

408.15.00

[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.]

CONSERVATION EASEMENT DEED

Winnisquam Regional School District, of 48 Zion Hill Road, Town of Northfield, County of Merrimack, State of New Hampshire (hereinafter referred to as the "Grantor", which word shall unless the context clearly indicates otherwise, include the Grantor's successors and assigns), for consideration paid, with QUITCLAIM covenants, grants in perpetuity to the **Town of Tilton**, a municipal corporation, situated in the County of Belknap, State of New Hampshire, acting through its Conservation Commission pursuant to NH RSA 36-A:4, with a mailing address of 145 Main St., Tilton, N.H. 03276, (hereinafter referred to as the "Grantee" which shall, unless the context clearly indicates otherwise, include the Grantee's successors and assigns), the Conservation Easement (herein referred to as the "Easement") hereinafter described with respect to that area of land (herein referred to as the "Property") being unimproved land situated on West Main Street in the Town of Tilton, County of Belknap, State of New Hampshire, more particularly described as approximately 3.6 acres of wetlands and 8.0 acres of uplands, more particularly described as approximately 3.6 acres of wetlands and 8.0 acres of uplands, as shown on the plan entitled "Conservation Easement Plan for Winnisquam Regional School District" dated December 19, 2002 by Lepene Engineering & Surveying, said plan attached hereto and made a part hereof as Appendix A. Grantor shall on or before June 1, 2003, or some other date acceptable to the Grantee, provide Grantee with an amendment to this Conservation Easement Deed which contains either a metes and bounds description for each of

the said wetlands and uplands areas or other acceptable means of locating said areas to the reasonable satisfaction of the Grantee.

1. PURPOSES

The Easement hereby granted is pursuant to NH RSA 477:45-47, exclusively for the preservation and conservation of the Property as open space and to thereby protect said wetlands and uplands areas.

The above purposes are consistent with the clearly delineated open space conservation goals and objectives as stated in the Master Plan of the Town of Tilton, and 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 Easement hereby granted with respect to the Property is as follows:

2. USE LIMITATIONS (Subject to the reserved rights specified in Section 3 below)

A. The Property shall be maintained in perpetuity as open space without there being conducted thereon any industrial or commercial activities. This limitation shall be construed to prohibit all agricultural and forestry activities, including timber harvesting of any type, but shall not be construed to prevent Grantor from conducting minor thinning or cutting of brush or trees on the property consistent with the following goals:

- maintenance of soil productivity;
- protection of water quality, wetlands, and riparian zones;
- maintenance or improvement of the overall quality of the forest;
- conservation of scenic quality;
- protection of unique or fragile natural areas;
- protection of unique historic and cultural features; and
- conservation of native plant and animal species.

Such thinning and cutting 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. For references, see “Best Management Practices for Erosion Control on Timber Harvesting Operations in New Hampshire” (J.B. Cullen, 1996), and “Good Forestry in the Granite State: Recommended Voluntary Forest Management Practices for New Hampshire” (New Hampshire Forest Sustainability Standards Work Team, 1997), or similar successor publications.

B. The Property shall not be subdivided.

C. No structure or improvement, including, but not limited to, a dwelling, any portion of a septic system, tennis court, swimming pool, dock, aircraft landing strip, tower, or road (other than a gravel maintenance road) shall be constructed, placed, or introduced onto the Property. However, ancillary structures and improvements including, but not limited to a fence, culvert, shed and the like may be constructed, placed, or introduced onto the Property only as necessary in the accomplishment of the conservation or noncommercial outdoor recreational uses of the Property, provided that they are not detrimental to the purposes of this Easement.

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 conservation or noncommercial outdoor recreational uses of the Property; and

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

iii. are not detrimental to the purposes of this Easement.

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 such as signs and billboards shall be displayed on the Property except as desirable or necessary in the accomplishment of the conservation or noncommercial outdoor recreational uses of the Property, e.g., incidental scoreboard advertising, and provided such signs are not detrimental to the purposes of this Easement.

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 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, injection, burning, or burial of man-made materials or materials then known to be environmentally hazardous.

H. Allowed uses shall not include dirt bike trails or other activities which involve the use of motorized vehicles, except this shall not preclude the use of motorized vehicles in the construction or maintenance of otherwise allowed facilities or uses.

3. RESERVED RIGHTS

A. This provision is an exception to Section 2, above.

B. Grantor reserves the right to conduct and allow on the Property recreational and athletic activities such as are common for a public school including but not limited to the construction, maintenance and use of baseball and other athletic fields. Ancillary structures and improvements necessary for these activities such as dugouts, scoreboards, equipment sheds and backstops shall be allowed.

C. Grantor shall be allowed to conduct agricultural, silvicultural, or horticultural activities on the premises provided that such activities are incidental to the school district's educational programs and provided that such activities are not detrimental to the purposes of this Easement.

D. Nothing contained in this reservation of rights however, shall allow the Grantor to apply, or allow to be applied, to the Property any environmentally hazardous materials, or otherwise violate the use limitations set forth in Section 2 hereof.

E. Grantor shall notify Grantee in writing at least ninety (90) days in advance of any plan to make substantial changes to the Property such as the addition of or substantial renovations to an athletic field.

4. NOTIFICATION OF TRANSFER, TAXES, MAINTENANCE

A. The Grantor agrees to notify the Grantee in writing at least ten (10) days before the transfer of title to the Property.

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

5. BENEFITS, BURDENS, AND ACCESS

A. The burden of the Easement conveyed hereby shall run with the Property and shall be enforceable against all future owners and tenants in perpetuity; the benefits of this Easement 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 and agrees to and is capable of enforcing the conservation purposes of this Easement. Any such assignee or transferee shall have like power of assignment or transfer.

B. 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 this Easement and exercise the rights conveyed hereby and fulfill the responsibilities and carry out the duties assumed by the acceptance of this Easement.

6. BREACH OF EASEMENT, MONITORING

A. When a breach of this Easement, or conduct by anyone inconsistent with this Easement, comes to the attention of the Grantee, it shall notify the Grantor in writing of such breach or conduct, delivered in hand or by certified mail, return receipt requested.

B. The Grantor shall, within 30 days after receipt of such notice, or after otherwise learning of such breach or conduct, undertake those actions, including restoration, which are reasonably calculated to cure swiftly said breach, or to terminate said conduct, and to repair any damage. The Grantor shall promptly notify the Grantee of its actions taken under this section.

C. If the Grantor fails to take such proper action under the preceding section, the Grantee shall, as appropriate to the purposes of this deed, undertake any actions that are reasonably necessary to cure such breach or to repair any damage in the Grantor's name or to terminate such conduct. The cost thereof, including the Grantee's expenses, court costs, and legal fees, shall be paid by the Grantor, provided that the Grantor is directly or primarily responsible for the breach.

D. Nothing contained in this Easement shall be construed to entitle the Grantee to bring any action against the Grantor for any injury to or change in the Property 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, and earth movement, or from any prudent action taken

by the Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Property resulting from such causes.

F. The Grantee and the Grantor reserve the right, separately or collectively, to pursue all legal remedies against any third party responsible for any actions detrimental to the conservation purposes of this Easement.

G. This easement shall be monitored by the Tilton Conservation Commission to ensure compliance with the terms and conditions hereof. In the event that the Tilton Conservation Commission ceases for any reason to monitor the easement, the Tilton Board of Selectmen shall have such authority as is reserved to said Conservation Commission hereunder.

H. Grantee shall have the right to enforce this Easement by appropriate legal means and to obtain injunctive and other equitable relief against any violations, including without limitation, relief requiring restoration of the Property to its condition prior to the time of the violation, and shall be in addition to, and not limitation of, any other rights and remedies available to the Grantee.

I. Grantee, by its acceptance of this Easement, does not undertake any liability or obligation relating to the condition of the Property.

J. The then Commissioner of the New Hampshire Department of Environmental Services ("NHDES") shall have standing to seek mandamus or such other relief against Grantee and/or Grantor as may be necessary in the event Grantee and/or Grantor has not, in the Commissioner's opinion, taken steps necessary under this section to adequately preserve and protect the conservation purposes of this Easement.

7. NOTICES

All notices, requests and other communications, required to be given under this Easement 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 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.

8. SEVERABILITY

If any provision of this Easement, 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 this Easement 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.

9. 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 Easement conveyed hereby, 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 (including, for purposes of this subsection, proceeds from any lawful sale, in lieu of condemnation, of the Property unencumbered by the restrictions hereunder) 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. 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.

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

10. ADDITIONAL EASEMENT

Should the Grantor determine that the expressed purposes of this Easement could better be effectuated by the conveyance of an additional easement, the Grantor may execute an additional instrument to that effect, provided that the conservation purposes of this Easement are not diminished thereby and that a public agency or qualified organization described in Section 5.A., above, accepts and records the additional easement.

11. ARBITRATION OF DISPUTES

Any dispute arising under this Easement shall be submitted to arbitration with a single arbitrator in accordance with New Hampshire RSA 542 and administered and conducted under the Commercial Arbitration Rules of the American Arbitration Association. The prevailing party in any judicial action or arbitration shall be entitled to reimbursement from the other party for

ACCEPTED: TOWN OF TILTON CONSERVATION COMMISSION

By: Helen Dawson & Paul Rushton

Title: CONSERVATION MEMBERS
Duly Authorized

Date: 12/19/02

The State of New Hampshire

County of Belknap

Personally appeared Helen Dawson & Paul Rushton
Name & Title Conservation Commission

of the Town of Tilton Conservation Commission, this 19 day of

December, 2002 and acknowledged the foregoing on behalf of the Town of Tilton Conservation Commission.

Before me, Catherine Apotrias Woessner
Justice of the Peace/Notary Public

My commission expires: 9/16/2003



ACCEPTED: TOWN OF TILTON BOARD OF SELECTMEN

By: [Signature]

Title: CHAIRMAN, BOARD OF SELECTMEN
Duly Authorized

Date: 12/19/02

By: [Signature]

Title: selectmen
Duly Authorized

Date: 12/19/02

By: [Signature]

Title: selectman
Duly Authorized

Date: 12/19/02

The State of New Hampshire

County of Bell

Personally appeared [Signatures] Name & Title Board of Selectmen

of the Town of Tilton Board of Selectmen, this 19 day of December 2002 and acknowledged the foregoing on behalf of the Town of Tilton Board of Selectmen.

Before me, [Signature]
Justice of the Peace/Notary Public

My commission expires: 9/16/2003

The State of New Hampshire

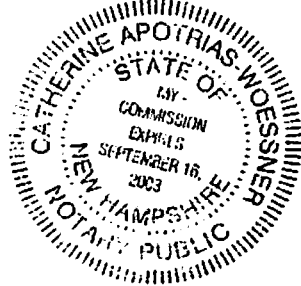
County of Bell

Personally appeared [Signatures] Name & Title Board of Selectmen

of the Town of Tilton Board of Selectmen, this 19 day of December 2002 and acknowledged the foregoing on behalf of the Town of Tilton Board of Selectmen.

Before me, [Signature]
Justice of the Peace/Notary Public

My commission expires: 9/16/03



costs, filing fees, arbitration filing fees, reasonable attorney fees, witness fees, expert fees, arbitration panel fees and travel fees. Any arbitration hearing shall take place in Concord, New Hampshire.

A decision by the arbitrator, made as soon as practicable after submission of the dispute, shall be binding upon the parties and shall be enforceable as part of this Easement.

The Grantee, by accepting and recording this Easement, agrees to be bound by and to observe and enforce the provisions hereof and assumes the rights and responsibilities herein granted to and incumbent upon the Grantee, all in the furtherance of the conservation purposes for which this Easement is delivered.

12. CONSERVATION EASEMENT FUND

Grantor shall give to the Grantee the sum of Six Hundred Twenty-Five Dollars (\$625) to be held in a separate fund and to be used for the purpose of monitoring and enforcing the Easement hereby granted. The Grantee's Treasurer shall have custody of said fund and shall pay out the same only upon order of the Conservation Commission.

The Grantee, by accepting and recording this Easement, agrees to be bound by and to observe and enforce the provisions hereof and assumes the rights and responsibilities herein granted to and incumbent upon the Grantee, all in the furtherance of the conservation purposes for which this Easement is delivered.

IN WITNESS WHEREOF, I have hereunto set my hand this 19 day of December, 2002.

WINNISQUAM REGIONAL SCHOOL DISTRICT

By: Norman Couture
Grantor

The State of New Hampshire
County of MERRIMACK

Personally appeared Norman Couture, Superintendent of Schools
Name & Title
this 19 day of December, 2002 and acknowledged the foregoing to be his/her voluntary act and deed, and that he/she signed said Easement Deed in the capacity aforesaid.

Before me, Deborah J. Converse
Justice of the Peace/Notary Public
DEBORAH J. CONVERSE, Notary Public
My Commission Expires February 14, 2006
My commission expires: _____

The State of New Hampshire

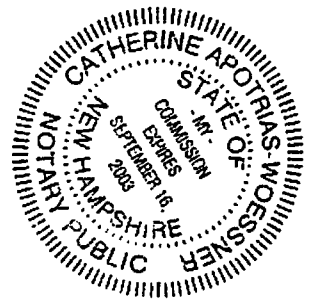
County of Belknap

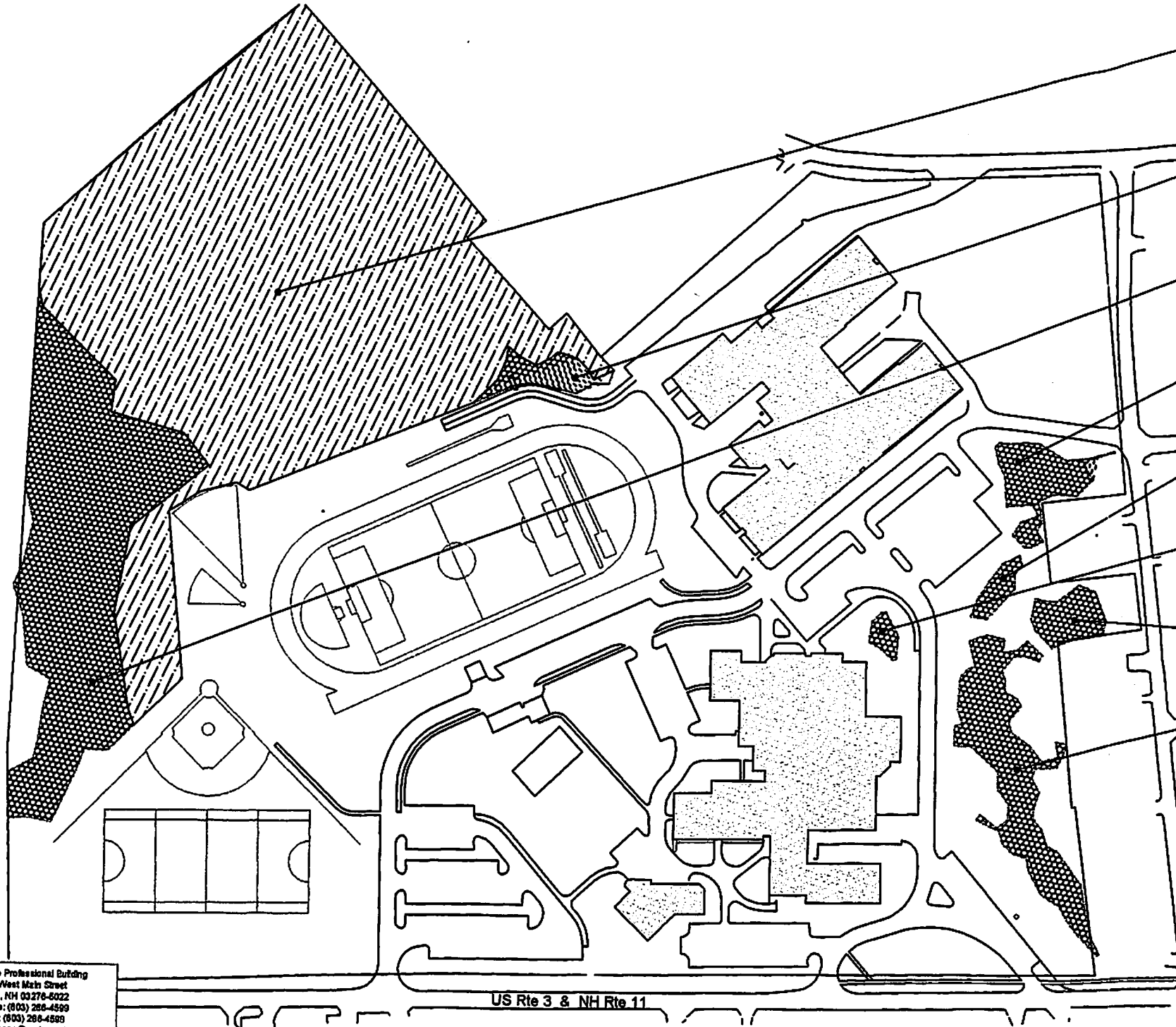
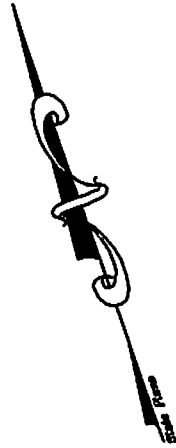
Personally appeared Chair Robert Brown
James Moore Name & Title
James Moore Secretary

of the Town of Tilton Board of Selectmen, this 19 day of December,
2002 and acknowledged the foregoing on behalf of the Town of Tilton Board of Selectmen.

Before me, Catherine Apotrias-Moessner
Justice of the Peace/Notary Public

My commission expires: 9/16/03





Uplands Conservation Easement Area
33822 S.F.
7.76 Acres

Wetlands Conservation Easement Area - 1
6266 S.F.
0.14 Acres

Wetlands Conservation Easement Area - 2
101522 S.F.
2.33 Acres

Wetlands Conservation Easement Area - 3
10922 S.F.
0.25 Acres

Wetlands Conservation Easement Area - 4
3083 S.F.
0.07 Acres

Wetlands Conservation Easement Area - 5
1930 S.F.
0.04 Acres

Wetlands Conservation Easement Area - 6
6719 S.F.
0.15 Acres

Wetlands Conservation Easement Area - 7
28206 S.F.
0.65 Acres

US Rte 3 & NH Rte 11

Conservation Easement Plan
for
Winnisquam Regional School District
US Rte 3 & NH Rte 11
Tilton NH
Scale 1"=200' 10-18-02
Rev. 12-18-02



Town Line Professional Building
838 West Main Street
Tilton, NH 03276-6022
Phone: (603) 286-4599
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Email: lepens@metrocast.net

Civil Engineering - Site Planning
Subdivisions - Septic System Designs