERP-3-03, and 2015-ERP-3-05).

APPROVAL FOR LAND ACQUISITION

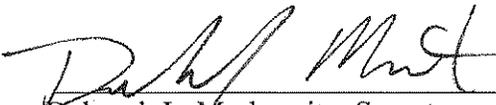
We, the undersigned, hereby approve the acquisition by the State of Vermont, Agency of Natural Resources, Department of Environmental Conservation, of a 72 +/- acre property, located in the Town of Bloomfield.

This approval is pursuant to Title 10, Chapter 103, Section 4144 for acceptance of the land acquisition referenced above.

11/16/15
Date


Peter Shumlin, Governor
State of Vermont

11-13-15
Date


Deborah L. Markowitz, Secretary
Agency of Natural Resources

11/12/15
Date


Alyssa B. Schuren, Commissioner
Dept. of Environmental Conservation

APPROVAL FOR LAND ACQUISITION

We, the undersigned, hereby approve the acquisition by the State of Vermont, Agency of Natural Resources, Department of Environmental Conservation, of a 120 +/- acre property, located in the Town of Bloomfield.

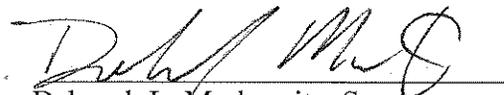
This approval is pursuant to Title 10, Chapter 103, Section 4144 for acceptance of the land acquisition referenced above.

11/18/15
Date



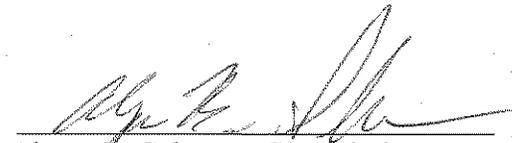
Peter Shumlin, Governor
State of Vermont

11-13-15
Date

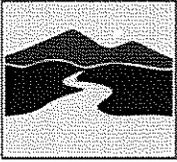


Deborah L. Markowitz, Secretary
Agency of Natural Resources

11/12/15
Date



Alyssa B. Schuren, Commissioner
Dept. of Environmental Conservation



Vermont Department of Environmental Conservation
Watershed Management Division
430 Asa Bloomer State Office Building
Rutland, VT 05701



Agency of Natural Resources

MEMORANDUM

TO: Peter Shumlin, Governor

THROUGH: Deborah L. Markowitz, Secretary, Agency of Natural Resources *DM*

FROM: Alyssa B. Schuren, Commissioner, Department of Environmental Conservation *AS*

DATE: October 21, 2015

SUBJECT: Approval for Acquisition of an easement on 120 +/- acre Norcott Property along the East Branch of the Nulhegan in Bloomfield

Your approval is requested pursuant to Title 10, Chapter 103, Section 4144, VSA, for the acceptance of the acquisition referenced above. This acquisition was reviewed and recommended for acquisition by the Agency of Natural Resources Land Acquisition Review Committee on June 4, 2015 and subsequently approved by the Secretary on September 21, 2015.

Description

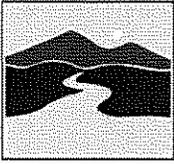
The Norcott parcel is a 120 acre parcel with river frontage on the East branch of the Nulhegan. The property contains a very dynamic river system that provides significant water quality and flood resiliency benefits.

Ownership and Management

The Norcott property will remain in private ownership. The Vermont River Conservancy and the State of Vermont, Department of Environmental Conservation will co-hold a River Corridor Easement on the land which will restrict the management of the floodplain, river corridor and in channel work.

Budget and Funding

Associated closing costs are expected to be approximately \$83,750 and will be paid with funds from Ecosystem Restoration Grant #2016-ERP-3-03 (\$19,000) and from the Upper Connecticut River Mitigation and Enhancement Fund (\$64,750).



Vermont Department of Environmental Conservation
Watershed Management Division
430 Asa Bloomer State Office Building
Rutland, VT 05701



Agency of Natural Resources

MEMORANDUM

TO: Peter Shumlin, Governor

THROUGH: Deborah L. Markowitz, Secretary, Agency of Natural Resources 

FROM: Alyssa B. Schuren, Commissioner, Department of Environmental Conservation

DATE: October 21, 2015

SUBJECT: Approval for Acquisition of an easement on 7.2 +/- acre Dumain Property East Branch of the Nulhegan in Bloomfield

Your approval is requested pursuant to Title 10, Chapter 103, Section 4144, VSA, for the acceptance of the acquisition referenced above. This acquisition was reviewed and recommended for acquisition by the Agency of Natural Resources Land Acquisition Review Committee on June 4, 2015 and subsequently approved by the Secretary on September 21, 2015.

Description

The Dumaine parcel is a 7.2 acre parcel that was acquired by the Vermont River Conservancy (VRC) in 2009 with funding from the Upper Connecticut Mitigation and Enhancement Fund. The proposed conservation easement will protect the parcel from development and create permanent public access.

Ownership and Management

The property will be owned and managed by the Vermont River Conservancy. The State of Vermont, Department of Environmental Conservation will co-hold a River Corridor Easement on the land with the Vermont River Conservancy which will restrict the management of the floodplain, river corridor and in channel work. The riparian buffer on this property will be restored. The property will be available to visitors for dispersed, pedestrian public access.

Budget and Funding

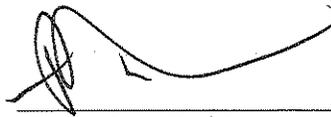
Associated closing costs for acquiring the easement are expected to be approximately \$3,500 and will be paid with funds from Ecosystem Restoration Program Grant #2016-ERP-3-03).

APPROVAL FOR LAND ACQUISITION

We, the undersigned, hereby approve the acquisition by the State of Vermont, Agency of Natural Resources, Department of Environmental Conservation, of a 7.2 +/- acre property, located in the Town of Bloomfield.

This approval is pursuant to Title 10, Chapter 103, Section 4144 VSA for acceptance of the land acquisition referenced above.

11/18/15
Date



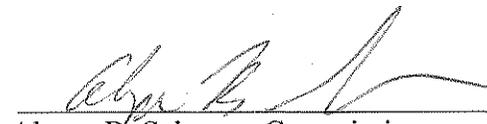
Peter Shumlin, Governor
State of Vermont

11-13-15
Date



Deborah L. Markowitz, Secretary
Agency of Natural Resources

11/12/15
Date


Alyssa B. Schuren, Commissioner
Dept. of Environmental Conservation

Town of Bloomfield
27 Schoolhouse Rd
Bloomfield, VT 05905

October 15, 2015

Shannon Pytlik
River Scientist
Vermont Department of Environmental Conservation
450 Asa Bloomer State Office Building
88 Merchants Row
Rutland, Vermont 05701-5903

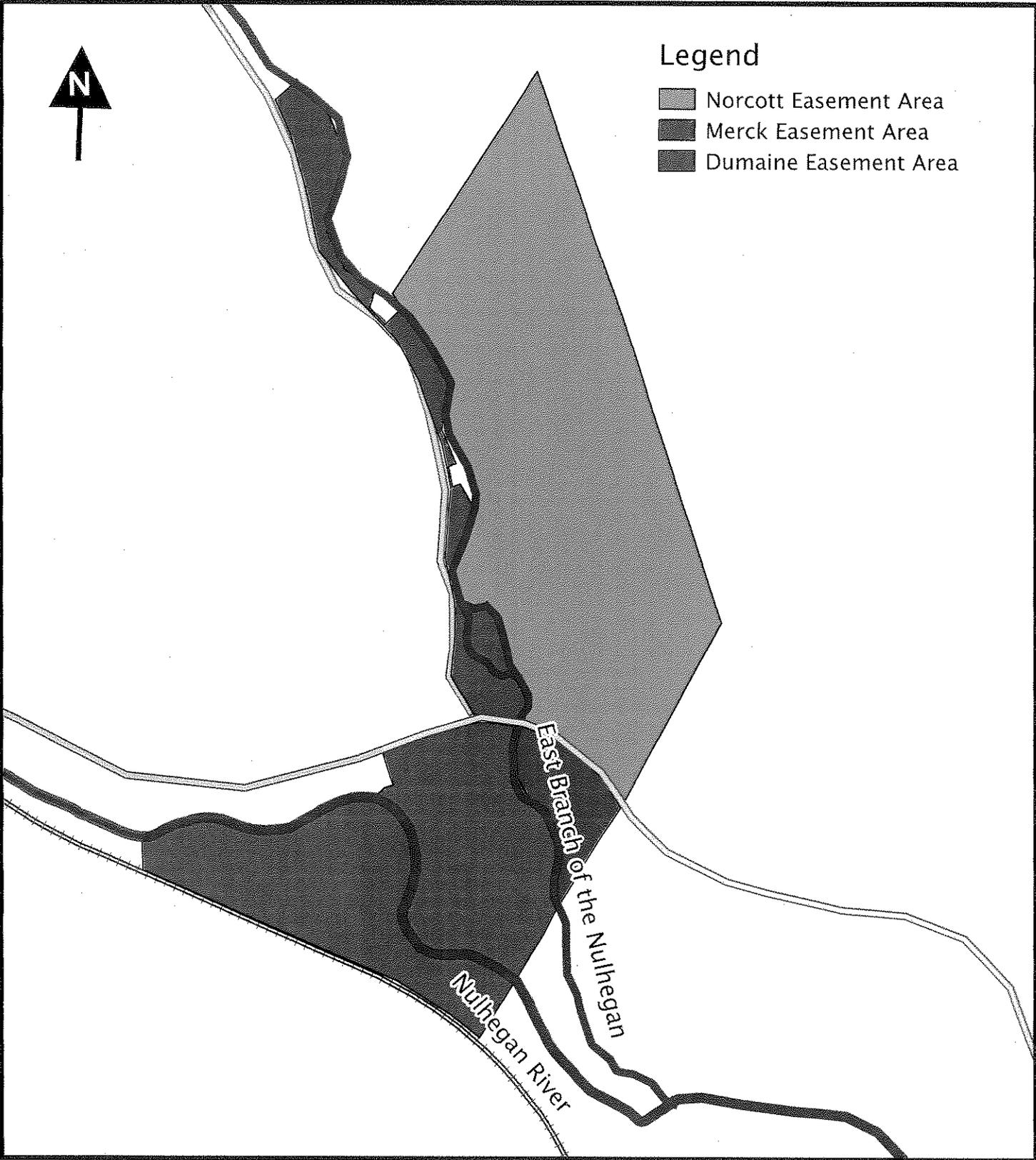
Dear Ms. Pytlik,

The Town of Bloomfield Selectboard met with Steve Libby from the Vermont River Conservancy at its September 21, 2015 meeting. Mr. Libby discussed the proposed Conservation Easements to be placed on the Merck, Dumaine, and Norcott properties along the Nulhegan River. These easements will permanently conserve the three properties to allow the Nulhegan River to access its floodplain and create a 100 foot buffer of permanent vegetation along the river. We understand the Merck and Dumaine properties will also be open for hunting, fishing and other recreational public access uses.

We voted at the September 21, 2015 Selectboard meeting to support the proposed easements as they will provide long term enhancement of wildlife habitat, public access for recreational use (Dumaine and Merck parcels), and access to critical floodplain areas on all three properties during high water events.

Thank You,
Town of Bloomfield Selectboard
Samuel Boudle
Eric Brault
Lance Walling

Norcott, Merck, Dumaine River Corridor Easements

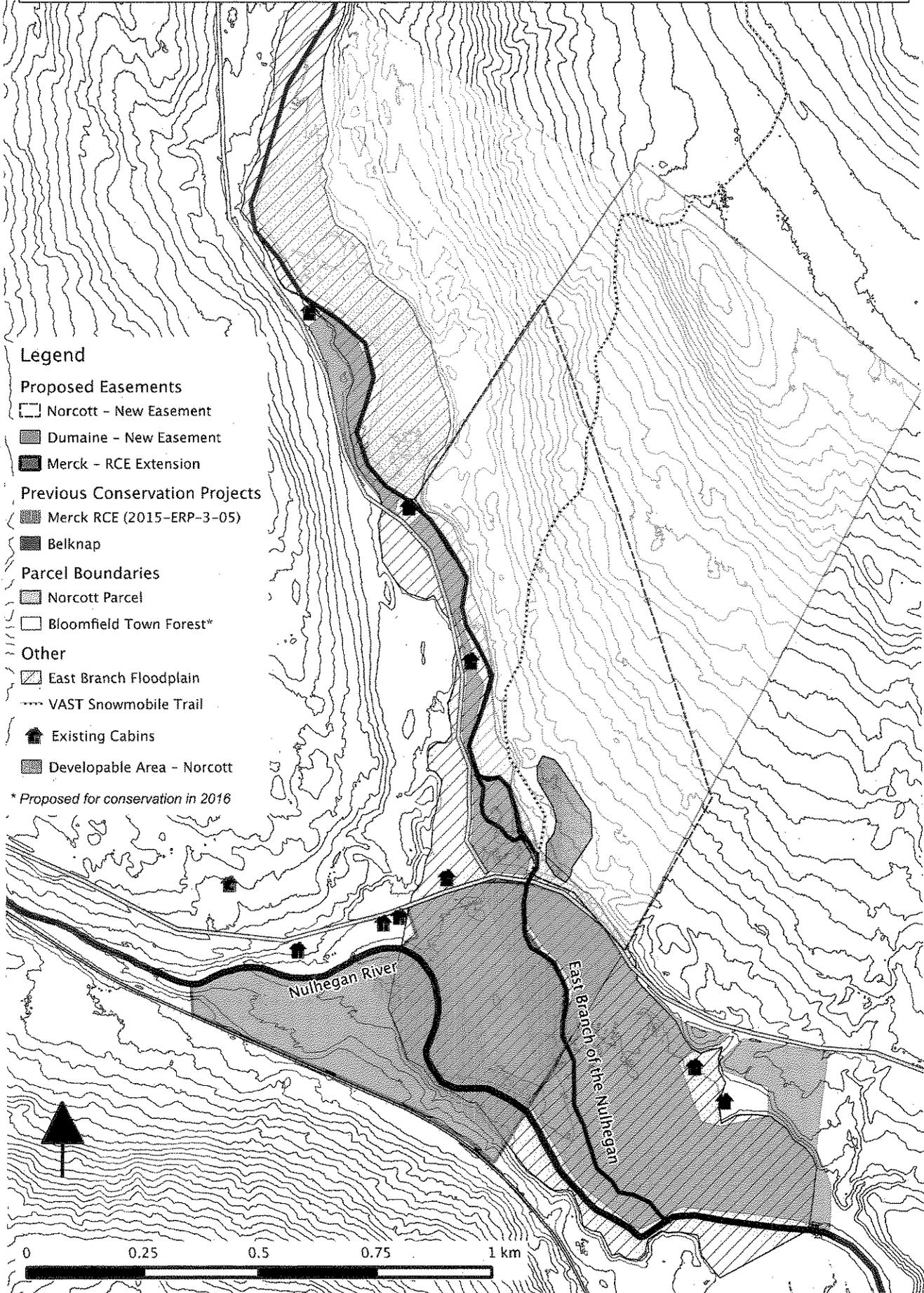


Legend

- Norcott Easement Area
- Merck Easement Area
- Dumaine Easement Area

0 0.5 1 mi

Nulhegan River Confluence Conservation Project





Natural Resources Atlas

Vermont Agency of Natural Resources

vermont.gov



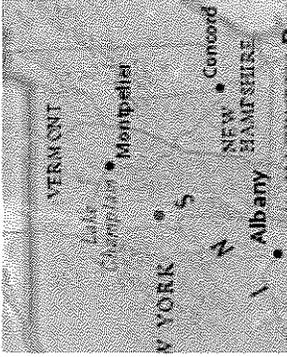
1: 12,638

November 16, 2015



642.0 321.00 642.0 Meters
0 321.00 642.0 Meters
1" = 1053 Ft. 1cm = 126 Meters
WGS_1984_Web_Mercator_Auxiliary_Sphere
© Vermont Agency of Natural Resources
THIS MAP IS NOT TO BE USED FOR NAVIGATION

DISCLAIMER: This map is for general reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable. ANR and the State of Vermont make no representations of any kind, including but not limited to, the warranties of merchantability, or fitness for a particular use, nor are any such warranties to be implied with respect to the data on this map.



LEGEND

- Landfills
 - OPERATING
 - CLOSED
- Hazardous Waste Site
- Hazardous Waste Generators
- Brownfields
- Salvage Yard
- Underground Storage Tank (w/...)

NOTES

Map created using ANR's Natural Resources Atlas

RIVER CORRIDOR CONSERVATION EASEMENT

Preface:

The initial non-binding paragraph summarizes this document for the convenience of the reader. In the event of a conflict between this preface and the body of the Easement, the body controls.

*This document creates a permanent set of rights and interests granted by the Landowner to the Vermont River Conservancy creating a conserved river corridor within which the **Nulhegan River** can freely re-establish its natural slope, meander pattern, and access to its floodplain. Within the corridor, the Vermont River Conservancy and the co-holder, rather than the Landowner alone, generally controls waterway channel management activities such as excavation, placement or removal of gravel or rock, repair or removal of bank revetments or levees, or otherwise manipulating – or refraining from manipulating -- the water course. The document also provides for a buffer zone within the corridor immediately along the waterway itself where native vegetation may be propagated, maintained or controlled by the Vermont River Conservancy. Elsewhere in the corridor the landowner retains the right to use the land for agricultural and forestry purposes -- **subject to the channel re-adjustment process of the waterway**. The landowner can use the corridor land for recreational purposes in a manner that does not erode soil, degrade water quality, or interfere with the basic intent to allow the waterway to meander and access its floodplain.*

KNOW ALL BY THESE PRESENTS that the **Vermont River Conservancy, Inc.** a Vermont nonprofit corporation, on behalf of itself and its successors, and assigns (collectively “Grantor,” also referred to as “**Landowner**”), pursuant to the authority granted in Title 10 V.S.A. Chapter 155 and in consideration of the payment of Ten Dollars and other valuable consideration paid to its full satisfaction, does freely give, grant, sell, convey and confirm unto the **State of Vermont, Agency of Natural Resources (“Agency” or “Holder”)** forever, the development rights and perpetual and assignable River Corridor Conservation Easement and Restrictions (all as more particularly set forth herein), said Easement and Restrictions pertaining to a portion of a certain property located in the Town of Bloomfield, Vermont, and being more particularly described in Schedule A attached hereto and incorporated herein by reference (“**Protected Property**”).

The River Corridor Conservation Easement and Restrictions (referred to as “**Easement**”) hereby conveyed by Landowner to Holder consist of covenants on the part of the Landowner to do or refrain from doing, severally and collectively, the various acts set forth below. It is hereby acknowledged that these covenants shall constitute a servitude upon the land and run with the land in perpetuity.

The development rights hereby conveyed to the Holder shall include all development rights except those specifically reserved by the Landowner, if any, and those reasonably required to carry out the permitted uses of the Protected Property.

This Easement consists of conservation rights and interests provided by Vermont law described in 10 V.S.A. Chapter 34, including Sections 821, 822, 823, and 6303. This Easement may be considered entered into exclusively for conservation purposes as provided by Internal Revenue Code Section 170(h)(5), and further described by U.S. Internal Revenue Code Section 170(h)(4)(A)(iii): “for the preservation of open space (including farmland and forest land) where such preservation is (II) pursuant to a clearly delineated federal, state or local governmental conservation policy, yielding a significant public benefit.”

I. Purposes of this Easement

1. Landowner and Holder acknowledge and agree that the purposes of this Easement are to allow the Nulhegan River (the “river”) to re-establish its natural slope, meander pattern and access to natural floodplains in order to:
 - a. reduce erosion hazards,
 - b. provide flood inundation and fluvial erosion hazard mitigation benefits,
 - c. improve water quality through hydrologic, sediment, and nutrient attenuation,
 - d. conserve and enhance aquatic and riparian wildlife habitat, and
 - e. enhance ecological processes associated with the Protected Property now and in the future.

2. Landowner and Holder acknowledge and agree that it is their intent that this River Corridor Conservation Easement and the delineation of Protected Property, subject to the use and activity limitations set forth herein, will accomplish the above-recited benefits over time, and that, more specifically, the Purposes of this Easement are to carry out the above-stated purposes as follows:
 - a. To accommodate the anticipated equilibrium conditions and associated physical adjustment processes of the river.
 - b. To minimize, to the extent consistent with I.1), above, future conflicts between the anticipated physical adjustment processes of the river and incompatible land use and channel management activities on the Protected Property.

3. These purposes will be advanced by conserving the Protected Property because it possesses the following attributes. The Protected Property:
- a) Contains more than X----- feet of frontage on natural watercourse(s) including the Nulhegan River and its named and unnamed tributaries;
 - b) Includes X--- acres of land, more or less, in which the river is unconstrained by permanent structural modifications and improvements;
 - c) Provides a corridor to accommodate the dimension, pattern, and profile of the Nulhegan River in equilibrium;
 - d) Includes associated wetlands, wildlife habitat, riparian and floodplain vegetation;
 - e) Provides for hydrologic, sediment, and nutrient attenuation;
 - f) Provides flood inundation and fluvial erosion hazard mitigation benefits; and
 - g) Contributes to a sustainable economic, social, and ecological community relationship with the Nulhegan River.

Landowner and Holder recognize the Purposes of this Easement and share the common goal of achieving these purposes by the conveyance of this River Corridor Conservation Easement to avoid the future public and private investments and public safety hazards that would arise from the conversion of riparian corridor lands to uses incompatible with the anticipated physical adjustments of the river, and to prevent the use or development of the Protected Property area for any purpose or in any manner which would conflict with the maintenance of the intent and Purposes of this Easement as set forth in this Section I (“Purposes of this Easement”). Holder accepts the restrictions contained in this Easement in order to achieve these objectives, in whole or in part, for the benefit of present and future generations.

II. Holder Rights

The rights and uses hereby conveyed to the Holder are as follows:

1. The right of access across and within the Protected Property, upon reasonable notice, to conduct any and all management activities provided hereunder including non-invasive research and periodic monitoring of the Protected Property for compliance with terms and conditions of the Easement.
2. The right, in consultation with the Landowner, to mark the boundaries of the Protected Property.

3. The right within the Protected Property, with approval of the Agency consistent with the Purposes of this Easement, to conduct stream and channel management activities including, but not limited to: installing, maintaining, repairing or removing structural elements or improvements including, but not limited to, bank revetments, levees, or earthen fills, adjusting bank height or otherwise manipulating the water courses, or preventing any manipulation of the same.
4. There is hereby established, within the Protected Property immediately along the River and any associated waters, a Riparian Buffer Zone within which vegetative cover may be established and maintained exclusively by Holder or Holder's agents, contractors or licensees to protect bank stability, enhance wildlife and fishery habitat, increase runoff filtration, and otherwise improve water quality. The Riparian Buffer Zone will be measured fifty (50) feet landward from the top of the bank of the river, as it may move from time to time, in addition to the embankment sloping from the top of the bank of the river to the low water mark of the waterway.

Notwithstanding the foregoing, the Riparian Buffer Zone shall remain subject to any contracts pre-existing this Easement under the Vermont Conservation Reserve Enhancement Program (CREP), or pre-existing contracts under the Vermont Agricultural and Managed Forest Land Use Valuation Appraisal ("Current Use") Program, if any. Any new contracts shall be submitted to Holder for its review and approval prior to enactment. Holder reserves the right to disapprove future contracts providing for active agriculture, forestry, or other disturbance of the Riparian Buffer Zone.

IV. Landowner Restrictions

The Landowner shall not, nor allow third parties, including governmental agencies except when required by law, within the Protected Property, to:

1. Place, construct, erect, create or bury permanent structures. For the purpose of this provision, "structure" includes, but is not limited to, an assembly of materials for occupancy or use, including a building, mobile home or trailer, sign, wall, road, bridge, culvert, waste management facility, and livestock housing; however "structure" is not intended to include fences erected for the purpose of animal containment or exclusion.
2. Alter the land surface including filling, excavation, or removal of top soil, sand, gravel, rocks, minerals or otherwise change the topography of the land, except as may be reasonably required to carry out the uses allowed under Section V. 1. on land surfaces

above the "ordinary high water level" as determined by the Agency and in a manner consistent with the Purposes of this Easement.

3. Conduct stream and channel management activities including, but not limited to: installing, maintaining, repairing or removing structural elements or improvements including, but not limited to, bank revetments, levees, or earthen fills, adjusting bank height, removing or depositing sand gravel or otherwise manipulating the water courses, or preventing any manipulation of the same or otherwise undertake any activity which would alter the natural water level or intervene in the natural physical adjustment of the river. This Section shall not apply to stream or channel management activities approved by the Agency consistent with the requirements of Section II.3.
4. Conduct any agricultural, silvicultural or other activities that could disturb the vegetation or soil within the Riparian Buffer Zone without the prior written approval of Holder, which approval may be granted, conditioned, or denied in Holder's sole discretion, except for silvicultural activities allowed under contracts pre-existing the execution of this Easement with the Vermont Agricultural and Managed Forest Land Use Valuation Appraisal Program ("Current Use") or similar successor programs.
5. Convey any right-of-way, or easement for ingress or egress, driveways, roads, utilities or other easements, rights, or covenants over or regarding the Protected Property without the written consent of Holder, which consent may be given or withheld at the exercise of Holder's sole discretion.
6. Subdivide or convey the Protected Property in separate parcels without the prior written approval of Holder, which approval may be granted, conditioned or denied in Holder's sole discretion
7. Otherwise engage or permit any third party to engage in any activity inconsistent with the terms and Purposes of this Easement. Landowner and Holder acknowledge that, in view of the perpetual nature of this Easement, they are unable to foresee all potential future land uses, future technologies, and future evolution of the land and other natural resources, and other future occurrences affecting the Purposes of this Easement. Holder, therefore, in its sole discretion, may determine whether (a) proposed uses or proposed improvements not contemplated by or addressed in this Easement, or (b) alterations in existing uses are consistent with the Purposes of this Easement.

V. Landowner Retained Uses

1. Landowner may conduct agricultural, silvicultural, and low-impact recreational activities on the Protected Property in ways that do not erode soil on the Protected Property, degrade water quality, or interfere with the basic intent to allow the waterway to meander and access its floodplain, and *provided* all such activities remain subject to the natural channel adjustment process of the river, the Permitted Uses by Holder in Section III, the Restrictions on Uses by Landowner in Section IV, and the Purposes of this Easement.
2. Following a flood event, Landowner may remove wood and other non-earthen debris from the Protected Property on surfaces above the ordinary high water level and outside of the Riparian Buffer Zone, but only if necessary to prevent injury or damage to persons or property outside of the Protected Property or to enable the resumption of agricultural, silvicultural or low-impact recreational activity, being conducted within the Protected Property immediately prior to the flood event.
3. Landowner may maintain or replace structures within the Protected Property existing at the time of the execution of this Easement which are documented as permanent in Schedule C, herein and which structures are essential to continued agricultural, silvicultural and low-impact recreational activities, or pre-existing legal rights of others, provided (a) Landowner gives Holder notice at least thirty (30) days before any substantial activity takes place, of Landowner's plans, including engineering designs or permit applications (if any); (b) the improvements remain the same or less than the original structure in size, location and impacts to the river and associated waters and Protected Property so far as possible; and (c) all work associated with such maintenance or replacement be conducted responsibly so as to maintain or improve soil and water quality, and further the Purposes of this Easement.
4. To the extent necessary to prevent or mitigate flooding outside of the Protected Property, the Landowner may manage beaver dams in accordance with best management practices established by the Vermont Agency of Natural Resources or successor agencies.

VI. Access to the Protected Property

Holder, and VTDEC, shall have the right of ingress and egress over adjoining lands owned by Landowner, referenced in Schedule A, to the Protected Property, subject to reasonable notice, to administer, manage, and enforce the provisions of this Easement, including for the purposes of exercising the rights and interests described in Section III above.

VII. Enforcement of the Restrictions

Landowner and Holder understand that they have an obligation, in perpetuity, to work together to uphold the objectives of this Easement. To this end, Landowner and Holder shall confer with each other and attempt to resolve any issue by mutual agreement in a timely manner.

Holder shall make reasonable efforts from time to time to assure compliance by Landowner with all of the covenants and restrictions herein. In connection with such efforts, Holder may make periodic inspection of all or any portion of the Protected Property, and for such inspection and enforcement purposes, Holder shall have the right of reasonable access to the Protected Property. In the event that Holder becomes aware of an event or circumstance of non-compliance with this Easement, Holder shall give notice to Landowner of such event or circumstance of non-compliance via certified mail, return receipt requested, and demand corrective action by Landowner sufficient to abate such event or circumstance of non-compliance and restore the Protected Property to its previous condition. In the event there has been an event or circumstance of non-compliance which is corrected through negotiation and voluntary compliance, but which has caused Holder to incur extraordinary costs, including staff time, in investigating the non-compliance and securing its correction, Landowner shall, at Holder's request, reimburse Holder for all such costs incurred in investigating the non-compliance and in securing its correction.

Failure by Landowner to cause discontinuance, abatement, or such other corrective action as may be demanded by Holder within a reasonable time after receipt of notice and reasonable opportunity to take corrective action shall entitle Holder to bring an action in a court of competent jurisdiction to enforce the terms of this Easement and to recover any damages arising from such non-compliance. Such damages, when recovered, may be applied by Holder to corrective action on the Protected Property, if necessary. If the court determines that Landowner have failed to comply with this Easement, Landowner shall reimburse Holder for any reasonable costs of enforcement, including court costs and reasonable attorneys' fees, in addition to any other payments ordered by such court. In the event that Holder initiates litigation and the court determines that Landowner have not failed to comply with this Easement and that Holder has initiated litigation without reasonable cause or in bad faith, then the Holder shall reimburse Landowner for any reasonable costs of defending such action, including court costs and reasonable attorneys' fees.

The parties to this Easement specifically acknowledge that events and circumstances of non-compliance constitute immediate and irreparable injury, loss, and damage to the Protected Property and accordingly entitle Holder to such equitable relief, including but not limited to injunctive relief, as the court deems just. The remedies described herein are in addition to, and not in limitation of, any other remedies available to Holder at law, in equity, or through administrative proceedings.

No delay or omission by Holder in the exercise of any right or remedy upon any breach by Landowner shall impair Holder's rights or remedies or be construed as a waiver. Nothing in this enforcement section shall be construed as imposing a liability upon a prior owner of the Protected Property, when the event or circumstance of non-compliance occurred after said prior owner's ownership or control of the Protected Property terminated.

Holder prefers to resolve non-compliance issues without litigation when feasible. No delay or omission by Holder or VTDEC in the discovery of any non-compliance or exercise of any right or remedy upon any breach by any Landowner or third party shall impair Holder's or VTDEC's rights or remedies or be construed as a waiver of enforcement rights.

Pursuant to the provisions of Section II, the VTDEC, as third party beneficiary, has the same the rights to enforce accorded to Holder by this section. Both VTDEC and Holder may join in an action brought by the other and each shall be collaterally estopped from enforcing an alleged violation through different court actions.

VIII. Miscellaneous Provisions

1. Holder and Co-holder may assign their respective interest in this Easement of River Corridor Conservation Easement only to a State agency, municipality, or qualified organization, as defined in Title 10 V.S.A. Section 6301a, and may only assign if said entity first undertakes to hold and implement the terms of this instrument consistent with the Purposes of this Easement.
2. In the event any interests conveyed to the Holder herein are extinguished by eminent domain, other legal proceedings, or adverse possession, Holder shall be entitled to any proceeds that pertain to the extinguishment of Holder's rights and interests.
3. In any deed conveying an interest in all or part of the Protected Property, Landowner shall make reference to this River Corridor Conservation Easement and shall indicate that it is binding upon all successors in interest in any property or parcel of land of which the Protected Property is a part. Any such deed or instrument of conveyance shall state explicitly in the legal description of the property conveyed that "a portion of the property is a Conservation Easement Area", and shall describe that portion by specific reference to the river corridor conservation easement plan described in Schedule A attached hereto and reference its recording information in the official land records. Each successor in interest each shall also notify the Holder of the conveyance within ten (10) days of the conveyance, together with the name(s) and complete contact information of each new successor Landowner.

4. Landowner and Holder expressly intend that any changes in the economy, zoning, or to nearby lands shall not be deemed “changed conditions” that might otherwise be used as an argument to alter or terminate this Easement. Likewise, Landowner understands and acknowledges that Holder’s interest in this Easement is governed by federal and state law and regulations, as well as organizational standards and practices that make future amendments to this Easement for fewer restrictions, or a termination of it, unfeasible or highly unlikely.
5. Either party shall be entitled to record a notice making reference to the existence of this Easement in the land records to satisfy the requirements of the Record Marketable Title Act, 27 V.S.A., Chapter 5, Subchapter 7, including 27 V.S.A. §§ 603 and 605, or similar successor statute.
6. The terms “Grantor” and “Landowner” as used in this Easement shall include the heirs, administrators, successors and assigns of the original Grantor who executed this Easement, and the same term applies whether male or female, singular or plural. The terms “Grantee” and “Holder” shall include the successors and assigns of the original Grantee, the Vermont River Conservancy, Inc.
7. This conveyance is subject to existing encumbrances listed in Schedule B, together with the property description, attached hereto and incorporated herewith.
8. Landowner acknowledges that Holder is not responsible for any loss or damage to Landowner’s property, personal or otherwise, within the bounds of the Protected Property due to natural causes, whether related to Holder’s action or inaction. Likewise, Holder is not responsible for the payment of taxes, liens, or assessments on the premises.
9. Holder shall not be considered an “owner” or “operator” under any solid waste disposal or hazardous waste cleanup laws. Landowner shall indemnify Holder from any liabilities resulting from Landowner’s ownership and operation of the premises unless Holder’s actions or misconduct contributed to the liability.
10. This Easement is created pursuant to Chapter 34 of Title 10, Conservation and Preservation Rights and Interests (10 V.S.A. 821-823) and Chapter 155 of Title 10, Acquisition of Interests in Land by Public Agencies (10 V.S.A. 6301 – 6309), and this Easement shall be governed by and construed in accordance with the laws of the State of Vermont to effectuate the Purposes of the Easement. In the event that any provision or clause in this Easement conflicts with applicable law, such conflict shall not affect other provisions hereof which can be given effect without the conflicting provision. To this end the provisions of this Easement are declared to be severable.

11. Invalidation or waiver of any of the terms herein shall not affect any other provision of this Easement. Titles and headings are for convenience of the reader and have no contractual significance. Any ambiguities or questions concerning the validity of specific provisions of this Easement shall not be interpreted against the drafter, but shall be resolved to give effect to the Easement's intended Purposes.

TO HAVE AND TO HOLD said granted covenants, easement, and restrictions, with all the privileges and appurtenances thereof, to Holder, the **Vermont River Conservancy, Inc.**, and the Executory Interest Holder, and their respective successors and assigns, to their own use and benefit forever, and Landowner, **Vermont River Conservancy, Inc.**, for itself and its successors and assigns, does covenant with Holder and Executory Interest Holder, their successors and assigns, that until the ensealing of these presents, it is the sole owner of the premises, and has good right and title to convey the same in manner aforesaid, that the premises are free from every encumbrance, except those previously of record, and it hereby engages to warrant and defend the same against all lawful claims whatever.

IN WITNESS WHEREOF, we set our hands and seals this ____ day of _____, _____.

Landowner:

Vermont River Conservancy, Inc.

By _____

Steven R. Libby, duly authorized

Accepted by Holder:

Vermont River Conservancy, Inc.

By _____

Steven R. Libby, duly authorized

STATE OF VERMONT
COUNTY OF _____ ss.

At _____, this _____ day of _____, 2014,
Steven R. Libby personally appeared, sworn to me to be the duly authorized agent of the Vermont River Conservancy, Inc. and he acknowledged this instrument, by him sealed and subscribed, to be his free act and deed and the free act and deed of the Vermont River Conservancy, Inc. for the purposes therein contained.

Before me, _____

Notary Public, Print name:

Accepted by the
Executory Interest Holder:

**State of Vermont, Agency of Natural Resources
Department of Environmental Conservation**

By _____
, duly authorized

Schedule A
Description of Protected Property

The Protected Property is all and the same lands and premises conveyed by Essex Timber Company, LLC, a New Hampshire limited liability company, to the Vermont River Conservancy, Inc., a Vermont nonprofit corporation, by Warranty Deed dated -----, and recorded in Book ----, Page -----, of the Bloomfield Town Land Records (with the exception of a small portion described below).

Said lands and premises are further described as the “Excluded Property” (Exhibit B) in the Limited Warranty Deed of Essex Timber Company, LLC to Plum Creek Maine Timberlands, LLC dated September 18, 2008 and recorded in Book , Page , at the Bloomfield Town Land Records. The Property is further described as a “Portion of Kelleher Lands”, namely:

Being a portion of the lands and premises conveyed to Essex Timber Company, LLC, by Warranty Deed from John Robert Kelleher and Gail Anne Kelleher, dated January 24, 2006, and recorded in Volume 25, Page 195 of the Town of Bloomfield land records, and being depicted on a survey plat entitled “A Plan of Lands of Essex Timber Company, L.L.C. in the Town of Bloomfield State of Vermont See Book 25, Page 195 to 199”, prepared by Lawrence S. Tighe, North Country Environmental & Forestry, L.L.C., dated August 30, 2008, and to be recorded simultaneously herewith in the Town of Bloomfield land records. The parcels reserved herein are depicted on the Survey of Excluded Kelleher Parcels as Parcel 1, Parcel 2, Parcel 3, Parcel 4 and Parcel 5.

The Protected Property subject to the River Corridor Conservation Easement is depicted in a “Survey of Proposed Riparian Corridor Easement X---- Property, X----, Vermont for XXX” by xxx recorded xxxxx.

Reference is made to the above deeds, surveys and their records and to all former deeds and their records and surveys, for a more complete description of the overall Property described.

EXCEPTED from the River Corridor Conservation Easement restrictions is that portion of land located on the western side of Town Highway 7 (known as the East Branch Road) and northerly of Vermont Route 105.

Schedule B
Existing Easements, Contracts, Encumbrances

[Sample] The Protected Property is subject to the following. All recordings refer to the Town of Bloomfield Land Records.

1. Subject to a twenty foot wide Right of Way burdening the Property Protected as conveyed by predecessors in title
2. Subject to State of Vermont Use Value Appraisal (Current Use) liens of record. The most recent is dated X---- and recorded in Book X-- at Page X--. This updates previous Use Value Appraisal liens including another applicable to a portion of the Protected Property dated X---- and recorded in Book X-- at Page X--.
3. Subject to a utility easement X...

It is assumed that said lands and premises may be subject to normal utility easements and rights of way previously of record, if any, and public road and waters rights of way as may be applicable, including all rights and title of the public or others entitled to use waters such as the Nulhegan River as implied by the Public Trust Doctrine.

Nothing in this schedule shall be deemed to reinstate any such interest that would otherwise be extinguished by the Vermont Marketable Title Act, 27 V.S.A. § 601 et seq. or successor statutes or amendments to it.

Schedule C
Existing Structures

[List (if any)] -----