

Barbara R. Luther

R5/39.
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CONSERVATION EASEMENT DEED

James A. Miller, unmarried, of 220 Burleigh Hill Road, of Sanbornton, County of Belknap, State of New Hampshire, (hereinafter referred to as the "Grantor", which word where the context requires includes the plural and shall, unless the context clearly indicates otherwise, include the Grantor's executors, administrators, legal representatives, devisees, heirs, successors and assigns), for consideration paid, with WARRANTY covenants, grants in perpetuity to Town of Tilton, a municipal corporation with a principal mailing address of 257 Main Street, Tilton, County of Belknap, State of New Hampshire, acting through its Conservation Commission pursuant to NH RSA 36- A:4, (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 certain parcel of land (herein referred to as the "Property") with any and all structures, and improvements thereon situated on Perkins Road, in the Towns of Tilton and Sanbornton, County of Belknap, State of New Hampshire, with said Property more particularly bounded and described in Appendix "A" attached hereto and made a part hereof.

1. CONSERVATION PURPOSES

The Easement hereby granted is pursuant to NH RSA 477:45-47, exclusively for the following conservation purposes (hereinafter referred to as the "Purposes"):

- A. To protect in perpetuity the natural vegetation, soils, hydrology, natural habitat and the scenic and aesthetic character of the Property so that the Property retains its natural qualities and functions; and
- B. To prevent any future development, construction, or use that will significantly impair or interfere with the conservation attributes of the Property; and
- C. The conservation of wetlands vegetation, soils, hydrology and/or habitat.

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

2. USE LIMITATIONS

The Property shall be maintained in perpetuity as open space subject to the following use limitations:

A. There shall not be conducted on the Property any industrial or commercial activities, except agriculture and forestry (including timber harvesting) as described below and provided that the productive capacity of the Property to yield forest and/or agricultural crops shall not be degraded by on-site activities.

- i. For the purposes of this Easement, "forestry" shall include: the growing, stocking, cutting, and sale of Christmas trees or forest trees of any size capable of producing timber or other forest products; the construction of roads or other accessways for the purpose of removing forest products from the Property; and the processing and sale of products produced on the Property (such as firewood and maple syrup).

For the purposes of this Easement, "agriculture" shall include: animal husbandry, floriculture, and horticulture activities; the production of plant and animal products for domestic or commercial purposes; the growing of food crops; the construction of roads or other accessways for the purpose of removing agricultural products from the Property; and the processing and sale of products produced on the Property (such as pick-your-own fruits and vegetables).

- ii. Any agriculture for industrial or commercial purposes shall be performed, to the extent reasonably practicable, in accordance with a coordinated management plan for the sites and soils of the Property. Said agriculture shall not be detrimental to the Purposes of this Easement, nor materially impair the scenic quality of the Property as viewed from public roads. Said agricultural management activities shall be in accordance with the then-current scientifically based practices recommended by the University of New Hampshire's Cooperative Extension Service, by the U.S. Department of Agriculture's Natural Resources Conservation Service, by the New Hampshire Department of Agriculture, Markets, and Food, including but not limited to recommended practices in said NH Department's "Manual of Best Management Practices (BMPs) for Agriculture in New Hampshire" as may be revised, updated, or superseded from time to time, or by other successor governmental natural resource conservation and management agencies then active.
- iii. Any forestry for industrial or commercial purposes 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 and none of the individual tracts that together comprise the Property shall be conveyed separately from one another.

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, commercial facility, conduit or utility line, billboard or other means of advertising display, driveway or road made of asphalt or other impervious surface, mobile home or other temporary or permanent structure or improvement, shall be constructed, placed, or introduced onto the Property. However, ancillary structures and improvements including, but not limited to, a road, dam, fence, bridge, culvert, barn, greenhouse, maple sugar house, shed, pond or parking lot may be constructed, placed, or introduced onto the Property only as necessary in the accomplishment of the agricultural, forestry, conservation, or noncommercial outdoor recreational uses of the Property. Any such ancillary structure or improvement shall be constructed in a manner least detrimental to the Purposes of this Easement. The Grantor and Grantee recognize that there may be pre-existing utility lines on the Property.

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

- i. are commonly necessary in the accomplishment of the agricultural, forestry, conservation, habitat management, or noncommercial outdoor recreational uses of the Property; and
- ii. do not harm state or federally recognized rare, threatened, or endangered species, or exemplary natural communities, such determination of harm to be based upon information from the New Hampshire Natural Heritage Bureau, the New Hampshire Fish and Game Department, or the agency then recognized by the State of New Hampshire as having responsibility for identification and/or conservation of such species and/or natural communities; and
- iii. Are not detrimental to the purposes of this Easement.

Prior to commencement of any such activities, all necessary federal, state, and local permits and approvals shall be secured and such notices as may be required under Section 8 of this Easement shall be delivered.

E. No outdoor signs shall be displayed on the Property except as desirable or necessary in the accomplishment of the agricultural, forestry, conservation, or noncommercial outdoor recreational uses of the Property, 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 refuse, trash, rubbish, debris, junk, waste, man-made materials or materials then known to be environmentally hazardous, including vehicle bodies or parts, or other similar substances, provided however the storage and spreading of compost, manure, or other fertilizer under sound agricultural practices, the storage of feed, or leaving of slash after harvesting timber, is permitted

3. RESERVED RIGHTS

A. The Grantor hereby reserves all customary rights and privileges of property ownership associated with the Property that are not specifically restricted by the terms of Section 2 of this Easement or that do not materially impair the Conservation attributes protected by this Easement, including the right to post the property against public access. Nothing in this Easement shall require Grantor to take any action to restore the condition of the Property after any act of Nature or other event over which Grantor had no control.

4. NOTIFICATION OF TRANSFER, MAINTENANCE OR OTHER ACTIVITIES

A. The Grantor agrees to notify the Grantee in writing 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 protection 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 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

- 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 thirty (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 paragraph, the Grantee shall, as appropriate to the purposes of this Easement, 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, but not limited to, the Grantee's reasonable expenses, expert fees, court costs, and legal fees, shall be paid by Grantor; provided, however, that the Grantor has been determined by a court of competent jurisdiction to be 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.
- E.** 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.
- F.** No delay or omission by Grantee in the exercise of any right or remedy upon any breach by Grantor shall impair Grantee's rights or remedies or be construed as a waiver.
- G.** 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.
- H.** Grantee, by its acceptance of this Easement, does not undertake any liability or obligation relating to the condition of the Property.

7. COVENANTS TO "RUN WITH THE LAND"

A. The terms and conditions of this Easement shall run with the Property in perpetuity, and shall be enforceable against the Grantor or any other person or entity holding any interest in the Property.

B. The Grantee is authorized to record or file any notices or instruments appropriate to assuring the perpetual enforceability of this Easement. The Grantor agrees to execute any such instrument upon the Grantee's request.

C. The benefits of this Easement shall be in gross and the Grantee shall not assign them, except in the following instances and from time to time:

- i. As a condition of any assignment, the Grantee requires that the Purposes of this Easement continue to be enforced, and
- ii. The assignee, at the time of assignment, is qualified to be a transferee under the provisions of Section 5.A., above.

8. NOTICES

All notices, requests and other communications, required or permitted 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.

9. 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.

10. CONDEMNATION

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, or whenever all or a part of the Property is lawfully sold without the restrictions imposed hereunder in lieu of exercise of eminent domain, the Grantor and the Grantee shall thereupon act jointly to recover the full damages resulting from such taking with all incidental or direct damages and expenses incurred by them thereby to be paid out of the damages recovered.

B. The balance of the land damages recovered from such taking or lawful sale in lieu of exercise of eminent domain shall be divided between the Grantor and the Grantee in proportion to the fair market value of their respective interests in the Property on the date of execution of this Easement. For this purpose and that of any other judicial extinguishment of this Easement, in whole or in part, the Grantee's interest shall be the amount by which the fair market value of the Property immediately prior to the execution of this Easement is reduced by the use limitations imposed hereby. The value of the Grantee's interest shall be determined by an appraisal prepared for Federal Income tax purposes by a qualified appraiser within one year of the date of this Easement, and submitted to the Grantee.

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

11. 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 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.

12. SEPARATE PARCEL

The Grantor agrees that for the purpose of determining compliance with any present or future bylaw, order, ordinance, or regulation (within this section referred to as "legal requirements") of the Town of Tilton, State of New Hampshire or any other governmental unit, the Property shall be deemed a separate parcel of land and shall not be taken into account in determining whether any land of the Grantor, other than the Property, complies with any said legal requirements. The Property shall not be taken into account to satisfy in whole or in part any of said legal requirements or any area, density, setback or other dimensional standard applicable to such land.

13. MERGER

The Grantor and Grantee explicitly agree that it is their express intent, forming a part of the consideration hereunder, that the provisions of the Easement set forth herein are to last in perpetuity, and that to that end no purchase or transfer of the underlying fee interest in the Property by or to the Grantee or any successor or assign shall be deemed to eliminate the Easement, or any portion thereof, granted hereunder under the doctrine of merger or any other legal doctrine.

14. ARBITRATION OF DISPUTES

A. Any dispute arising under this Easement shall be submitted to binding arbitration in accordance with New Hampshire RSA 542. The Grantor and the Grantee shall each choose an arbitrator within twenty (20) days of the delivery of written notice from either party referring the matter to arbitration. The arbitrators so chosen shall in turn choose a third arbitrator within twenty (20) days of the selection of the second arbitrator. The arbitrators so chosen shall forthwith set as early a hearing date as is practicable, which they may postpone only for good cause shown. The arbitration hearing shall be conducted in Tilton, New Hampshire, or such other location as the parties shall agree. A decision by two of the three arbitrators, made as soon as practicable after submission of the matter, shall be binding upon the parties and shall be enforceable as part of this Easement.

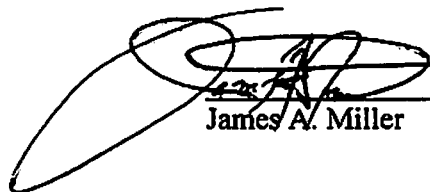
15. CONSERVATION EASEMENT FUND

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 the 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.

This is a conveyance to the state, a state agency, a county, a city, a town and/or village district pursuant to NH RSA 78-B:2 and is exempt from the New Hampshire Real Estate Transfer Tax.

IN WITNESS WHEREOF, Grantor has hereunto set its hand this 19th day of DECEMBER, 2011.



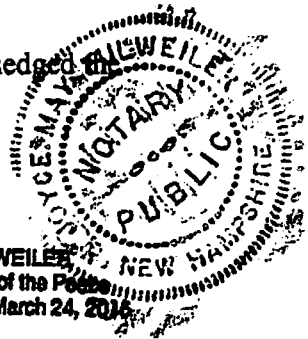
James A. Miller Grantor

State of New Hampshire
County of Belknap, ss.

Personally appeared James A. Miller, this 19th day of December, 2011 and acknowledged the foregoing to be his voluntary act and deed.

Before me Joyce May Fulweiler

Notary Public
My commission expires: _____
Notary Public / Justice of the Peace
My Commission Expires March 24, 2014



ACCEPTED: Town of Tilton Conservation Commission

By: Charles E. Mitchell By: Robert E. Hardy

Title: Chairman
Duly Authorized

Title: Vice Chairman
Duly Authorized

Date: 12-19-11

Date: 12-19-2011

State of New Hampshire
County of Belknap, ss.

Personally appeared Charles E. Mitchell the Robert E. Hardy of the Town of Tilton Conservation Commission this 19th day of December, 2011 and acknowledged the foregoing on behalf of the Town of Tilton Conservation Commission.

Before me Joyce May Fulweiler
Notary Public
My commission expires: March 24, 2015



APPENDIX A

The "Property" subject to this Easement is that tract of land with any and all structures and improvements thereon situated on the southerly side of Perkins Road, in the Towns of Tilton and Sanbornton, County of Belknap, State of New Hampshire, consisting of approximately 39.07 acres, being that portion of the premises situation in said Tilton and Sanbornton, conveyed to James A. Miller by quitclaim deed of Kathryn W. Miller dated March 8, 2011 and recorded on March 14, 2011 at the Belknap County Registry of Deeds in Book 2697 Page 296 and more particularly bounded and described as follows:

Beginning at an iron pin set in the ground on the southerly side of said road at the intersection of two stone walls, and at land now or formerly of J.S. Morse, and thence running on a course of North fifty-one degrees five minutes East (N 51° 5' E) along said road and a stone wall a distance of three hundred and ninety-two hundredths feet (300.92') to an iron pin set in a stone wall;

thence continuing along said road and aid stone wall on a course of North sixty-one degrees thirteen minutes East (N 61° 13' E) a distance of one hundred ninety-seven and twenty-six hundredths feet (197.26') to an iron pin set in the ground;

thence turning and running on a course of North eighty-two degrees fifty-five minutes East (N82° 55' E) along said road and the stone wall a distance of five hundred ninety-four and forty-nine hundredths feet (549.49') to an iron pin set in the stone wall;

thence turning and running on a course of North sixty-eight degrees twenty-six minutes East (N68° 26' E) along said stone wall on the southerly side of said Perkins Hill Road a distance of one hundred sixty-nine and eighty-five hundredths feet (169.85') to an iron pin set in the stone wall;

thence running on a course of South eighty-five degrees forty-one minutes East (S 85° 41' E) along said stone wall and said road a distance of one-hundred eighty-seven and sixty-four hundredths feet (187.64') to an iron pin set in the stone wall;

thence running on a course of North eighty-eight degrees thirty minutes East (N 88° 30' E) still along said stone wall and said road a distance of one hundred six and thirteen hundredths feet (106.03') to an iron pin set in the intersections of two stone walls;

thence turning and running on a course of South ten degrees nineteen minute East (S 10° 19' E) along a stone wall and land now or formerly of C. Worden a distance of five hundred forty-nine and twenty hundredths feet (549.20') to an iron pin at the corner of the stone wall;

thence turning and running on a course of South eighty-four degrees fifty-four minutes West (S 84° 54' W) along said stone wall and land now or formerly of C. Worden a distance of one hundred seventy-one and sixty-six hundredths feet (171.66') to an iron pin at the corner of the stone walls;

thence turning and running on a course of South five degrees eleven minutes East (S 5° 11' E) in part along a stone wall and land now or formerly of C. Worden a distance of seven hundred and

nine feet (709') to an iron pin set at the intersection of two stone walls;

thence continuing still along a stone wall and land now or formerly of C. Worden on a course of South two degrees twenty-seven minutes East (S 2° 27' E) a distance of six hundred sixty-six and fifty-three hundredths feet (66.53') to and iron pin at the intersection of two stone walls;

thence turning an running on a course or South eighty-four degrees twenty-two minutes West (S 84° 22' W) along a stone wall and land now or formerly of Lynch a distance of six hundred fifty nine and fifteen hundredths feet (659.15') to an iron pin set in the ground at the intersection of two stone walls;

thence turning and running on a course of North two degrees twenty-five minutes West (N 2° 25' W) along a stone wall and land now or formerly of J. S. Morse a distance of one thousand eighty-five and ninety-four hundredths feet (1,085.94') to an iron pin set in a stone wall;

thence turning and running on a course of North fifty-eight degrees twenty-seven minutes West (N 58° 27' W) along a stone wall and land now or formerly of the said Morse a distance of fifty-one ad fifty-five hundredths feet (51.55') to an iron pin set in the stone wall;

thence turning an running on a course of North twenty-two degrees fifty-six minutes East (N 22° 56' E) along a stone wall and land now or formerly of the said Morse a distance of forty-four and forty-five hundredths feet (44.45') to and iron pin set in the stone wall;

thence turning and running still along said wall and land now or formerly of said Morse on a course of North fifty-one degrees twenty-six minutes West, (N 51° 26' W) a distance of one hundred sixty-five and six hundredths feet (165.06') to an iron pin set in the stone wall;

thence turning and running a course of North sixty-two degrees twenty-six minutes West (N 62° 26' W) along said stone wall and land now or formerly of said Morse a distance of four hundred sixty-five and seventeen hundredths feet (465.17') to an iron pin set in the stone wall;

thence continuing on course of North sixty degrees forty-six minutes West (N 60° 46' W) along said stone wall and land now or formerly of said Morse a distance of two hundred twenty-six and sixty-nine hundredths feet (226.69') to an iron pin at the point of beginning.