



December 14, 2023

Matt Valle
President
NextEra Energy Transmission
700 Universe Boulevard, UST/JB
Juno Beach, FL 33408
Email: matt.valle@nexteraenergy.com

RE: PJM Interconnection – Proposal 853
Western Loudoun County

Dear Mr. Valle:

The Virginia Outdoors Foundation (VOF), a body politic created by an Act of the Virginia General Assembly in 1966, holds nearly 5,000 easements on 850,000 acres that represents more than \$1 billion of public investment to ensure conservation of natural and cultural resources as enacted in the Virginia Constitution. We are writing to you in response to PJM's recent decision to approve NextEra Energy's proposed 500 kV electric utility transmission corridor from West Virginia through western Loudoun County. This letter expresses the VOF's concern that a large-scale above ground power line in this area of Loudoun County will have detrimental impacts to an area of conserved lands protected by multiple federal, Commonwealth, and local entities using multiple sources of financial incentives.

The primary tool for land protection in western Loudoun County is a conservation or open-space easement. An open-space easement is a legal interest in real property that creates a relationship between the holders of the easement and the property owner. By means of the easement, VOF — and by extension, the Commonwealth of Virginia — has an interest in specific conservation values of the property and a legal obligation to protect these values. In general, VOF easements provide important public benefits by protecting in perpetuity significant tracts of mostly undeveloped land that contribute to the protection of water quality, productive soils, natural heritage resources, historic resources, and scenic viewsheds. The Commonwealth's investments in conservation could be jeopardized by the construction, operation, and maintenance of a large-scale electric transmission line. The degradation of protected resources may also result in a loss of confidence in the effectiveness of open-space easements by the public.

VOF holds open-space easements in Loudoun County covering over 25,800 acres in 156 separate projects. In addition, other government entities and private land trusts conserve an additional 41,500 acres of property. The attached map shows the properties protected by the various entities in western Loudoun. VOF has two open-space easements in the immediate vicinity of Waterford, Virginia, an area of particular significance in western Loudoun. VOF holds a 25-acre easement (deed attached) donated in 1975 that is within the Waterford Historic District, which is listed both on the Virginia Landmarks Register (1969) and the National Register of Historic Places (1969) and protects the viewshed from the Village of Waterford. VOF has another open-space easement (deed attached) known as Phillips Farm that is also located within the boundaries of the Village of Waterford, which was designated as a National Historic Landmark by the United States Secretary of the Interior in 1970. In addition, the easement property borders the Waterford Historic Cultural Conservation District established by Loudoun County.

Phillips Farm contains 144 acres, fronting on State Route 698 and Catoctin Creek, that protects several conservation values including productive agricultural land, historic preservation, water quality, and public access. The property also provides an unspoiled scenic view of the Village of Waterford and the surrounding community. The easement on this

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property was purchased using the United States Department of Agriculture's Natural Resources Conservation Service under the Farm and Ranch Lands Protection Program, the Virginia Clean Water Revolving Loan Fund's Land Conservation Loan Program, a Commonwealth program established for the protection and improvement of water quality, and the Virginia Department of Transportation using Federal Highway Administration Enhancement Program.

VOF, as one of the largest land conservation entities in the nation, asserts its opinion that NextEra Energy should avoid crossing or intersecting any protected properties including those held in perpetuity by VOF, other state agencies, and Loudoun County. These easements represent the fulfillment of state policy and as real property interests of the Commonwealth are not subject to condemnation. If an encroachment into an open space easement is proposed, an application for a conversion or diversion of open space land as provided for in VA Code §10.1-1704 is required. Section 10.1-1704 of the Virginia Open-Space Land Act states:

A. No open-space land, the title to or interest or right in which has been acquired under this chapter and which has been designated as open-space land under the authority of this chapter, shall be converted or diverted from open-space land use unless (i) the conversion or diversion is determined by the public body to be (a) essential to the orderly development and growth of the locality and (b) in accordance with the official comprehensive plan for the locality in effect at the time of conversion or diversion and (ii) there is substituted other real property which is (a) of at least equal fair market value, (b) of greater value as permanent open-space land than the land converted or diverted and (c) of as nearly as feasible equivalent usefulness and location for use as permanent open-space land as is the land converted or diverted. The public body shall assure that the property substituted will be subject to the provisions of this chapter.

B. A public body may convey or lease any real property it has acquired and which has been designated for the purposes of this chapter. The conveyance or lease shall be subject to contractual arrangements that will preserve the property as open-space land, unless the property is to be converted or diverted from open-space land use in accordance with the provisions of subsection A of this section.

For VOF open-space easements, our Board of Trustees is the public body that makes the determinations regarding these applications, including the satisfaction of the substitute land requirement. Previous conversion or diversion cases demonstrate that the substitute real property must represent greater conservation value than the land converted or diverted.

It is our hope that full consideration will be given to the importance of these conserved properties that provide critical public benefits by protecting in perpetuity lands with significant and extensive conservation values. If you have questions concerning this letter, please contact me at 804-577-3337 or via e-mail at mlittle@vof.org.

Respectfully,

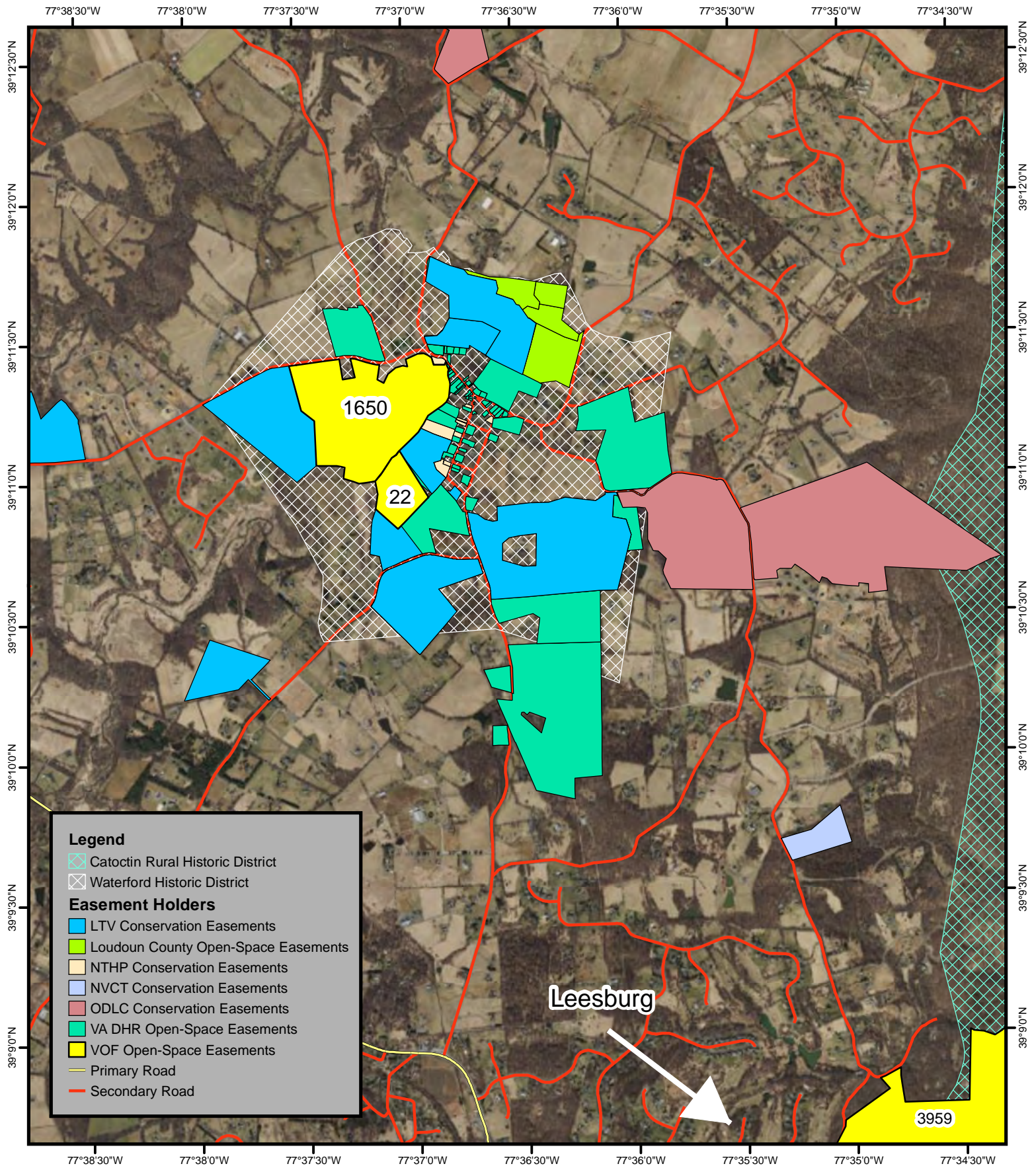


Martha Little
Deputy Director

CC by email only:

Alyssa Ten Eyck, Senior Manager of Strategic Communications, NextEra Energy
Diane D. Dunway, Easement Program Manager, USDA Natural Resources Conservation Service
Megan Melinat, Director, Department of Historic Resources Preservation Incentives Division
Stephanie Thompson, Executive Director, Waterford Foundation, Inc.
Jay Clemens, Interim President and CEO, National Trust for Historic Preservation
Heidi Siebentritt, Historic Preservation Planner, Loudoun County
Valerie A. Fulcher, Admin/Data Coordinator Senior, Virginia Department of Environmental Quality
Kathryn G. Smith, Coordinator, National Historic Landmarks Program, National Park Service

Attachments: Western Loudoun County Land Conservation Map & Project 23 and Project 1650 Deeds of Easement



Projection: Lambert Conformal Conic
GCS North America 1983
Datum: D North America 1983

Map created 12/14/2023 by Becca Budrock.
Source data provided by VOF, VDOT, VMBP Imagery.
Historic District location data from VDHR 2012.
Non-VOF easement boundaries from DCR 2022
Aerial imagery acquired 2022.
Aerial imagery © Commonwealth of Virginia.
This map is for general reference and display purposes only.

Western Loudoun County Land Conservation Map

Feet
0 1375 2750

1:33,000



8627

THIS DEED OF EASEMENT, made this 31st day ofJuly, 1975 by and between Mark N. Beach and Jill P.Beach, his wife, herein called the Grantors, and the VIRGINIA
OUTDOORS FOUNDATION, herein called the Grantee,

WITNESSETH

WHEREAS, the Open Space Land Act of 1966 declared that the preservation of open-space land serves a public purpose for the health and welfare of the citizens of the State by curbing urban sprawl and encouraging more desirable and economic development of natural resources, and authorized the use of easements in gross to maintain the character of open-space land, and

WHEREAS, the Grantors are the owners of the fee of real property hereinafter described which they desire preserved as open space land in the public interest,

NOW, THEREFORE, in recognition of the foregoing and in consideration of the sum of Ten Dollars (\$10.00) and other valuable considerations, the receipt of which is hereby acknowledged, the Grantors do hereby grant and convey to the Grantee an open-space easement in gross over, and the right in perpetuity to restrict the use of, the following described real estate containing 25.5431 acres in Catoctin District of Loudoun County, Virginia herein called the Property:

All of that tract of land conveyed by William E. O'Malley and Carole F. O'Malley (also known as Carol E. O'Malley), his wife to Mark N. Beach and Jill P. Beach, his wife by deed dated 23 January, 1970 and recorded in Deed Book number 510 at page 625 of the land records of Loudoun County, Virginia, to which deed and the deeds therein referred to, reference is made for a more particular description of the property hereby conveyed.

If said Property or any portion thereof shall be taken by condemnation, this easement shall terminate automatically as to that property taken so that the Grantors,

Mark N. Beach
Jill P. Beach

LDN-VDF-022

their heirs, successors or assigns may be as fully compensated as though this easement had never been granted.

The restrictions hereby imposed on use of the above described Property are in accord with the Commonwealth of Virginia's policy set forth in Chapter 13 of Title 10 of the Code of Virginia, 1950, as amended, Sections 10-151 to 10-158 (Acts 1966 c. 461) entitled "Open Space Land Act", and the acts which the Grantors, their heirs, successors and assigns, so covenant to do and not to do upon the Property, and the restrictions which the Grantee is hereby entitled to enforce, are and shall be as follows:

1. Accumulation of trash, refuse, or junk material is not permitted on the Property visible from public ways.

2. Display of billboards, signs or other advertisements is not permitted on or over the Property except to state solely the name and/or address of the owners, or to advertise the sale or lease of the Property, or to advertise the sale of goods or services produced incidentally to permitted uses of the Property.

3. The Property shall not be subdivided into any parcel that would be less than ten (10) acres.

4. Management of timber shall be in accord with sound forestry practices under management plans subject to approval by the Virginia Outdoors Foundation; selective cutting may be practiced so as not to alter the character of forest lands except such as will be cleared for cultivation or grazing; other clearcut areas must be reseeded or planted within two years of unit cutting.

5. Grading, blasting or earth removal shall not alter the topographic aspect of the Property.

Mary Beal
J. P. Beal

6. No building or structure shall be built or maintained on the Property other than (i) a barn or stable, and (ii) outbuildings commonly or appropriately incidental to farming, provided that in the event of the subdivision of the Property as provided in paragraph 3 above a single-family dwelling and outbuildings commonly or appropriately incidental thereto shall be authorized on each of such parcels, provided that such dwellings or outbuildings shall be located in a manner not to be within sight or view from a point located in the middle of the road at the intersection of Factory Street and Second Street in the Village of Waterford, Loudoun County, Virginia, and provided that the prior written approval of the Grantee to the location of such buildings shall have been obtained.

7. Industrial or commercial activities except farming, silviculture or horticulture are prohibited.

Although this easement in gross will benefit the public in the ways recited above by encouraging and requiring elements of good land management, nothing herein shall be construed to convey a right to the public of access or use of the Property and the Grantors, their heirs, successors and assigns shall retain exclusive right to access and use.

It is the intention of the Grantors and the Grantee that the easement in gross granted herein shall be deemed to be a binding servitude which shall run with the land in perpetuity and shall bind the heirs, successors, devisees and assigns of the Grantors.

Acceptance of this conveyance by the Virginia
Outdoors Foundation is authorized by Section 10-163 of the
Code of Virginia and is evidenced by the signature of its
chairman, Louis Clifford Schroeder, to this deed.

Mark Beal
Joe P. Beal

WITNESS the following signatures and seals:

Mark N. Beach (SEAL)
GRANTOR
Jill P. Beach (SEAL)
GRANTOR

Accepted:
VIRGINIA OUTDOORS FOUNDATION

by Sam Ag. Schuler
CHAIRMAN

STATE OF VIRGINIA)
COUNTY OF LOUDOUN) To-wit:

I, Christie D. James, a Notary Public in
and for the jurisdiction aforesaid, hereby certify that
Mark N. Beach and Jill P. Beach, his wife whose names
are signed to the foregoing easement, bearing date the
30th day of July, 1975 have acknowledged the
same before me in my jurisdiction aforesaid.

Given under my hand this 30th day of
July, 1975.

My commission expires 3/8/77.

Christie D. James
NOTARY PUBLIC

NOTARIAL SEAL

In the Clerk's Office of the Circuit Court
of Loudoun County, Virginia **SEP 18 1975**
at **11:12 A. M.** This instrument was received
and, with the certificate annexed, admitted
to record.

Teste: 9Tmark Clerk

8627

DEED OF EASEMENT

Virginia Outdoors Foundation

Mrs. Teckla H. Cox
10 E. Cornwell St.
Leesburg, Va. 22075



Virginia Outdoors Foundation
803 E. Broad Street
Richmond, Virginia 23219

VIRGINIA:

Circuit Court Loudoun County

9-18-75

11:24 A. M. o'clock

Admitted to record

Teste: J. H. Hays Clerk.

State Tax #1 \$

County Tax #1 \$

Transfer Fee \$

Recording \$ 9.00

State Tax #2 \$

County Tax #2 \$

Plat \$

Total \$ 9.00

Deed Recorded: Book Page

200-V0F-22

LDN-1650

Plat#

20050602-0056020

Easement Version as of 5/12/2005

Phillips Farm

PIN # 341-10-3295

Instr 20050602-0056019 Pg. 1 OF 25
Loudoun County, VA
06/02/2005 12:50:51PM
Gary M. Clemens, Clerk

COPY

Exempted from recordation tax
under the Code of Virginia (1950), as amended,
Sections 58.1-811 (A)(3) and 10.1-1803.

THIS DEED OF EASEMENT, dated the 22nd day of May, 2005, between The WATERFORD FOUNDATION, Incorporated, a private Virginia non-profit conservation organization and a Virginia non-stock corporation, whose address is 40183 Main Street, P.O. Box 142, Waterford, VA 20197 (together with its agents, heirs, assigns and all other successors to it in interest hereinafter referred to collectively as the "Grantor"), the VIRGINIA OUTDOORS FOUNDATION, an Agency of the COMMONWEALTH OF VIRGINIA (hereinafter referred to as the "Grantee"), whose address is 203 Governor Street, Suite 302, Richmond, Virginia 23219, and the Virginia Resources Authority, Administrator of the Virginia Water Facilities Revolving Fund (hereinafter referred to as the "VRA").

WITNESSETH:

WHEREAS, the Open Space Land Act of 1966 (Chapter 17, Title 10.1, §§ 10.1-1700 to 10.1-1705 of the Code of Virginia, as amended) declares that the preservation of open-space land serves a public purpose by promoting the health and welfare of the citizens of the Commonwealth by curbing urban sprawl and encouraging more desirable and economical development of natural resources, and authorizes the use of easements in gross to maintain the character of open-space land; and

WHEREAS, Chapter 18, Title 10.1 of the Code of Virginia (§§ 10.1-1800 to 10.1-1804, as amended) declares it to be the public policy of the Commonwealth to encourage preservation of open-space land and authorizes the Virginia Outdoors Foundation to hold real property or any estate or interest therein for the purpose of preserving the natural, scenic, historical, scientific, open-space and recreational lands of the Commonwealth; and

WHEREAS, Grantor is the owner in fee simple of certain real property consisting of 140 acres, more or less, contained within a land parcel of 144.0 acres, more or less, and described in Schedule A attached hereto and made a part hereof, located in Catoctin Magisterial District, Loudoun County, Virginia, near the Village of Waterford, fronting on State Route 698, hereinafter referred to as the "Property," which it desires preserved as open-space land in the public interest; and

WHEREAS, the Property consists of primarily productive agricultural land and is within the boundaries of the Waterford National Historic Landmark, a property listed in the National Register of Historic Places in 1969, and named by the United States Secretary of the Interior as a National Historic Landmark in 1970; and the Property contains very productive agricultural soils, including 37 acres of prime farmland (Chester and Meadowville soil series); 46 acres of

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MAHAN & MITCHELL
ATTORNEYS AT LAW
LEESBURG, VIRGINIA
WINCHESTER, VIRGINIA

fertile productive floodplain and the remaining acreage providing excellent hay, pasture and grassland production; and

WHEREAS, the Property is presently within the boundaries of the National Historic Landmark designated by the National Park Service and the Waterford Historic District designated in the Virginia Landmarks Register, and borders the Waterford Historic Cultural Conservation District boundaries established by Loudoun County, Virginia (the "Waterford Historic District"), each having as its public purpose the preservation and maintenance of the unique agricultural, historical and cultural heritage of the rural area surrounding the Village of Waterford; and

WHEREAS, protection of the Property will yield significant public benefits; specifically such benefits may include: (1) the continued agricultural use of productive agricultural soils; (2) public education about the Village of Waterford's agricultural, historical, and cultural heritage; (3) the nurture of resident and migratory wildlife; (4) preservation of historic water control features, including the historic dam site, protection of water quality, and prevention of water pollution; and (5) preservation of natural and scenic vistas; and

WHEREAS, the conveyance of this easement supports the Loudoun County Revised Comprehensive Plan by (1) protecting land resources for farming and other innovative agricultural uses that contribute to a rural economy; (2) protecting prime agricultural soils; (3) protecting scenic viewshed and preventing soil erosion within the Loudoun County Mountainside Development Overlay District; (4) protecting streams, flood plain, and other sensitive resources within the River and Stream Corridor Overlay District; and

WHEREAS, the current use of the Property is for agricultural production and historical preservation and its current improvements are consistent with the agricultural, historical and open space resources of the Property. The Grantor intends that the agricultural, historical and open space values of the Property be preserved and maintained, and the Grantor intends to convey to the Grantee the right to preserve and protect the agricultural, historical and open space values of the Property in perpetuity; and

WHEREAS, the Farm and Ranch Lands Protection Program (16 USC 3838 h and 3838 i) purchases conservation easements to protect prime, unique, and other productive soils from conversion to non-agricultural uses and historic and archaeological sites contained within these areas of productive soils. Under the authority of the Farm and Ranch Lands Protection Program, the United States Department of Agriculture's Natural Resources Conservation Service (hereinafter the "United States") has provided \$800,000.00 to the Grantee for the acquisition of this conservation easement, entitling the United States to the rights identified herein; and

WHEREAS, a portion of the financing of the purchase of the Property is from the Virginia Clean Water Revolving Loan Fund's Land Conservation Loan Program, a State program established for the protection and improvement of water quality and the prevention of pollution to State waters; and

LL. MONAHAN, ENGLE,
MAHAN & MITCHELL
ATTORNEYS AT LAW
LEESBURG, VIRGINIA
WINCHESTER, VIRGINIA



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WHEREAS, the Virginia Department of Transportation has awarded \$600,000.00 from the Federal Highway Administration Transportation Enhancement Program for the acquisition and preservation of the Property described in Schedule A; and

WHEREAS, the Grantor and Grantee agree that the natural characteristics, ecological features, physical and man-made conditions of the Property at the time of this grant are documented in a Baseline Documentation Report, establishing the condition of the Property at the time of this grant and including reports, maps, photographs, and other documentation. A copy of the complete Baseline Documentation Report is retained in the offices of the Grantor and Grantee, and a Summary Baseline Report with a signed acknowledgment of the complete Baseline Documentation Report is attached as Exhibit A hereto. Grantee may use such baseline documentation in enforcing provisions of this easement, but is not limited to the use of the baseline documentation to show a change of conditions.

NOW, THEREFORE, in recognition of the foregoing and in consideration of the mutual covenants recited herein, together with other good and valuable consideration in the amount of One Million Four Hundred Thousand Dollars (\$1,400,000.00), the receipt of which is hereby acknowledged, Grantor does hereby grant and convey to the Grantee an open-space easement in gross over, and the right in perpetuity to restrict the use of, the Property consisting of 140 acres, more or less, which is more particularly described in Schedule A. The Property is a portion of the land parcel shown as Tax Map Number /28//29/////1/ and Pin #341-10-3295 among the land records of Loudoun County, Virginia. The Property shall be considered to be one parcel for the purposes of this easement, and the restrictions and covenants of this easement shall apply to the Property as a whole rather than to the individual land parcel of which it is a part. The farmstead area (hereinafter referred to as the "Farmstead Area"), consisting of 2.80 acres, more or less, is shown as Area 1 on the plat attached hereto and made a part hereof.

STATEMENT of PURPOSE. The primary purpose of this Deed of Easement is to protect the agricultural soils, agricultural viability, and general productive capacity of the Property in perpetuity and to protect water quality on the Property. In addition, it is also the purpose of this easement to preserve the integrity of the Waterford Historic District, encompassing the oldest town in Loudoun County, a mill town dating from the 18th century. This District is notable for its carefully maintained historic structures and buildings and "...the unspoiled open rolling landscape which surrounds the village and enhances its [historic] integrity." This District benefits from highly scenic and open views of and across the protected Property present at the time the Town of Waterford was founded. It is the purpose of this Deed of Easement to also protect the traditional and scenic rural character of the open fields as part of the historic surrounding landscape.

Restrictions are hereby imposed on uses of the Property pursuant to the public policies set forth above. This Deed of Easement shall be perpetual. It is an easement in gross and as such is inheritable and assignable and runs with the lands as an incorporeal interest in the Property enforceable by the Grantee against the Grantor. The acts that the Grantor covenants to do and not to do upon the Property, and the restrictions that the Grantee is hereby entitled to enforce, are and shall be as follows:

ALL: MONAHAN, ENGLE,
MAHAN & MITCHELL
ATTORNEYS AT LAW
LEESBURG, VIRGINIA
WINCHESTER, VIRGINIA



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1. **CONSERVATION PLAN.** As required by section 1238I of the Food Security Act of 1985, as amended, the Grantor, its heirs, successors, or assigns, shall conduct all agricultural operations on the Property in a manner consistent with a conservation plan (hereinafter referred to as the "Conservation Plan") prepared in consultation with the Natural Resources Conservation Service of the United States Department of Agriculture (hereinafter referred to as "NRCS") and approved by the Loudoun County Soil and Water Conservation District. This Conservation Plan shall be developed using the standards and specifications of the NRCS Field Office Technical Guide and 7 CFR Part 12 that are in effect on the date hereof. However, the Grantor may develop and implement the Conservation Plan with a higher level of conservation if it is consistent with the NRCS Field Office Technical Guide standards and specifications.

NRCS shall have the right to enter upon the Property, with advance notice to the Grantor, in order to monitor compliance with the Conservation Plan.

In the event of noncompliance with the Conservation Plan, NRCS shall work with the Grantor to explore methods of compliance and give the Grantor a reasonable amount of time, not to exceed twelve months, to take corrective action. If the Grantor does not comply with the Conservation Plan, NRCS will inform Grantee of the Grantor's noncompliance. The Grantee shall take all reasonable steps (including efforts at securing voluntary compliance and, if necessary, appropriate legal action) to secure compliance with the Conservation Plan following written notification from NRCS that (a) there is a substantial, ongoing event or circumstance of non-compliance with the Conservation Plan, (b) NRCS has worked with the Grantor to correct such noncompliance, and (c) Grantor has exhausted its appeal rights under applicable NRCS regulations.

If the NRCS standards and specifications for highly erodible land are revised after the date of this easement based on an Act of Congress, NRCS will work cooperatively with the Grantor to develop and implement a revised Conservation Plan. The provisions of this section apply to the highly erodible land conservation requirements of the Farmland Protection Program and are not intended to affect any other natural resources conservation requirements to which the Grantor may be or become subject.

2. **CONTINGENT RIGHT IN THE UNITED STATES OF AMERICA.** In the event that the Grantee fails to enforce any of the terms of this easement, as determined at the sole discretion of the Secretary of the United States Department of Agriculture, the said Secretary of Agriculture and his or her successors and assigns shall have the right to enforce the terms of the easement through any and all authorities available under Federal or State law. In the event that the Grantee attempts to terminate, transfer, or otherwise divest itself of any right, title, or interest in this easement without the prior consent of the Secretary of the United States Department of Agriculture, then, at the option of such Secretary, all right, title, and interest of the Grantee in this easement shall become vested in the UNITED STATES OF AMERICA.

3. **TRASH.** Accumulation or dumping of trash, refuse, or junk is not permitted on the Property. This restriction shall not prevent generally accepted agricultural or wildlife management practices, such as creation of brush piles, composting, or the storage of farm

machinery, organic matter, agricultural products or agricultural byproducts produced on the Property, as long as such practices are in accordance with Federal, state, and local laws and regulations and consistent with the Conservation Plan. A Phase I Environmental Site Assessment of the Property and the land parcel of which it is a part was performed in November 2003 for the Grantor (the "Environmental Report"), a copy of which is retained in the offices of the Grantor and Grantee, and the executive summary of the report is attached as Exhibit B hereto.

4. **SIGNS.** Display of billboards, signs, or other advertisements is not permitted on or over the Property except with respect to the following: to state the name and/or address of the owners, to display interpretative, historical, educational and/or directional information for the public relating to the Property and its use; to advertise the sale or lease of the Property; to advertise the sale of goods or services produced incidentally to a permitted use of the Property; or to provide notice necessary for the protection of the Property. No such sign shall exceed nine square feet in size, or, the dimension requirements of the Zoning Ordinance of Loudoun County, Virginia, whichever is more restrictive.

5. **DIVISION.** The Property may not be divided or subdivided in any manner. The Property may not be sold or conveyed except as a whole.

6. **FOREST MANAGEMENT.** Management of forest resources, including commercial timber harvest, shall be in accord with a forest stewardship plan approved by the Grantee. All forestry activities shall be carried out so as to preserve the environmental and scenic qualities of the area. Best Management Practices, as defined by the Virginia Department of Forestry, shall be used to control erosion and protect water quality when any material forestry activity is undertaken. No timber harvest shall be permitted within 50 feet on either side of each permanent stream on the property, except that the cutting of trees that have died naturally, that, were they not removed, would jeopardize the health of the forest or that would present an imminent hazard to human health or safety is permitted. The Grantor shall notify the Grantee no later than 30 days prior to the start of any material forest activity, as well as within 7 days of its completion.

7. **GRADING, BLASTING, MINING.** Mining or extraction of soil, sand, gravel, oil, natural gas, or other mineral is prohibited, except that the Grantor may extract soil, sand and gravel solely for a permitted use on the Property in a manner consistent with the Conservation Plan and with the conservation purposes of this deed, minimal in scope and impact and not exceeding one acre. Grading, blasting or soil removal shall not materially alter the topography of the Property except (A) as required in the construction of structures permitted by this easement; and (B) for generally accepted agricultural activities consistent with the Conservation Plan. Mining, including exploration for or extraction of minerals and hydrocarbons by any surface methods, on the Property is prohibited.

8. **PONDS.** Any ponds constructed shall be for agricultural purposes only, shall not exceed two acres in size in the aggregate, and shall be located in areas so that disturbance to prime, unique, and important soils is minimized.

9. HISTORIC RESOURCES. The Loudoun County Zoning Ordinance (the "Ordinance") provides for the designation, review and protection of heritage resources through the creation of historic overlay districts. The Waterford Historic District is one such overlay district and the Ordinance empowers the County's Historic District Review Committee ("HDRC") to make certain rulings to protect the historic, archaeological, architectural, historic industrial, landscape features within the Waterford Historic District boundary, which overlays a portion of the National Historic Landmark. In order to protect the integrity of these landmark historic resources, the HDRC shall be provided an opportunity to review proposed actions within the Property and the adjacent areas that constitute the Waterford Historic District's viewshed. This viewshed consists of the localities that are within sight of the contributing resources of the Waterford Historic District when in normal use. Additionally, archaeologically significant resources, including surface and subsurface deposits, sites, or features on the Property shall not be intentionally disturbed or excavated except by or under the supervision of an archaeologist who meets the Secretary of Interior's standards, and provided justification for such disturbance is articulated in writing, plans for such archaeological activity have been submitted to, and approved by the Virginia Board of Historic Resources or its successor organization (hereinafter, "VBHR") prior to any ground-disturbing activities. In the event of ground disturbing activities, the impact to prime, unique, and important soils shall be minimized, with the area being reclaimed after such disturbance within one year from the excavation start date. Archaeological collections and associated field research and analytical records, as well as objects of antiquity professionally excavated from archaeological deposits, sites, or features on the Property shall be preserved and curated according to the Virginia Department of Historic Resources State Curation Standards (March 24, 1998). The Grantor shall take all reasonable precautions to protect archaeological resources, including deposits, sites, or features on the Property from looting, vandalism, erosion, mutilation, or destruction from any cause. Nothing herein shall preclude Grantor from maintaining or restoring the existing dam or millrace on the Property with concurrence from VBHR.

10. WATER COURSES AND RIPARIAN BUFFERS. Grantor retains the right to use, maintain, and improve water sources, water courses and water bodies on the Property if that activity does not impair the water quality in violation of applicable Virginia water quality standards or alter the natural course or flow volume of water over or through the Property; provided that, alteration of the natural flow of water over the Property is permitted in order to improve drainage of agricultural soils, reduce soil erosion, preserve, restore and maintain historic water features, or improve the agricultural potential of the Property, if such alteration is consistent with the Conservation Plan. Any exercise of this retained right must be done in a manner consistent with the conservation purposes of this easement, including the protection of prime and unique soils and protection of floodplains and jurisdictional wetlands.

A riparian buffer extending at least 100 feet, to the extent permitted by the boundaries of the Property, from either bank of Catoctin Creek shall be maintained. Livestock shall be completely excluded from this buffer area by fencing and must also be completely excluded by fencing from all other permanent streams on the property. Livestock management must be in accordance with an approved conservation plan, including the implementation of all applicable best management practices.

11. **BUILDINGS AND STRUCTURES.** No permanent or temporary building or structure shall be built, placed or maintained on the Property, except as provided below:

- a) The sole existing structure, a shed, as indicated in the Baseline Documentation Report may be either repaired and maintained at its current location or removed from the Property at the discretion of the Grantor.
- b) One single-family residence, of no more than 4,000 square feet in living area, provided it is contained within the designated Farmstead Area, may be constructed with advance permission of the Grantee. One new dwelling, apartment, or structure to be used primarily to house farm tenants, farm employees or others currently engaged in agricultural production on the Property ("Farm Support Housing") also may be built on the Property, provided the structure is located within the Farmstead Area, and attached to or contained within a barn or other farm building, provided advance written permission of the Grantee is obtained. The total aggregate living area of new Farm Support Housing shall not exceed 1,500 square feet. Such Farm Support Housing shall not be subdivided from the Property. Grantee shall only grant written permission for the construction of such structure if Grantor demonstrates to Grantee's satisfaction that such Farm Support Housing is reasonable and necessary for the agricultural operation of the Property. The occupancy of the Farm Support Housing shall comply at all times with the Loudoun County Zoning Ordinance.
- c) Non-residential outbuildings and structures commonly and appropriately incidental to permitted agricultural uses may only be built on the Property within the Farmstead Area, or outside the Farmstead Area with the advance written permission of the Grantee when the Grantee determines that such construction is consistent with the purposes of the easement and necessary or convenient for agricultural production.
- d) Existing fences may be repaired and replaced, or removed and new fences may be built on the Property for purposes of reasonable and customary management of livestock and wildlife.
- e) Construction or maintenance of unpaved farm roads and private utilities that are reasonably necessary and incidental to carrying out the improvements and uses permitted on the Property by this easement are permitted. Other than roads and yard areas indicated within the Farmstead Area, no portion of the Property shall be paved or otherwise covered with concrete, asphalt, or any other impervious material, unless approved in writing by Grantee as being consistent with the Conservation Plan and the purposes of this easement. Existing roads, as identified in the Baseline Documentation Report, may be maintained and repaired in their current state. No new roads may be constructed, except for unpaved roads necessary for agricultural operations on the Property.

- f) Installation of new utilities is prohibited, except that the Grantor may install utilities (including underground water and sewage piping) necessary for permitted uses of the Property and to serve the Interpretive Area also owned by the Grantor and shown as Area 2 on the plat attached hereto, as long as such installation is not inconsistent with the purposes of this easement and is done in such a manner as to minimize to the greatest extent possible impact on soils. Existing utilities may be replaced or repaired at their current location.
- g) The total impervious surface coverage of new and existing structures, including rooftops and pavement, may not exceed 2% of the total area of the Property.
- h) Rural enterprise buildings or structures shall be permitted, as provided in Section 14 below.

No new building, structure, or amenity shall be constructed on the Property (including within the Farmstead Area) without the prior written approval of the Grantee, provided, however, that the Grantee shall not issue such approval without the concurrence of the VBHR and, if applicable, the HDRC. Concurrence by the VBHR shall be based on a finding that the location, design, and materials of the proposed new building, structure, or amenity are, in the opinion of the VBHR, consistent with the historic, architectural, and scenic character of the Property and of the Waterford National Historic Landmark, and the purposes of this Deed of Easement.

12. INDUSTRIAL AND COMMERCIAL ACTIVITIES AND PROPERTY USE.

Industrial or commercial activities, including commercial recreational activities, other than the following are prohibited: (1) plant and animal agriculture, including but not limited to horticulture, raising of livestock, and equine activities; (2) temporary or seasonal outdoor activities consistent with the purposes of the easement; (3) and activities which can be and in fact are conducted within permitted buildings without material alteration to the external appearance thereof. None of the foregoing permitted activities shall harm prime agricultural soils or permanently alter the physical appearance of the Property. None of the foregoing permitted activities, and no noncommercial activity, which involves 100 or more people shall occur on more than seven days in any calendar month unless approved by the Grantee in advance in writing.

13. RECREATIONAL USES. De minimus and undeveloped recreational and educational activity is permitted on the Property as long as such activity is consistent with the purposes of this easement and does not adversely impact the soils and/or agricultural operations on the Property. Under no circumstances shall athletic fields, golf courses or ranges, commercial airstrips or helicopters pads, motocross biking, or any other improvement or activity inconsistent with current or future agricultural production be permitted on the Property.

It is the intent of the parties hereto that the Property shall be used for agricultural purposes. The parties acknowledge, however, that use of the Property as a historic, educational, open-space, and/or recreational resource for the benefit of the public is permitted under this easement, provided that any building, structure, or amenity necessary for such use is consistent

with the provisions of Section 11 above, and that no activity inconsistent with the Conservation Plan shall be permitted on the Property.

14. RURAL ENTERPRISES. The right to conduct rural enterprises consistent with the Purposes of this easement, especially the economically viable use of the Property for agriculture, forestry and open space and the conservation of agriculturally and silviculturally productive land is permitted. In connection with such rural enterprises, the Grantor may maintain, repair, enlarge, replace and use permitted structures with associated utility services, drives and appurtenant improvements within a Farmstead Area. Grantee may approve a new, non-residential, non-agricultural structure for an approved rural enterprise only if an existing structure is not suitable and the new structure is:

- a) Located within a permitted Farmstead Area;
- b) Fewer than 1500 square feet in area, as an exterior measure of the footprint and no more than 25 feet from the lowest undisturbed ground level to the roof peak;
- c) Inclusive of all storage space, so that no part of the business is conducted outside of the structure;
- d) Of a nature, intensity, scope, size, appearance, type and quantity compatible with the existing agricultural structures and historic context of the Property;
- e) Located in a way that minimizes the negative impact on future operations and expansion of agricultural uses, does not interfere with current agricultural operations and does not displace farm or forestry storage, use or functions;
- f) Non-residential; and
- g) Not inconsistent with the purposes of this Deed of Easement.

No use or structure contemplated under this Section shall be commenced, constructed or located without first securing the prior written approval of Grantee, which approval Grantee may deny or condition in its sole discretion. All structures and uses shall conform to all applicable local, state and federal ordinances, statutes and regulations. Grantee's approval may be conditioned upon, without limitation, receipt of copies of any necessary governmental permits and approvals that Grantor obtains for such use or construction. Grantee shall not approve a new structure for a non-agricultural, approved rural enterprise unless the proposed structure meets the requirements of factors (a) through (g), above. In addition, such structures are subject to the 2% total impervious surface limit set forth in Section 11 above.

15. ENFORCEMENT AND MONITORING. Grantee shall have the right to enforce by proceedings at law or in equity the provisions of this easement, including, but not limited to, the right to require the restoration of the Property to its condition on the date of this easement, subject to the reserved rights of Grantor set forth herein. Grantor and Grantee acknowledge that they each have received a copy of the Baseline Documentation Report, which shall serve as an objective information baseline for the purpose of monitoring compliance with the terms of this easement, but shall not preclude the use of other evidence to establish the condition of the Property on the date of this easement in the event of a controversy over the use of the Property.

Grantee's prior failure to act shall not waive or forfeit its right to take such action as may be necessary to ensure compliance with the terms and conditions of this easement.

Grantor and Grantee agree that monetary damages would not be an adequate remedy for the breach of any of the terms, conditions and restrictions of this Deed of Easement and, therefore, in the event that the Grantor violates or breaches, or attempts or threatens to violate or to breach any of such terms, conditions and restrictions, the Grantee may institute a suit, and shall be entitled, to enjoin by *ex parte* temporary and/or permanent injunction such violation (including any attempted or threatened violation), and to require the restoration of the Property to its prior condition. The Grantee shall be entitled to the costs, including reasonable attorney fees, of enforcing any of the terms, conditions and restrictions contained herein; provided, however, that if Grantor ultimately prevails in a judicial enforcement proceeding, each party shall bear its own costs.

Nothing herein shall be construed to entitle the Grantee to institute any enforcement proceedings against Grantor for any changes to the Property due to causes beyond Grantor's control, such as changes caused by fire, flood, storm, natural deterioration or unauthorized acts of third parties. Grantor shall take reasonable action to prevent and to mitigate the effects of such causes.

Grantee shall have the right to enter the Property upon written notice to Grantor, its heirs, successors or assigns for the purposes of: inspecting the Property to determine compliance with the provisions of this easement or to obtain evidence for the purpose of seeking judicial enforcement.

16. **HAZARDOUS MATERIALS.** Grantor warrants that Grantor has no actual knowledge of a release or threatened release of hazardous substance or toxic wastes on the Property. Further, Grantor shall not permit any hazardous substance or wastes to be placed on the property, except for storage permitted under Section 3 hereinabove. The attached executive summary of the Environmental Report is incorporated herein by reference.

17. **INDEMNIFICATION.** The Grantor is solely responsible for any costs, damages, claims, liabilities and judgments arising from past and future acts or omissions of the Grantor in connections with the Property and shall indemnify, defend, and hold harmless Grantee and the United States from any liability resulting from the Grantor's acts, including but not limited to, the release, use or deposit of any hazardous substance or wastes on the Property.

18. **EXTINGUISHMENT, CONVERSION, DIVERSION.** This easement may only be terminated or extinguished by a court of competent jurisdiction upon a request to terminate made by Grantor, Grantee, and the USDA, or their successors, and after a finding by the court that diversion of the Property from open-space land use has been authorized as required by §10.1-1704 of the Code of Virginia, and that the conditions or circumstances of or surrounding the Property have changed to such a degree that it has become impossible to fulfill the conservation purposes of the easement. In the event the substitution of land occurs, the United States shall receive funds equivalent to its share of the proceeds at the time of condemnation or extinguishment.

19. **COMPENSATION.** If this easement is extinguished by termination in accordance with Section 18 above or condemnation, in whole or in part, then Grantee and the United States are entitled to their proportional share of the value of the easement which shall be computed as at least 46.647% of the gross sale proceeds or condemnation award, representing an amount equal to the ratio of the appraised value of this easement (stated to be \$1,600,000) to the unrestricted fair market value of the Property (stated to be \$3,430,000), as these values are determined as of the date of this Deed of Easement. The proportional shares of the Grantee and the United States are 50% and 50% respectively, representing the proportion of the easement purchase price each party contributed (with the \$200,000 of easement value donated by the Grantor credited entirely to the Grantee). Condemnation may only occur upon prior written consent by the United States.

20. **TITLE.** Grantor warrants that Grantor has good title to the Property, that Grantor has the right to convey this easement, and that the Property is free and clear of any encumbrances, except the Deed of Trust related to Grantor's financing of the acquisition of the Property of which VRA is the beneficiary.

21. **TRANSFER.** Grantor, which term is defined herein to include Grantor's agents, assigns and all other successors to it in interest, shall notify Grantee in writing within 60 days following any transfer or sale of the Property or any part thereof. In any deed conveying all or any part of the Property, this easement shall be referenced by Deed Book and Page Number and shall continue as a servitude running in perpetuity with the Property.

22. **APPROVALS.** Grantor shall notify the Grantee, in writing, no less than thirty (30) days prior to undertaking any activities requiring notification and/or approval by the Grantee pursuant to Sections 6, 9, 11, 12, 14, or 21 hereof. Grantor's notice shall describe the nature, scope, design, location, timetable and any other material aspect of the proposed activity in sufficient detail to enable the Grantee to make informed judgments as to its consistency with the conservation purposes of this easement. The Grantee's approval or disapproval, if required, shall be communicated to Grantor in writing with reasonable promptness, taking into account the complexity of the proposed activity and any requirement to obtain concurrence of VBHR or HDRC.

23. **SUBORDINATION.** Any mortgage or lien arising after the date of this Deed of Easement shall be subordinated to the terms of this Deed of Easement.

24. **ZONING ORDINANCE.** Notwithstanding any other provision of this Deed of Easement, the Loudoun County Zoning Ordinance shall apply to the Property and shall take precedence over this easement to the extent that the Zoning Ordinance regulations are more restrictive than the terms of the easement.

25. **NOTICES.** All notices required or permitted hereunder will be deemed to have been delivered when posted with the U.S. Postal Service, Federal Express, United Parcel Service or similar service, or sent by facsimile, telecopier or other such electronic device, with proof of transmission, directed as follows:

JLL. MONAHAN, ENGLE,
MAHAN & MITCHELL
ATTORNEYS AT LAW
LEESBURG, VIRGINIA
WINCHESTER, VIRGINIA

If to Grantor:

The Waterford Foundation, Incorporated
Attention: President
P.O. Box 142
Waterford, VA 20197
Phone: (540) 882-3018
Fax: (540) 882-3921

If to Grantee:

Virginia Outdoors Foundation
Attention: Leslie H. Grayson
324 Waterloo Street
Warrenton, VA 20186
Phone: (540) 347-7727
Fax: (540) 347-7711

and with copy to:

Virginia Outdoors Foundation
203 Governor Street, Suite 302
Richmond, Virginia 23219

If to the United States

Natural Resources Conservation Service
Attention: M. Denise Doetzer
1606 Santa Rosa Road, Suite 209
Richmond, VA 23229-5014
Phone: 804-287-1691
Fax: 804-287-1737

26. **AMENDMENT**. This Deed of Easement may be amended only if in the sole and exclusive judgment of the Grantee and the United States such amendment furthers or is not inconsistent with the purposes of this easement. Any such amendment must be mutually agreed upon by the Grantee, United States, and Grantor, signed and duly recorded by such parties and comply with all applicable laws and regulations. Grantee must provide to NRCS timely notice in writing of the amendment.

27. **TRANSFER OF THE EASEMENT**. Upon prior written consent from the United States, Grantee may transfer this easement to a public agency or non-profit organization, which,

at the time of transfer, is a qualified organization under Section 170(h) or successor provision of the Internal Revenue Code.

28. **GOVERNING LAW.** The interpretation and performance of this easement shall be governed by the laws of the Commonwealth of Virginia and the United States of America.

29. **LIBERAL CONSTRUCTION.** Any general rule of construction to the contrary notwithstanding, this easement shall be liberally construed in favor of the Grantee to effect the purposes of this easement and the policy and purposes of the Grantee. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purposes of this easement that would render the provision valid shall be favored over any interpretation that would render it invalid.

30. **SEVERABILITY.** If any provision of this easement or the application thereof to any person or circumstance is found to be invalid, the remaining provisions of this easement shall not be affected thereby.

31. **ENTIRE AGREEMENT.** This instrument sets forth the entire agreement of the parties with respect to the easement and supersedes all prior discussions, negotiations, understandings, or agreements relating to the easement, all of which are merged herein.

32. **CONSENT OF LIENHOLDER.** The Virginia Resources Authority, as Administrator of the Virginia Water Facilities Revolving Fund (herein, VRA), is the beneficiary of a certain Deed of Trust dated December 18, 2003, and recorded in the Clerk's Office of the Circuit Court of Loudoun County, Virginia, as Instrument Number 20031218-0164584, which subjects the Property to a lien in favor of VRA. VRA and the Trustee under the Deed of Trust hereby consent to the terms and intent of this easement, and agree that, upon the complete execution and recordation of this Deed of Easement in the Clerk's Office of the Circuit Court of Loudoun County, Virginia, the lien represented by the Deed of Trust shall be held subject to this Deed of Easement.

Although this easement in gross will benefit the public as described above, nothing herein shall be construed to convey to the public a right of access to or use of the Property. Grantor, its heirs, successors and assigns, hereby retain the exclusive right to such access and use, subject to the terms hereof.

Acceptance of this conveyance by the Grantee is authorized by Section 10.1-1801 of the Code of Virginia and is evidenced by the signature of its Deputy Director hereto. Assignment of this easement is governed by Section 10.1-1801 of the Code of Virginia.

WITNESS the following signatures and seals.

GRANTOR:

Waterford Foundation, Incorporated

By James J. Behan
James J. Behan, President

VRA:

By Donald V. Allen
Its: Executive Director

Russell J. Singer, Trustee

Douglas L. Kelly, Trustee

Accepted:

VIRGINIA OUTDOORS FOUNDATION

By: Leslie H. Grayson
Leslie H. Grayson, Deputy Director

The Natural Resources Conservation Service, an Agency of the United States Government, hereby accepts and approves the foregoing Deed of Easement, and the rights conveyed therein, on behalf of the United States of America.

NATURAL RESOURCES CONSERVATION SERVICE
UNITED STATES DEPARTMENT OF AGRICULTURE

By: M. Denise Doetzer
M. Denise Doetzer, State Conservationist

The Virginia Board of Historic Resources has consented to this Deed of Easement and hereby acknowledges that the terms and conditions set forth herein are consistent its statutory powers and duties under Chapter 22, Title 10.1 of the Code of Virginia.

VIRGINIA BOARD of HISTORIC RESOURCES

By: Kathleen S. Kilpatrick
Kathleen S. Kilpatrick
Director, Department of Historic Resources

Date: 5/18/05

COMMONWEALTH OF VIRGINIA,
CITY/COUNTY OF Loudoun, TO WIT:

I, Beverly Keller, a Notary Public for the Commonwealth aforesaid,
hereby certify that James J. Benan, President of Grantor, personally appeared
before me this day and acknowledged the foregoing instrument.

WITNESS my hand and official seal this 23 day of May, 2005.

Beverly Keller
Notary Public

My commission expires: 06-30-06 (SEAL)

COMMONWEALTH OF VIRGINIA,
CITY/COUNTY OF Richmond, TO WIT:

I, Bonnie R.C. McRae, a Notary Public for the Commonwealth aforesaid,
hereby certify that Darrell R. Hill, as Executive Dir. of
_____ VRA personally appeared before me this day and
acknowledged the foregoing instrument.

WITNESS my hand and official seal this 17th day of May, 2005.

Bonnie R.C. McRae
Notary Public

My commission expires: July 30, 2005 (SEAL)

COMMONWEALTH OF VIRGINIA,
CITY/COUNTY OF Richmond, TO WIT:

I, Terry C. Richards, a Notary Public for the Commonwealth aforesaid,
hereby certify that Russell J. Singer, as Trustee, personally appeared before me this day
and acknowledged the foregoing instrument.

WITNESS my hand and official seal this 17th day of May, 2005.

Terry C. Richards
Notary Public

My commission expires: 01/31/09 (SEAL)

COMMONWEALTH OF VIRGINIA,
CITY/COUNTY OF Richmond, TO WIT:

I, Terry C. Richards, a Notary Public for the Commonwealth aforesaid, hereby certify that Douglas Sbertoli, as Trustee, personally appeared before me this day and acknowledged the foregoing instrument.

WITNESS my hand and official seal this 17th day of May, 2005.

Terry C. Richards
Notary Public

My commission expires: 01/31/09 (SEAL)

COMMONWEALTH OF VIRGINIA,
CITY/COUNTY OF Fauquier, TO WIT:

I, Jennifer L. Perkins, a Notary Public for the Commonwealth aforesaid, hereby certify that Leslie H. Grayson, Deputy Director of the Virginia Outdoors Foundation, personally appeared before me this day and acknowledged the foregoing instrument on behalf of the Virginia Outdoors Foundation.

WITNESS my hand and official seal this 24th day of May, 2005.

My commission expires: July 31, 2008 (SEAL)

Jennifer L. Perkins
Notary Public

COMMONWEALTH OF VIRGINIA,
CITY/COUNTY OF Denver, TO WIT:

Phyllis D. Leonard, a Notary Public for the Commonwealth aforesaid, hereby certify that M. Denise Doetzel, State Conservationist of the United States of America, personally appeared before me this day and acknowledged the foregoing instrument on behalf of the Secretary of Agriculture of the United States.

WITNESS my hand and official seal this 20th day of May, 2005.

Phyllis D. Leonard
Notary Public

My commission expires: 7-31-05 (SEAL)

COMMONWEALTH OF VIRGINIA,
CITY/COUNTY OF RICHMOND, TO WIT:

I, PAMELA S. DOAK, a Notary Public for the Commonwealth aforesaid,
hereby certify that KATHLEEN S. KILPATRICK, DIRECTOR of the Virginia Board of
Historic Resources, personally appeared before me this day and acknowledged the foregoing
instrument.

WITNESS my hand and official seal this 18TH day of May, 2005

Pamela S. Doak

Notary Public

My commission expires: 7/31/2006 (SEAL)

LL. MONAHAN, ENGLE,
MAHAN & MITCHELL
ATTORNEYS AT LAW
LEESBURG, VIRGINIA
WINCHESTER, VIRGINIA



Schedule A:

All that certain lot or parcel of land containing 140 acres more or less situate in the County of Loudoun, Commonwealth of Virginia, and being more particularly described as follows:

Parcel One (1), containing 144.0000 acres, more or less, "Subdivision Waiver Plat on the Property of Ann H. Brown", as the same is duly dedicated, platted and recorded in Deed Book 2390 at page 2459, among the land records of Loudoun County, Virginia.

AND BEING the same tract or parcel of land acquired by deed dated December 18, 2003 to Waterford Foundation, Inc. from Historic Fields, L.L.C., recorded as Instrument Number 20031218-0164583 among the land records of Loudoun County, Virginia.

LESS and EXCEPT an area containing 4.0 acres designated "Interpretative Area" and shown as Area 2 on the plat prepared by William E. Fissel of Dewberry & Davis LLC, dated March , 2005, and attached hereto.

H:\govern\fsf\Easements\USDA Easement Template (rev)6C1.doc

ALL. MONAHAN, ENGLE,
MAHAN & MITCHELL
ATTORNEYS AT LAW
LEESBURG, VIRGINIA
WINCHESTER, VIRGINIA

Exhibit A

EASEMENT DOCUMENTATION REPORT ACKNOWLEDGEMENT

PHILLIPS FARM LOUDOUN COUNTY, VIRGINIA

The Easement Documentation Report dated May 22, 2005 filed in the offices of the Grantor and Grantee records the area, character and condition of the property owned by the Waterford Foundation, known as Phillips Farm, comprising 144 acres located along Catoctin Creek in Loudoun County adjacent to the town of Waterford, 140 acres of which is to be placed under open-space easement granted to the Virginia Outdoors Foundation by the Waterford Foundation in a Deed of Gift of Easement recorded in the Loudoun County Clerk's Office. This report constitutes the baseline documentation to serve as a future reference in monitoring the Easement as required by Section 170(h) of the Internal Revenue Code and Section 1.170A-14 of the Treasury Regulations.

The Easement Documentation Report includes the following items (the first three of which are recorded with the easement and referred to as Summary Baseline Report therein):

- Narrative description with building sizes and impervious surface calculation
- Aerial Map showing boundaries and photo locations
- Soil types Map from Loudoun County GIS Mapping System
- Easement Proposal Sheet reviewed by VOF Board of Trustees
- Topographical Map showing boundaries and photo locations
- Map showing boundaries, fence lines, structures and wooded areas with photo locations
- Photos (16) of property taken over several seasons
- Dewberry and Davis survey map dated September 11, 2004 showing floodplains, steep slopes, soils, Farmstead Area, and 4 acre area excluded from easement (located in pocket)

The Grantor and Grantee acknowledge that this Report accurately reflects the condition of the Property subject to the Easement referenced above as of the date of conveyance of the Easement.

VIRGINIA OUTDOORS FOUNDATION,
Grantee

By:

Leslie H. Grayson
Leslie H. Grayson,
Deputy Director

WATERFORD FOUNDATION,
Grantor

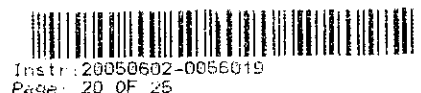
James J. Behan
James J. Behan
President

Date:

May 22, 2005

Date:

May 22, 2005



Instr: 20050602-0056019
Page: 20 OF 25

PHILLIPS FARM

Structures, Land Use, and Property Features

Man-made structures and Improvements:

There is only one building on the property as of the date of this easement. The building is a shed with dimensions of 48 feet x 48 feet (2,304 sq. ft.). This represents .00038 % of the property in impervious surface coverage.

Land Use and Property Features:

Phillips Farm property is located on the west edge of the village of Waterford on South Fork of Catoctin Creek. Fronts on Route 698 (Old Wheatland Road). This historic agricultural property along Catoctin Creek was the first land farmed in Waterford. It contains prime agricultural soils and the original dam and millrace that powered the town mill. The property has extensive frontage and floodplain along Catoctin Creek running through the eastern portion of the tract. The property is primarily open pastureland with some cross fencing. There are some small hardwood areas along the boundaries and Catoctin Creek and one area of pines in the middle of the property.



0 500 1,000 Feet

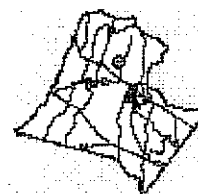
1 inch equals 475 feet



Instr. 20050602-0056019
Page: 22 OF 25

Waterford Foundation
Property
Phillips Farm

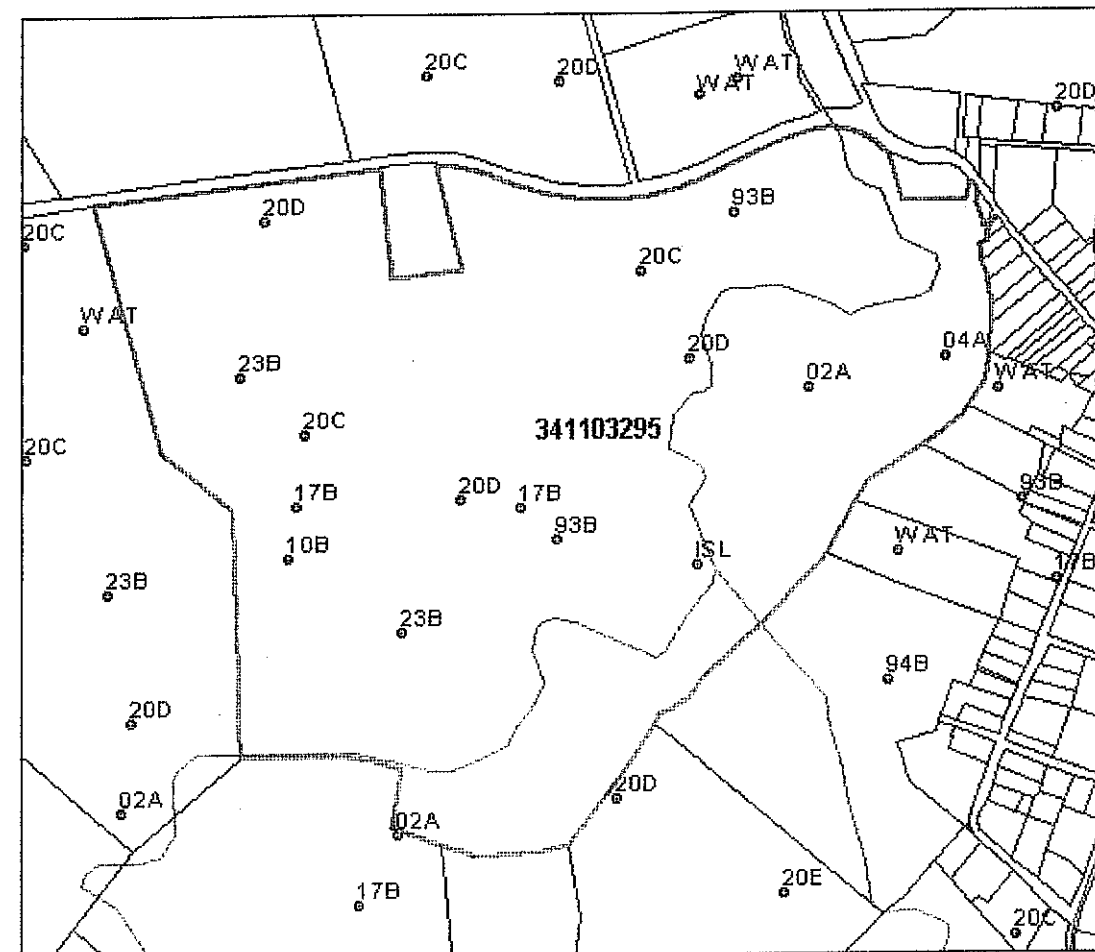
Loudoun County Mapping System



556,716



553,039



2,247,458

Map Width=4,204 feet

2,251,662

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PIN	Address
341103295	



Waterford Foundation Property
Phillips Farm
Soils Map

23

Exhibit B

Executive Summary

This report details the results of a Phase I Environmental Site Assessment (ESA) conducted by Williamsburg Environmental Group, Inc. (WEG) in November 2003 for the 144-acre parcel of property known locally as the Phillips Farm Property (subject property), located in Loudoun County, Virginia. This Phase I ESA was conducted by WEG to evaluate any recognized environmental conditions on or adjacent to the subject property. Recognized environmental conditions relate to the likely presence of hazardous substances or petroleum products on the subject property resulting from a past release, an existing release, or a material threat of a release of such substances. The investigation did not include sampling; testing or conducting detailed studies to verify any specific hazardous substance problem, or specifically identifying or quantifying those problems. This assessment is not intended to focus on de minimus conditions that generally do not present risk to public health or the environment, and would not require enforcement action by regulating agencies.

A site reconnaissance was performed by WEG on November 24, 2003. The subject property is located south of and can be accessed from Wheatland Road. One structure was found on the subject property at the time of the site reconnaissance. The subject property is a mixture of woods and open fields. A buried utility line extends through the eastern half of the subject property. Catoclin Creek is located in the southern and eastern half of the subject property. The adjacent properties consist of residential and agricultural use to the east, south and west, and Wheatland Road to the north.

The regulatory records review conducted by WEG indicates that the subject property has not been listed as a National Priority List (NPL) (Superfund) site; a Comprehensive Environmental Response, Compensation and Liability Information System (CERCLIS) site; a permitted hazardous waste handler; or a permitted landfill. The Virginia Department of Environmental Quality (DEQ) has not investigated any waste handling incidents on the subject property. No groundwater pollution complaints have been investigated on the subject property since the DEQ began keeping records in 1985. The Underground Storage Tank (UST) registry indicated the presence of no such tanks on the subject property.

No properties within the appropriate search distances of the subject property are listed as NPL sites, CERCLA sites or permitted landfills. In addition, no Resource Conservation and Recovery Information System (RCRIS) Small-Quantity Generators (SQG), or Large-Quantity



Generators (LQG) are located within one-quarter mile of the subject property. No State Hazardous Waste Sites (SHWS) are located within one mile of the subject property. Five leaking underground storage tanks are located between ¼-mile and ½-mile from the subject property. Four of these sites are listed with a remediation status of closed and the fifth site has remediation status of open. Those sites with a remediation status of closed should no longer pose a threat to the subject property. Based on the location of the site with the remediation status of open it should not pose a threat to the subject property.

Information reviewed regarding the history of the subject property and adjoining land indicates that historically the land was possibly used for agricultural purposes. Available historical topographic maps and aerial photographs depicting the site and surrounding area were reviewed and confirmed the previous uses of the subject property as possibly agricultural since 1937. No recognized environmental conditions were identified through a search of historical sources for the subject property.

Our professional services have been performed, our findings obtained, and our recommendations prepared in accordance with customary principles and practices in the fields of environmental science and engineering. This warranty is in lieu of all other warranties either expressed or implied. WEG is not responsible for the independent conclusions, opinions, or recommendations made by others based on the field exploration or data presented in this report.

It should be noted that all surficial environmental assessments are inherently limited in the sense that conclusions are drawn and recommendations developed from information obtained during limited research and site evaluation. Subsurface conditions were not field investigated as part of this study, and may differ from the conditions implied by the surficial observations. Additionally, the passage of time may result in a change in the environmental characteristics at this site and surrounding properties.

WEG has performed a Phase I ESA of the Phillips Farm Property in Loudoun County, Virginia in conformance with the scope and limitations of the ASTM E 1527-00 publication. This assessment has revealed no evidence of recognized environmental conditions in connection with the subject property.