

STATE OF CONNECTICUT :

v. :

WOODS HILL SOLAR, LLC; :  
RES AMERICA DEVELOPMENTS INC., :  
RES AMERICA CONSTRUCTION INC., and :  
ENEL GREEN POWER NORTH :  
AMERICA, INC. :

CONSENT ORDER # 30WRSW18003

Date Issued: November 27, 2018

A. With the agreement of Woods Hill Solar, LLC (“Woods Hill”), RES America Developments Inc. (“RES Developments”), RES America Construction Inc. (“RES Construction”), and Enel Green Power North America, Inc. (“Enel”), (collectively the “Respondents” and each, as individual entities, a “Respondent” to this Order), The Commissioner of Energy and Environmental Protection (“the Commissioner”) finds:

1. Woods Hill Solar, LLC (“Woods Hill”) is a Delaware limited liability company with a business address of 100 Brickstone Square, Suite 300, Andover, Massachusetts 01810.
2. RES America Developments Inc., (“RES Developments”) is a Delaware corporation with a principal place of business at 11101 W. 120<sup>th</sup> Avenue, Suite 400, Broomfield, Colorado, 80021. Woods Hill was formerly a subsidiary of RES Developments.
3. RES America Construction Inc., (“RES Construction”) is a Delaware corporation with a principal place of business at 11101 W. 120<sup>th</sup> Avenue, Suite 400, Broomfield, Colorado, 80021.
4. Enel Green Power North America, Inc., (“Enel”) is a Delaware corporation with a principal place of business at 100 Brickstone Square, Suite 300, Andover, Massachusetts, 01810. Woods Hill is currently a subsidiary of Enel.

#### **STORMWATER VIOLATIONS**

5. The Respondents are constructing a solar ground-mounted solar photovoltaic facility (“the Solar Array”) located at 90 Woods Hill Road and 101 Woods Hill Road in Pomfret, Connecticut. The two properties encompass approximately 228 acres and, collectively, are referred to as “the Site”.
6. Construction of the Solar Array has or will disturb greater than one acre at the Site and as such, requires, among other requirements, compliance with the General Permit for the Discharge of Stormwater and Dewatering Wastewaters from Construction Activities

RES/WOOD HILL/ENEL  
CONSENT ORDER

("the General Permit"), or an individual stormwater discharge permit issued by the Commissioner.

7. On August 11, 2017, Woods Hill submitted to the Department of Energy and Environmental Protection ("DEEP") a registration application under General Permit. This application included a Stormwater Pollution Control Plan ("SWPCP") required under the General Permit. On August 23, 2017, Wood Hill's registration was approved by the Commissioner, as registration No. GSN003215.
8. While RES Construction undertook construction of the Solar Array at the Site in late August 2017, throughout construction, all four Respondents have been involved in construction activities at the Site.
9. On or about November 22, 2017, Enel acquired Woods Hill from RES Developments and, along with RES Construction, Enel remains involved in construction of the Solar Array at the Site.
10. Since the approval of registration No. GSN003215, the Respondents have violated the requirements of the General Permit, including the SWPCP approved by the Commissioner for the Site. These violations have resulted in non-compliance with the General Permit and the SWPCP, unpermitted discharges from the Site, sediments from the Site going off-site and blanketing thousands of square feet of adjoining wetlands, sediments from the Site being discharged off-site into an adjoining watercourse a threat to the continued existence of threatened species listed pursuant to section 26-306 of the Connecticut General Statutes, and the destruction of habitat essential for a species listed as threatened under Conn. Gen. Stat. § 26-306. These violations are described in the following paragraphs.
11. Under section 5(b)(2)(A)(i) of the General Permit, regarding Soil Stabilization and Protection, the Respondents shall ensure, among other things, that disturbed sections of the Site are both minimized and stabilized. Under Section 5(b) of the General Permit, the Respondents shall maintain compliance with the soil stabilization measures in the SWPCP approved by the Commissioner.
12. The Respondents disturbed over a hundred acres at the Site and failed to both minimize disturbed areas and stabilize any areas of the Site that were disturbed, including, but not limited to, failing to take stabilization measures in the SWPCP approved by the Commissioner. Despite the violations that occurred and the ensuing erosion - both on and off-site - construction and disturbance of the Site continued.
13. Under section 5(b)(2)(A)(ii) of the General Permit, regarding Structural Measures, points of discharge from disturbed sites with a total contributing drainage area of between two to five acres require the installation of a temporary sediment trap. For points of discharge from disturbed sites with a total contributing drainage area greater than five acres, a temporary basin must be installed. Any sediment trap, basin, or other structural measure to divert the flow of stormwater at the Site must be designed and installed in accordance



RES/WOOD HILL/ENEL  
CONSENT ORDER

with the 2002 Connecticut Guidelines for Soil Erosion and Sediment Control and must be maintained until final stabilization of the contributing area. In addition, under Section 5(b) of the General Permit, the Respondents are required to maintain compliance with the provisions of the SWPCP approved by the Commissioner regarding sediment traps, basins, and other temporary structural measures for diverting the flow of stormwater.

14. The Respondents disturbed over a hundred acres at the Site without installing any of the required sediment traps, basins, and other temporary structural measures to divert the flow of stormwater or complying with the requirements of the SWPCP approved by the Commissioner regarding such sediment traps, basins, and other structural measures. Even though the failure to install such traps, basins or other structural measures and the ensuing erosion - both on and off-site - was obvious, construction and disturbance of the Site continued.
15. Under the General Permit, the Respondents are responsible for ensuring that inspections are conducted during construction activities. A primary purpose of these inspections is to ensure that any non-compliance with the General Permit can be identified and corrected. Section 5(b)(4)(A) of the General Permit requires that "Plan Implementation Inspections" be conducted within the project's first 90 days to ensure compliance with the General Permit and proper implementation of all stormwater control measures in the SWPCP approved by the Commissioner. In addition, under Section 5(b)(4)(B) of the General Permit, "Routine Inspections" are to be conducted on a weekly basis and after any rain event that generates a discharge. The areas to be inspected include, at a minimum, disturbed areas of the construction activity that have not been finally stabilized, all erosion and sedimentation control measures, all structural control measures, soil stockpile areas, washout areas and locations where vehicles enter or exit the Site. The effectiveness of erosion and sediment controls, structural controls, stabilization practices and any other controls implemented to prevent pollution, are evaluated through these routine inspections so it can be determined if it is necessary to install, maintain, or repair such controls and/or practices to improve the quality of stormwater discharges.
16. Section 5(b)(4)(B)(iii) of the General Permit requires that the routine inspection reports include a statement about whether a site that is being inspected is, or is not, in compliance with the terms and conditions of the approved SWPCP for the site and the General Permit. Certain of the Plan Implementation Inspections submitted to the Commissioner did not include this statement.
17. In addition, Section 5(b)(4)(B)(iii) of the General Permit requires that if a site inspection indicates that a site is out of compliance, the inspection report shall include a summary of the remedial actions required to bring the site back into compliance. While certain Plan Implementation Inspections for the Site have been submitted to the Commissioner, no inspection noted any non-compliance with the General Permit or the SWPCP approved by the Commissioner, nor did any of these reports include a summary of remedial actions required to bring the Site into compliance, despite the fact that the temporary structural measures, such as sediment traps, swales and check dams, had not been installed and the Site was not properly stabilized. Also, on one or more occasion, the Respondents failed



RES/WOOD HILL/ENEL  
CONSENT ORDER

to inspect the Site within twenty-four hours after a storm event that generated a discharge.

18. Under section 3(b) of the General Permit, construction activity can be authorized, provided it does not threaten the continued existence of any threatened or endangered species listed pursuant to section 26-306 of the Connecticut General Statutes and shall not result in the destruction or adverse modification of habitat essential to such species.
19. The Respondents, through its own consultant and through communication with the Department, were aware that threatened or endangered species had been documented at the Site and that the Site contained suitable habitat for other threatened species. In letters from the Department dated February 2, 2016 and June 17, 2017, the Department indicated that the Frosted Elfin, a threatened butterfly, had been documented within the proposed project area at the Site. The Department's letter noted that since the Respondents had not performed surveys of the plant species favored by the Frosted Elfin, an invertebrate biologist or plant ecologist should be retained to implement a habitat expansion plan along the forested edge and in open areas of the Site not covered by the Solar Array.
20. The Respondents had an environmental assessment of the Site performed by Tighe & Bond in December of 2015. The results of that assessment were documented in a report entitled "Environmental Assessment" (the "EA") dated March 2016. In that EA, although no bird survey was conducted, the Respondents' consultant noted that the Site contained suitable habitat for another threatened species, the Eastern Meadowlark, although haying at the Site may have limited the Site's suitability as habitat for this species. The EA also noted that Site contained suitable habitat for the Northern Long Eared Bat, a federally threatened species for which the federal government had recently announced special protections. The EA noted that the Department would be contacted to determine if additional information about the Northern Long Eared Bat was available, and if not, that attempts to obtain such information would be documented.
21. The Respondents undertook construction activities at the Site without adequate regard for threatened and endangered species. For example, despite the Department's letter regarding the documented presence of the Frosted Elfin, a threatened species, at the Site, the Respondents took insufficient precautions to either identify whether threatened or endangered species were present on Site, or implement a plan to protect such species. As such, the Respondents' activities at the Site may have threatened the continued existence of threatened or endangered species or resulted in the destruction or adverse modification of habitat essential to such species.
22. Pursuant to Sections 5(c)(1) and 5(c)(2) of the General Permit, turbidity sampling shall be conducted at the Site at least once a month with the results sent to DEEP. Although construction activities have been conducted at the Site since late August 2017, until April of 2018, no turbidity sampling results were sent to DEEP.



RES/WOOD HILL/ENEL  
CONSENT ORDER

23. Under section 5(b)(2)(D)(ii) and (iii) of the General Permit, washout of vehicles shall be conducted in a designated wash-out area and off-site tracking of sediments from vehicles leaving the Site shall be minimized. The Respondents failed to designate an area for washout and, at a minimum, in April and May 2018, off-site tracking of sediments from vehicles leaving the Site was occurring and was not minimized.
24. Under Section 3(b)(8)(B) of the General Permit, the Respondents made an affirmative determination to comply with terms and conditions of the General Permit, maintain such compliance, including, but not limited to, compliance with SWPCP approved by the Commissioner, and properly operating and maintaining all stormwater management systems at the Site. For the reasons noted above, this affirmative determination was repeatedly violated.
25. The General Permit does not authorize the discharge of sediments from the Site into the waters of the State or onto other properties, nor do the Respondents have any such authorization. Yet the Respondents repeatedly failed to take measures necessary to prevent the discharge of sediments from the Site into the waters of the State or onto other properties. On March 8, 2018, RES Construction, at the direction of Enel, contacted the Department to report that on March 1, 2018, there was a discharge of sediment from the Site into adjacent wetlands. The report from RES Construction stated that "lack of stabilization," "lack of temporary sediment basins," and "compounding effects of an extended construction schedule" were the primary contributing factors leading to this sediment release.
26. A subsequent report dated April 15, 2018, prepared by VHB consultants, confirmed that since Site perimeter controls were either non-existent or ineffective, there were at least eight areas where measurable volumes of sediment were discharged into waters of the state or beyond the perimeter controls for the Site. In certain areas these discharges of sediments covered thousands of square feet. The areas into which sediments were discharged included a watercourse, wetlands and areas designated by the Town of Pomfret as upland review areas for wetlands.
27. Section 5(b)(5)(A) of the General Permit requires that the Respondents keep its SWPCP in compliance with the General Permit, including, but not limited to, amending the plan if there is change in the design, construction, operation or maintenance of the Site which has the potential for the discharge of pollutants to the waters of the state and which otherwise has not been addressed in the Plan.
28. The actions taken by Respondents at the Site constituted a change in the design, construction, operation or maintenance of the Site which has the potential for the discharge of pollutants to the waters of the state and which otherwise has not been addressed in the Plan, but the Respondents failed to keep its SWPCP current. For example, not only did the Respondents fail to install temporary sediment traps, the Site was also lacking swales and check dams as depicted and required by the SWPCP approved by the Commissioner. These deviations altered the fundamental assumptions underlying the SWPCP, yet the Plan was not kept current.

RES/WOOD HILL/ENEL  
CONSENT ORDER

**ENFORCEMENT SUMMARY**

29. As a result of the violations noted above, on March 28, 2018, the Commissioner issued Cease and Desist Order No. 2018001DEEP ("the Cease and Desist Order") to the Respondents prohibiting the Respondents from engaging in, and ensuring that no other person engaged in, any further activities at the Site including, but not limited to, all construction or testing activities related to the Solar Array, vehicular movement on the Site, and any movement of soil, unless such activity is required by or in compliance with the Cease and Desist Order or is otherwise approved by the Commissioner in writing.
30. In response to, and as required by the Cease and Desist Order, the Respondents have taken a number of actions at the Site including:
- a. Applying tackifier, straw matting, and erosion control blankets as well as and hydroseeding to stabilize and prevent erosion of sediments from the Site;
  - b. Hiring consultants approved by DEEP to implement certain actions required by the Cease and Desist Order;
  - c. Developing a report from a soil scientist regarding remediation of areas impacted by discharges of sediment from the Site. This remediation includes areas on and off-Site;
  - d. Constructing sediment traps, swales and check dams to prevent migration of sediments from the Site; and
  - e. Providing weekly progress reports on activity at the Site.
31. By virtue of the above, the Commissioner finds that the Respondents have:
- a. Caused, engaged in or maintained a condition or activity which can reasonably be expected to cause or has caused pollution to the waters of the state;
  - b. Violated the terms and conditions of the General Permit and registration No. GSN003215 as well as Connecticut General Statutes §§ 22a-37 et seq., 22a-403, 22a-427 and 22a-430. The Respondents are still in the process of correcting these violations.
32. By agreeing to the issuance of this Consent Order, the Respondents make no admission of fact or law with respect to the matters addressed herein, other than the facts asserted in paragraphs A.1 through A.7, inclusive.
- B. With the agreement of the Respondents, the Commissioner, acting under Conn. Gen. Stat. §§ 22a-6, 22a-39, 22a-401, 22a-406, 22a-424, 22a-430 and 22a-432, orders the Respondents as follows:
1. Consultants.



RES/WOOD HILL/ENEL  
CONSENT ORDER

- a. The Respondents have retained the following consultants or firms to prepare documents and implement or oversee actions required by this Order. Each of these consultants and firms has been approved by the Commissioner for the activity identified next to the consultant.

From Tighe and Bond:

Brian S. Huntley, P.E. - Engineering Design and Implementation  
Jean E. Christy, P.E. - Engineering Design and Implementation

From VHB:

Stephen J. O'Neill, P.E. – Site Inspection, Oversight of Construction and Turbidity Monitoring  
John McGinn, P.E. – Site Inspection  
Jeffrey Peterson – Remediation/Wetlands Restoration

- b. The Respondents shall continue to retain the consultants identified in paragraph B.1.a of this Order or other qualified consultants acceptable to the Commissioner, to prepare documents and implement or oversee actions required by this Order, until full compliance with this Order has been achieved. No later than three days after retaining any consultant other than one identified in paragraph B.1.a of this Order, the Respondents shall submit to the Commissioner the identity of such consultant for the Commissioner's review and written approval. Unless otherwise specified in this Order, any consultant(s) retained by the Respondents shall be a professional engineer acceptable to the Commissioner with a current valid license to practice in Connecticut. If requested by the Commissioner, the Respondents shall submit to the Commissioner a description of a consultant's education, experience and training which is relevant to the work required by this Order within ten days after a request for such a description. Nothing in this paragraph shall preclude the Commissioner from finding a previously acceptable consultant unacceptable, nor shall anything in this paragraph preclude an individual who is not a professional engineer, but is reporting to a professional engineer, to assist that professional engineer in the completion of such engineer's work.
- c. At least one of the professional engineers identified in paragraph B.1.a of this Order, or another consultant approved in writing by the Commissioner under paragraph B.1.b of this Order, shall be present at the Site during all phases of construction of any stormwater control measures required under this Order.

2. Replacement Stormwater Pollution Control Plan

- a. No more than fifteen (15) days from issuance of this Order, the Respondents shall submit for the Commissioner's review and written approval, a revised Stormwater Pollution Control Plan ("the Plan") for the Site. The Plan shall describe how the Site is currently complying with and will maintain compliance with the General Permit and this Order, addressing both current conditions at the Site as well as actions to be taken at the Site. The Plan shall include, but not be limited to, the following:

RES/WOOD HILL/ENEL  
CONSENT ORDER

- i. Regarding current conditions at the Site: (1) the Plan shall address site stabilization, perimeter controls, structural measures (traps, basins, swales, plunge pools, or other structural measures), methods for storing soil stock-piled on Site, and any additional matter regarding stormwater at or from the Site; (2) the Plan shall include the measures to achieve Site stabilization, any additional stabilization measures that are in process or that still need to be taken, the criteria used to determine whether Site stabilization has been achieved, any measures to ensure that any portion of the Site that has been stabilized, remains stabilized, whether the perimeter controls installed at the Site are determined to be adequate and the criteria used to make such determination, and a description of, and any maintenance required for, any structural measure installed at the Site; and (3) the Plan shall also address how compliance with the General Permit and this Order will be monitored and maintained until post-construction control measures are in place.
- ii. If the Respondents have determined that with respect to current conditions at the Site, no additional action is necessary, the Respondents shall specify that in the Plan. The Plan shall include an explanation for why no further action is necessary, including, but not limited to, the criteria for any such determination, any new design criteria, stormwater calculations, and drainage patterns used that were not described in the SWPCP previously approved by the Commissioner, a photographic record of the Site, and a certification, from a professional engineer approved under paragraph B.1 of this Order, that the Site has been stabilized, including that current controls at the Site are adequate.
- iii. Regarding post-construction control measures, the Plan shall include:
  - I. A description of the post-construction control measures to be implemented, monitored, and maintained at the Site. This shall include the design criteria, stormwater calculations, and drainage patterns used in determining such post-construction controls and a proposal for implementing and maintaining such controls. The Plan shall address what, if any, changes will be made the sediment traps, basins or other structural measure taken at or installed at the Site.
  - II. A proposed inspection and construction log, including a photograph record of milestones events, so that the Respondents can provide a photographic record demonstrating that the post-construction control measures, including, but not limited to, permanent Site stabilization measures have been implemented in accordance with the Plan approved by the Commissioner;
  - III. A proposal for monitoring and maintaining the effectiveness of post-construction control measures at the Site. At a minimum, any such proposal shall at a minimum include, for two (2) years, inspections and outfall monitoring at each discharge point at the Site for turbidity to determine whether the permanent stabilizations measures implemented at the Site is



RES/WOOD HILL/ENEL  
CONSENT ORDER

working and is preventing erosion, including, but not limited to, the migration or discharge of sediments, at or from all areas of the Site; and

- IV. A schedule for installing, monitoring and maintaining the effectiveness of such post-construction control measures.
- b. The Respondents shall implement the Plan as approved by the Commissioner. This shall include all actions in the Plan as approved by the Commissioner including any actions required to address current conditions at the Site, post-construction control measures, and post-construction monitoring. Such actions shall be implemented in accordance with the schedule approved by the Commissioner.
- c. i. No later than twenty-one (21) days after completing the installation of the post-construction control measures in the Plan approved by the Commissioner, (exclusive of a permanent vegetative cover or other permanent stabilization measure or the maintenance and monitoring required under paragraph B.3 of this Order) the Respondents shall provide the Commissioner a written notification of such completion and submit the following to the Commissioner:
- I. As-built drawings of all post-construction control measures at the Site, signed and sealed by a professional engineer approved under paragraph B.1 of this Order; and
- II. A photographic record sufficient for the Commissioner to determine if such post-construction control measures comply with the Plan approved by the Commissioner pursuant to paragraph B.2.b of this Order.
- ii. After receipt of the documentation required by paragraph B.2.c.i. of this Order, the Commissioner shall determine, in writing, whether the post construction control measures installed by the Respondents' are satisfactorily and comply with the Plan approved by the Commissioner pursuant to paragraph B.2.b of this Order. If the Commissioner deems such implementation to be unsatisfactory, additional work shall be performed by the Respondents in accordance with a supplemental plan and schedule approved by the Commissioner. Unless otherwise specified in writing by the Commissioner, the supplemental plan and schedule shall be submitted by the Respondents for the Commissioner's review and approval on or before thirty (30) days after notice from the Commissioner that additional work is necessary.
- d. i. No later than twenty-one (21) days after the establishment of a permanent vegetative cover or other permanent stabilization necessary for stabilization of the entire Site, the Respondent shall provide the Commissioner a written notification of such completion and submit to the Commissioner a photographic record sufficient to demonstrate to the Commissioner that such permanent vegetative cover or other permanent stabilization measure has been established at the Site in accordance with the Plan approved by the Commissioner pursuant to paragraph B.2.b of this Order.

RES/WOOD HILL/ENEL  
CONSENT ORDER

- ii. After receipt of the materials required by paragraph B.2.d.i of this Order, the Commissioner shall determine, in writing, whether a permanent vegetative cover, or other permanent stabilization necessary for stabilization of the entire Site, has been established to the satisfaction of the Commissioner. If the Commissioner determines that permanent Site stabilization had not been established, the Respondent shall perform additional work in accordance with a supplemental plan and schedule approved by the Commissioner. Unless otherwise specified in writing by the Commissioner, the supplemental plan and schedule shall be submitted by the Respondent for the Commissioner's review and approval on or before thirty (30) days after notice from the Commissioner that additional work is necessary.
- 3. Monitoring. After the Commissioner determines, pursuant to paragraph B.2.c.ii and B.2.d.ii, that the post-construction control measures, including, but not limited to, the permanent stabilization measures at the Site, have been implemented to the satisfaction of the Commissioner, the Respondents shall implement the monitoring in the Plan approved by the Commissioner pursuant to paragraph B.2.b of this Order. Such monitoring shall be conducted for not less than two (2) years.

4. Site Stabilization

In addition to any other requirements of this Order, the following shall apply:

- a. In the event that during any Site activities the Respondents disturb the tackifier or other measures used to establish stabilization of the Site, the Respondents shall reapply tackifier, or take whatever other measures are necessary to reestablish site stabilization, no later than at the end of each working day, to ensure that the Site remains stabilized and to prevent erosion, including, but not limited to, the migration or discharge of sediments at or from the entire Site.
- b. If in the opinion of the Commissioner the Site is not stabilized, including, but not limited to the migration of sediments, at or from any portion of the Site, the Respondents shall take all measures necessary to re-establish stabilization in all areas where, in the Commissioner's opinion, stabilization has failed to occur. Such additional work shall be performed by the Respondents in accordance with a supplemental plan and schedule approved by the Commissioner. Unless otherwise specified in writing by the Commissioner, the supplemental plan and schedule shall be submitted by the Respondents for the Commissioner's review and approval on or before thirty (30) days after notice from the Commissioner that additional work is necessary.

5. Erosion and Sedimentation Control

In addition to any other requirements of this Order, the following shall apply:

- a. The Respondents shall not allow sediments from the Site to discharge, migrate or move off the Site. In addition, the Respondents shall prevent erosion from occurring on-Site.



RES/WOOD HILL/ENEL  
CONSENT ORDER

- b. The Respondents have installed certain structural measures at the Site, including, but not limited to, sediment traps, a plunge pool, and a level spreader. Unless the removal of such structural measures has been approved in writing by the Commissioner, or the Commissioner specifies otherwise, the Respondents shall maintain such structural measures at the Site in good working order. This includes, but is not limited to, repairing or removing sediment from the sediment traps whenever necessary.
- c. If in the opinion of the Commissioner the erosion and sedimentation controls or structural measures at the Site are not adequate, the Respondents shall take all measures necessary to ensure the adequacy of such controls or measures. Such additional work shall be performed by the Respondents in accordance with a supplemental plan and schedule approved by the Commissioner. Unless otherwise specified in writing by the Commissioner, the supplemental plan and schedule shall be submitted by the Respondents for the Commissioner's review and approval on or before thirty (30) days after notice from the Commissioner that additional work is necessary.

6. Site Activity Restrictions and Declaring Commercial Operation:

- a. Effective upon the date the Commissioner issues this Order, the Respondents shall not engage in, and ensure that no other person engages in, any activities at the Site including, but not limited to, all construction or testing activities related to the Solar Array, vehicular movement on the Site, and any movement of soil, unless such activity is required by or in compliance with this Order or is otherwise approved by the Commissioner. This requirement shall remain in effect until:
  - i. The Respondents have completed stabilization of the Site to the satisfaction of the Commissioner, including, but not limited to, installation of perimeter and other erosion and sedimentation controls at the Site and taking the steps necessary to ensure that stock-piles of soil on the Site are not serving as a source of erosion;
  - ii. The Respondents have submitted a certification, acceptable to the Commissioner, from a professional engineer identified in paragraph B.1 of this Order, demonstrating that the Respondents have completed stabilization of the Site; and
  - iii. The Respondents have satisfied the requirements of paragraphs 12 of this Order regarding payment of a civil penalty.
- b. Effective upon the written determination by the Commissioner that the requirements specified in paragraph B.6.a of this Order have been satisfied, the Respondents may complete construction of and test the Solar Array at the Site, but are prohibited from declaring Commercial Operation at the Site under any power purchase agreement to which the Respondents are a party. This

RES/WOOD HILL/ENEL  
CONSENT ORDER

requirement shall remain in effect until the Commissioner has approved, in accordance with paragraph B.2.b of this Order, the Plan submitted by the Respondents and the Respondents have completed implementation of any measures identified in and required by the approval of such Plan regarding current site conditions.

- c. Effective upon the written determination by the Commissioner that the requirements specified in paragraph B.6.b of this Order have been satisfied, and upon completion of the supplemental environmental project requirements set forth in paragraph B.14 of this Consent Order, including, but not limited to, the requirements set forth in paragraph B.14.c or, if necessary B.14.e, the Respondents may declare Commercial Operation at the Site under any power purchase agreement to which the Respondents are a party. Any such declaration or operation of the Site shall not excuse the Respondents from complying with any other requirement of this Order.
7. Compliance with General Permit. Unless the Commissioner specifically provides otherwise in writing, the Respondents shall continue to comply with the General Permit and shall ensure that all activities at the Site remain in compliance with the General Permit.
8. Remediation
- a. Wetlands
    - i. No later than December 30, 2018, the Respondents shall implement the remedial actions described in the April 15, 2018 report from VHB. These actions were approved by the Commissioner in a May 31, 2018 letter from Neal Williams of DEEP to Hans P. Van Lingen of Enel. Within fifteen (15) days after completing such actions, the Respondent shall notify the Commissioner in writing that the actions required by the approved remedial plan have been completed.
    - ii. If, in the Commissioner's judgment, the Respondents fail to reasonably complete the approved remedial actions or fail to reasonably abate erosion and sedimentation impacts from the Site, the Respondents shall undertake additional assessment and remediation in accordance with a supplemental plan and schedule proposed by Respondents and approved in writing by the Commissioner. Unless otherwise specified in writing by the Commissioner, the Respondents shall submit such supplemental plan and schedule for the Commissioner's review and written approval on or before thirty (30) days after notice from the Commissioner that such plan is required.
    - iii. The Respondents shall use best efforts to obtain access to property not owned or controlled by the Respondents to comply with paragraph B.8 of this Order. If the Commissioner determines that the Respondents cannot



RES/WOOD HILL/ENEL  
CONSENT ORDER

obtain access to property not owned or controlled by the Respondents to comply with the requirements of paragraph B.8 of this Order, the Commissioner shall notify the Respondents in writing and the requirements of paragraph B.8 this Order shall not apply to any such property.

- iv. The Respondents shall ensure that actions required by paragraph B.8.a. of this Order are undertaken by a Certified Professional Soil Scientist registered in Connecticut, who has been approved by the Commissioner pursuant to paragraph B.1.b of this Order.

b. Threatened and Endangered Species

- i. No later than sixty (60) days after the issuance of this Consent Order, The Respondents shall submit for the Commissioner's review and approval a Frosted Elfin, *Callophrys irus*, habitat restoration plan for the Site. This plan shall include, but not be limited to, the following:
  - I. The identification of a minimum of ten (10) acres at the Site suitable for Frosted Elfin habitat, including being suitable for the establishment of the necessary host plants;
  - II. Establishment and management of Frosted Elfin habitat, including the planting of host plants using local seeds and potential replanting, if needed. This includes monitoring to ensure that host plants have survived, including removal of competing vegetation, as necessary.
  - III. A maintenance schedule for the habitat;
  - IV. Surveys for the Frosted Elfin at the Site and reporting of survey results. The Surveys should identify methods, timing, frequency and locations; and
  - V. A restoration program that lasts for at least seven (7) years.
- ii. The Respondents shall implement the plan submitted under paragraph B.8.b.i. of this Order, including the schedule, as approved by the Commissioner.
- iii. The Respondents shall ensure that the development and implementation of the plan required by paragraph B.8.b. of this Order is undertaken by an invertebrate biologist familiar with the requirements of the Frosted Elfin who has been approved by the Commissioner pursuant to paragraph B.1.b of this Order.

RES/WOOD HILL/ENEL  
CONSENT ORDER

iv. Any submission made under paragraph B.8.b of this Consent Order shall be sent to:

Shannon Kearney  
Department of Energy and Environmental Protection  
Bureau of Natural Resources, Wildlife Division  
Natural Diversity Database and Conservation Compliance  
Sessions Woods Wildlife Management Area  
341 Milford Road (Rte. 69)  
Burlington, Connecticut 06013-1550  
Shannon.Kearney@ct.gov

9. Financial Assurance:

- a. Pursuant to the March 28, 2018 Cease and Desist Order, the Respondents have procured a letter of credit in the amount of \$1,000,000.00. See Appendix A attached to this Consent Order. Except for the reductions specified in paragraph 9 of this Order, the Respondents shall maintain this letter of credit in effect until the Commissioner notifies the Respondents, in writing, of the Commissioner's determination that remediation pursuant to paragraph B.8.a of this Order has been satisfactorily completed and that the monitoring required under with paragraph B.3. of this Order has been completed, after which the letter of credit may be terminated.
- b. While not required, the amount of the letter of credit in Appendix A may be reduced in accordance with the following schedule:
  - i. Upon approval by the Commissioner of the Plan pursuant to paragraph B.2.b. of this Order, the amount on the letter of credit may be reduced to \$650,000;
  - ii. Upon approval by the Commissioner of implementation of the Plan, including confirmation of the establishment of permanent stabilization of this Site, pursuant to paragraph B.2.c.i and B.2.c.ii of this Order, the amount on the letter of credit may be reduced to \$500,000; and
  - iii. Upon completion of Remediation pursuant to paragraph B.8.a of this Order and notification from the Commissioner that monitoring has been completed in accordance with paragraph B.3. of this Order, the letter of credit may be terminated.
- c. If the amount of the letter of credit in Appendix A is to be reduced in accordance with the preceding paragraph, the Respondents shall first submit a new letter of credit identical in all respects to the letter of credit in Appendix A, except for the reduced amount. Once the new letter of credit is received and the Commissioner determines that it is satisfactory, the Commissioner shall follow any reasonable instructions from the issuing bank regarding the termination or return of the previous letter of credit being cancelled.



RES/WOOD HILL/ENEL  
CONSENT ORDER

10. Progress reports.

- a. Except as provided in paragraph 10.b of this Order or unless another schedule is approved by the Commissioner in writing, on or before the last day of each month following issuance of this Order and continuing until all actions required by this Order have been completed as approved and to the satisfaction of the Commissioner, the Respondents shall submit a progress report to the Commissioner that describes the actions which Respondents have taken during the month of the report to comply with this Order.
- b. During the time that the Respondents are constructing the post-construction control measures, until the Respondents have completed implementation of such controls, the Respondents shall submit weekly progress reports. This weekly report shall identify the work performed during the week preceding the report, including but not limited to, details regarding how construction was performed and the work expected to be completed during the week following the report. Unless specifically requested by the Commissioner, in writing, such weekly reports do not need to be submitted when the post-construction control measures are being monitored or maintained.
- c. Unless otherwise specified by the Commissioner in writing, the Respondents may submit progress reports under this paragraph electronically to Neal Williams at: Neal.Williams@ct.gov.

11. Full compliance. The Respondents shall not be considered in full compliance with this Order until the Respondent's activities at the Site are in compliance with the General Permit, and all other actions required by this Order have been completed as approved and to the Commissioner's satisfaction.

12. Civil penalty. The Respondents shall pay a penalty of \$575,00.00 as the total civil penalty to be sought by the Commissioner for those, and only those, violations described in paragraphs A.5 through A.28 of this Order. This penalty is payable as follows: On or before thirty (30) days after issuance of this Order the Respondent shall pay \$287,500.00 in accordance with paragraph B.13 of this Order, and Respondent shall pay \$287,500.00 as a Supplemental Environmental Project in accordance with paragraph B.14 of this Order.

13. Payment of Penalties. On or before thirty (30) days after the issuance of this Order, the Respondents shall pay \$287,500.00 by mail or personally delivery to the Department of Energy and Environmental Protection, Bureau of Financial and Support Services, Accounts Receivable Office, 79 Elm Street, Hartford, CT 06106-5127. Such payment shall be by certified or bank check payable to the "Connecticut Department of Energy and Environmental Protection" The check shall state on its face, "Bureau of Materials Management, Water Permitting and Enforcement Division, civil penalty, Consent Order No. 2018001DEEP.

RES/WOOD HILL/ENEL  
CONSENT ORDER

14. Supplemental Environmental Project. The Respondents shall undertake the following supplemental environmental project ("SEP") ), requiring an expenditure of at least \$287,500.00, in accordance with the following:

- a. On or before thirty (30) days after the issuance of this Consent Order, the Respondents shall cause a payment to be made to the Wyndham Land Trust in an amount not less than \$287,500.00 to be applied solely towards the purchase of three parcels of land noted on Appendix B of this Order ("the SEP properties") and for no other purpose.
- b. The Wyndham Land Trust shall use the proceeds of this payment to purchase the SEP properties. Upon acquiring the SEP Properties, the Wyndham Land Trust shall record a restrictive covenant and dedication for conservation and public recreation on such properties. The wording of such restrictive covenant and dedication for conservation and public recreation shall be identical to that in Appendix C of this Consent Order.
- c. No later than December 15, 2018, or seven days after the Wyndham Land Trust closes on the purchase of the SEP Properties, whichever comes first, the Respondent shall obtain a letter signed by the President of the Wyndham Land Trust, indicating that the Wyndham Land Trust has received \$287,500.00 from the Respondent, has purchased the SEP Properties, has used the aforementioned funds from the Respondent for the purchase of the SEP Properties and for no other purpose and has recorded the restrictive covenant and dedication for conservation and public recreation using language identical to that in Appendix C of this Consent Order.
- d. The Respondent shall not request that the Commissioner approve the use of SEP funds for any purpose other than that identified in paragraph B.14 of this Consent Order.
- e. If paragraph B.14 of this Consent Order is not complied with, regardless of the reason, including that the Wyndham Land Trust did not purchase the SEP Properties or record the required restrictive covenant and dedication for conservation and public recreation, then no later than seven days after such non-compliance, the Respondents shall notify the Commissioner in writing of such non-compliance and shall remit a payment of \$287,500.00 to the Department in accordance with paragraph B.13 of this Consent Order.
- f. If and when the Respondent disseminates any publicity, including but not limited to any press releases regarding funding the SEP entered into pursuant to this Consent Order, the Respondent shall include a statement that such funding is in partial settlement of an enforcement action brought by the Commissioner.
- g. The Respondents shall not claim or represent that any SEP payment made pursuant to this Consent Order constitutes an ordinary business expense or charitable contribution or any other type of tax deductible expense, and the Respondents shall not seek or obtain any other tax benefit such as a tax credit as a result of the payment under paragraph B.14 of this Consent Order.

15. Approvals. The Respondents shall use best efforts to submit to the Commissioner all



RES/WOOD HILL/ENEL  
CONSENT ORDER

documents required by this Order in a complete and approvable form. Commissioner shall promptly review and take appropriate action on all submittals as required under this Order. If the Commissioner notifies the Respondents that any document or other action is deficient, and does not approve it with conditions or modifications, it is deemed disapproved, and the Respondents shall correct the deficiencies and resubmit it within the time specified by the Commissioner or, if no time is specified by the Commissioner, within thirty (30) days of the Commissioner's notice of deficiencies. In approving any document or other action under this Order, the Commissioner may approve the document or other action as submitted or performed or with such conditions or modifications as the Commissioner deems necessary to carry out the purposes of this Order. Nothing in this paragraph shall excuse noncompliance or delay.

16. Definitions. As used in this Order, "Commissioner" means the Commissioner of Environmental Protection or a representative of the Commissioner.
17. Dates. The date of "issuance" of this Order is the date the Order is deposited in the U.S. mail or personally delivered, whichever is earlier. The date of submission to the Commissioner of any document required by this Order shall be the date such document is received by the Commissioner. The date of any notice by the Commissioner under this Order, including but not limited to notice of approval or disapproval of any document or other action, shall be the date such notice is deposited in the U.S. mail or personally delivered, whichever is earlier. Except as otherwise specified in this Order, the word "day" as used in this Order means calendar day. Any document or action which is required by this Order to be submitted or performed by a date which falls on a Saturday, Sunday or a Connecticut or federal holiday shall be submitted or performed on or before the next day which is not a Saturday, Sunday, or a Connecticut or federal holiday.
18. Certification of documents. Any document, including but not limited to any notice, which is required to be submitted to the Commissioner under this Order shall be signed by a responsible corporate or municipal officer of the appropriate Respondent or a duly authorized representative of such officer, as those terms are defined in section 22a-430-3(b)(2) of the Regulations of Connecticut State Agencies and by the individual(s) responsible for actually preparing such document, each of whom shall certify in writing as follows: "I have personally examined and am familiar with the information submitted in this document and all attachments thereto, and I certify, based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, that the submitted information is true, accurate and complete to the best of my knowledge and belief. I understand that any false statement made in the submitted information is as a criminal offense under Conn. Gen. Stat. § 53a-157b and any other applicable law."
19. Noncompliance. Failure to comply with this Order may subject the Respondents to an injunction and penalties.
20. False statements. Any false statement in any information submitted pursuant to this Order may be punishable as a criminal offense under Conn. Gen. Stat. § 53a-157b or any other applicable law.



RES/WOOD HILL/ENEL  
CONSENT ORDER

21. Notice of transfer; liability of Respondents and others. Until the Respondents have fully complied with this Order, the Respondents shall notify the Commissioner in writing no later than fifteen days after transferring all or any portion of the facility, the operations, the site or the business which is the subject of this Order or after obtaining a new mailing or location address. The Respondents' obligations under this Order shall not be affected by the passage of title to any property to any other person or municipality.
22. Commissioner's powers. Except as provided hereinabove with respect to payment of penalties, nothing in this Order shall affect the Commissioner's authority to institute any proceeding or take any other action to prevent or abate violations of law, prevent or abate pollution, recover costs and natural resource damages, and to impose penalties for past, present or future violations of law. If at any time the Commissioner determines that the actions taken by the Respondents pursuant to this Order have not successfully corrected all violations, fully characterized the extent and degree of pollution, or successfully abated or prevented pollution, the Commissioner may institute any proceeding to require the Respondents to undertake further investigation or further action to prevent or abate violations or pollution.
23. Respondent's obligations under law. Nothing in this Order shall relieve the Respondents of other obligations under applicable federal, state and local law.
24. No assurance by Commissioner. No provision of this Order and no action or inaction by the Commissioner shall be construed to constitute an assurance by the Commissioner that the actions taken by the Respondents pursuant to this Order will result in compliance or prevent or abate pollution.
25. Access to site. Any representative of the Department of Energy and Environmental Protection may enter the Site without prior notice for the purposes of monitoring and enforcing the actions required or allowed by this Order.
26. No effect on rights of other persons. This Order neither creates nor affects any rights of persons who or municipalities which are not parties to this Order.
27. Notice to Commissioner of changes. Within fifteen (15) days of the date the Respondents become aware of a change in any information submitted to the Commissioner under this Order, or that any such information was inaccurate or misleading or that any relevant information was omitted, the Respondents shall submit the correct or omitted information to the Commissioner.
28. Notification of noncompliance. In the event that the Respondents become aware that it did not or may not comply, or did not or may not comply on time, with any requirement of this Order or of any document required hereunder, the Respondents shall immediately notify by telephone the individual identified in the next paragraph and shall take all reasonable steps to ensure that any noncompliance or delay is avoided or, if unavoidable, is minimized to the greatest extent possible. Within five (5) days of the initial notice, the Respondents shall submit in writing the date, time and duration of the noncompliance and the reasons for the noncompliance or delay and propose, for the Commissioner's review



RES/WOOD HILL/ENEL  
CONSENT ORDER

and written approval, dates by which compliance will be achieved, and the Respondents shall comply with any dates which may be approved in writing by the Commissioner. Notification by the Respondents shall not excuse noncompliance or delay, and the Commissioner's approval of any compliance dates proposed shall not excuse noncompliance or delay unless specifically so stated by the Commissioner in writing.

29. Submission of documents. Any document required to be submitted to the Commissioner under this Order shall, unless otherwise specified in writing by the Commissioner, be directed to:

Neal M. Williams  
Department of Energy and Environmental Protection  
Bureau of Materials Management & Compliance Assurance  
Water Permitting & Enforcement Division  
79 Elm Street  
Hartford, Connecticut 06106-5127  
Neal.Williams@ct.gov

30. Joint and Several Liability. The Respondents are jointly and severally liable for compliance with this Order.
31. Cease and Desist Order Superseded. The Cease and Desist Order issued by the Department to the Respondents on March 28, 2018 (Cease and Desist Order No. 2018001DEEP) shall be superseded by this Order. Once this Consent Order is effective, Cease and Desist Order No. 2018001DEEP shall no longer have any effect or be enforceable by the Department as if such Cease and Desist Order was fully withdrawn.
32. The Parties agree that this Consent Order may be executed in counterparts and that execution of counterparts shall have the same force and effect as if the Parties had signed the same instrument. Any signature made and transmitted electronically or via facsimile for the purposes of executing this Agreement shall be deemed an original signature for purposes of this Agreement and shall be binding on the signing Party.

*[Remainder of page left blank. Signature pages to follow.]*

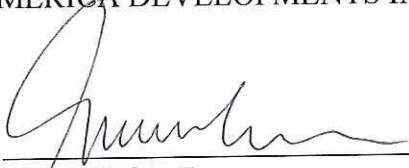
Each Respondent consents to the issuance of this Order without further notice. The undersigned certifies that he/she is fully authorized to enter into this Order and to legally bind the Respondent to the terms and conditions of the consent order.

WOODS HILL SOLAR, LLC

By: \_\_\_\_\_  
Name: Georgios Papadimitriou  
Title: Chief Executive Officer


\_\_\_\_\_  
Date

RES AMERICA DEVELOPMENTS INC.

By: \_\_\_\_\_  
Name: Brian Evans  
Title: President

11/16/18  
\_\_\_\_\_  
Date

RES AMERICA CONSTRUCTION INC.

By: \_\_\_\_\_  
Name: Christopher Howson  
Title: Chief Financial Officer & Treasurer

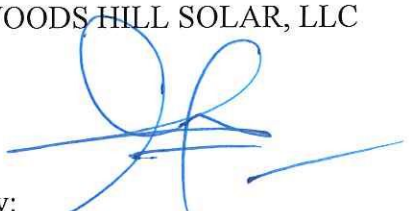
11/16/18  
\_\_\_\_\_  
Date



Each Respondent consents to the issuance of this Order without further notice. The undersigned certifies that he/she is fully authorized to enter into this Order and to legally bind the Respondent to the terms and conditions of the consent order.

WOODS HILL SOLAR, LLC

By:

  
\_\_\_\_\_  
Name: Georgios Papadimitriou  
Title: Chief Executive Officer

Date

11/20/18

RES AMERICA DEVELOPMENTS INC.

By:

\_\_\_\_\_  
Name: Brian Evans  
Title: President

Date

RES AMERICA CONSTRUCTION INC.

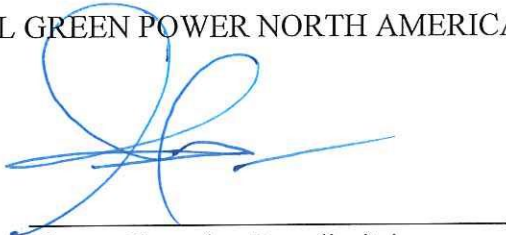
By:

\_\_\_\_\_  
Name: Christopher Howson  
Title: Chief Financial Officer & Treasurer

Date

ENEL GREEN POWER NORTH AMERICA, INC.

By:



Name: Georgios Papadimitriou  
Title: Chief Executive Officer

11/20/18  
Date



RES/WOOD HILL/ENEL  
CONSENT ORDER

Issued as a Final Consent Order of the Commissioner of Energy and Environmental Protection.

DEPARTMENT OF ENERGY AND  
ENVIRONMENTAL PROTECTION

  
\_\_\_\_\_  
Robert E. Kaliszewski  
Deputy Commissioner

  
\_\_\_\_\_  
Date

ORDER NO.  
TOWN OF POMFRET LAND RECORDS

**APPENDIX A  
IRREVOCABLE LETTER OF CREDIT**



**Bank of Tokyo-Mitsubishi UFJ**

New York Branch  
1251 Avenue of the Americas  
New York, NY 10020  
Tel: 201-413-8835  
Fax: 201-521-2312  
SWIFT: BOTKUS33XXX

**Irrevocable  
Standby Letter of Credit No.: S517779N**

Issuance Date: March 29, 2018

Total Amount: USD 1,000,000.00

**BENEFICIARY:**  
Connecticut Department of Energy and  
Environmental Protection Commissioner  
79 Elm Street  
Hartford, CT 06106-5127

**APPLICANT:**  
Woods Hill Solar, LLC,  
100 Brickstone Square  
Andover, MA 01810

Dear Sir or Madam:

We hereby establish our Irrevocable Standby Letter of Credit No. S517779N in your favor, at the request and for the account of the Applicant, Woods Hill Solar, LLC, 100 Brickstone Square Andover, MA 01810, up to the aggregate amount of One Million U.S. Dollars (USD 1,000,000.00). We hereby authorize the Connecticut Department of Energy and Environmental Protection Commissioner to draw at sight on us, The Bank of Tokyo-Mitsubishi UFJ, Ltd., New York Branch, 1251 Avenue of the Americas, New York, New York 10020, Attn. Trade Service Operations/Standby L.C. Section, an aggregate amount up to the total amount available upon presentation of:

- (1) your sight draft, bearing reference to this Letter of Credit No. S517779N, and
- (2) your signed dated statement reading as follows: "I certify that the amount of the draft is payable after the date of the issuance of this Irrevocable Standby Letter of Credit because I have determined one or more of the following: (a) one or more violations of the requirements or approvals applicable to the management of stormwater at or emanating from 99-101 Woods Hill Road, Pomfret, CT, have occurred, or (b) despite actions taken to manage stormwater at or emanating from the property located at 99-101 Woods Hill Road, Pomfret, CT, such stormwater has become a potential source of pollution (as that term is defined in Conn. Gen. Stat. Par. 22a-423) which the Applicant has been unable to remedy to my satisfaction within five (5) business days of receipt of a written notice from me that a pollution condition exists, or (c) the Applicant no longer owns the property or solar array facility at 99-101 Woods Hill Road, Pomfret, CT or (d) the issuing bank has notified me that it has decided not to extend this letter of credit beyond the current expiration date."



**APPENDIX A  
IRREVOCABLE LETTER OF CREDIT**



Bank of Tokyo-Mitsubishi UFJ

This letter of credit is effective as of March 29, 2018 and shall expire on March 29, 2019, but such expiration date shall be automatically extended for a period of one year on March 29, 2019 and on each successive expiration date, unless, at least 120 days before the current expiration date, we notify both you and Applicant, Woods Hill Solar, LLC, by certified mail or nationally recognized courier service that we have decided not to extend this letter of credit beyond the current expiration date. In the event you are so notified, any unused portion of the credit shall be available upon presentation of your sight draft for 120 days after the date of receipt by you, as shown on the signed return receipts or evidence of courier delivery.

Multiple and partial draws on this letter of credit are expressly permitted, up to an aggregate amount not to exceed the total amount available. Whenever this letter of credit is drawn on under and in compliance with the terms of this credit, we shall duly honor such draft upon presentation to us at our address specified in paragraph one above, and we shall deposit the amount of the draft directly into a Connecticut Department of Energy and Environmental Protection dedicated account in accordance with your instructions.

All banking and other charges under this letter of credit are for the account of the Applicant.

This letter of credit is issued subject to the Uniform Customs and Practice for Documentary Credits, published and copyrighted by the International Chamber of Commerce, I.C.C. Publication No. 600.

Very truly yours,

The Bank of Tokyo-Mitsubishi UFJ, Ltd.  
New York Branch

A handwritten signature in dark ink, appearing to read "Selena Holder-Pierre", is written over a horizontal line.

Signature(s) of official(s) of issuing institution

Selena Holder-Pierre

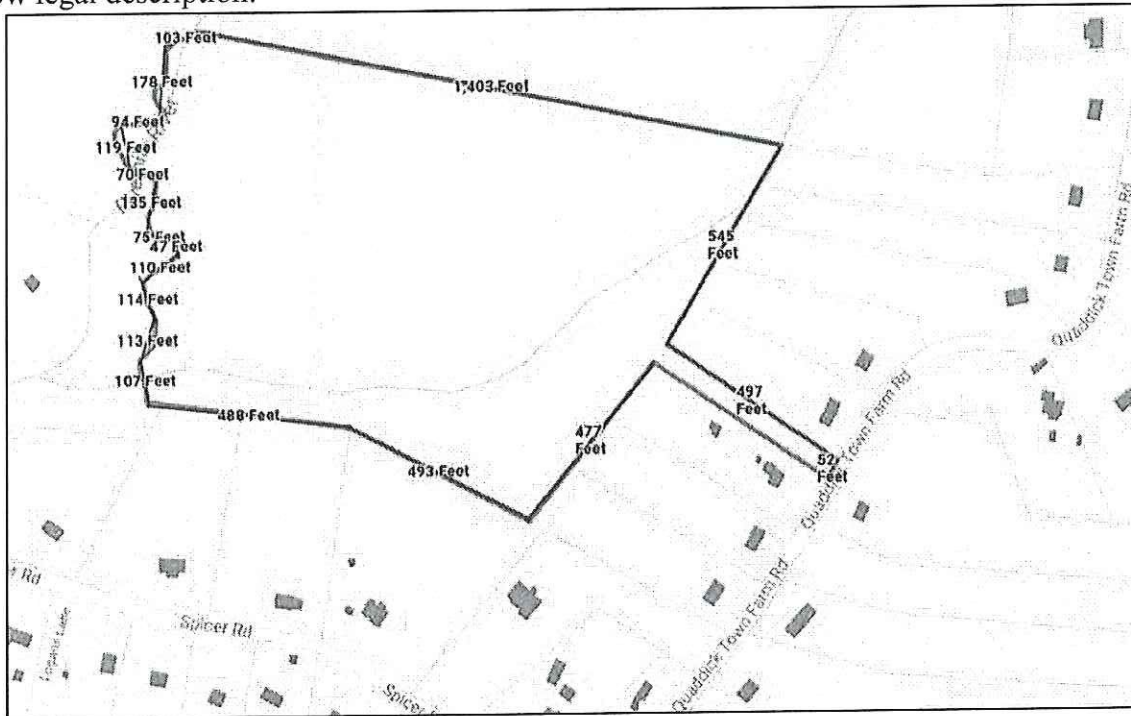
Officer

Title(s) of official(s) of issuing institution

## APPENDIX B DESCRIPTION OF SEP PROPERTIES

The SEP Properties are comprised of parcels of approximately 27 acres, 152 acres and 24 acres, for a total of approximately 203 acres. All of the parcels are located in Thompson, Connecticut. A legal description and a map of each parcel follows.

Parcel 1: Is approximately 27 acres located at 0 Quaddick Town Farm Road in Thompson, Connecticut; Volume 525/Page 15, as depicted below, and as described in greater detail in the below legal description:



Two certain tracts or parcels of land located on Quaddick Town Farm Road in the Town of Thompson, County of Windham and State of Connecticut, bounded and described as follows:

Being the same premises conveyed to Ronald R. Blain by Warranty Deed of Walter E. Dudley a/k/a Walter E. Dudley, Sr. dated March 5, 1979, and recorded in Thompson Land Records, Vol. 131, Pages 172-176.

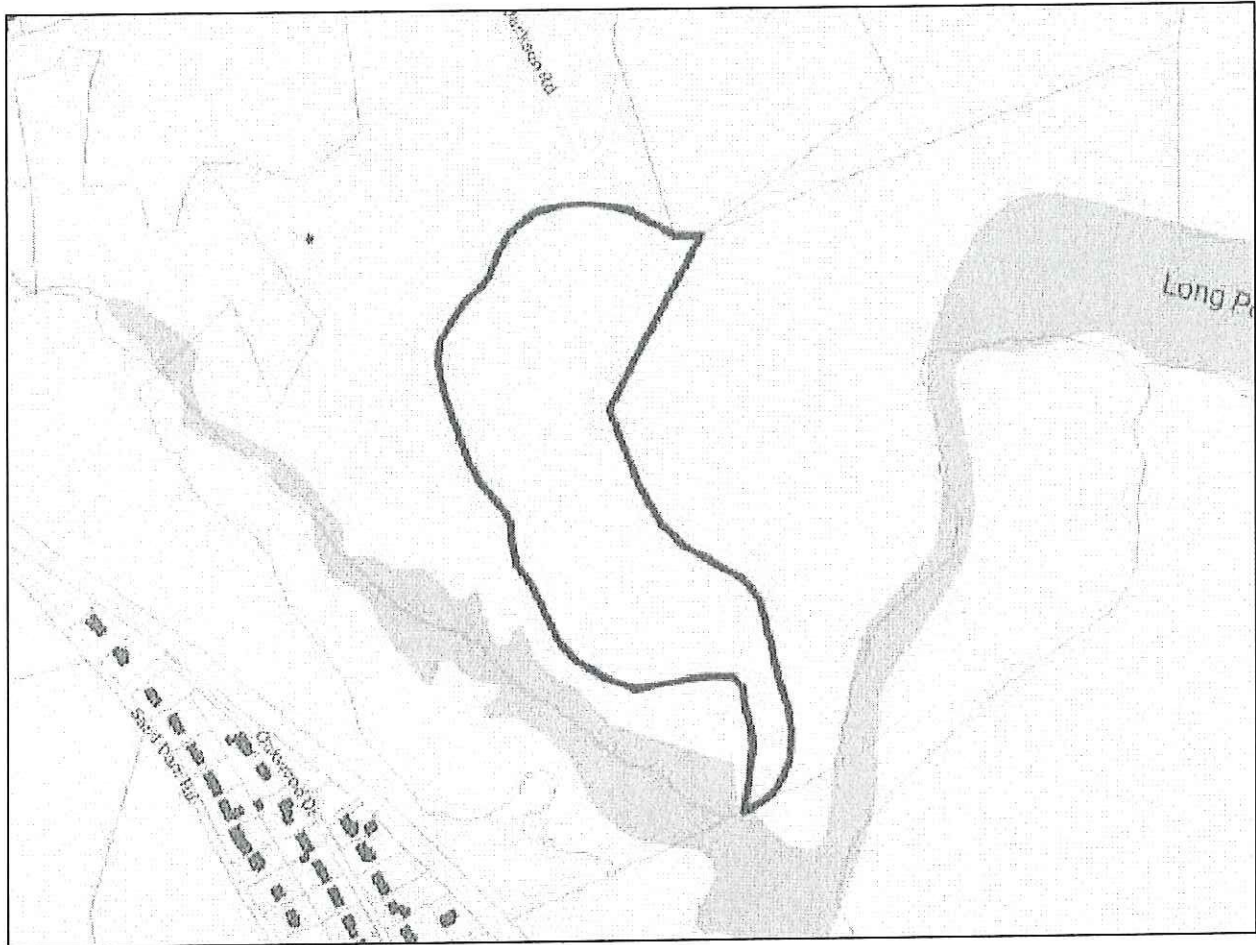
Being those premises shown on the Assessor's Map for the Town of Thompson as Map 156 Block 7 Lot k9C.

Excluding, however, from the above-described premises all portions of said premises previously conveyed by the releasor.



**APPENDIX B**  
**DESCRIPTION OF SEP PROPERTIES**

Parcel 2 – Is approximately 24 acres located at 0 South Shore Road in Thompson, Connecticut; Volume 735/Page 86, as depicted below, and as described in greater detail in the attached legal description:



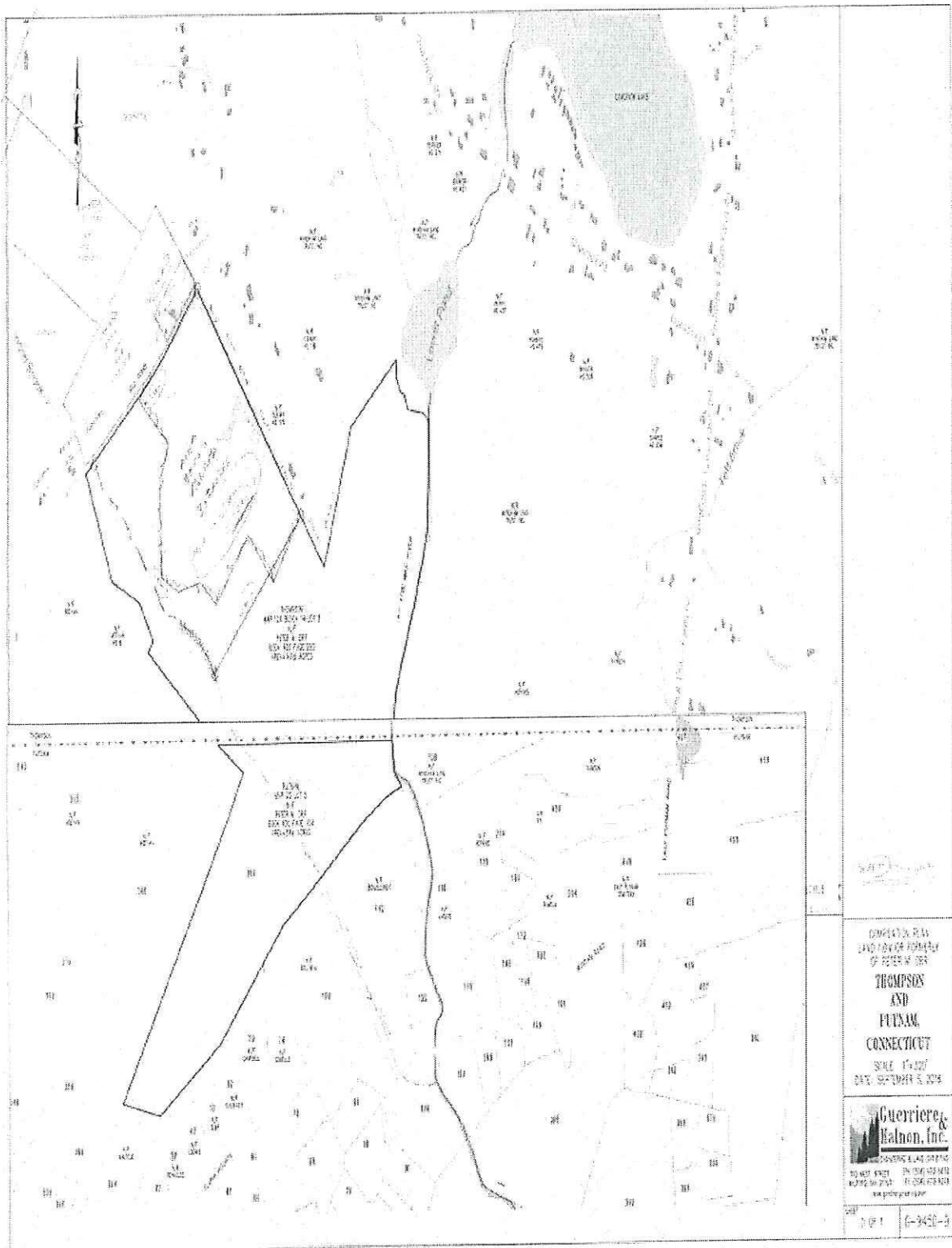
That certain piece or parcel of land with improvements thereon situated on South Shore Road, in the Town of Thompson, County of Windham and State of Connecticut known as 0 South Shore Road, consisting of 24 acres, more or less.

Being the same premises as conveyed by a Warranty Deed dated 1/15/10 and recorded 1/22/10 in Volume 735, Page 86 of the Thompson Land Records.

Further reference is made to a Certificate of Devise recorded in Volume 563, Page 343; see also a Certificate of Devise recorded in Volume 364, Page 79, all of the Thompson Land Records.

## APPENDIX B DESCRIPTION OF SEP PROPERTIES

Parcel 3 – Is approximately 152 acres located at 0 Hill Road in Thompson, Connecticut; and 398 Providence Pike in Putnam, Connecticut, census tract 9032, as depicted below, and as described in greater detail in the attached legal description:





APPENDIX B  
DESCRIPTION OF SEP PROPERTIES

1261

BOOK 402 PAGE 304

*Warranty Deed - Statutory Form*

THAT WE, WINTHROP ROSS MUNYAN and SHERLEY ANN MUNYAN, of 1 Leekgton Avenue, New York, NY 10010, for consideration paid, grant to PETER M. ORR, of the Town of Thompson, County of Windham and State of Connecticut, with WARRANTY COVENANTS.

REFERENCE IS MADE TO SCHEDULE A WHICH IS ATTACHED HERETO AND MADE A PART HEREOF.

Signed this 25<sup>th</sup> day of MAY, 2003.

Witnessed by:

*Jennifer Brantwaite*

*Winthrop Ross Munyan*  
Winthrop Ross Munyan

*Jennifer Brantwaite*

*Sherley Ann Munyan*  
Sherley Ann Munyan

State of New York )

) SS: Manhattan May 21<sup>st</sup>, 2003

City of New York )

Personally appeared, WINTHROP ROSS MUNYAN and SHERLEY ANN MUNYAN, signers and makers of the foregoing instrument, and acknowledged the same to be their free act and deed, before me.

*J. T. Liad*

Notary Public, My Commission Expires  
on: 4/30/2004

MADESS R. BLAD  
Notary Public, State of New York  
No. 20-016306  
Qualified in Connecticut County  
Commission filed in New York County  
Commission Expires April 30, 2004

Latest mailing address of Grantee:  
P.O. Box 447  
Thompson, CT 06277

1 DEED CLERK PUTNAM

*Sau. J. Ochs*

02 MAY 26 PM 12:53

CONFIRMATION OF RECORDING  
STATE OF CONNECTICUT  
*Sau. J. Ochs*  
TOWN CLERK, TOWN OF PUTNAM, CT

# APPENDIX B DESCRIPTION OF SEP PROPERTIES

BOOK 402 PAGE 305

## SCHEDULE "A"

Six (6) certain parcels of land being more particularly bounded and described as follows:

### FIRST PARCEL:

A certain lot of land located in the Town(s) of Thompson and Putnam, County of Windham and State of Connecticut, containing two hundred (200) acres, more or less, described as follows, viz:

BEGINNING at a small cedar tree marked at the southwest side of Owens pond, southeast; thence W 29° S 33 1/4 rods to a brook of maple trees, by the side of the swamp; thence S 31° W 32 1/4 rods by land of the late Alpheus Russell to a rock in the wall a corner of said Russell land; thence N 17° W 143 1/4 rods to a walnut tree where two walls meet in line of Thompson land so-called and southwest corner of land now or formerly of Jacob Wheaton; thence W 40 1/4° S 34 1/4 rods by said Thompson land to a stake by a fence near a small brook a corner of said Jacob Wheaton's land; thence E 31° S. 4 rods, 31 links across said brook to a stake and thence; thence S 26° E 22 rods by said Jacob land to a stake and stones by the road; thence S 16° E 1 rods across said road to a wall meeting said road; thence S 17° E 22 1/4 rods by a wall to a turn in the fence; thence E 39 1/4 S 1 1/4 rods to a turn in said wall; thence S 59° W 3 rods, 15 1/4 links to a turn in said wall; thence S 7° E 7 1/2 rods to a turn in said wall; thence E 27° S 24 rods to the end of a ditch in the meadow; thence S 30° E 18 rods, 18 1/2 links to a stake and stones by said ditch, a corner of said Jacob Wheaton; thence W 44° S 3 1/4 rods to a stake in said Thompson's line another corner of said Wheaton's; thence E 41° S on line of said Thompson land 15 rods to a meadow; thence S 44° W on line of said Thompson land the corner of land of the heirs of Stephen Jackson; thence easterly on said heirs' land until it comes to said heirs' NB corner; thence E 12° N by land Perennial Hagline sold to Joseph Kingsley 143 rods to Fiddle River (so-called); thence across said river and by said pond to the first mentioned bound with the buildings thereon standing.

EXCEPTING THEREFROM as reserved to Ann Ross, his heirs, successors and/or assigns, from the above-described premises four (4) acres wood land, beginning at the south side of the bog meadow running by the dam and back again to land now or formerly owned by David Terry. - Also the burying lot on said farm as laid out and fenced, with the privilege of passing and repassing to the same, and of repairing the ground and fence whenever necessary as set forth in Volume 10 at Page 113 of the Thompson Land Records.

REFERENCE IS HEREBY MADE AND BEING THE SAME PREMISES as conveyed to Winthrop Ross Mayson and Shirley Ann Mayson by a Warranty Deed of Charles E. Ross dated December 23, 1913, and recorded December 24, 1913, in Volume 43 at Page 434 of the Thompson Land Records (one-half interest); and as conveyed to Winthrop Ross Mayson by a Certificate of Deeds of the Estate of Jerome Ross dated and recorded May 27, 1931, in Volume 144 at Page 264 of the Thompson Land Records (one-half interest).

SAID PARCEL being in part Thompson Assessor's Map 124, Block 14, Lot 3 (34 1/2 acres 44 1/2); Thompson Assessor's Map 124, Block 14, Lot 21 (30 acres 44 1/2); and in part Putnam Assessor's Map 103, Parcel 13 (37.3 acres 44 1/2).



APPENDIX B  
DESCRIPTION OF SEP PROPERTIES

BOX 402 PAGE 306

SAYD PARCEL is subject to:

1. Notice (Preservation of Agricultural Land) dated September 17, 1993, and recorded in Volume 237 at Page 63 of the Thompson Land Records.
2. Riparian Rights of others.

SECOND PARCEL:

A certain tract or parcel of land located in the Town of Thompson, County of Windham and State of Connecticut, containing twenty-four and three quarters (24 3/4) acres, more or less, bounded and described as follows:

BEGINDING at a stake and stone which is the southeast corner of the Allen farm and in the east line of a wood lot belonging now or formerly to the heirs of Abigail Driscoll from Thompson southerly adjoining said heirs' land now or formerly of Joel Deane 64 rods to a stake and stone set in a wall and fence running easterly thence on the same S 34 1/2 E 89 rods to the corner of wall adjoining land now or formerly of Ann Brown thence on the same N 29 E 49 1/2 rods to the Allen land; thence on the same N 31 W 93 1/2 rods to the first bound.

TOGETHER WITH a right and privilege of passing in and from said lot in the usual place to the public highway as set forth in Volume 77 at Page 241 of the Thompson Land Records.

REFERENCE IS HEREBY MADE AND BEING THE SAME PREMISES as conveyed to Winthrop R. Murray by a Warranty Deed of Clarence C. Ballard dated October 30, 1960, and recorded November 23, 1960, in Volume 77 at Page 241 of the Thompson Land Records.

SAYD PARCEL being Thompson Assessor's Map 124, Block 34, Lot 29.

THIRD PARCEL:

Three (3) certain tracts or parcels of land, situated in the Town of Thompson, County of Windham and State of Connecticut, and described as follows:

FIRST TRACT: A certain tract of wood land situated in said Thompson known as the Joel Deane wood lot containing ten (10) acres, more or less, and bounded and described as follows: COMMENCING at a stake and stone at the northwest corner of said tract adjoining land now or formerly of William H. Chandler on the North; thence on land of said Chandler S 34 1/2 E, 51 rods 10 links to wall and land now or formerly of Stephen Ballard; thence on said Ballard land S. 42 1/2 W 47 rods to bound and land now or formerly of Lowell Brown; thence on said Brown M. 77 W 36 1/2 rods to land of George A. Hawkins; thence on said Hawkins land N 19 1/2 E 41 rods 10 links to place of beginning.

REFERENCE is hereby made to a Quit Claim Deed dated February 24, 1883, and recorded May 10, 1883, in Volume 29 at Page 103 of the Thompson Land Records.

## APPENDIX B DESCRIPTION OF SEP PROPERTIES

9001 402 PAGE 307

**Second Tract:** A certain tract of land with the wood thereon standing bounded and described as follows: BEGINNING at the Eliest Pasture so-called, at the west extremity of said wood land following said cart path about 30 rods, thence at right angles about 1 rod to stake and stones marking southwest bound and bounded by land of George Hawdon and Ellen Chase to land of Ellen Ballard and stone wall; thence northeasterly following line of wall and fence to land of Joshua P. Knight, thence following fence of Joshua P. Knight to land of "Parks Estate" so-called; thence following land of Parks Estate in westerly direction to stake and stones; thence from stake and stones southwest to first mentioned bound and bordering on land of Ellen Chase, said land with wood thereon standing consisting of about sixteen (16) acres, more or less.

REFERENCE is hereby made to a Warranty Deed dated and recorded July 24, 1888, in Volume 27 at Page 224 of the Thompson Land Records.

**Third Tract:** A certain tract or parcel of wood land lying and being in said Thompson and containing six (6) acres, more or less, and is bounded: BEGINNING at a stake and stones at a corner of land now or formerly of Henshick Holloway, thence running North 47 1/2 E. about 12 rods to stake and stones; thence westerly about 80 rods to stake and stones; thence southerly about 14 rods to stake and stones; thence easterly to first mentioned bound.

REFERENCE is hereby made to a Warranty Deed dated February 1, 1814, and recorded February 11, 1815, in Volume 4 at Page 181 of the Thompson Land Records.

REFERENCE IS HEREBY MADE AND BEING THE SAME PREMISES as conveyed to Windrop Ross Mayson and Shirley Ann Mayson by a Warranty Deed of Charles E. Ross dated December 23, 1933, and recorded December 24, 1933, in Volume 60 at Page 438 of the Thompson Land Records (one-half interest); and as conveyed to Windrop Ross Mayson by a Certificate of Deeds of the Estate of Jerome Ross dated and recorded May 27, 1941, in Volume 144 at Page 244 of the Thompson Land Records (one-half interest).

SAID PARCEL being Thompson Assessor's Map 107, Block 14, Lot 21 (21 acres +/-).

SAID PARCEL is subject to:

1. Notice (Preservation of Agricultural Land) dated September 17, 1992, and recorded in Volume 147 at Page 43 of the Thompson Land Records.

### FOURTH PARCEL:

Two (2) certain tracts or parcels of land, situated in the Town of Thompson, County of Windham and State of Connecticut; with a portion possibly situated in the Town of Barrisville, County of Providence and State of Rhode Island, and described as follows:

**First Tract:** A certain tract or parcel of land, lying and being situated in the easterly part of said Thompson, and containing One Hundred (100) acres, more or less, and is bounded by land formerly of Brutus Blackman, easterly by land now or formerly of Silas H. Barrill and others; southerly by land formerly of Thomas M. Glendon and others, and westerly by land now or formerly of David Day and others.



## APPENDIX B DESCRIPTION OF SEP PROPERTIES

BOOK 402 PAGE 308

REFERENCE is hereby made to a Warranty Deed dated July 26, 1916, and recorded August 24, 1916, in Volume 17 at Page 381 of the Thompson Land Records.

**Second Time.** A certain tract or parcel of land lying and being situated in the Town of Thompson, County and State aforesaid, bounded and described as follows, viz: BEGINNING at a stake and stone in the Rhode Island line at the southeast corner of land belonging to E. H. Rasmussen; thence on said state line S. 32° W 47 rods to a stake and stone to land belonging to Joseph Kinsey thence N 63W° W 18 rods to a stake and stone in the line of land of Albin Maynard; thence N 21° E. 17 rods and 9 inches to a stake and stone H being the southwest corner of land belonging to said Rasmussen; thence on the same N 10W° E 44 1/4 rods to the first-mentioned bound and containing fifteen (15) acres and 13 rods of acreage land, so-called, more or less.

REFERENCE is hereby made to a Warranty Deed dated and recorded January 16, 1971, in Volume 21 at Page 424 of the Thompson Land Records.

REFERENCE IS HEREBY MADE and BEING THE SAME PREMISES as conveyed to Windrop Ross Murray and Shirley Ann Murray by a Warranty Deed of Charles E. Ross dated December 13, 1953, and recorded December 14, 1953, in Volume 54 at Page 71 of the Thompson Land Records (one-half interest); and as conveyed to Windrop Ross Murray by a Certificate of Devise of the Estate of Jerome Ross dated and recorded May 27, 1961, in Volume 146 at Page 166 of the Thompson Land Records (one-half interest).

SAID PARCEL being in part Thompson Assessor's Map 162, Block 11, Lot 23 (34 acres etc.).

SAID PARCEL is subject to:

1. An Easement to Algonquin Gas Transmission Company dated August 24, 1951, and recorded September 21, 1951, in Volume 52 at Page 166 of the Thompson Land Records.
2. An Easement to Algonquin Gas Transmission Company dated October 31, 1963, and recorded November 24, 1963, in Volume 72 at Page 317 of the Thompson Land Records.
3. An Easement to The Connecticut Light and Power Company dated February 25, 1949, and recorded March 22, 1949, in Volume 81 at Page 14 of the Thompson Land Records.
4. An Easement to The Connecticut Light and Power Company dated February 25, 1949, and recorded March 22, 1949, in Volume 81 at Page 26 of the Thompson Land Records.
5. Notice (Preservation of Agricultural Land) dated September 13, 1951, and recorded in Volume 187 at Page 93 of the Thompson Land Records.

### FIFTH PARCEL:

A certain tract or parcel of land situated in the Town of Thompson, County of Windham and State of Connecticut, containing thirteen (13) acres, more or less, and bounded and described as follows: BEGINNING at the northeast corner of land now or formerly of F.O. Murray; thence E. 6° E seventy-one and one half (71 1/2) rods to land now or formerly of Calvin M. Murray;

# APPENDIX B DESCRIPTION OF SEP PROPERTIES

833A 402 PAGE 309

thence westerly on said Minyon's land twenty-eight (28) rods, more or less, to land now or formerly of James P. Bowen; thence on said Bowen's land northerly seventy-one (71) rods, more or less, to stake and stone; thence westerly 1" N, on land now or formerly of Lowell D. Ross, twenty-eight (28) rods to a big rock with stone on top of the same; to the first mentioned second.

REFERENCE is hereby made to a Warranty Deed dated and recorded June 13, 1934, in Volume 34 at Page 383 of the Thompson Land Records.

REFERENCE IS HEREBY MADE and BEING THE SAME PREMISES as conveyed to Winthrop Ross Minyon by a Certificate of Deed of the Estate of Jerome Ross dated and recorded May 27, 1931, in Volume 148 at Page 344 of the Thompson Land Records.

SAID PARCEL being Thompson Assessor's Map 142, Block 11, Lot 34.

SAID PARCEL is subject to:

1. Notice (Preservation of Agricultural Land) dated September 17, 1992, and recorded in Volume 387 at Page 45 of the Thompson Land Records.

## **SIXTH PARCEL:**

An undivided one-half (50%) percent interest in and to one certain tract or parcel of wood land lying in the northerly part of the Town of Putnam, County of Windham and State of Connecticut, formerly known as the northeasterly part of the Town of Thompson, in School District No. One, containing about 14 3/4 acres, more or less, bounded: BEGINNING at the northeasterly corner of the same adjoining lands now or formerly of Ann Hutchins from thence on said Hutchins and now or formerly of Elisha Brown S 3° W 73 rods to the intersection of two walls by said Brown's north line; thence by said Brown's north line N 82° E, 43 rods to stake in swamp in lands now or formerly of Samuel Pike; thence on said Pike N 43° W 344 rods to the place of beginning.

REFERENCE is hereby made to a Warranty Deed dated and recorded March 21, 1933, in Volume 19 at Page 401 of the Thompson Land Records.

REFERENCE IS HEREBY MADE and BEING THE SAME PREMISES as conveyed to Winthrop Ross Minyon and Shirley Ann Minyon by a Warranty Deed of Charles E. Ross dated December 23, 1933, and recorded December 24, 1933, in Volume 39 at Page 381 of the Putnam Land Records.

SAID PARCEL being Putnam Assessor's Map 103, Parcel 43 (18.5 acres +-).

SAID PARCEL is subject to:

1. Notice (Preservation of Agricultural Land) dated September 17, 1992, and recorded in Volume 387 at Page 45 of the Thompson Land Records.

INTENDING HEREBY TO CONVEY ALL OF THE REAL PROPERTY OWNED BY THE GRANTORS IN THE TOWNS OF THOMPSON AND PUTNAM, CONNECTICUT.



**APPENDIX C**  
**RESTRICTIVE COVENENAT AND DEDICATION**  
**FOR CONSERVATION AND RECREATION**

Please return to:

State of CT DEEP  
Constituent Affairs and Land Management  
79 Elm Street, 6<sup>th</sup> Floor  
Hartford, CT 06106

VOLUME: \_\_\_\_\_

PAGE: \_\_\_\_\_

**RESTRICTIVE COVENANT AND DEDICATION**  
**FOR CONSERVATION AND PUBLIC RECREATION**

This Restrictive Covenant and Dedication for Conservation and Recreation ("Restrictive Covenant and Dedication") is entered into by \_\_\_\_\_. The terms, conditions, and restrictions set forth in this Restrictive Covenant and Dedication shall bind and apply to those certain pieces or parcels of land owned by \_\_\_\_\_ and more particularly described in Schedule A, attached hereto and made a part hereof (hereinafter "Conservation Area"). The purpose of this Restrictive Covenant and Dedication is to retain forever predominantly in its natural, scenic, forested, and/or open space condition, and to provide opportunities for public recreation on, the Conservation Area, while preventing any use of the Conservation Area that will significantly impair or interfere with the conservation values or interests of the Conservation Area in accordance with the goals and policies set forth in the Connecticut Endangered Species Act (Connecticut General Statutes sections 26-303 through 26-313).

The following specific terms, conditions, and restrictions shall be applicable to the Conservation Area.

There will be no development of any kind within the land described in Schedule A. "Development" is defined as the construction of any building, residential dwelling, structure, parking lot, driveway, road, or other temporary or permanent structure or improvement requiring construction, except that \_\_\_\_\_ shall be permitted to maintain existing unpaved driveways, footpaths and other minor surface alterations; to excavate and fill as necessary to accomplish permitted building, recreational and silvicultural activities; and to construct, maintain and reconstruct additional unpaved footpaths or unpaved parking areas to assure safe passage, to prevent erosion, to enhance or protect the natural habitat, or to enhance public access to the Conservation Area.

**APPENDIX C**  
**RESTRICTIVE COVENANT AND DEDICATION**  
**FOR CONSERVATION AND RECREATION**

Any activity on, or use of, the Conservation Area which is inconsistent with or detrimental to the purposes of this Restrictive Covenant and Dedication is expressly prohibited unless authorized by the Department of Energy and Environmental Protection (hereinafter "CTDEEP").

This Restrictive Covenant and Dedication will run with the land in favor of the State of Connecticut, will be binding upon \_\_\_\_\_ and its successors and assigns and shall inure to the benefit of the general public and the inhabitants of the State of Connecticut in perpetuity. \_\_\_\_\_ agrees that the term, conditions, and restrictions set forth in this Restrictive Covenant and Dedication may not be modified or terminated without the prior written consent of CTDEEP or its successors. \_\_\_\_\_ further agrees that the terms, conditions, restrictions and purposes of this Restrictive Covenant and Dedication or reference hereto will be inserted by \_\_\_\_\_ into any subsequent deed or other legal instrument by which \_\_\_\_\_ divests either the fee simple title or other possessory interest in the Conservation Area. \_\_\_\_\_ further agrees to notify the CTDEEP in conjunction with any such transfer at least thirty (30) days in advance thereof.



**APPENDIX C**  
**RESTRICTIVE COVENANT AND DEDICATION**  
**FOR CONSERVATION AND RECREATION**

IN WITNESS WHEREOF, the \_\_\_\_\_ has set its hand.

**[PROPERTY OWNER]**

**WITNESSES**

Signature  
Name in print

\_\_\_\_\_  
Name  
Title  
Duly Authorized

Date

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

STATE OF CONNECTICUT )

) SS. TOWN OF \_\_\_\_\_

COUNTY OF HARTFORD )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by  
\_\_\_\_\_ the \_\_\_\_\_ for the \_\_\_\_\_.

\_\_\_\_\_  
Commissioner of the Superior Court  
Notary Public  
My Commission Expires \_\_\_\_\_



**APPENDIX C**  
**RESTRICTIVE COVENANT AND DEDICATION**  
**FOR CONSERVATION AND RECREATION**

**Schedule A**

[Insert Property Description including a reference to property assessor's parcel identification and the property assessor's map based on such parcel identification]