

HUGHES

GRANT OF DEVELOPMENT RIGHTS AND CONSERVATION RESTRICTIONS

WHEREAS, THE NATURE CONSERVANCY, is the owner in fee of certain real property in Thetford, Vermont, which has aesthetic, recreational and natural resource value in its present state; and

WHEREAS, this property contains 300± acres of land, the majority of which is in agricultural and forestry land use, which provides wildlife habitat as well as recreational opportunities; and

WHEREAS, the UPPER VALLEY LAND TRUST, INC. is a publicly supported non-profit corporation incorporated under the laws of the State of New Hampshire, authorized to conduct business in the State of Vermont, and qualified under Section 501(c)(3) and 170(h) of the Internal Revenue Code, whose purpose is to preserve undeveloped and open space land in order to protect the aesthetic, recreational, cultural, educational, scientific, and natural resources of the region through non-regulatory means, thereby reducing the burdens on state and local governments; and

WHEREAS, THE NATURE CONSERVANCY and the UPPER VALLEY LAND TRUST wish to preserve and manage the property in accordance with the wishes of the land's former owner and donor, Charles W. Hughes of Thetford, Vermont; and

WHEREAS, the economic health of Vermont is closely linked to its agricultural and forest lands, which not only produce food products, fuel, timber, and other products, but also provide much of Vermont's scenic beauty, upon which the state's tourist and recreation industries depend; and

WHEREAS, the State of Vermont has repeatedly sought to foster the conservation of the state's agricultural, forest, and other natural resources through planning, regulation, land acquisition, and tax incentive programs, including, but not limited to, Title 10 VSA Chapter 151 (Act 250); Title 24 VSA Chapter 117 (Regional and Municipal Planning and Development Act); Title 10 VSA Chapter 155 (Acquisition of Rights and Interests in Land); Title 32 VSA Chapter 124 (Current Use Taxation); Title 32 VSA Chapter 231 (Property Transfer Tax Act); Title 32 VSA Chapter 235 (Land Gains Tax); Joint Resolution No. 43 adopted by the Vermont House and Senate in February 1982 endorsing the voluntary transfer of interests in agricultural land through agreements between farmland landowners and private land trusts; and Title 10 VSA Chapter 15 (Housing and Conservation Trust Fund); and

WHEREAS, the conservation of this property as undeveloped land is consistent with and in furtherance of the Town Plan adopted by the Town of Thetford and the Regional Plan adopted by the Two Rivers Ottauquechee Regional Planning Commission, and the purposes set forth in Title 10 VSA Section 6301;

NOW, THEREFORE,

KNOW ALL BY THESE PRESENTS that THE NATURE CONSERVANCY (TNC), a nonprofit corporation organized and existing under the laws of the District of Columbia, with a principal place of business at 4245 North Fairfax Drive, Suite 100, Arlington, Virginia, 22203 and maintaining a Vermont field office at 27 State Street, Montpelier, Vermont, 05602 on behalf of itself, its successors and assigns (hereinafter "Grantor"), in consideration of the agreement of the Grantee to accept the development rights as contained herein, and the payment of one dollar and other good and valuable consideration paid to its full satisfaction, does freely give, grant, sell, convey, and confirm unto the UPPER VALLEY LAND TRUST, INC., a non-profit corporation with its office located at 19 Buck Road, Hanover, New Hampshire, 03755, and its successors and assigns (hereinafter "Grantee"), the development rights and a perpetual conservation easement and restrictions, as more particularly set forth below, on a certain 300± acre parcel of land situated in the Town of Thetford, Vermont, County of Orange, more

particularly described in Schedule "A" attached hereto and incorporated herewith by reference (hereinafter the "Protected Property").

The development rights hereby conveyed by Grantor to Grantee shall include all development rights, except those specifically reserved by the Grantor herein, and those reasonably required to carry out the permitted uses of the Protected Property as described herein. The Grant of Development Rights and Conservation Restrictions (hereinafter "Grant") hereby conveyed to the Grantee consist of covenants on the part of Grantor 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 shall run with the land in perpetuity. Grantee accepts and agrees to enforce such covenants in order to achieve the Purposes set forth below.

A. PURPOSES OF THE GRANT

Grantor and Grantee acknowledge that the purposes of this Grant are as follows (hereinafter "Purposes"):

1. As a first priority, to permanently protect scenic, undeveloped land in the Town of Thetford for the enjoyment of present and future generations and to prevent any use of the Protected Property that will significantly impair or interfere with the unique and significant qualities of public benefit and conservation values; and
2. Next, to protect natural communities, habitat conducive to a variety of wildlife habitat (including numerous species that rely on a mixture of forests, field edges and waterways), and the integrity of the environments and ecological processes that support them, on the Protected Property, as those values exist on the date of this instrument and as they may evolve in the future; and
3. If there is timber harvesting, to ensure that the forest resources of the Protected Property are managed in such a manner that they are capable of producing a long-term continuous flow of products, rather than being liquidated in a short period of time relative to the forest's ability to regenerate those products.
4. Overall, to contribute to the implementation of the policies of the State of Vermont designed to foster the conservation of the state's agricultural, forestry, and other natural resources through planning, regulation, land acquisition, and tax incentive programs by conserving productive agricultural and forestry uses, wildlife habitats, non-commercial recreational opportunities and activities, and other natural and scenic values of the Protected Property for present and future generations.
5. To advance these objectives by conserving the Protected Property because it possesses the following attributes: a) nearly 300± acres of woodland; b) 3 brooks and associated wetlands; c) a 4± acre pond; and d) nearly three miles of road frontage on Sawnee Bean, Colby, Poor Farm, and Whippoorwill Roads.

Grantor and Grantee recognize these natural values of the Protected Property and share the common purpose of conserving these values by conservation restrictions to prevent the use, development or fragmentation of the Protected Property for any purpose or in any manner which would conflict with the maintenance of these values. Grantee accepts this Grant to conserve these values for present and future generations.

B. MANAGEMENT PLAN

THIS SECTION ONLY APPLIES TO A GRANTOR THAT IS A MUNICIPALITY, DIVISION OF THE STATE OF VERMONT, OR A NOT-FOR-PROFIT ENTITY ORGANIZED FOR THE PUBLIC BENEFIT:

1. Activities and uses proposed for the Protected Property shall be identified within and performed in accordance with a "Management Plan" (which term shall include any interim, short or long term plan, and any then-current updates, revisions, and amendments thereto).

2. At a minimum, the Management Plan shall:

a. Provide for the use and management of the Protected Property in a fashion that is consistent with and advances the Purposes of this Grant; and

b. Identify the locations, timing, and extent of human uses and address any impacts such uses may have on the conservation values set forth in the Purposes of this Grant. When there are uses permitted by this Grant that one could reasonably anticipate to have little to no impacts on the conservation values of the Protected Property, the Plan may address these uses briefly or in a general way; and

c. In the event there are uses, proposed by the Management Plan, that have the potential to result in adverse impacts to the conservation values of the Protected Property, the Management Plan shall identify and evaluate those impacts, and recommend or address the feasibility of alternative, remedial, or restorative measures. To the extent that any values may be inconsistent with each other, the Management Plan shall consider and propose a reasonable balance of such values, with respect to potential uses or impacts.

d. If, through ecological inventory or other scientific study of the Protected Property, portions thereof are determined to be of statewide or county-wide ecological significance, these areas will be incorporated into the Management Plan and the areas shall receive either no forest management or forest management that mimics the natural disturbance regime of the area in order to perpetuate those species or features deemed ecologically significant, as recommended by such ecological inventory or study.

3. Grantor shall prepare each Management Plan, including updates, revisions and amendments, in a timely and responsive manner and in consultation with the Grantee. Grantor shall review, and if necessary amend, its comprehensive Management Plan at least once every five (5) years from the date of last approval, and shall provide Grantee with timely and adequate written notice each time such a review has occurred.

4. Prior to the final adoption of a Management Plan, Grantor shall secure written approval of such Plan from Grantee.

5. Grantee may grant, condition, or deny approval of any proposed Management Plan, in its reasonable discretion to prohibit, restrict or limit any use or activity which it determines is, or may have the potential to become, inconsistent with the terms of this Grant.

6. If, at any time, the Grantee should determine that a new use, or any use permitted in a previously approved Management Plan, has become or may have the potential to become inconsistent with the terms of this Grant, Grantee shall bring such determination to the attention of the Grantor. Grantor shall then have sixty (60) days (or other more reasonable time as agreed on by the parties) to coordinate and prepare a revision or amendment to the existing Management Plan for review and approval by the Grantee. The timing within this provision is intended to be a guideline; Grantee reserves the right to exercise its enforcement rights under Section G hereto in addition to this remedy.

7. Complete copies of the relevant effective Management Plan(s) shall be kept on file and made available for public review at Grantor and Grantee's respective offices.

C. RESTRICTED USES OF THE PROTECTED PROPERTY

The restrictions imposed upon the Protected Property, and the acts which Grantor shall do or refrain from doing, are as follows:

1. Undeveloped Open Space

The Protected Property shall be maintained in perpetuity for agricultural, forestry, non-commercial education, non-commercial recreational, and open space (meaning enjoyment with little to no adverse impact) purposes only. No residential, commercial, industrial, or mining activities shall be permitted, and no building, structure or appurtenant facility shall be installed or placed on or within the Protected Property, except as specifically permitted and conditioned under the terms of this Grant.

2. Easements

No rights-of-way, easements of ingress or egress, driveways, roads, or utility lines shall be conveyed, constructed, developed or maintained into, on, over, under, or across the Protected Property, without the prior written approval of Grantee, except those of record and those, if any, specifically permitted under this Grant. Grantee may grant such permission if it determines, in its sole discretion, that any such facility would be consistent with the Purposes and not adversely affect the conservation values of the Protected Property.

3. Advertising

There shall be no signs, billboards, or outdoor advertising of any kind erected or displayed on the Protected Property without the prior written approval of Grantee. Notwithstanding the foregoing, Grantor may, without the prior written approval of Grantee, erect and maintain reasonable signs indicating the name of the Protected Property, directional signs, boundary markers, signs regarding public access, hunting or trespassing, memorial plaques, temporary for lease or sale signs, and signs informing the public that agricultural or timber products are for sale or are being grown on the Protected Property. Grantee, with the permission of Grantor, may erect and maintain signs designating the Protected Property as land under the protection of Grantee. The Nature Conservancy, and its successors and assigns may also erect and maintain signs designating the Protected Property as land acquired with the assistance of The Nature Conservancy. Signage shall remain unlighted and sized no larger than reasonably necessary for its purpose.

4. Dumping

There shall be no placement, collection, burial, burning, or storage of trash, human waste, materials known to be environmentally hazardous, or any unsightly or offensive material (including construction debris, vehicle bodies or parts) on the Protected Property, without the prior written approval of Grantee. Provided, however the storage and spreading of compost, manure, or other fertilizer under sound agricultural practices, the storage of feed, the temporary storage of trash in sound receptacles for periodic off-site disposal, or leaving of slash after harvesting timber, are permitted without such prior written approval.

5. Topography

There shall be no disturbance of the surface, including but not limited to filling, excavation, quarrying, or removal of topsoil, gravel, rocks, sand, or minerals, or change of the topography of the land made in any manner, except as may be reasonably necessary to carry out the specific permitted uses on the Protected Property under the terms of this Grant. In no case shall drilling, pumping or mining of subsurface oil, gas, or other minerals be permitted on the Protected Property.

6. Subdivision

The Protected Property shall not be subdivided or conveyed in any form in separate parcels without the prior written approval of Grantee, which approval will be granted (a) only in exceptional circumstances; and (b) provided that it does not compromise the Purposes of this Grant. In the event other legal means may consider the Protected Property more than one tract of land, grantor nevertheless covenants and agrees that from hereon all of the Protected Property shall be held under one ownership as a single undivided tract, and shall not directly or indirectly subdivide all or any part

of it through the allocation of property rights among partners, shareholders, or members of any successor entity, the creation of a horizontal property regime, long-term leasing, or any other means without Grantee's prior written consent.

7. Water Systems

There shall be no manipulation of natural watercourses, wetlands or other water bodies, nor shall there be activities conducted on the Protected Property which would be detrimental to water quality or the ecosystems supported thereby, or which could alter natural water level or flow, except as reasonably necessary to carry out the uses allowed on the Protected Property under this Grant within the bounds of state and federal regulations. New ponds, including associated dam construction, may be permitted, conditioned or denied in Grantee's sole discretion, according to the Purposes of this Grant. Subsequent pond maintenance may be conducted with prior notice to Grantee.

8. Vegetation

There shall be no planting of trees, shrubs or plants, except as may be necessary for the restoration of rare species, natural communities or wildlife habitat, or for the purposes of ecologically sound timber management after consultation with Grantee and approval of a Forest Management Plan, or within the existing fields, orchards and pastures (as documented in a Baseline Documentation Report, the original of which is retained on file by Grantee at Grantee's place of business). Under no circumstances shall there be purposeful introduction of non-native, invasive or genetically modified (meaning genetically engineered by artificial insertion of DNA) plants or animals.

9. Potential Uses

No use shall be made of the Protected Property and no activity thereon shall be permitted which, in the reasonable opinion of Grantee, is or may possess the potential to become inconsistent with the Purposes of this Grant. Grantor and Grantee acknowledge that, in view of the perpetual nature of this Grant, they are unable to foresee all potential future land uses, technology, evolution and other occurrences which may affect the Protected Property or its management. Grantee, therefore, in its sole discretion, may determine whether (a) proposed uses or improvements are addressed in this Grant, either through the Purposes or extrapolation of other terms; and (b) alterations in existing uses or structures are consistent with the Purposes of this Grant.

D. PERMITTED USES OF THE PROTECTED PROPERTY

Notwithstanding the foregoing, Grantor shall have the right to use the Protected Property to conduct all activities appropriately addressed by a Grantee-approved Management Plan, provided that such activities are reasonably necessary to carry out and are entirely consistent with the terms and Purposes of this Grant. Such uses might include:

1. Agriculture

The right to maintain, and use existing fields, orchards and pastures for agricultural and/or horticultural purposes, scenic or open space purposes and/or for the purpose of maintaining or enhancing wildlife habitat on the Protected Property. Agricultural activities must be in accordance with generally accepted and sound agricultural practices and appropriately addressed in a Management Plan for the Protected Property.

2. Maple Sugaring

The right to conduct maple sugaring operations in accordance with generally accepted sustainable practices that are appropriately addressed in a Management Plan.

3. Forestry

The right to conduct forestry activities, commercial or otherwise, together with the right to install skid trails for such, provided all activities shall be performed in accordance with a Grantee-approved forest management plan as further described herein. Prior to implementation of any active forest management, treatments, or timber harvesting, Grantor shall receive the prior written approval of

Grantee of its forest management plan, which term may include all changes, updates, amendments, and replacements thereto, (collectively "FMP") which approval shall not be unreasonably withheld or conditioned by Grantee, so long as such FMP substantially meets the requirements in this provision.

- a. The FMP shall be prepared, or reviewed and endorsed by a professional forester and/or an expert in the field of conservation sciences (which includes disciplines such as conservation biology, restoration ecology, hydrology, zoology, ecology and botany when they are applied to the protection or restoration of ecological processes that sustain species, natural communities and landscapes) who is experienced in preparing long term forest management plans;
- b. The FMP shall ensure no forestry activities of any kind shall degrade the future capacity of the Protected Property to produce future forest crops, cause significant pollution or degradation of soil, surface or subsurface waters, or cause soil loss or erosion.
- c. The FMP shall identify the owner's long-term forest management objectives, describe forest stand conditions, silvicultural and other objectives, and shall contain a detailed forest type map and schedule for treatments. Any FMP written, amended or updated after the date of the execution of this Grant shall reference this Grant and indicate that all land management is subject to the restrictions herein.
- d. In the event there is to be active forest management or timber harvesting, the FMP shall identify the public trails, road frontage, and natural resources on the Protected Property and set out specific measures for the protection, maintenance or improvement of them, including:
 - the scenic qualities as viewed from the public road frontages;
 - the scenic and recreational qualities of trail corridors (including preservation or restoration of trail construction and maintenance measures) throughout the Protected Property;
 - natural communities as well as wildlife habitat throughout the Protected Property, including corridors that may connect with significant habitats off-site;
 - the overall quality of the timber or maple resource;
 - soil retention and productivity; and
 - water quality and wetlands
 - the protection of native plant species by the minimization or control of exotic species likely to invade after a timber harvest
- e. In the event the FMP includes prescriptions for heavy cutting (as defined below), such prescriptions must be credibly compelling and consistent with the Purposes of this Grant in Grantee's discretion, such as to permit the active planting of different species of trees, to promote the establishment or improvement of wildlife habitat, to salvage damaged timber, or to create favorable conditions for the establishment or release of suitable regeneration. Heavy cutting of more than a significant percentage of the timber inventory within a short period of time relative to timber restocking growth shall *not* be considered consistent with the terms and Purposes of this Grant. "Heavy cutting" is currently defined as "a harvest leaving a residual stocking level of acceptable growing stock below the C line as defined by the U.S. Department of Agriculture stocking guides for the applicable timber type," however Grantee may consider future definitions so long as they are consistent with the concepts of long-term, sustainable management as set forth in the Purposes of this Grant.

All forestry activities shall be implemented in accordance with the Grantee-approved FMP as well as with all governmental laws and regulations applicable to the Protected Property. Grantor shall be responsible for managing and ensuring the proper actions of all forestry activities whether performed through employees, volunteers, agents or independent contractors.

4. Recreation

The right to use the Protected Property for all types of low-impact non-motorized, non-commercial recreational purposes including, but not limited to, hiking, snowshoeing, cross-country skiing, and wildlife observation consistent with the Purposes of this Grant. Horseback riding, mechanized recreation (such as mountain bike riding), and non-commercial snowmobiling are left to the discretion of the Grantor; such discretionary uses, however, must be appropriately addressed in a Management Plan and be consistent with the Purposes of this Grant. Additional use of motorized vehicles on the Protected Property shall be restricted to uses associated with agriculture, forestry, trail maintenance, emergency vehicles, and access for disabled persons.

5. Trails

The right to clear, construct, and maintain trails for walking, horseback riding, cross-country skiing, and other non-motorized recreational activities within and across the Protected Property. provided that the location, use, and construction of trails is consistent with the Purposes of this Grant, provided for in a Management Plan, and approved in writing in advance by Grantee.

6. Structures

The right to construct and maintain barns, sugar houses, or similar structures or facilities on the Protected Property provided that they are credibly supportive of and used *exclusively* for educational, agricultural, or forestry purposes, they do not cover or displace large amounts of soil or vegetation or convert a significant open field, and provided further that such structure or facility and its location have been approved in writing in advance by Grantee in a Management Plan. Further, the right to construct and maintain a small-scale structure related to low-impact recreational or open space uses or that complement the qualities of the Protected Property, such as a bridge, culvert, hunting blind, tent platform, gazebo or interpretive signs or kiosk, provided that such structure or facility has been approved in writing in advance by Grantee. Grantee's approval shall not be unreasonably withheld or conditioned provided that (a) Grantor shall demonstrate that no reasonable alternatives for placement off-site of the Protected Property exist; (b) the structure or facility is located, sized, and accessed in a manner consistent with the Purposes and terms of this Grant; (c) in no event shall the total of the combination of the footprints of structures or facilities within the Protected Property utilize more than one quarter of one percent (.25%) of the land base of the Protected Property; and (d) except for short-term overnight primitive camping, no structure or facility shall provide any form of residential use.

7. Roads

The right to maintain existing driveways, roads, and rights-of-way of record, along with the right to construct and maintain permeable-surface (unpaved) roads provided that they are used exclusively for agricultural or forestry purposes, access to trails, or emergency purposes. The right to construct new permeable-surfaced roads shall be contingent upon the location, use and construction of such improvements being consistent with the Purposes of this Grant and adequate provision for such improvements in a Management Plan. Any new construction shall be located in a manner which will minimize any adverse impacts on the values of the Protected Property as outlined in the Purposes, above, including the impacts of roads as vectors for invasive species.

8. Management Fees

THIS PROVISION ONLY APPLIES TO A GRANTOR THAT IS A MUNICIPALITY, DIVISION OF THE STATE OF VERMONT, OR A NOT-FOR-PROFIT ENTITY ORGANIZED FOR THE PUBLIC BENEFIT: The right to charge members of the general public reasonable fees for admission to periodic or temporary events on the Protected Property (including, but not limited to educational programs or celebrations), provided such fees are reasonably necessary to support Grantor's management of the Protected Property. Fees shall not be based on place of residency. All fees shall be consistent with the Purposes of this Grant, especially that of public access, and such activities shall be provided for in a Management Plan.

9. Special Uses

THIS PROVISION ONLY APPLIES TO A GRANTOR THAT IS A MUNICIPALITY, DIVISION OF THE STATE OF VERMONT, OR A NOT-FOR-PROFIT ENTITY ORGANIZED FOR THE PUBLIC BENEFIT: The right to issue

temporary special use permits or licenses authorizing the use of the Protected Property for recreational, educational, agricultural or forestry related purposes, provided that any such permit or license (i) does not unreasonably interfere with the access of the general public to the Protected Property, (ii) is for uses consistent with the Purposes of this Grant, (iii) only authorizes uses or actions consistent with this Grant, and (iv) has been provided for and approved in Management Plan.

E. PUBLIC ACCESS

Grantor covenants and agrees that the Protected Property shall be available to the general public for all types of non-commercial, non-motorized, dispersed recreational and educational purposes (including but not limited to bird-watching, cross-country skiing, hiking, snowshoeing, walking, or wildlife observation) consistent with the Purposes of this Grant.

Notwithstanding the foregoing, Grantor may temporarily limit or restrict public access to the Protected Property on occasion, with prior notice provided to Grantee, to assure compliance with the requirements of this Grant, to protect natural resources such as water quality, wildlife or natural habitats, or to protect the public health and safety (including, but not limited to the right to permit, regulate or prohibit fishing, hunting, or trapping).

F. EXECUTORY INTEREST

Grantor hereby gives, grants, and conveys to the Vermont Land Trust, Inc. ("VLT"), a 501(c)(3) organization with principal offices currently located at 8 Bailey Avenue, Montpelier, Vermont, 05602, an executory interest in this Grant of Development Rights and Conservation Restrictions, such that in the event the Upper Valley Land Trust shall cease to exist as a legal entity or function as a qualified organization under Section 501(c)(3) and 170(h) of the Internal Revenue Code, then the rights, interests, restrictions, and obligations hereunder shall shift to and vest with VLT; provided however, if VLT shall no longer qualify under Section 501(c)(3) of the Internal Revenue Code, shall cease to exist, or shall refuse or fail to accept said rights, interests and restrictions, then such rights shall vest in such other qualified entity having similar purposes to which such rights and duties may be awarded by a court of competent jurisdiction under the doctrine of *cy pres*.

G. ENFORCEMENT OF THE RESTRICTIONS

1. Grantor conveys and Grantee accepts this Grant with the understanding that they and their successors have an obligation in perpetuity to work together to uphold the objectives of this Grant. To this end, Grantor and Grantee shall confer with each other and attempt to resolve any issue by mutual agreement in a timely manner. Grantee shall make reasonable efforts from time to time to assure compliance by Grantor with all of the covenants and restrictions herein. In connection with such efforts, Grantee may make periodic inspection of all or any portion of the Protected Property, and for such inspection and enforcement purposes, Grantee shall have the right of reasonable access to the Protected Property.

2. In the event that Grantee becomes aware of an event or circumstance of non-compliance with the terms and conditions herein, Grantee shall give written notice to Grantor of such event or circumstance of non-compliance by hand or certified mail return receipt requested, and demand corrective action 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, Grantor shall reimburse Grantee all reasonable costs, including staff time, incurred in investigating the non-compliance and in securing its correction.

3. Failure by Grantor to cause discontinuance, abatement, or such other corrective action as demanded by Grantee within a reasonable time after receipt of such notice and reasonable opportunity to take corrective action, shall entitle Grantee to bring an action in a court of competent jurisdiction to enforce the terms of this Grant, compel specific performance, and to recover any damages, special or general as provided by law, arising from such non-compliance. Such damages, when recovered, may be applied by Grantee to corrective action on the Protected Property if the Court and Grantee so choose.

4. If such court determines that Grantor has failed to comply with this agreement, Grantor shall reimburse Grantee for any reasonable costs of enforcement, including Grantee's staff time, court costs, and reasonable attorney and legal fees, in addition to any other relief ordered by such court. In the event that Grantee initiates litigation and the court determines that the Grantor has not failed to comply with this agreement and that Grantee initiated litigation without reasonable cause or in bad faith, then Grantee shall reimburse Grantor for any reasonable costs of defending such action, including court costs and reasonable attorney and legal fees.

5. The parties to this Grant specifically acknowledge that some events and circumstances of non-compliance constitute immediate and irreparable injury, loss and damage to the Protected Property and, accordingly, may entitle Grantee to such equitable relief, including but not limited to *ex parte* 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 Grantee at law, in equity, by arbitration or mediation, or through administrative proceedings.

6. 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.

H. MISCELLANEOUS PROVISIONS

1. Where Grantor is required, as a result of this Grant, to obtain the prior written approval of Grantee before commencing an act, Grantor hereby agrees to reimburse Grantee for all extraordinary costs, including staff time, incurred in reviewing the proposed action requiring Grantee's approval. Grantee may waive reimbursements which are expected and routine in scope. If Grantee has designated in writing another organization or entity to have the authority to grant such approval, the approval of said designee shall be deemed to be the approval of Grantee.

2. Grantor and Grantee hereby acknowledge and agree that the construction, installation or maintenance of any structures or improvements or any use of the land otherwise permitted under this Grant, shall be in accordance with all applicable laws, ordinances, statutes and regulations.

3. In order to comply with applicable state rules concerning potable water supplies and wastewater systems, Grantor shall not construct or erect any structure or building or other improvement on any portion of the premises described in this deed, if the use or useful occupancy of that structure or building or improvement will require the enlargement of, installation of, or connection to a potable water supply or wastewater system, without first complying with applicable state or local rules and obtaining any required permit. Any Grantor who owns these premises acknowledges that these premises may not be able to meet state standards for an additional or larger potable water supply or wastewater system and therefore these premises may not be able to be improved.

4. Grantor and Grantee agree that, for purposes of depicting the condition of the Protected Property at the time of the execution of this Grant, including the size and location of its fields, orchards and pastures, and for otherwise enforcing this Grant, the Protected Property is more fully depicted and described in a Baseline Documentation Report ("BDR"), signed by the original Grantor and Grantee. Grantor and Grantee agree that the BDR is an accurate representation of the

physical condition of the Protected Property at the time of the execution of this Grant. Grantor has retained a copy of the BDR and the original shall be held by the Grantee.

5. Subject to the approval of VLT, as holder of an executory interest in this Grant, and with prior notice given to Grantor, Grantee may transfer the Grant of Development Rights and Conservation Restrictions conveyed herein, but only to a qualified conservation organization that agrees to enforce the conservation purposes of this Grant in accordance with the regulations established by the Internal Revenue Service governing such transfers.

6. In the event the development rights or conservation restrictions conveyed to the Grantee herein may be extinguished by eminent domain or other legal proceedings, Grantee shall be entitled to any proceeds which pertain to the extinguishment of Grantee's rights and interests. Any proceeds from extinguishment shall be allocated between Grantor and Grantee using a ratio based on the relative value of the development rights and conservation restrictions, and the value of the fee interest in the Protected Property encumbered by this Grant. If there was a qualified appraisal performed at the direction of Grantor at the time of this conveyance and circumstances have not changed significantly since that time, the allocation ratio may be determined from it. Grantee's use of any such proceeds shall be consistent with any of the Purposes set forth above.

7. Grantor accepts and enters into this Grant and covenants herein willingly with full authority, knowledge and desire for these Grant restrictions to be applied to these premises in perpetuity. Grantor recognizes that this Grant restricts Grantor from otherwise beneficial municipal or public uses on these premises when those uses may be incompatible with the terms of this Grant. In the event that Grantor, or any successor Grantor, is a public entity or empowered by a public entity, nothing in this Easement shall be construed to allow Grantor to extinguish this or any part of this Grant itself by its own power of condemnation or conversion, if any, and Grantor covenants it shall attempt no such extinguishment. Likewise, no future change in Grantor's plans, zoning, neighboring uses, or governing boards or councils may be used as a challenge to this Grant under the doctrine of "changed use."

8. Grantor understands that uses prohibited hereby may, in the future, become even more economically valuable than permitted uses; Grantor likewise has considered that neighboring properties may be put entirely to such prohibited uses. Grantor and Grantee expressly intend that any such changes in the economy or to nearby lands shall not be deemed "changed conditions" that might otherwise be used as an argument to alter or terminate this Grant. Likewise, Grantor understands and acknowledges that Grantee's interest in this Grant is governed by federal and state law, as well as organizational standards and practices that make future alterations or amendments to this Grant unfeasible or highly unlikely.

9. Grantor shall hold harmless, indemnify and defend Grantee from and against any damages, liabilities, claims and expenses, including reasonable attorney's fees, which Grantee may suffer or incur through holding or exercising its rights under this Grant as a result of any solid waste disposal or hazardous waste cleanup laws, including the actions or inactions of (a) Grantor as owner or operator of the premises; (b) prior owners of the premises; (c) any agents of Grantor or prior owners; or (d) operators of abutting properties or others potentially liable for activities.

10. In any deed conveying an interest in all or part of the Protected Property, Grantor shall make reference to this agreement and shall indicate that said rights and restrictions are binding upon all successors in interest in the Protected Property in perpetuity. Grantor or its legal representatives shall also notify Grantee of the name(s) and address(es) of Grantor's successor(s) in interest within ten (10) business days prior to any such transfer.

11. Grantee shall be under no obligation to maintain the Protected Property or to pay any taxes, liens, or assessments thereon.

12. Grantee shall be entitled to re-record this Grant, or to record a notice making reference to the existence of this Grant, in the applicable land records as may be necessary 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.

13. The term "Grantor" shall include the heirs, executors, administrators, successors, and assigns of the original Grantor THE NATURE CONSERVANCY. The term "Grantee" shall include the successors and assigns of the original Grantee, UPPER VALLEY LAND TRUST, INC. The same terms apply whether Grantor or Grantee is a person or entity, male or female, singular or plural.

14. Invalidation or waiver of any of the provisions hereof shall not affect any other provision of this agreement. Headings are intended for convenience of the reader and have no contractual significance.

TO HAVE AND TO HOLD said granted development rights, conservation easement and restrictions, with all the privileges and appurtenances thereof, to said Grantee, UPPER VALLEY LAND TRUST, INC., its successors and assigns, to its own use and behoof forever; and said Grantor, THE NATURE CONSERVANCY, for itself and its successors and assigns, does covenant with the said Grantee, its successors and assigns, that until the ensembling of these presents it is the sole owner of the premises, and has good right and title to convey the same in the manner aforesaid, that it is free from every encumbrance except those of record, and Grantor hereby engages to warrant and defend the same against all lawful claims whatsoever.

IN WITNESS WHEREOF, I set my hand and seal this ^{JB} 29th day of April, 2005.

GRANTOR:

THE NATURE CONSERVANCY

[Signature]
Witness to TNC

By [Signature]
Robert J. Klein, Executive Director

STATE OF VERMONT
COUNTY OF Washington ss.

On this 29th day of April, 2005, before me, the undersigned notary public, personally appeared Robert J. Klein, Executive Director of the Vermont Chapter of The Nature Conservancy (a corporation), to me personally known or otherwise proved to me through satisfactory evidence of identification to be the person whose name is signed on the preceding document, and acknowledged to me that he signed such document voluntarily for its stated purpose.

[Signature]
Notary Public
My commission expires:

**MARGARET F. FOX
NOTARY PUBLIC, VT
COMMISSION EXPIRES FEB. 10, 2007**

ACCEPTED BY GRANTEE:

UPPER VALLEY LAND TRUST, INC.

[Signature]
Witness to UVLT

By [Signature]
As duly authorized

SCHEDULE "A"
Description of Protected Property

Being all of the same lands and premises, 300 acres more or less, conveyed to Grantor by means of a Decree of Distribution in Re. the Estate of Charles W. Hughes, dated December 29, 2003 and recorded on January 23, 2004 in Book 113 at Page 694 of the Thetford Land Records.

Meaning and intending to protect all and the same lands conveyed to Charles W. Hughes and Fannie L. Hughes by virtue of three deeds as follows: (1) from Roy C. Blake dated July 6, 1939 and recorded in Book 34, Page 89 of the Thetford Land Records; (2) from Roy C. Blake dated June 2, 1941 and recorded in Book 34, Page 162 of the Thetford Land Records; and (3) from Fred L. Kibbey dated March 8, 1940 and recorded in Book 34, Page 118 of the Thetford Land Records. Fanny L. Hughes is deceased.

Reference may be made to the above described deed and record and to the deeds and records referred to therein for a more complete and particular description.

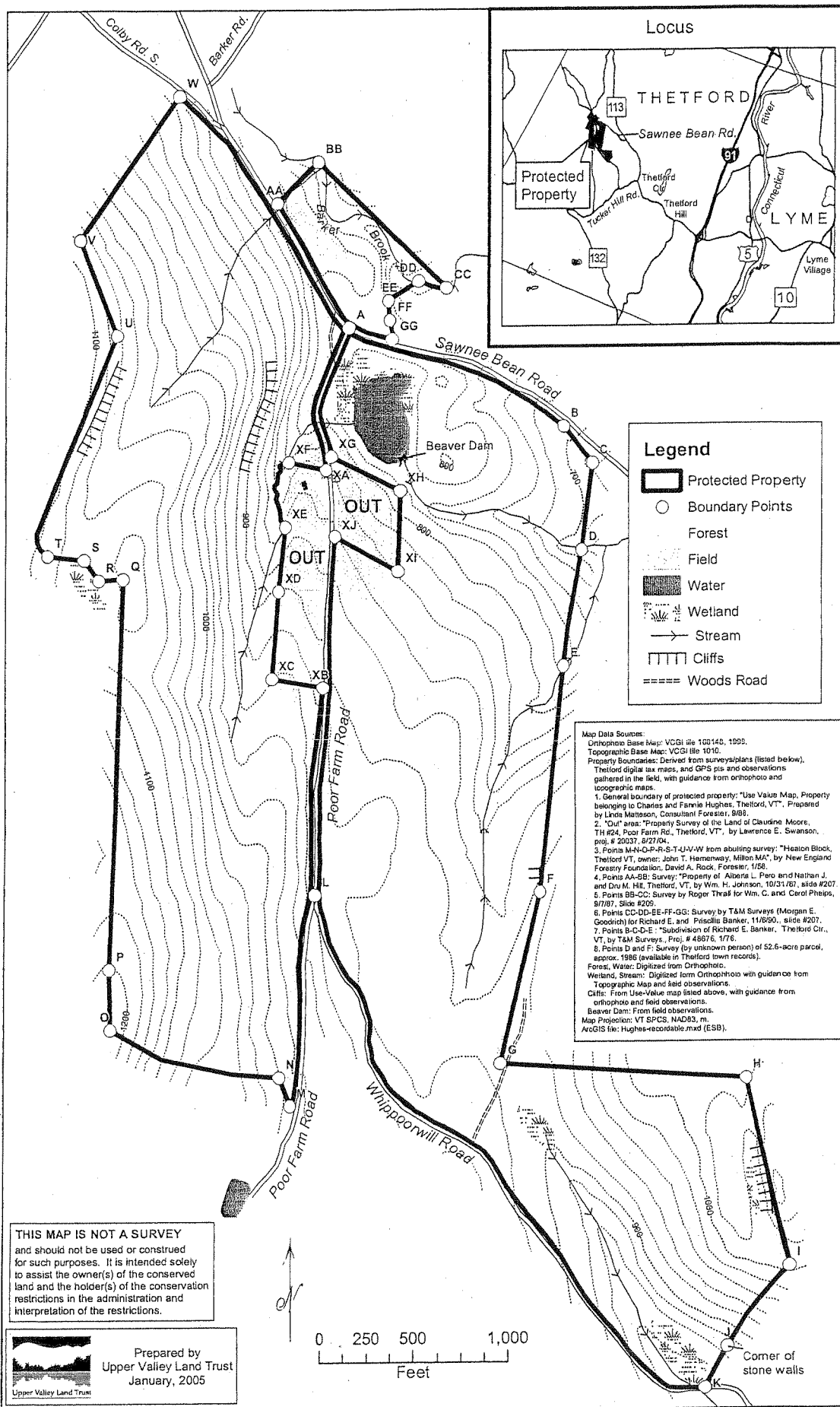
Reference may be had to a plan entitled "Property Survey of the Land of Claudine Moore, Town Highway #24, Poor Farm Road," prepared by Lawrence E. Swanson, L.S., Sharon, Vermont, Project Number 20037, dated November 2000, as revised August 2004 and November 2004, and recorded as Plan # 241 (TSD#569) in the Thetford Town Records.

Reference may also be had of a Boundary Line Agreement between Harold E. Heaton and Elsie C. Heaton and Charles W. Hughes and Fannie L. Hughes, recorded on September 10, 1953 in Book 39 at Page 178 of the Thetford Land Records.

Reference may also be had of a Boundary Line Agreement between Charles Hughes and Richard E. and Priscilla B. Banker, recorded on December 11, 1991 in Book 80 at Page 663, and recorded as Maps #202 and #204, in the Thetford Land Records.

Reference may also be had of Quit-Claim Deeds from Claudine Moore to The Nature Conservancy and from The Nature Conservancy to Claudine Moore, dated December 28, 2004 and December 20, 2004, respectively, and both recorded on January 12, 2005 in Book 117 at Page 882-883, and Book 117, Page 878-881, respectively, in the Thetford Land Records.

SCHEDULE "B"
Conservation Map of Protected Property



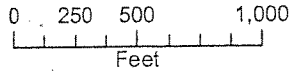
Legend

- Protected Property
- Boundary Points
- Forest
- Field
- Water
- Wetland
- Stream
- Cliffs
- Woods Road

Map Data Sources:
 Orthophoto Base Map: VCGI file 100140, 10099.
 Topographic Base Map: VCGI file 1010.
 Property Boundaries: Derived from surveys/plans (listed below), Thetford digital tax maps, and GPS pins and observations gathered in the field, with guidance from orthophoto and topographic maps.
 1. General boundary of protected property: "Use Value Map, Property belonging to Charles and Fannie Hughes, Thetford, VT", Prepared by Lewis Matteson, Consultant Forester, 9/65.
 2. "Out" areas: "Property Survey of the Land of Claudine Moore, TH #24, Poor Farm Rd., Thetford, VT", by Lawrence E. Swanson, Proj. # 20037, 8/27/04.
 3. Points M-H-C-P-R-S-T-U-V-W from abutting survey: "Heaton Block, Thetford VT, owner: John T. Hemenway, Milton MA", by New England Forestry Foundation, David A. Rock, Forester, 1/58.
 4. Points AA-BB: Survey: "Property of Albert L. Pero and Nathan J. and Du M. Hill, Thetford, VT, by Wm. H. Johnson, 10/31/67, slide #207.
 5. Points BB-CC: Survey by Roger Thrafl for Wm. C. and Carol Phelps, 9/7/67, Slide #209.
 6. Points CC-DD-EE-FF-GG: Survey by T&M Surveys (Morgan E. Goodrich) for Richard E. and Priscilla Banker, 11/6/90, slide #207.
 7. Points B-C-D-E: "Subdivision of Richard E. Banker, Thetford Cit., VT, by T&M Surveys, Proj. # 48676, 1/76.
 8. Points D and F: Survey (by unknown person) of 52.6-acre parcel, approx. 1986 (available in Thetford town records).
 Forest, Water: Digitized from Orthophoto.
 Wetland, Stream: Digitized from Orthophoto with guidance from Topographic Map and field observations.
 Cliffs: From Use-Value map listed above, with guidance from orthophoto and field observations.
 Beaver Dam: From field observations.
 Map Projection: VT SPCS, NAD83, m.
 ArcGIS file: Hughes-recordable.mxd (ESB).

THIS MAP IS NOT A SURVEY and should not be used or construed for such purposes. It is intended solely to assist the owner(s) of the conserved land and the holder(s) of the conservation restrictions in the administration and interpretation of the restrictions.

Prepared by
Upper Valley Land Trust
January, 2005



Corner of stone walls