

# Baseline Documentation Report

**Prepared for:** Town of Bethel  
P.O. Box 1660  
Bethel, ME 04217

**Property Name:** Bingham Tract, Bethel Water District

**Location:** Newry, Oxford County, Maine

**Prepared by:** Sherman R. Small  
New England Forestry Consultants, Inc.  
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Bethel, ME 04217  
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Licensed Professional Forester # LF655



## Baseline Documentation Report Table of Contents

Title Page.....	Page 1
Table of Contents.....	Page 2
Table of Contents (continued).....	Page 3
General Description of Parcel, Consent Order Summary.....	Page 4
Consent Order Summary (continued).....	Page 5
Locus Map (1:3,168,000).....	Page 6
Locus Map (1:316,800).....	Page 7
USGS Topographic Map.....	Page 8
2003 Aerial Photo.....	Page 9
2007 Aerial Photo.....	Page 10
2011 Aerial Photo.....	Page 11
Abutter Map.....	Page 12
Abutter Land Use Map.....	Page 13
Abutter List.....	Page 14
Abutter List (continued).....	Page 15
Newry Tax Map R-12.....	Page 16
Newry Tax Map R-19.....	Page 17
Newry Tax Map U-7.....	Page 18
Riley Township Tax Map part of OX001, Plan 01.....	Page 19
Bethel Tax Map 16.....	Page 20
Bethel Tax Map 17.....	Page 21
Bethel Tax Map 21.....	Page 22
Boundary Conditions Map.....	Page 23
Access Roads Map.....	Page 24
Daisy Bryant Road Abutter Map.....	Page 25
Daisy Bryant Road Abutter List.....	Page 26
Daisy Bryant Road Abutter List (continued).....	Page 27
Bethel Water District Retained Land Map.....	Page 28
Lease Areas Map.....	Page 29
Lease Areas Detail Map.....	Page 30
Roads & Trails Map.....	Page 31
Forest Stands, Protection Zones Map.....	Page 32
Timber Harvests Map.....	Page 33
Soils Map.....	Page 34
History.....	Page 35
History (cont.), Land Types Descriptions, Structures, Land Conditions.....	Page 36
Protection Zones, Wildlife Habitat, Recreational Uses.....	Page 37
Unique Natural Resources.....	Page 38
Ground Photos Map.....	Page 39
Ground Photos Locations Table.....	Page 40
Ground Photos 1 & 2.....	Page 41
Ground Photos 3 & 4.....	Page 42
Ground Photos 5 & 6.....	Page 43

**Baseline Documentation Report  
Table of Contents (continued)**

Ground Photos 7 & 8 .....	Page 44
Ground Photos 9 & 10 .....	Page 45
Ground Photos 11 & 12 .....	Page 46
Ground Photos 13 & 14 .....	Page 47
Ground Photos 15 & 16 .....	Page 48
Ground Photos 17 & 18 .....	Page 49
Ground Photos 19 & 20 .....	Page 50
Ground Photos 21 & 22 .....	Page 51
Ground Photo 23 & 24 .....	Page 52
Ground Photo 25 & 26 .....	Page 53
Acknowledgement of Property Conditions .....	Page 54
Attestation .....	Page 55

Appendix:	Bingham Deed
	Consent Order
	2007 Drinking Water Program Report
	2007 Storm Damage Map and Cover Letter from New England Forestry Consultants, Inc.
	2009 Drinking Water Program Letter
	2009 e-mail from Inland Fisheries & Wildlife Biologist
	2009 Forest Management Plan
	2010 Maine Natural Areas Program Ecologist Report
	Lease Agreement with Sunday River Skiway
	Affidavit from Town Clerk regarding 2011 Bethel Town Meeting action
	Bethel Selectmen Minutes re: Conservation Commission responsibilities
	Bethel Conservation Commission report on Public Hearings
	Maine Natural Areas Program 2012 Report
	Sherman R. Small resume'

## **General Description of Parcel**

The Bingham parcel covers approximately 2,358 acres in the southerly tip of Newry, Maine. The property is predominantly timberland with some open ledge areas. The topography ranges from gently sloping to extremely steep. The steep slopes are found along the edges of Chapman Brook and on ledge areas in the northerly portion of the lot. The forest types on the property are a combination of softwood containing spruce, fir, and hemlock; hardwood containing northern hardwoods such as sugar maple, beech, red maple, yellow birch, and white ash; and two small areas of mixed wood in the center of the lot. Approximately twenty percent of the parcel is deemed inoperable for timber harvesting due to steep slopes. The 2011 Consent Order stipulated that timber harvesting on the property must be on a sustained yield basis in conformance with a Forest Management Plan prepared by a Maine Licensed Professional Forester. Proceeds from any timber sale must be in accordance with the terms of the Bingham deed as outlined in the Consent Order. Recreational uses of the property are limited to non-motorized activities that do not jeopardize the water quality of Chapman Brook or its tributaries. The only motorized recreational activity allowed on the property is snowmobiling.

## **Consent Order Summary**

**(Summary only, see legal document for details)**

### Property Location:

Road:	Northwest of Daisy Bryant Road, Chapman Hill Road
Town:	Newry
County:	Oxford
State:	Maine

### Date Recorded:

October 3, 2011      Oxford County (Eastern District) Book 4767, Page 105

### Purpose:

To determine the parties responsible for the management of the Bingham land, define allowed and prohibited uses, and set conditions for those uses.

### Prohibited Activities:

Prohibited activities include motorized public access with the exception of snowmobiles; public access that interferes with protecting the water quality of Chapman Brook and its tributaries; lease or sale of the Bingham land with the exception of an existing lease with Sunday River Skiway Corp.; timber harvests which generate income in excess of that needed to pay property taxes and manage the land in accordance with the management plan.



**Consent Order Summary (continued)**  
**(Summary only, see legal document for details)**

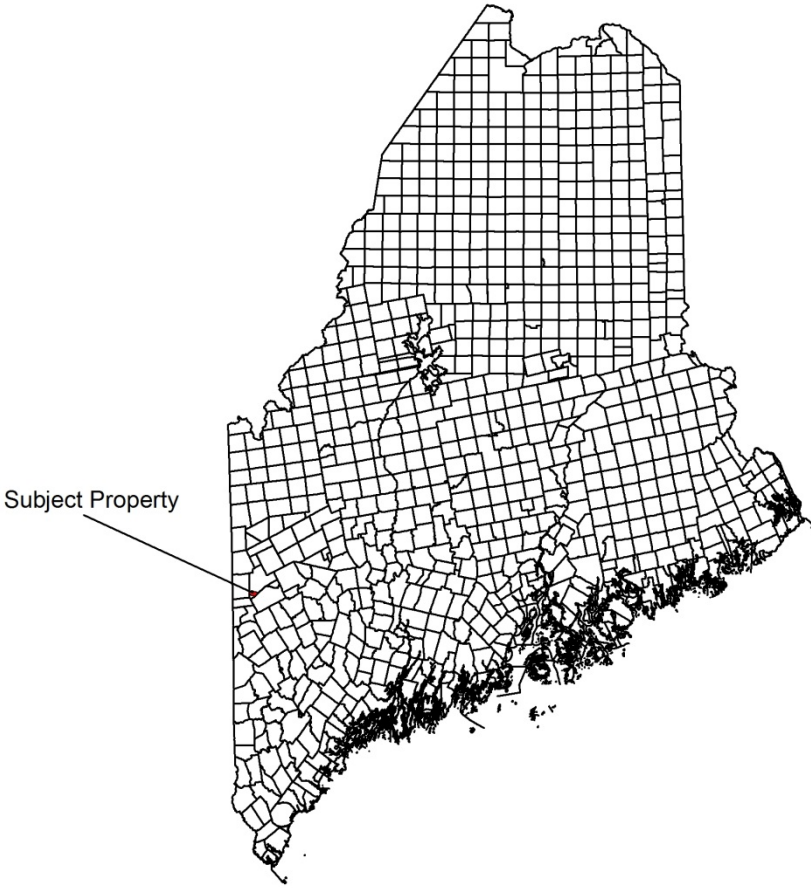
Required Activities:

Required activities include maintaining the land so that Chapman Brook and its tributaries can serve as an emergency water supply to the Town of Bethel; preparation of a Baseline Document; preparation of a Management Plan and Forest Management Plan which meet the criteria spelled out in the Consent Order; protection of significant wildlife habitat; preservation of natural resource, recreational, and scenic qualities; multiple uses of the land to include conservation of scenic and natural resources, low impact outdoor recreation, wildlife habitat, and sustainable yield timber harvesting; annual reporting to the Attorney General confirming that activities on the land comply with the Consent Order.

Public Access:

Public access may be allowed within the management plan, but may not interfere with protection of the water quality of Chapman Brook and its tributaries.

Town of Bethel  
Bingham Tract  
Newry, Maine  
Locus Map



Prepared by:  
New England Forestry Consultants, Inc  
Sherman R. Small, Consulting Forester  
Maine License # LF655  
April 17, 2012

Sketch map for management and planning purposes only, NOT A LEGAL SURVEY  
Data obtained from Maine Office of GIS & New England Forestry Consultants, Inc.

Town of Bethel  
 Bingham Tract  
 Newry, Maine  
 Locus Map

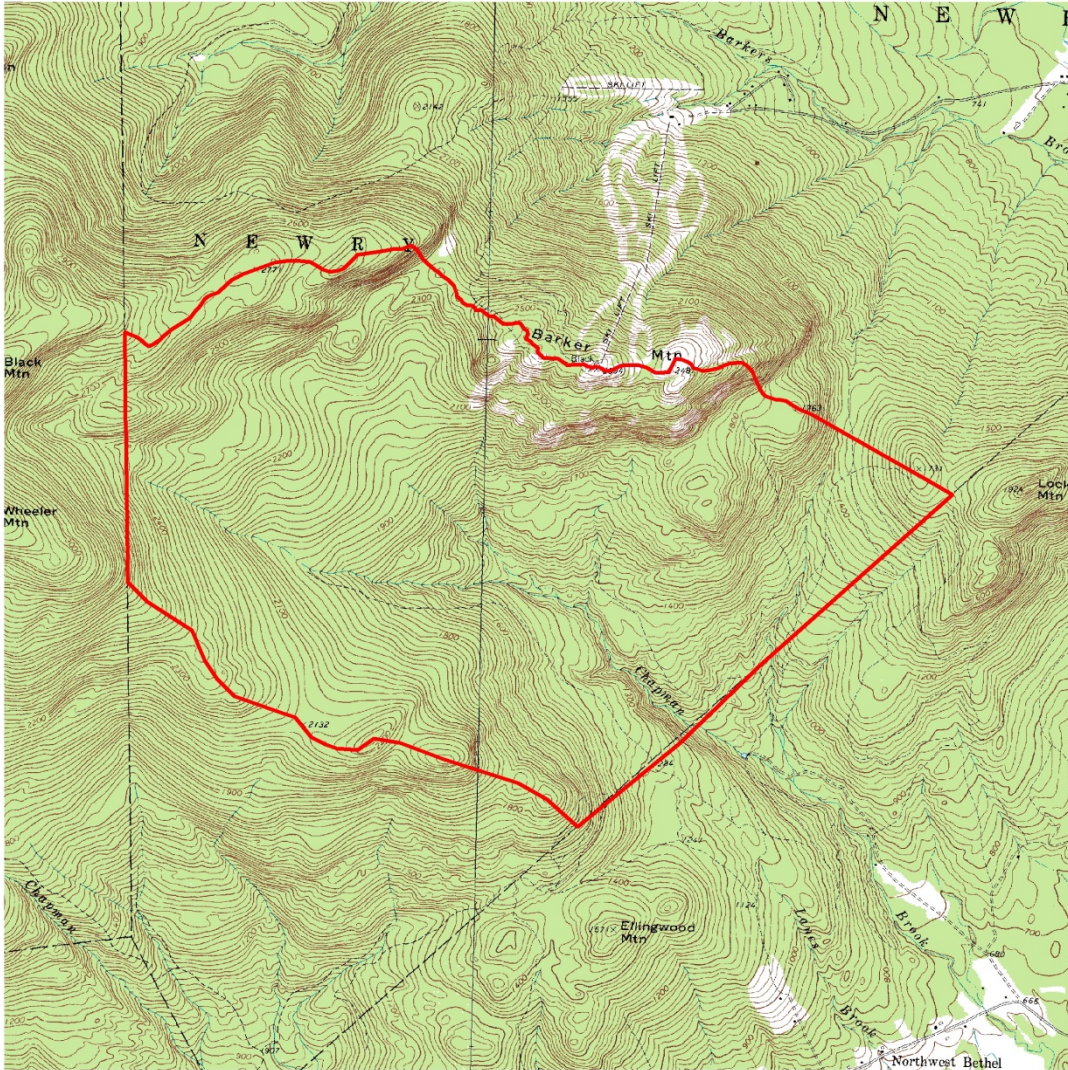


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Town of Bethel  
Bingham Tract  
Newry, Maine  
Bethel & Gilead Quadrangles

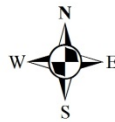


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Town of Bethel  
Bingham Tract  
Newry, Maine  
2003 Aerial Photo



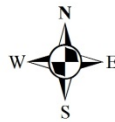
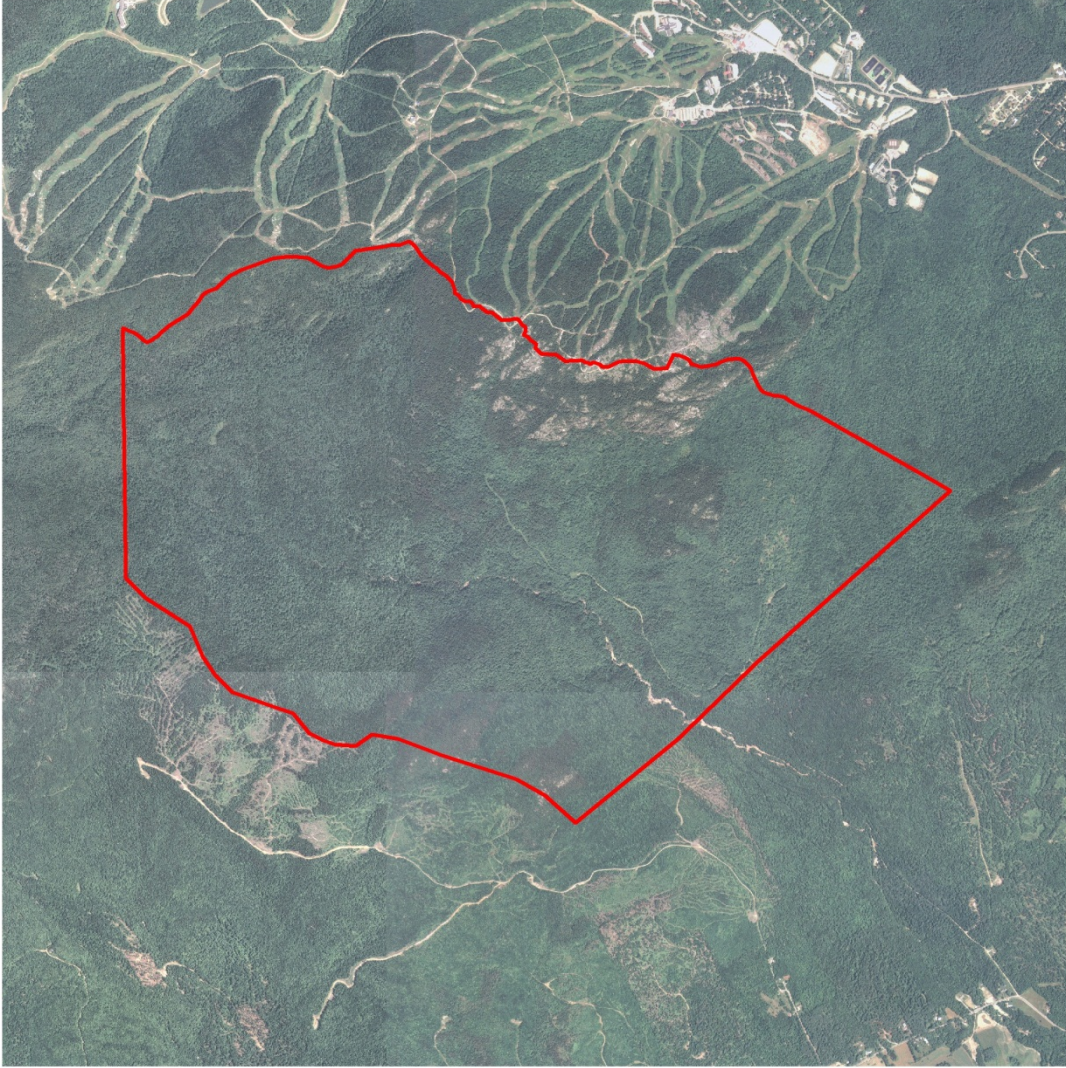
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Aerial photo of Bingham Tract prior to 2007 storm



Town of Bethel  
Bingham Tract  
Newry, Maine  
2007 Aerial Photo



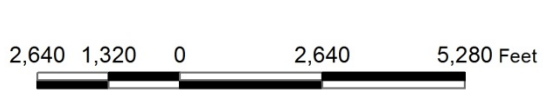
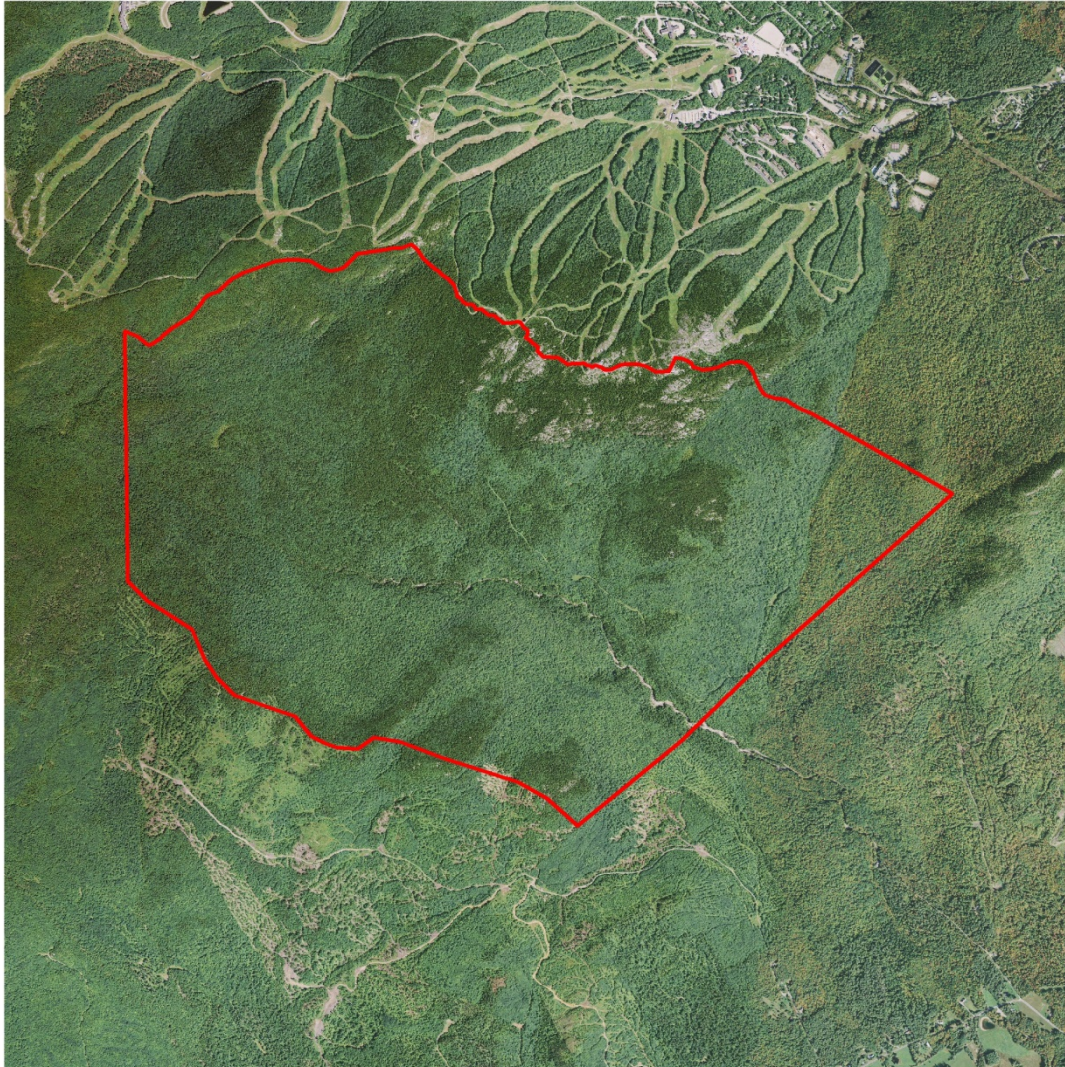
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Aerial photo of Bingham Tract after 2007 storm  
Damage to Chapman Brook visible in photo



Town of Bethel  
Bingham Tract  
Newry, Maine  
2011 Aerial Photo



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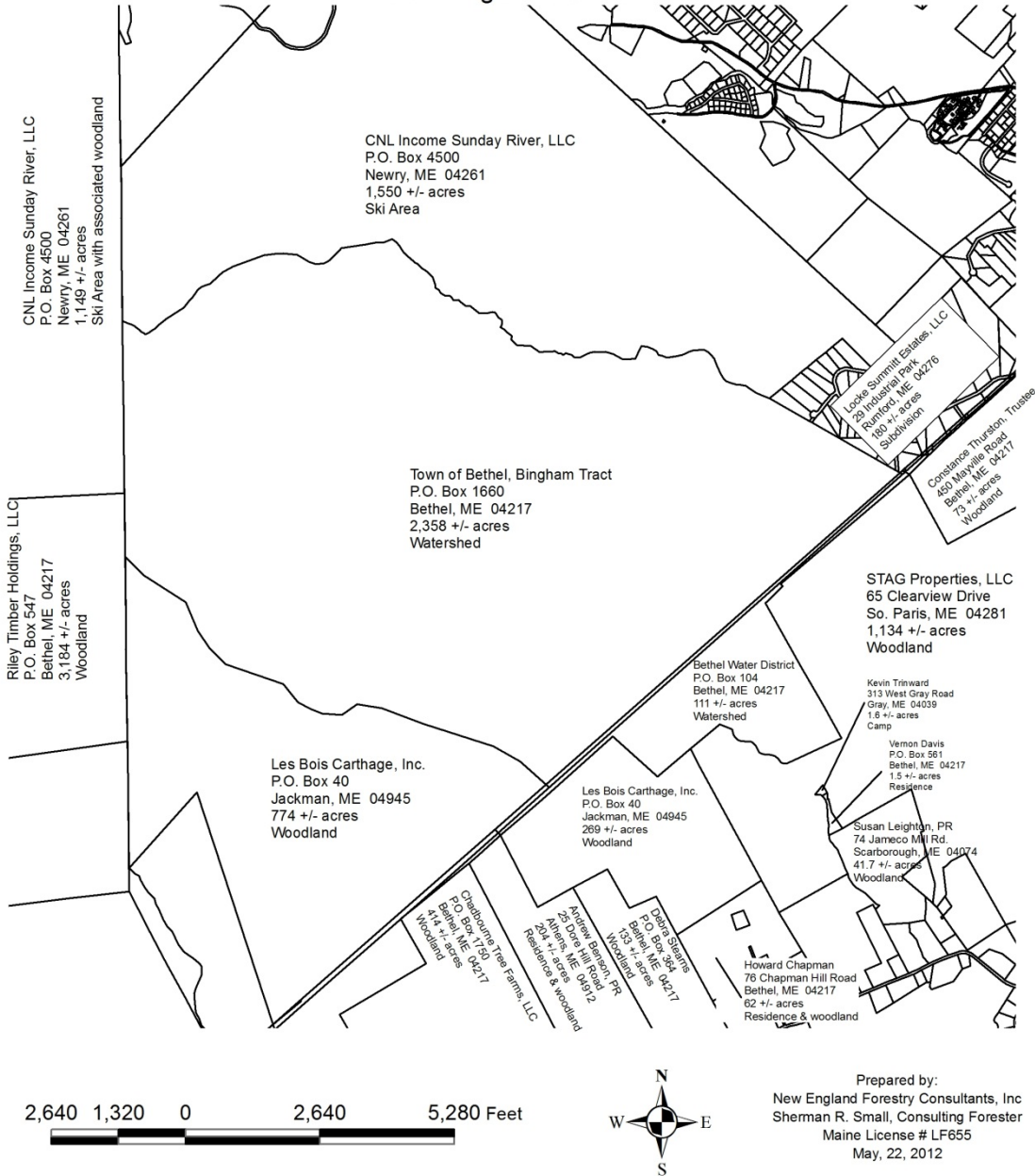
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2011 Aerial photo of Bingham Tract  
Damage to Chapman Brook still visible in photo





Town of Bethel  
Bingham Tract  
Newry, Maine  
Abutting Land Uses



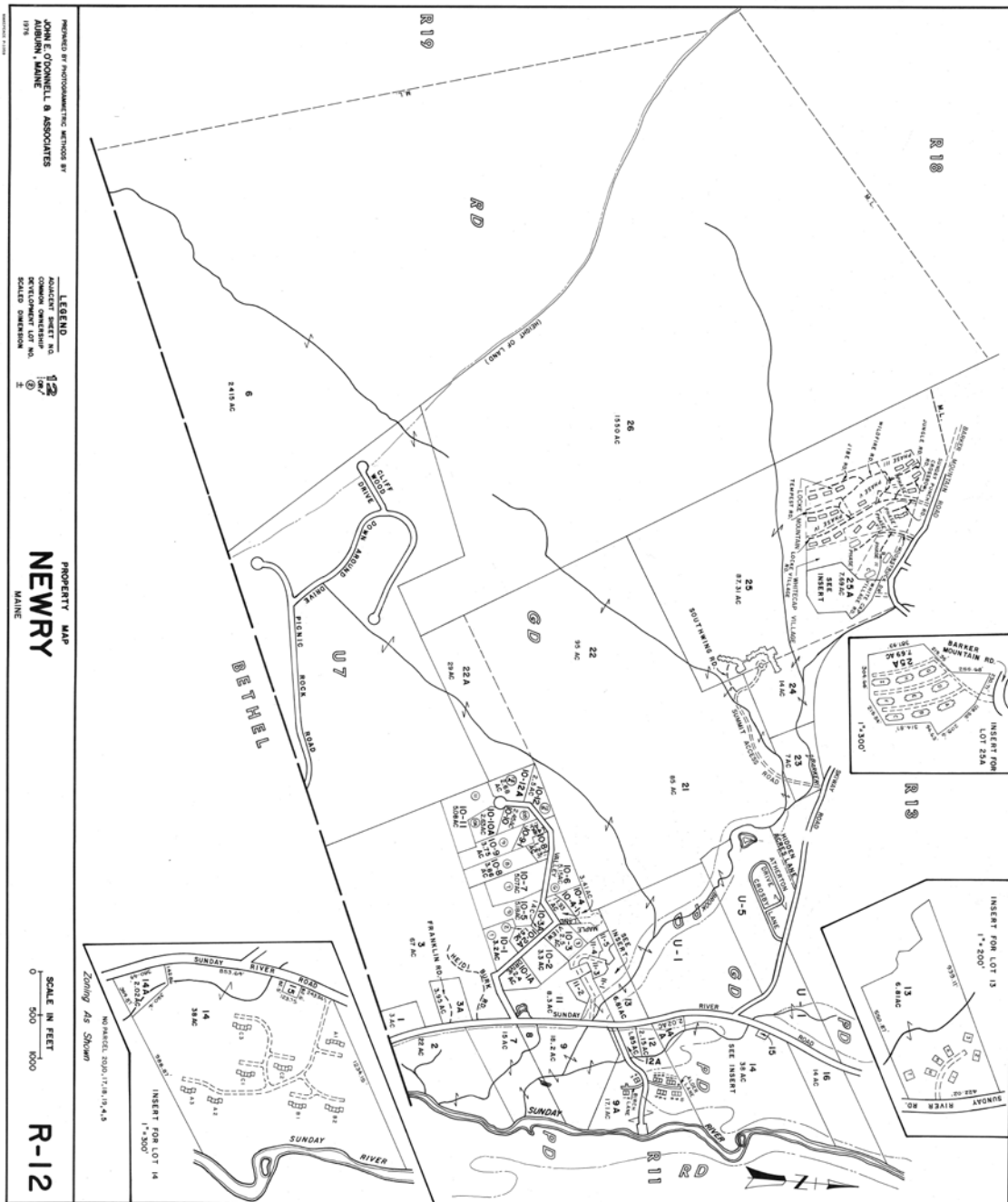
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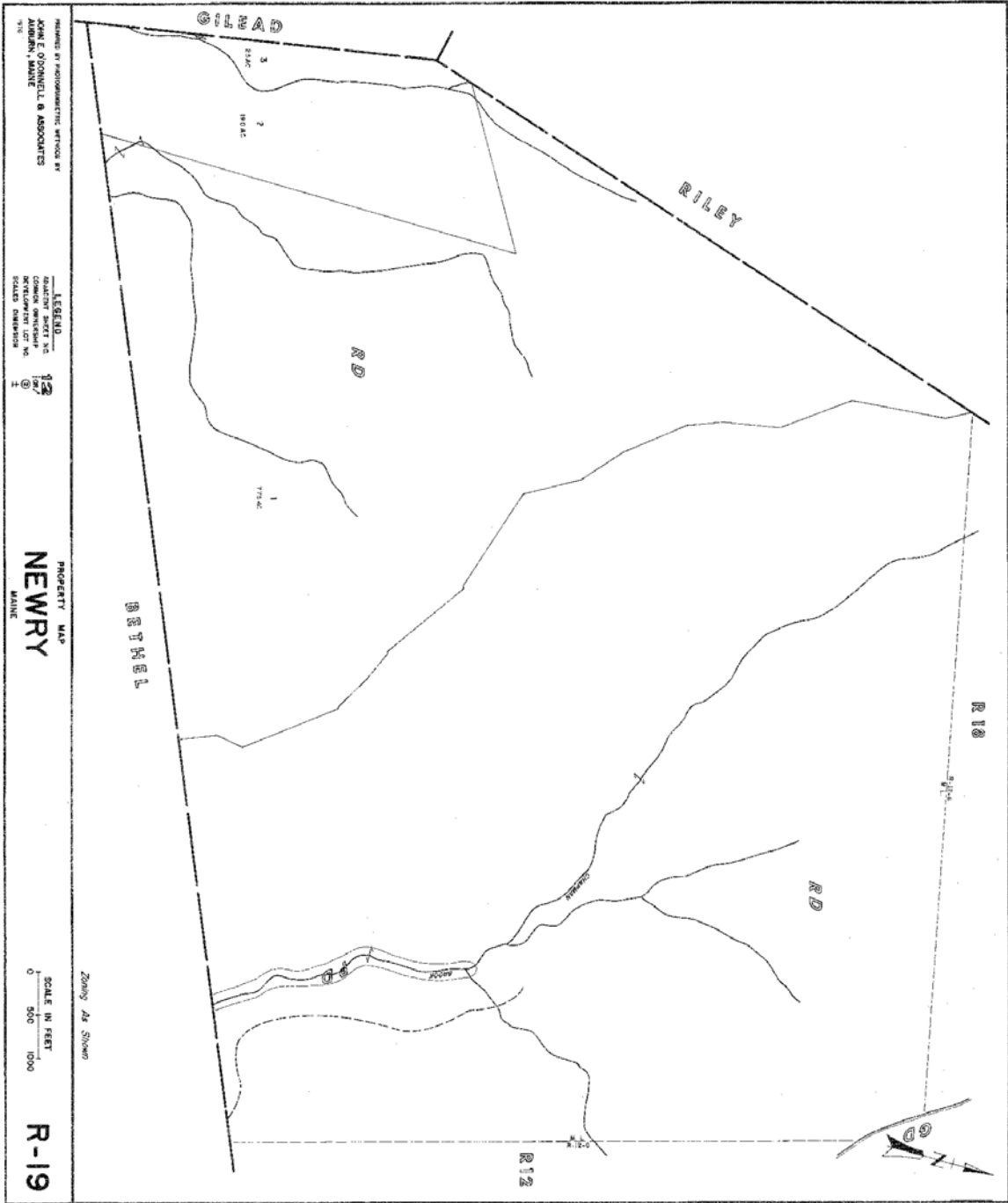
**Tax Map and Lot information**

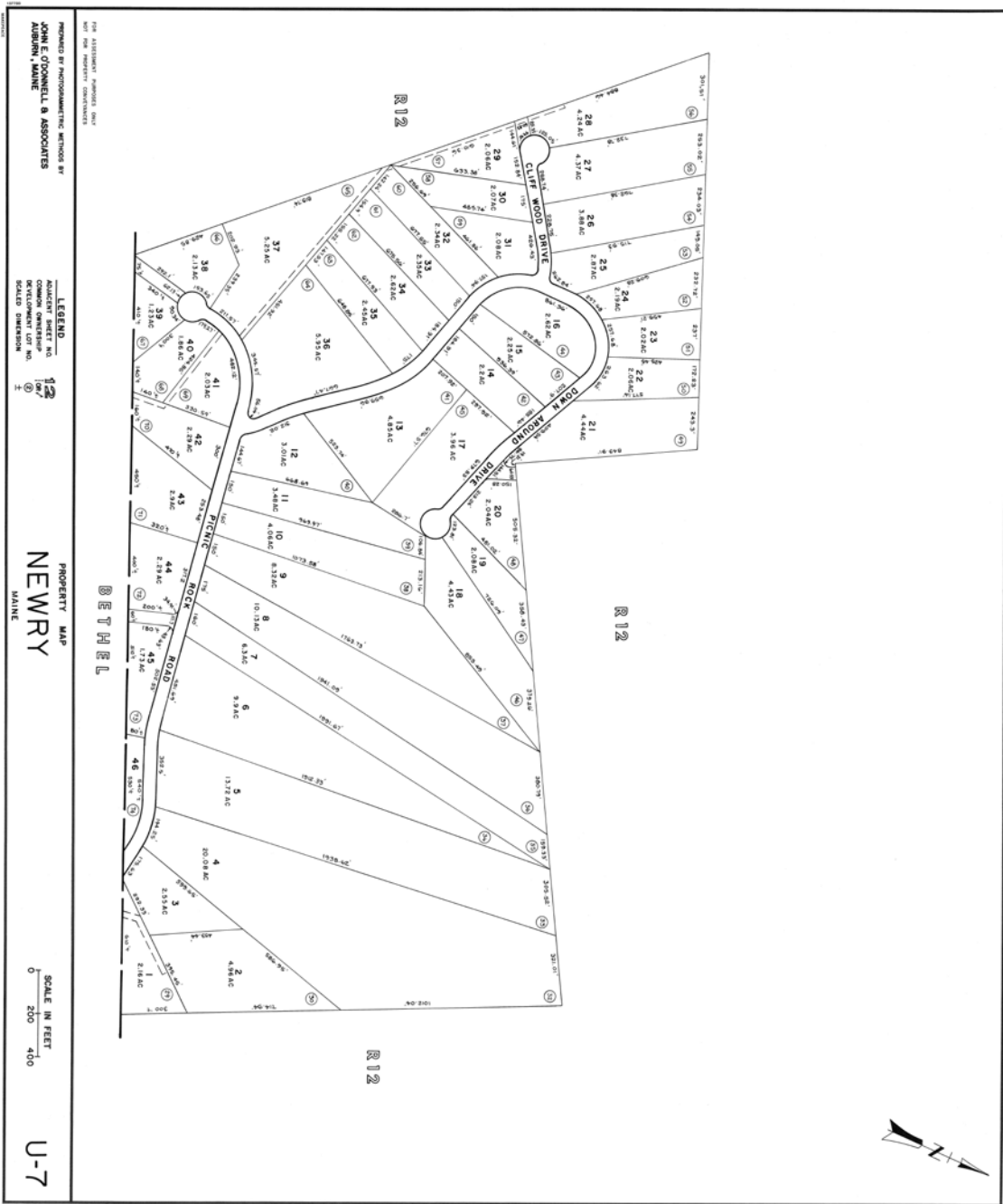
<u>Town</u>	<u>Tax Map</u>	<u>Tax Plan</u>	<u>Tax Lot</u>	<u>Owner</u>
Newry	R-12		6	Town of Bethel, Bingham Tract P.O. Box 1660 Bethel, ME 04217
Newry	R-19		1	Les Bois Carthage, Inc. P.O. Box 40 Jackman, ME 04945
Riley Twp.	OX001	01	1.21	Riley Timber Holdings, LLC P.O. Box 547 Bethel, ME 04217
Riley Twp.	OX001	01	1.1	CNL Income Sunday River, LLC P.O. Box 4500 Newry, ME 04261
Newry	R-12		26	CNL Income Sunday River, LLC P.O. Box 4500 Newry, ME 04261
Newry	U-7		28 to 38	Locke Summitt Estates, LLC 29 Industrial Park Rumford, ME 04276
Bethel	21		3	Constance Thurston, Trustee 450 Mayville Road Bethel, ME 04217
Bethel	16		45	STAG Properties, LLC 65 Clearview Drive So. Paris, ME 04281
Bethel	16		29	Les Bois Carthage, Inc. P.O. Box 40 Jackman, ME 04945
Bethel	16		28	Chadbourne Tree Farms, LLC P.O. Box 1750 Bethel, ME 04217
Bethel	16		18	Andrew Benson, PR 25 Dore Hill Road Athens, ME 04912

**Tax Map and Lot information (continued)**

<u>Town</u>	<u>Tax Map</u>	<u>Tax Plan</u>	<u>Tax Lot</u>	<u>Owner</u>
Bethel	16		16	Debra Stearns P.O. Box 364 Bethel, ME 04217
Bethel	16		10	Howard Chapman 76 Chapman Hill Road Bethel, ME 04217
Bethel	17		3	Susan Leighton, PR 74 Jameco Mill Rd. Scarborough, ME 04074
Bethel	17		2	Vernon Davis P.O. Box 561 Bethel, ME 04217
Bethel	17		1	Kevin Trinward 313 West Gray Road Gray, ME 04039

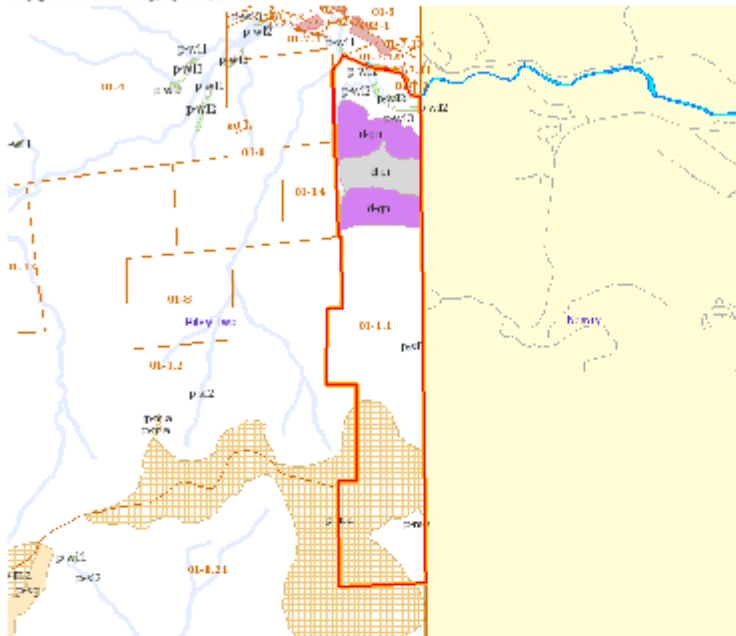






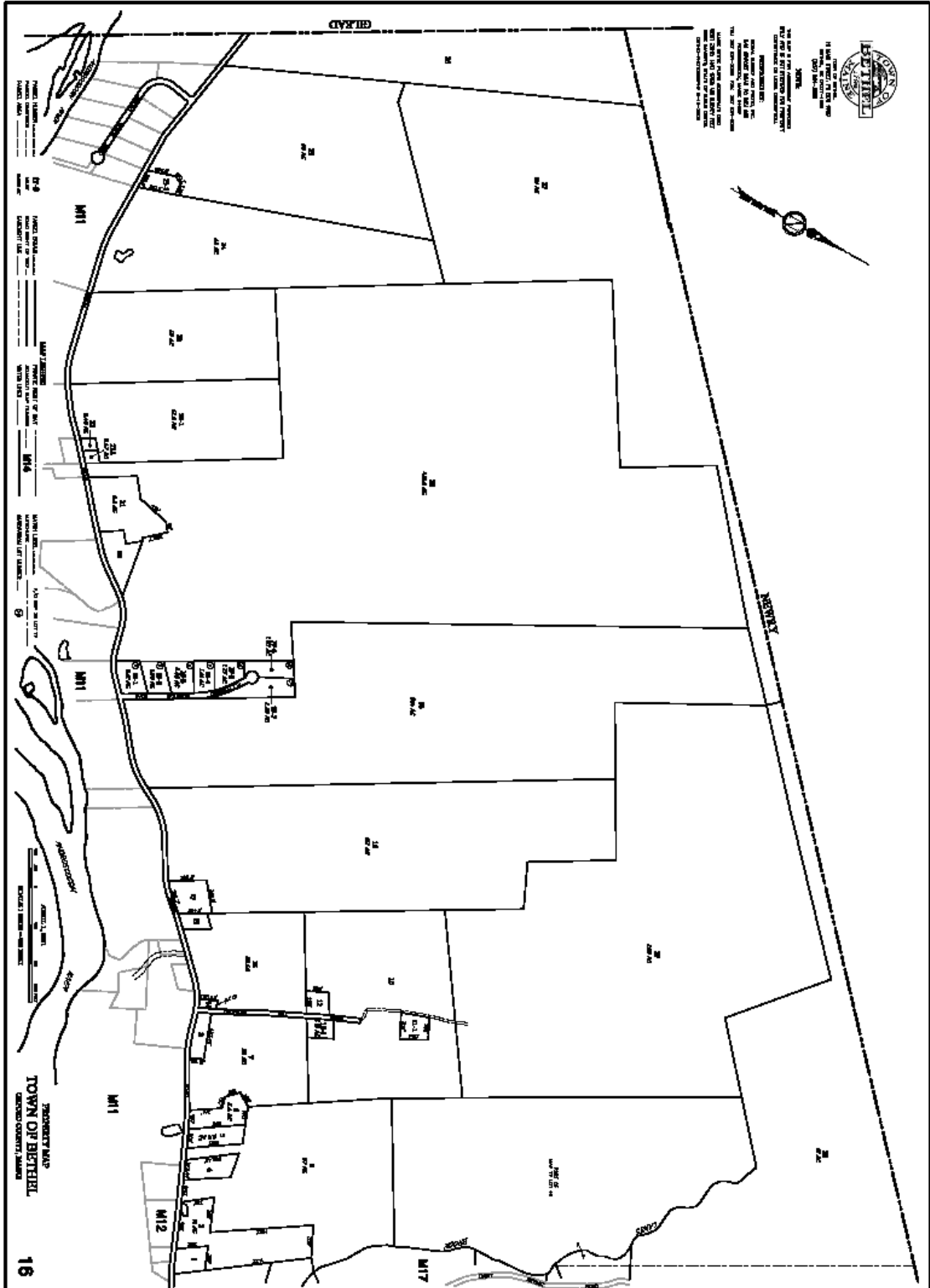
**Maine Department of Conservation - Land Use Regulation Commission  
Zoning and Parcel Viewer**

Map generated: Monday, April 30, 2012

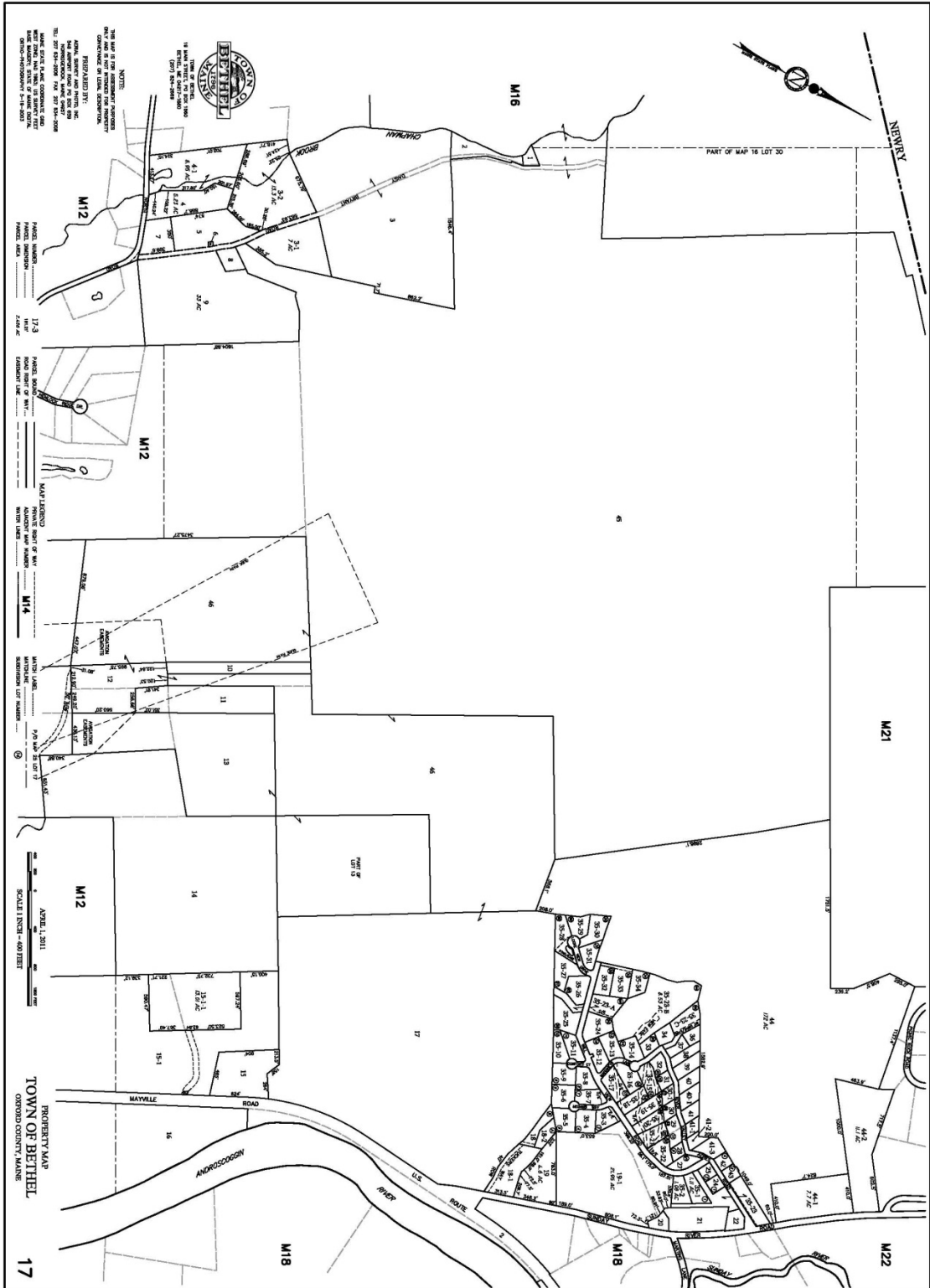


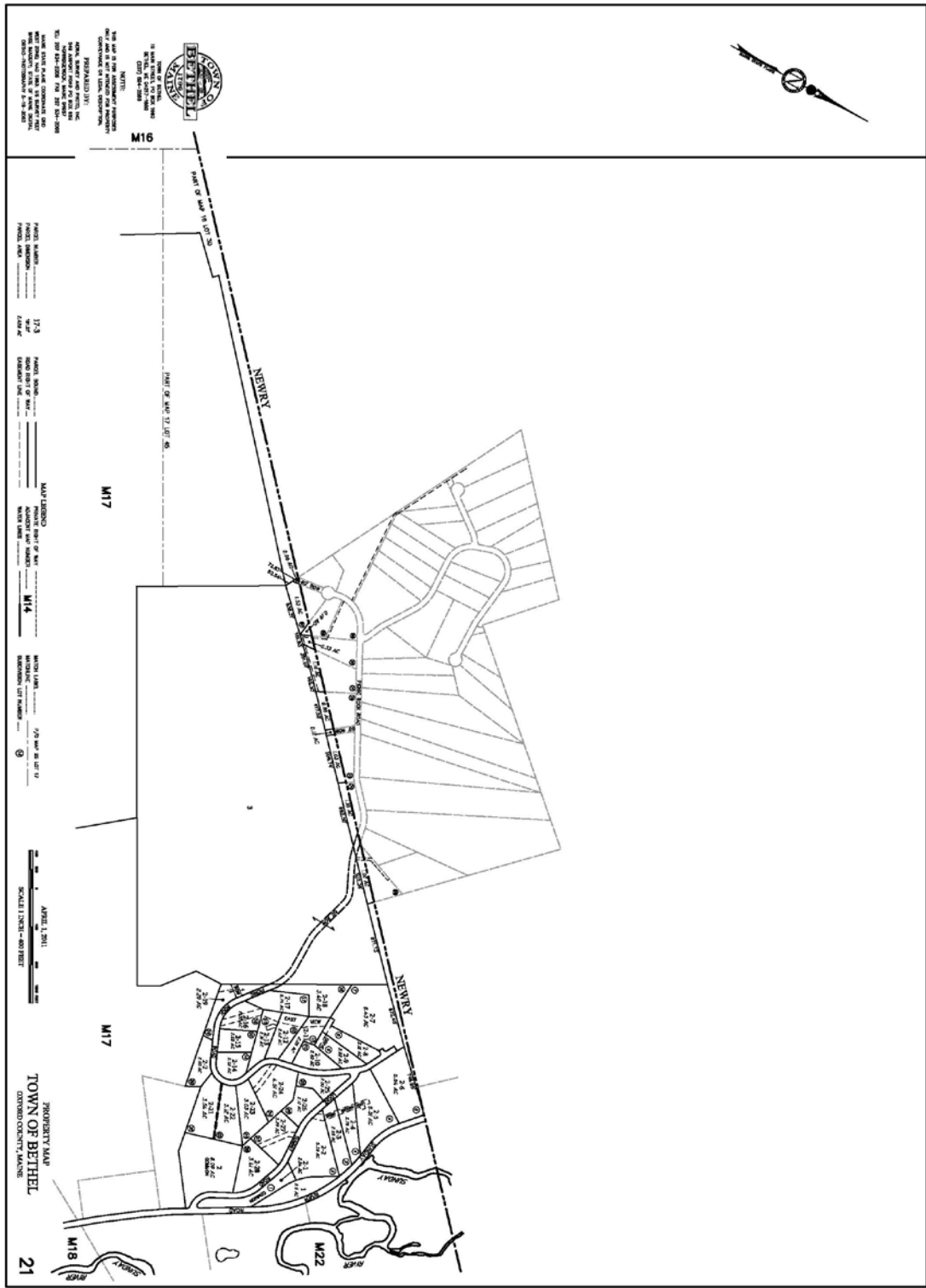
0 0.5 1 1.5 2 2.5 mi

Parcel number	Town/Geocode	Town Code	Plan	Lot	Zones Intersected	LURC Region	Contact number
1	Riley Twp/17817	OX001	01	1.1	d-cl, d-gn, p-ma, p-w12, p-w11, p-w12, p-w13	RANGELEY	(207) 670-7482









THE MAP IS THE PROPERTY OF THE TOWN OF BETHEL, MAINE. IT IS TO BE USED ONLY FOR THE PURPOSES FOR WHICH IT WAS PREPARED AND IS NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF THE TOWN OF BETHEL, MAINE.




PARCEL NUMBER: 123  
 AREA: 1.23 AC.  
 DATE: 1/1/2020

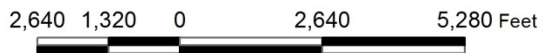
SCALE: 1" = 100'

TOWN OF BETHEL  
 OFFICE OF THE TOWN CLERK

Town of Bethel  
Bingham Tract  
Newry, Maine  
Boundary Conditions Map

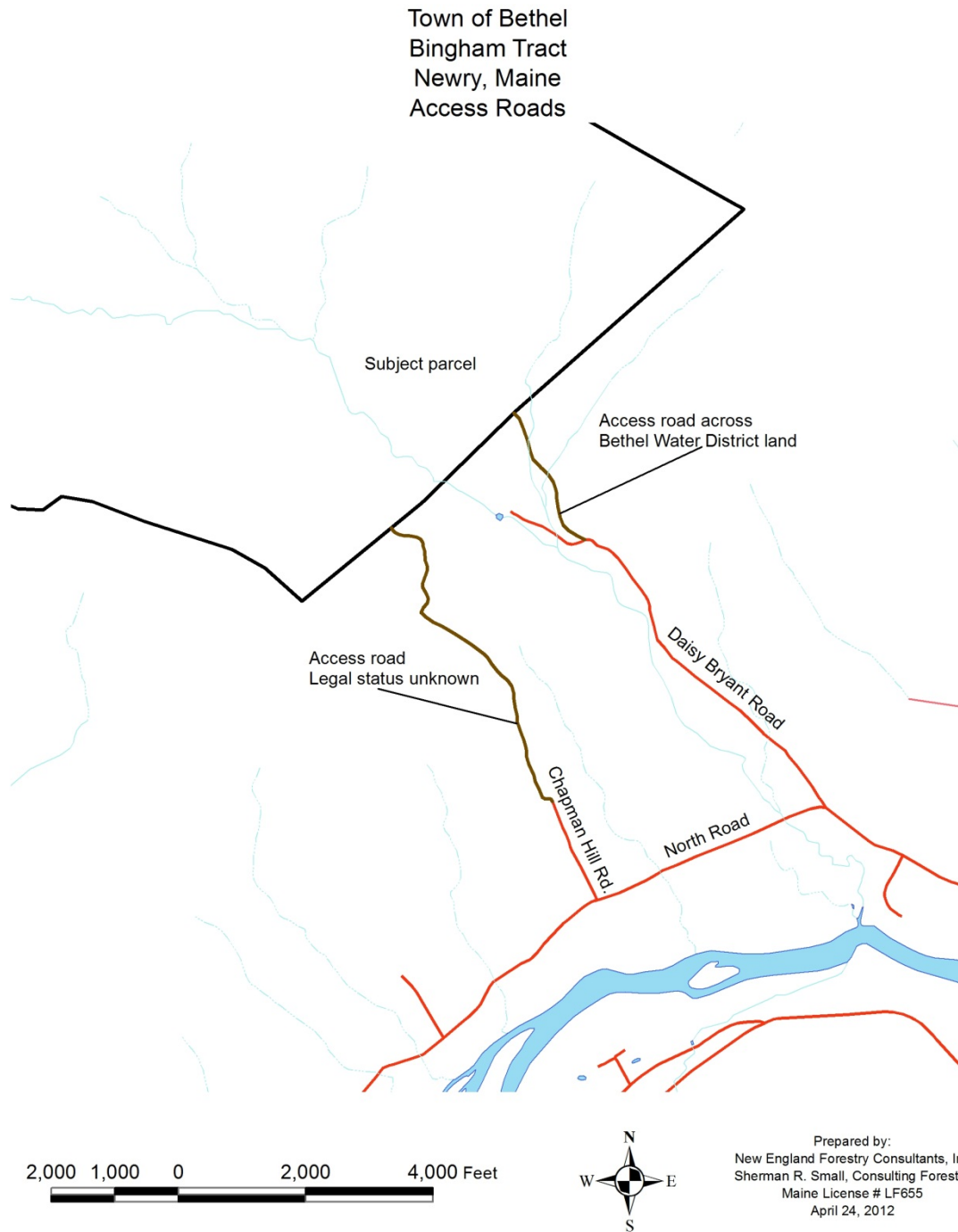


-  Blazed & painted line, fair condition
-  Blazed & painted line, poor condition
-  Height of land, boundary not found



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Maine License # LF655  
April 24, 2012

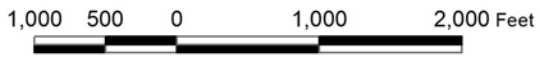
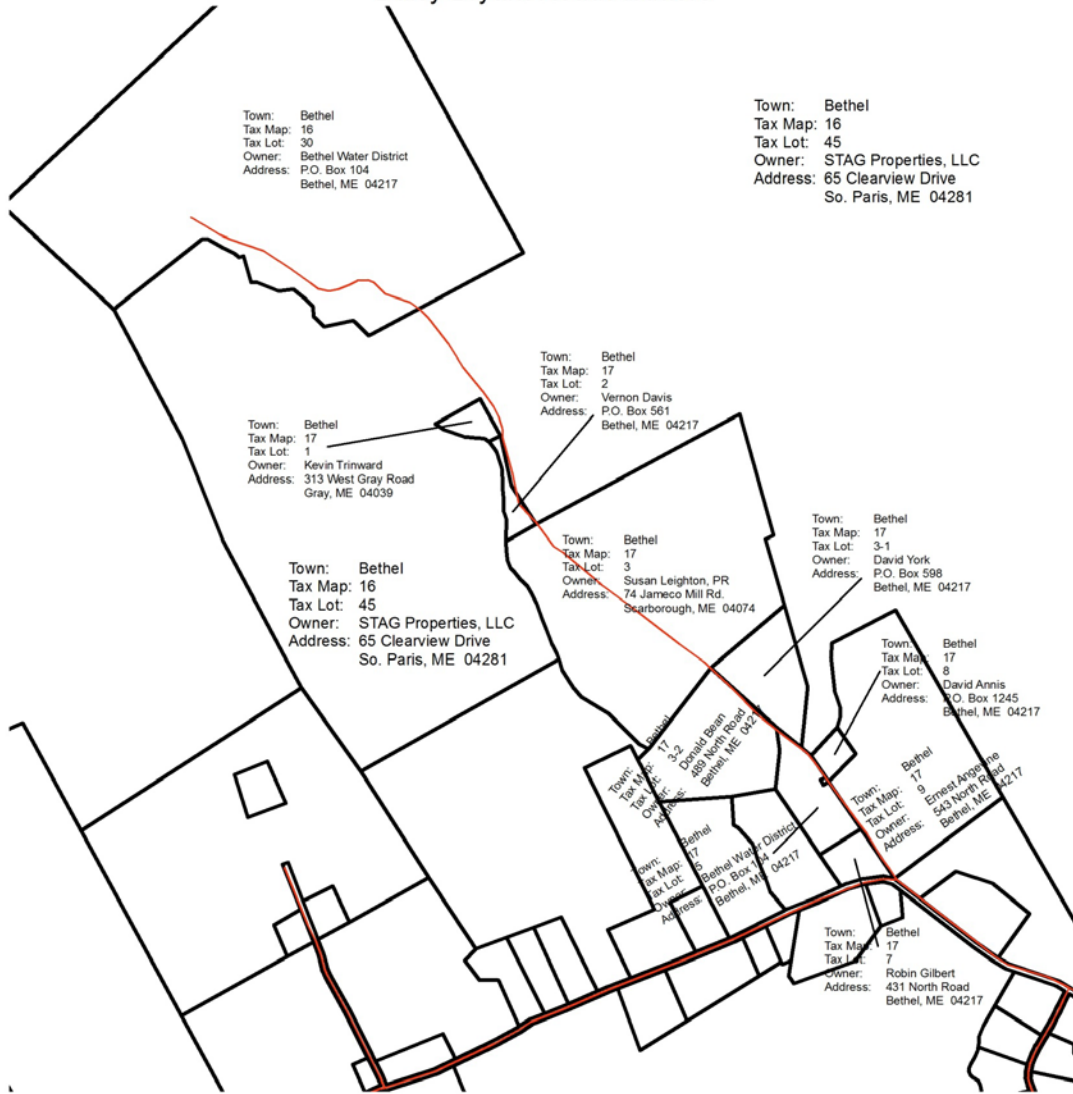
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Town portion of Chapman Hill Road ends at Chapman residence. Legal status of access road which continues north is unknown. Daisy Bryant Road status is unknown. 2004 survey plan of one property describes it as "Private way subject to the rights of others".

Town of Bethel  
 Bingham Tract  
 Newry, Maine  
 Daisy Bryant Road Abutters



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 May 24, 2012

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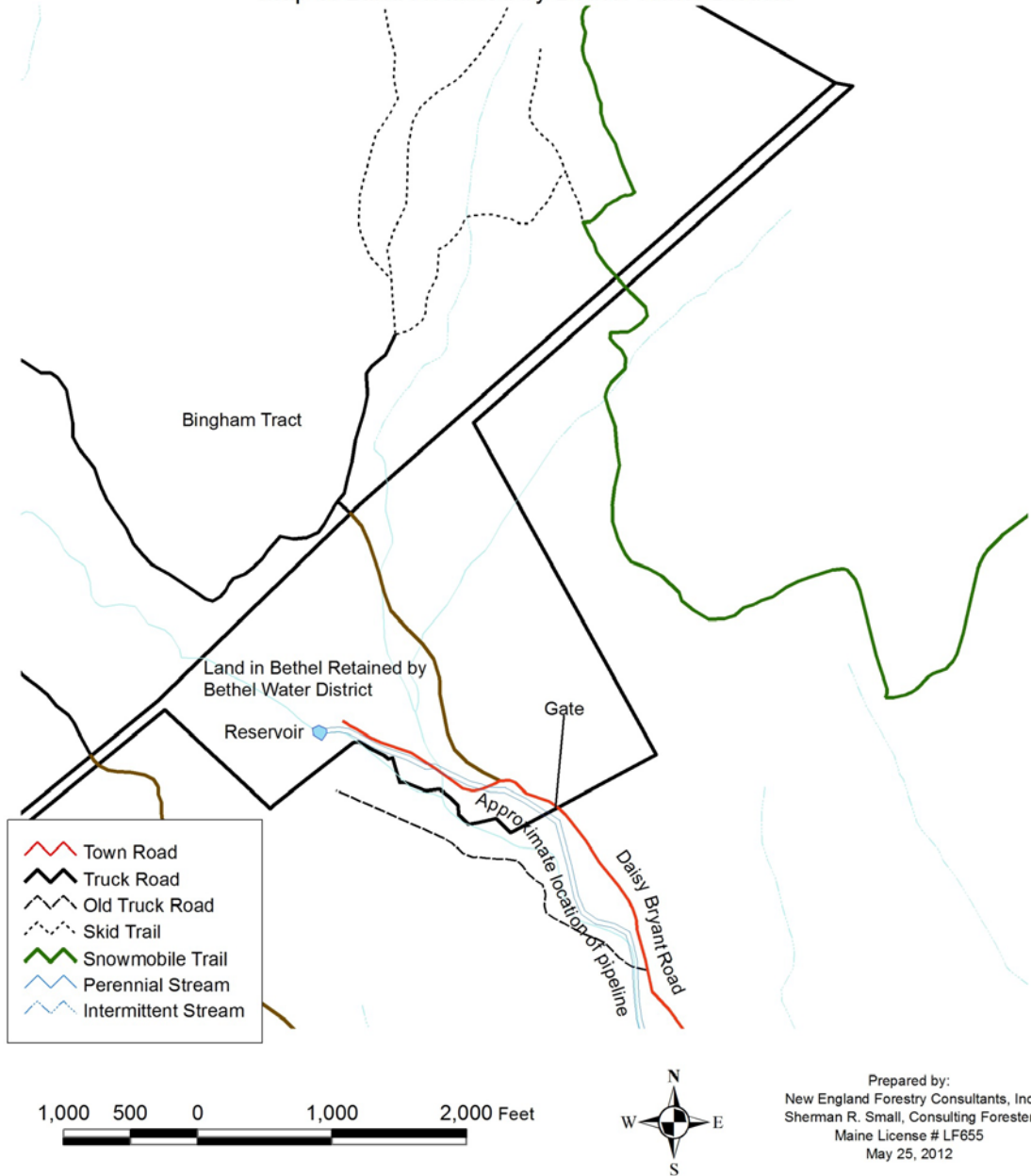
**Tax Map and Lot information**  
 Abutters to Daisy Bryant Road

<u>Town</u>	<u>Tax Map</u>	<u>Tax Plan</u>	<u>Tax Lot</u>	<u>Owner</u>
Bethel	16		30	Bethel Water District P.O. Box 104 Bethel, ME 04217
Bethel	16		45	STAG Properties, LLC 65 Clearview Drive So. Paris, ME 04281
Bethel	17		1	Kevin Trinward 313 West Gray Road Gray, ME 04039
Bethel	17		2	Vernon Davis P.O. Box 561 Bethel, ME 04217
Bethel	17		3	Susan Leighton, PR 74 Jameco Mill Rd. Scarborough, ME 04074
Bethel	17		3-1	David York P.O. Box 598 Bethel, ME 04217
Bethel	17		3-2	Donald Bean 489 North Road Bethel, ME 04217
Bethel	17		3-1	David York P.O. Box 598 Bethel, ME 04217
Bethel	17		5	Bethel Water District P.O. Box 104 Bethel, ME 04217
Bethel	17		7	Robin Gilbert 431 North Road Bethel, ME 04217

**Tax Map and Lot information**  
Abutters to Daisy Bryant Road

<u>Town</u>	<u>Tax Map</u>	<u>Tax Plan</u>	<u>Tax Lot</u>	<u>Owner</u>
Bethel	17		8	David Annis P.O. Box 1245 Bethel, ME 04217
Bethel	17		9	Ernest Angevine 543 North Road Bethel, ME 04217

Town of Bethel  
 Bingham Tract  
 Newry, Maine  
 Map of Land Retained by Bethel Water District



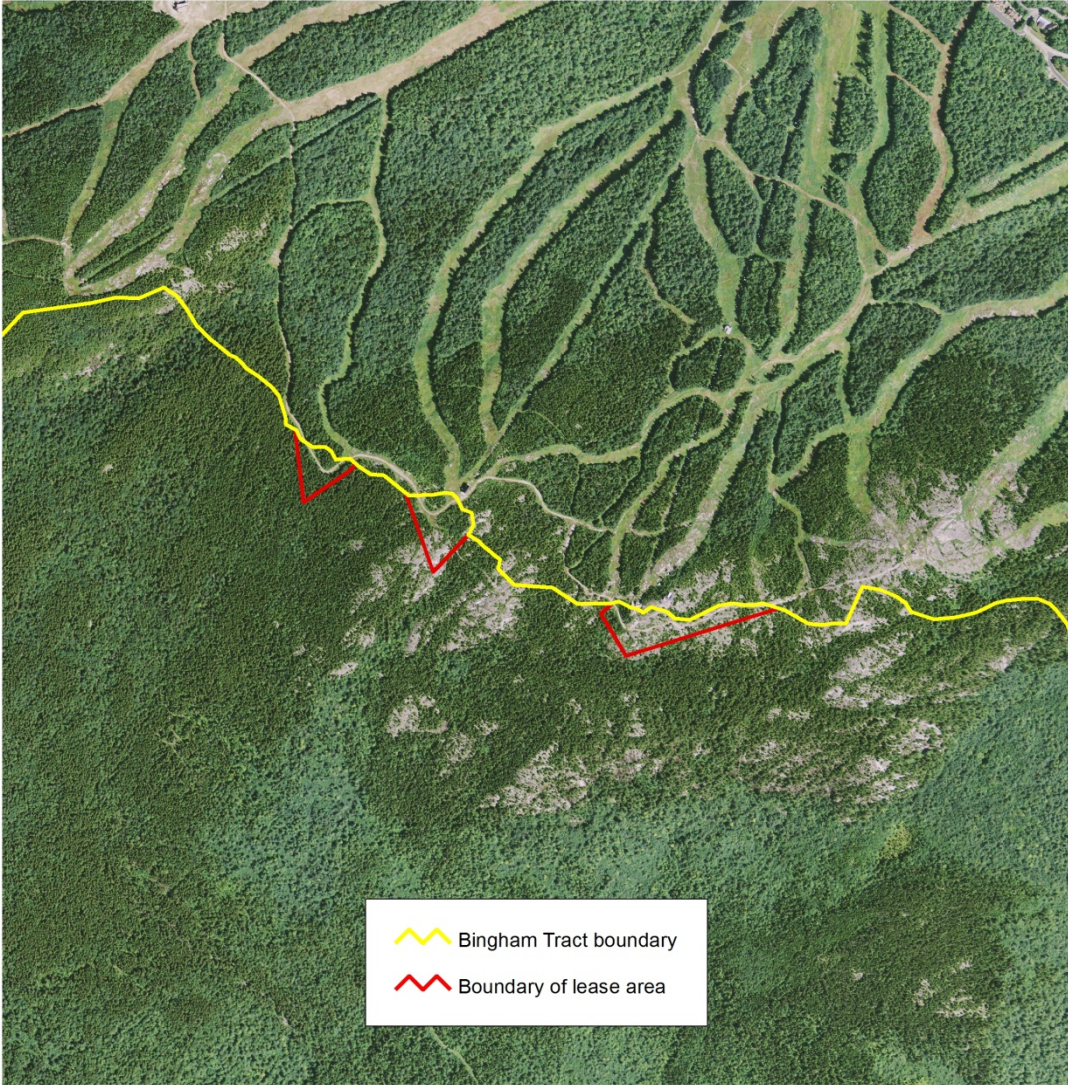
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 May 25, 2012

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Gate to control public access is very close to boundary line. Open area near gate provides parking for approximately three vehicles, but may not be completely on Bethel Water District property.

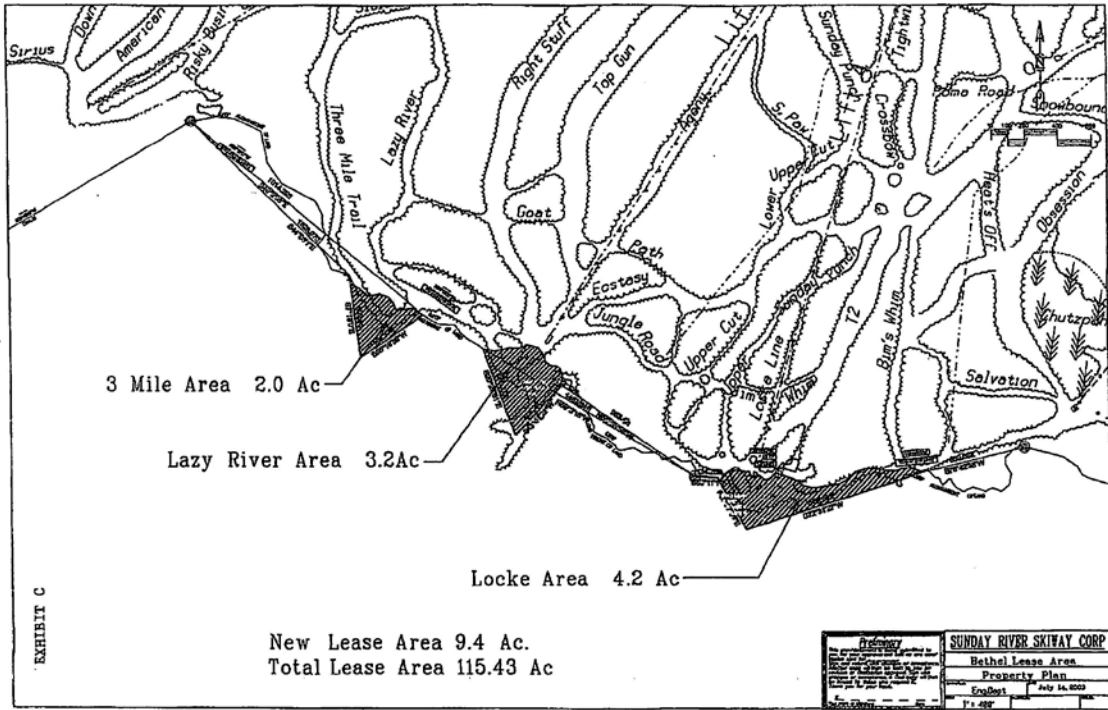


Town of Bethel  
Bingham Tract  
Newry, Maine  
Lease Area



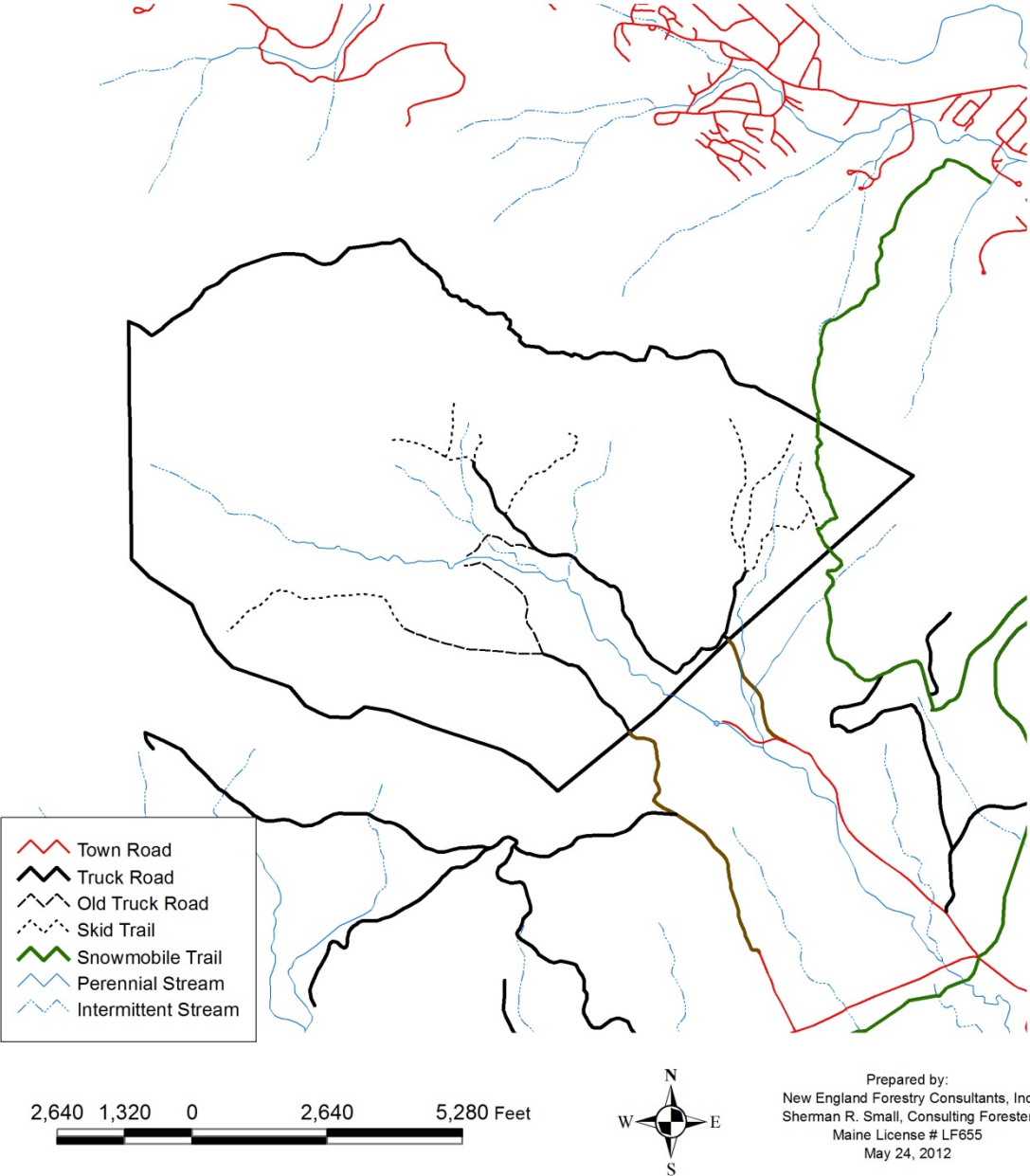
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Detailed Lease Map from Lease Document

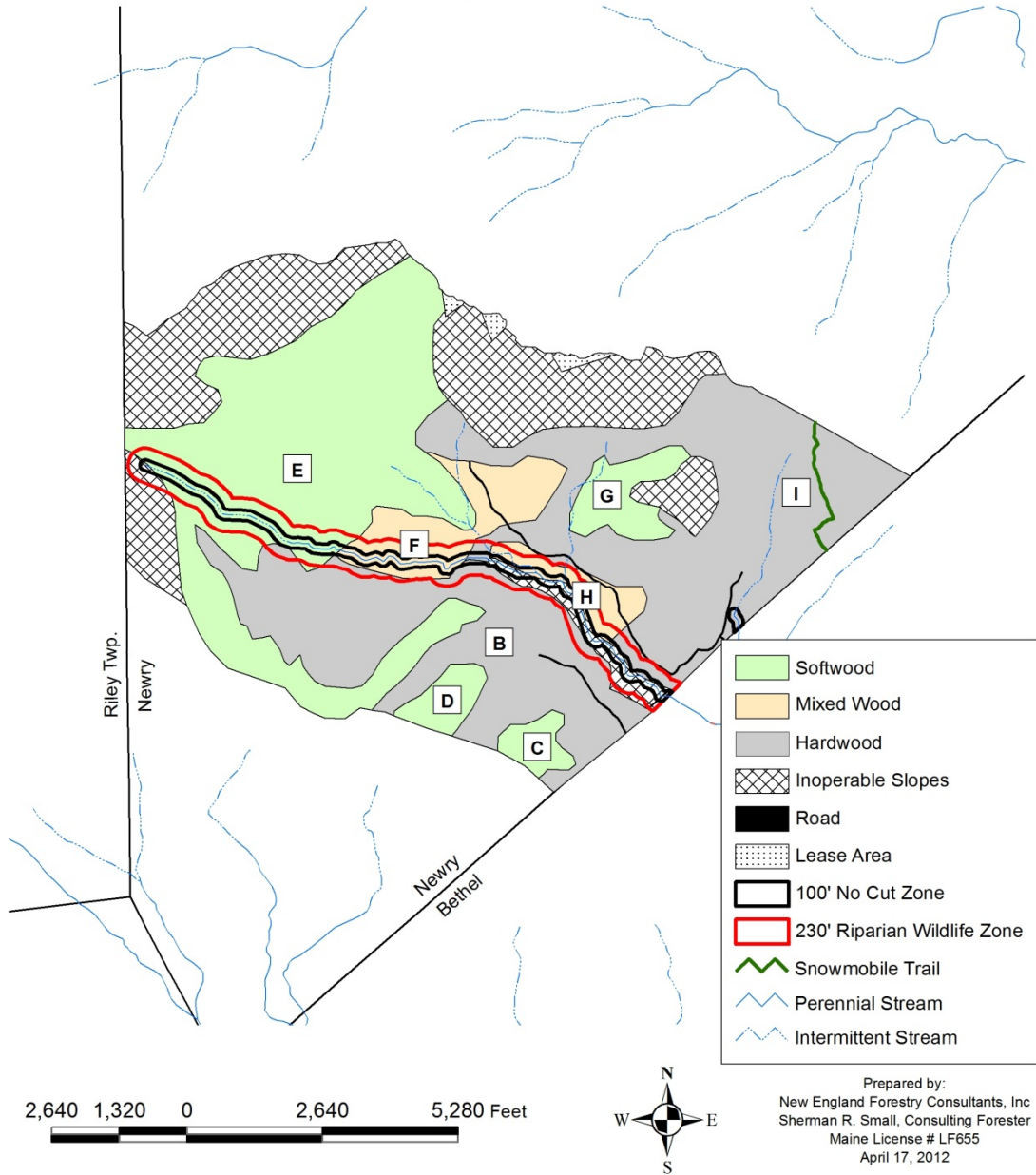
Town of Bethel  
Bingham Tract  
Newry, Maine  
Roads & Trails



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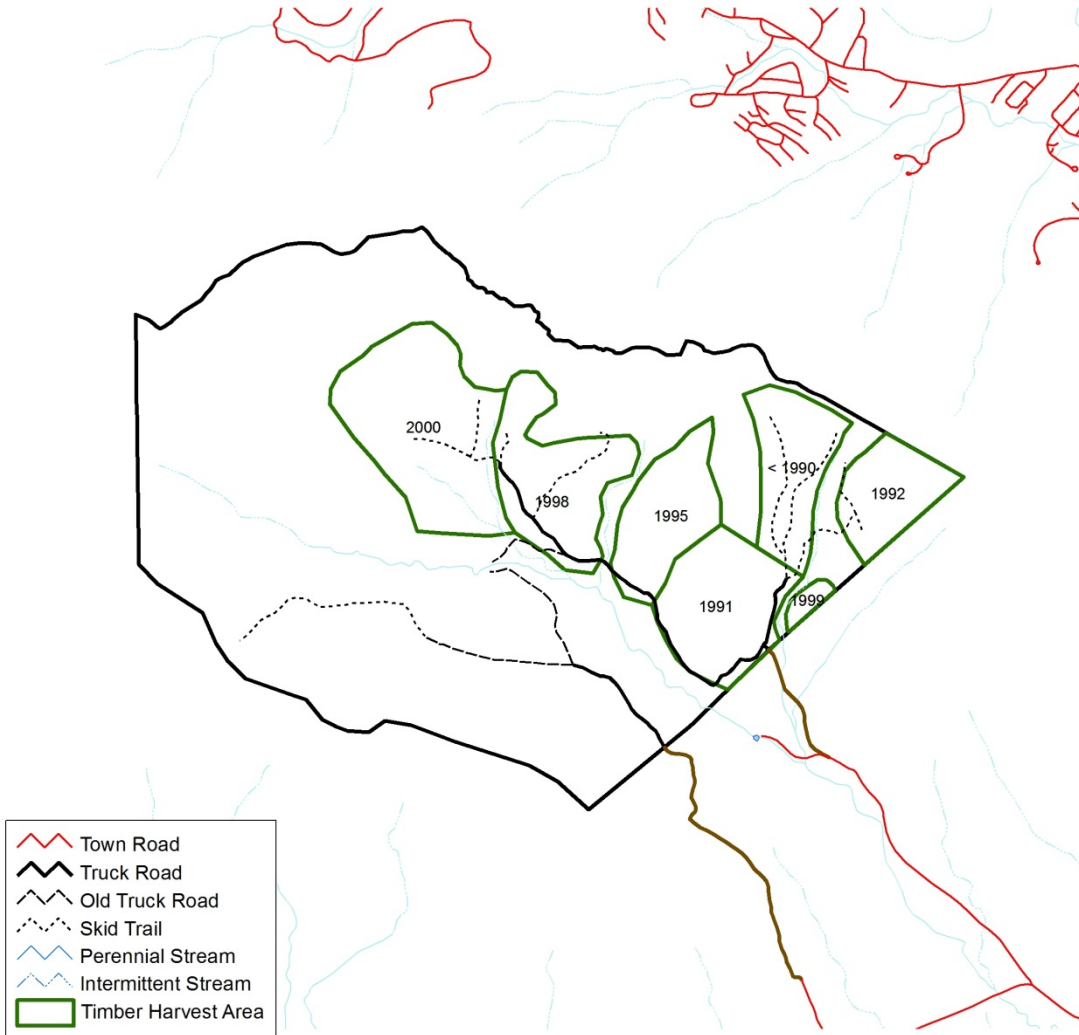


Town of Bethel  
 Bingham Tract  
 Newry, Maine  
 Forest Stands



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Town of Bethel  
 Bingham Tract  
 Newry, Maine  
 Timber Harvest Map



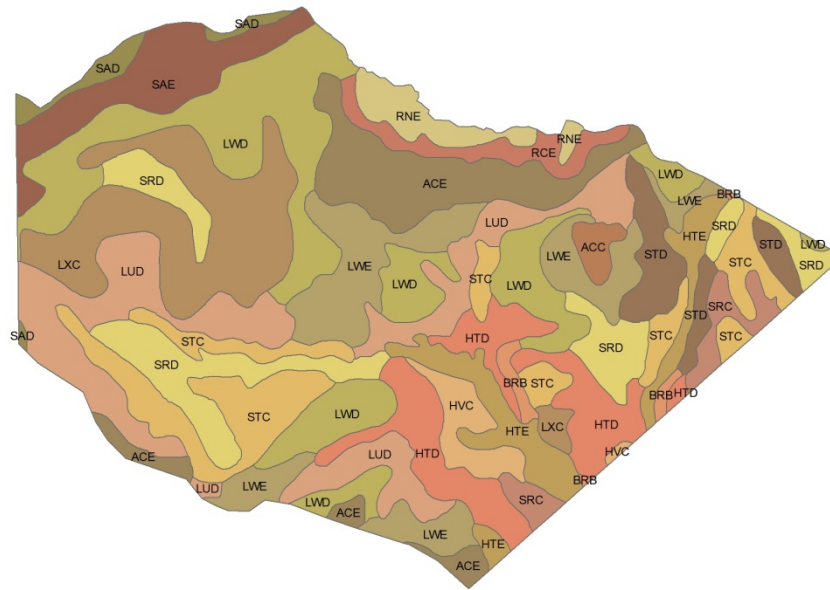
Areas south of Chapman Brook harvested prior to 1970  
 Harvest areas based on sketch maps by D. C. Schneider



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Town of Bethel  
Bingham Tract  
Newry, Maine  
Soils Map



ACC Abram-Rock outcrop-Lyman complex, rolling  
 ACE Abram-Rock outcrop-Lyman complex, very hilly  
 BRB Brayton-Peacham complex, gently sloping, very stony  
 HTD Hermon & Monadnock soils, moderately steep, very stony  
 HTE Hermon & Monadnock soils, steep, very stony  
 HVC Hermon-Skerry association, strongly sloping, very stony  
 LUD Lyman-Turnbridge-Becket complex, hilly, very stony  
 LWD Lyman-Turnbridge-Monadnock complex, hilly, very stony  
 LWE Lyman-Turnbridge-Monadnock complex, very hilly, very stony

LXC Lyman-Turnbridge-Skerry complex, rolling, very stony  
 RCE Ricker-Saddleback-Rock outcrop complex, very hilly  
 RNE Rock outcrop-Ricker complex, very hilly  
 SAD Saddleback-Ricker complex, moderately steep  
 SAE Saddleback-Ricker complex, steep  
 SRC Skerry-Becket association, strongly sloping, very stony  
 SRD Skerry-Becket association, moderately steep, very stony  
 STC Skerry-Colonel association, strongly sloping, very stony  
 STD Skerry-Colonel association, moderately steep, very stony



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 April 30, 2012

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### History:

The Bingham Tract was deeded to the Bethel Water Company by William Bingham, II in 1925. The deed is recorded in the Oxford County Registry of Deeds, Eastern District, in Book 366, Page 453. The parcel contains the majority of the watershed of Chapman Brook. The deed conveys the land for use as a public water supply for the Town of Bethel, and contains stipulations for the use of the land in the event it does not serve as the water supply for the Town of Bethel. Chapman Brook was used as the water supply for the Town of Bethel until 2007 when a storm caused severe damage to Chapman Brook. The Bethel Water District determined that the continued use of Chapman Brook as the primary water supply for the Town of Bethel was more expensive than drilling wells on other property in Bethel. Due to the conditions in the Bingham deed, the Attorney General of the State of Maine was consulted to determine the future use and ownership of the property. It was determined that the Bingham land could continue to serve as an emergency water supply for the Town of Bethel. The Town of Bethel was named as the trustee to oversee the use and management of the Bingham land. The terms of future use of the land were detailed in a Consent Order that was approved in January, 2011. The purpose of this Baseline Document is to comply with the Consent Order by documenting the conditions on the property.

At the June 15, 2011 Town Meeting the citizens of the Town of Bethel approved accepting ownership of the Bingham land from the Bethel Water District in accordance with the terms of the Consent Order. At the August 15, 2011 Board of Selectmen meeting, the Bethel Conservation Commission was charged by the Selectmen to make written recommendations regarding material to be included in the Baseline Document and to act as facilitators to gather ideas on what the citizens of the Town of Bethel would like to see the property used for. At their October 17, 2011 meeting the Board of Selectmen voted to accept the Bethel Conservation Commission's recommendations on public input on the use of the property and Baseline Document preparation.

The Bethel Conservation Commission held two public hearings to solicit public input on the use of the Bingham lot. The first meeting was held on December 12, 2011 and the second on January 10, 2012. The Commission members gave a brief history of the parcel and outlined guidelines from the Consent Order on allowed and prohibited uses of the property. Public comments on proposed uses of the property were then solicited and recorded. The Bethel Conservation Commission has also been charged by the selectmen with the task of overseeing the preparation of a management plan for the property. The management plan will be prepared by a consultant hired by the town along with the consulting forester retained by the town.

Prior to the 2007 storm, the parcel was managed by the Trustees of the Bethel Water District with the main emphasis being to protect the water quality in Chapman Brook. Public access was limited to foot travel only by a gate near the boundary of Bethel Water District land in Bethel. The only motorized recreation allowed was a snowmobile trail that crossed the easterly edge of the property.

History (continued):

Timber harvests have been conducted on much of the Bingham tract during the course of Bethel Water District ownership. The area south of Chapman Brook has not been harvested in recent years. Some areas north of Chapman Brook have been harvested in phases over the last thirty years. The harvests consisted of thinning of mature stands and a salvage operation after the 1998 ice storm to remove trees with severe crown damage from the ice storm. Harvests were smaller operations due to the income limitations in the 1925 Bingham deed. A Licensed Professional Forester supervised most if not all of the harvests north of Chapman Brook.

In 1972 a portion of the property near the top of Barker Mountain was leased to Sunday River Skiway. The lease area is along the northerly boundary which is defined by the height of land. The lease area contains some ski lift equipment and maintenance roads. The lease has been renewed on an annual basis. The lease was amended in 2009 and the current lease runs through 2028.

Land Types:

The Bingham tract covers approximately 2,358 acres based on Town of Newry tax records. The various land types on the property include 1,278 acres of softwood forest, 156 acres of mixed wood forest, 908 acres of hardwood forest, 7 acres of truck road, and 9 acres of leased area. 516 acres are deemed inoperable for timber harvesting purposes due to adverse terrain.

Buildings, Structures and Improvements on Property:

Approximately 9.4 acres near the top of Barker Mountain are leased to Sunday River Skiway Corp. Chair lift equipment and associated structures along with sections of maintenance roads and ski slopes are found within the lease area. No other structures are found on the Bingham Tract.

Condition of Land:

The forested portion of the Bingham Tract is stocked with tree species typical for land in western Maine with similar elevation and soil conditions. Red spruce and balsam fir are found on the higher elevations with a mixture of northern hardwoods found along Chapman Brook and its tributaries. Timber harvesting has been carried out on the property for many years. The harvests have been limited due to the conditions in the Bingham deed and have been located away from Chapman Brook and the feeder streams to protect water quality. The more recent harvests were in the easterly portion of the property north of Chapman Brook. Some of these harvests were to salvage trees with crowns damaged by the 1998 ice storm.



### Protection Zones in Consent Order:

The Consent Order identifies two protection zones along Chapman Brook. A 100 foot no cut zone is defined along Chapman Brook and any perennial tributaries. This protection zone covers approximately 60 acres. An additional 230 foot riparian wildlife management area extends beyond the 100 foot no cut buffer along Chapman Brook. Management of the riparian wildlife management area is a required element of the Forest Management Plan.

### Wildlife Habitat:

A report issued by the Maine Natural Areas Program in May 2012 indicates that there is one special concern animal species near the Bingham Tract. Spring Salamander have been documented in the lower sections of Chapman Brook. The species is considered likely to be present higher up in the watershed. Spring Salamander are considered Rare in Maine based on available information, but not sufficiently rare to be considered Threatened or Endangered. The Global Ranking shows that they are secure globally.

Chapman Brook and its tributaries above 1,000 feet elevation are considered potential Roaring Brook Mayfly habitat. Roaring Brook Mayfly are considered Endangered. They have not been documented on the property. The Protection Zones in the Consent Order exceed the suggested protection zones in the management guidelines for both Spring Salamander and Roaring Brook Mayfly.

Chapman Brook and its tributaries are considered wild brook trout habitat. No special regulations are in place for wild brook trout habitat. The Protection Zones in the Consent Order exceed the suggested protection zones in the management guidelines for wild brook trout habitat.

Other than the species listed above, there are no Rare, Threatened, or Endangered plant species; Rare or Exemplary Natural Communities; or Essential or Significant Wildlife Habitats. The property does not intersect an Atlantic Salmon watershed or habitat, and does not occur within a town which may provide Canada Lynx habitat. The parcel does not intersect a Beginning with Habitat Focus Area, is not adjacent to state owned land, and is not identified by the Maine Natural Areas Program as a potential inventory site for undocumented rare plants or exemplary natural communities.

### Recreational Uses:

Due to the use of Chapman Brook as the water supply for the Town of Bethel, access to the property for recreational use was historically limited to foot access only with the exception of a snowmobile trail that crosses the easterly edge of the property. It is assumed that hunting and fishing has occurred on the property by individuals that were willing to hike into the property. Recent inspections of the property indicate that use of the roads for both hiking and mountain bike riding is occurring on a regular basis.

### Unique Natural Resources:

The topography of the property provides the most unique natural resource in the form of geological features. The south face of Barker Mountain is mainly open ledge with some high elevation stunted red spruce and white birch. This area provides views of the Androscoggin River valley to the south and east. Another section of open ledge south of Barker Mountain also provides views of the river valley. Some of the tributaries to Chapman Brook have ledge cascades and small falls. Most of the tributaries did not sustain as much damage as the main channel of Chapman Brook in the 2007 storm and still provide a scenic setting. These are potential areas to incorporate in future non-motorize recreational uses of the property. The timber on the property has been harvested on a regular basis for many years. There are a few unique large hemlock trees on some of the steep slopes adjacent to Chapman Brook. These areas have not been harvested in the past to protect water quality and it is not anticipated any harvesting will be done in these areas in the future due to potentially unstable soils conditions.

Town of Bethel  
 Bingham Tract  
 Newry, Maine  
 Ground Photos Location Map

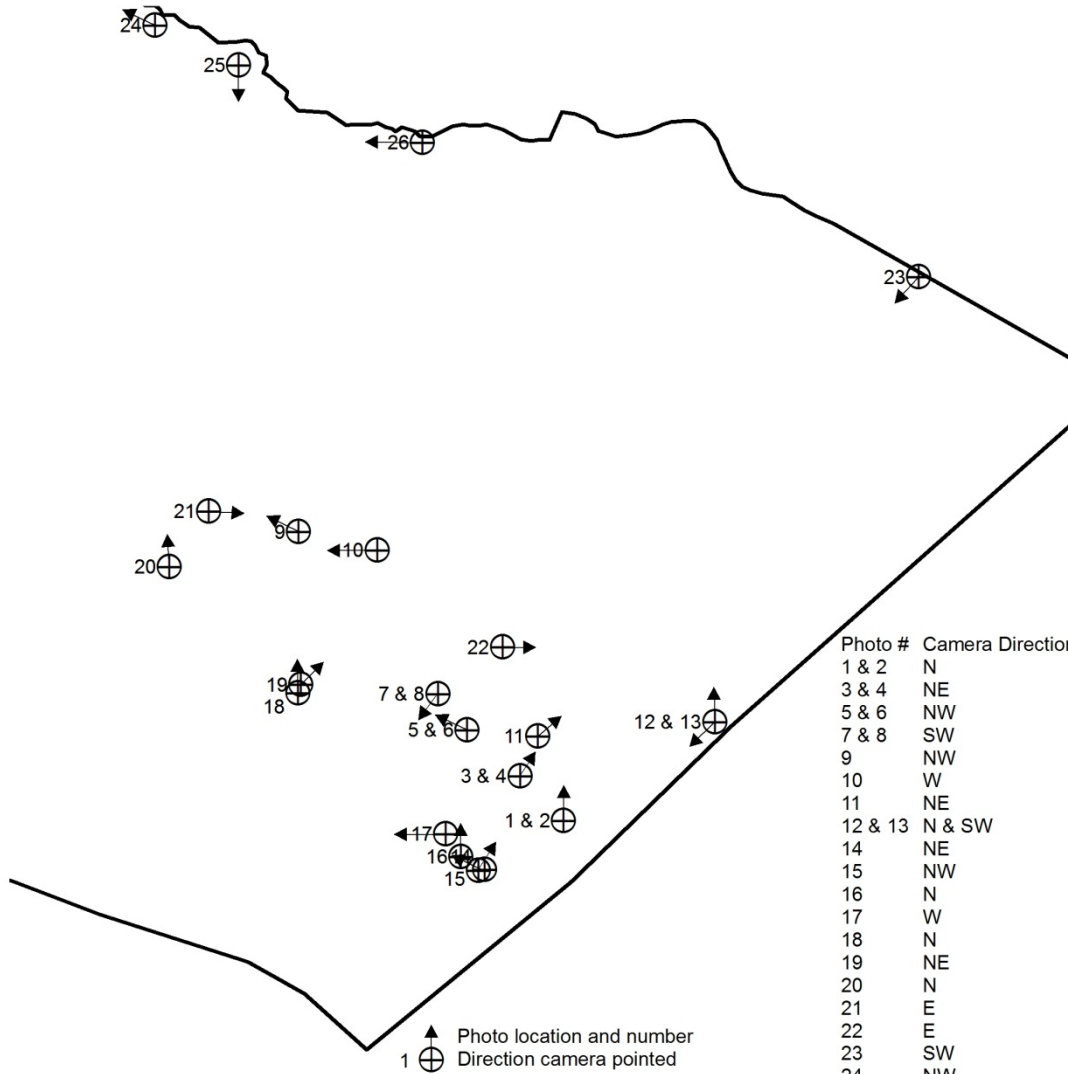


Photo #	Camera Direction
1 & 2	N
3 & 4	NE
5 & 6	NW
7 & 8	SW
9	NW
10	W
11	NE
12 & 13	N & SW
14	NE
15	NW
16	N
17	W
18	N
19	NE
20	N
21	E
22	E
23	SW
24	NW
25	S
26	W



Prepared by:  
 New England Forestry Consultants, Inc  
 Sherman R. Small, Consulting Forester  
 Maine License # LF655  
 April 24, 2012

Sketch map for management and planning purposes only, NOT A LEGAL SURVEY  
 Data obtained from Maine Office of GIS & New England Forestry Consultants, Inc.

### Ground Photograph Locations Table

Photo Number	UTM Y Coordinate	UTM X Coordinate	Camera Direction
1 & 2	4,922,393	351,936	N
3 & 4	4,922,519	351,813	NE
5 & 6	4,922,649	351,664	NW
7 & 8	4,922,751	351,581	SW
9	4,923,209	351,187	NW
10	4,923,157	351,409	W
11	4,922,631	351,863	NE
12 & 13	4,922,671	352,363	N & SW
14	4,922,254	351,712	NE
15	4,922,252	351,695	NW
16	4,922,290	351,646	N
17	4,922,354	351,603	W
18	4,922,753	351,186	N
19	4,922,777	351,194	NE
20	4,923,110	350,823	N
21	4,923,267	350,934	E
22	4,922,883	351,763	E
23	4,923,929	352,938	SW
24	4,924,640	350,782	NW
25	4,924,528	351,018	S
26	4,924,309	351,538	W

Coordinates projection is Universal Transverse Mercator, Zone 19 North, Meters.



Photo 1: Photo taken in 2007 during storm damage assessment



Photo 2: Same location as Photo 1, taken in 2012





Photo 3: Photo taken in 2007 during storm damage assessment



Photo 4: Same location as Photo 3, taken in 2012





Photo 5: Photo taken in 2007 during storm damage assessment



Photo 6: Same location as Photo 5, taken in 2012





Photo 7: Photo taken in 2007 during storm damage assessment



Photo 8: Same location as Photo 7, taken in 2012





Photo 9: Truck road north of Chapman Brook



Photo 10: Landing on truck road north of Chapman Brook





Photo 11: Thinned hardwood stand north of Chapman Brook



Photo 12: West fork of truck road north of Chapman Brook





Photo 13: East fork of truck road north of Chapman Brook



Photo 14: Small dump area near truck road south of Chapman Brook





Photo 15: Overmature hardwood stand south of Chapman Brook



Photo 16: Truck road south of Chapman Brook





Photo 17: Ice damaged hardwood crowns south of Chapman Brook



Photo 18: Intersection of truck road south of Chapman Brook





Photo 19: Inoperable slopes near north boundary



Photo 20: Old truck road crosses Chapman Brook, storm damage visible on bank





Photo 21: Old truck road crosses tributary to Chapman Brook



Photo 22: Softwood stand north of Chapman Brook





Photo 23: Snowmobile trail near north boundary



Photo 24: 3 Mile lease area





Photo 25: Lazy River lease area



Photo 26: Locke lease area

**ACKNOWLEDGEMENT OF PROPERTY CONDITION**

**This is to certify that I, \_\_\_\_\_, as an authorized representative of the Attorney General of the State of Maine, and I, \_\_\_\_\_, as an authorized representative of the Town of Bethel, are familiar with the condition of the land subject to a Consent Order recorded in the Oxford County Registry of Deeds, Eastern District in Book 4767, Page 105, and, do acknowledge and certify that the above items, taken together and separately, are an accurate representation of the Subject Property as of the date of the Baseline Document.**

_____ Attorney General of the State of Maine	_____ Date
By _____	
Its _____	

_____ Town of Bethel	_____ Date
By _____	
Its _____	

**ATTESTATION**

**Attorney General of the State of Maine**

**STATE OF** \_\_\_\_\_  
**COUNTY OF** \_\_\_\_\_, **SS**

On the \_\_\_\_ day of \_\_\_\_\_, 2012, personally appeared before me the above named \_\_\_\_\_ and made an oath that the foregoing description and acknowledgments made on personal knowledge are true.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Please print name of Notary Public  
My commission expires:

**Town of Bethel**

**STATE OF** \_\_\_\_\_  
**COUNTY OF** \_\_\_\_\_, **SS**

On the \_\_\_\_ day of \_\_\_\_\_, 2012, personally appeared before me the above named \_\_\_\_\_ and made an oath that the foregoing description and acknowledgments made on personal knowledge are true.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Please print name of Notary Public  
My commission expires:

## BOND FOR MAINTENANCE.

VOL. 366

KNOW ALL MEN BY THESE PRESENTS, THAT I, Orin W. Mason, of Greenwood, County of Oxford, State of Maine am holden and stand firmly bound and obliged unto George C. and Annette A. Mason, both of said Greenwood and to the survivor in the sum of two thousand Dollars, to be paid to the said George C. and Annette A. Mason, or the survivor, their Executors, Administrators, or Assigns, to the which payment, well and truly to be made, I bind myself my heirs, executors and administrators, firmly by these presents.

SEALED with our Seals. Dated the first day of April in the year of our Lord, one thousand nine hundred and twenty-five. (1925)

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, THAT if the said Orin W. Mason, his executors and administrators, shall at all times during the lifetimes of said George C. and Annette A. Mason, and the survivor, well and sufficiently support and maintain, said George C. and Annette A. Mason in the home place of said Orin W. Mason, now so called, being the place recently conveyed to said Orin W. Mason by Julia B. Coolidge, in said Greenwood, and in the family of said Orin W. Mason and as members of his family, and them, the said George C. and Annette A. Mason, provide at all times with meat, drink, clothing, nursing, medicine and medical attendance in case of sickness, and all other things needed or reasonable for the comfortable support of said George C. and Annette A. Mason, and shall treat them kindly and courteously at all times and see that they are so treated by all members of said family, and shall, if requested by either of them, provide at all times said George C. and Annette A. Mason with a separate room with sufficient heat, wood and light; and shall at all times do any and all things which may be reasonable or necessary to make such George C. and Annette A. Mason, considering their age and condition, comfortable and their life and surroundings pleasant and agreeable to both and to the survivor of them, during their lifetimes; and shall at the death of said George C. and Annette A. Mason, provide suitable burial for each of them and set at their respective graves suitable headstones, then this obligation shall be void, otherwise remain in full force and virtue.

SIGNED, SEALED AND DELIVERED  
IN PRESENCE OF

E C Park

Orin W. Mason.

Seal.

State of Maine. Oxford ss. April 6th 1925.

Personally appeared the above named Orin W. Mason and acknowledged the foregoing instrument to be his free act and deed, before me.

Ellery C Park Notary Public.

Rec'd April 9, 1925, at 8 h. A. M., and recorded from the original.

-----0-----  
TRUST DEED.

Know all men by these presents, That whereas I, William Bingham 2d., of Bethel, County of Oxford, State of Maine, am lawfully seized and possessed in fee simple of a certain tract or parcel of land situated in Newry, in said County of Oxford and bounded and described as follows, viz: beginning on the town line between the towns of Bethel and Newry, at the most southerly corner of land known as the William R. Eames land; thence north fifty-four degrees and fifteen minutes east one hundred eighty-three rods and twenty links to a stake and stones on the southerly end of Bald Face Mountain, sometimes called Barker Mountain; thence northwesterly by the height of land over the top of Bald Face Mountain aforesaid and following the height of land to the top of the most easterly peak of Black Mountain; thence westerly in a straight line to the top of a steep bluff on the south side of Black Mountain; thence westerly following said steep bluff or a continuation of the same to the Riley Town Line; thence southerly by said Riley Town Line to a point which marks the intersection of the height of land line as established and spotted in 1892 with the said Riley line, said height of land line being more particularly described in Book 240, page 568 in the Oxford County Registry of Deeds; thence southeasterly on said height of land line to the line between the towns of Newry and Bethel; thence north sixty-two degrees and thirty minutes east by the town line between Newry and Bethel six hundred six rods and eleven links to the point begun at. Said bounded parcel being the same parcel named and described in deed of Penley Brothers Company, a corporation, to William Bingham 2d., dated October 22d. 1924, and recorded in Oxford County Registry of Deeds, Book 370, page 281; and whereas said tract constitutes the water-shed of Chapman Brook, so called, from which the Bethel Water Company supplies water to Bethel Village Corporation and the inhabitants thereof, in said Bethel; and whereas it is my desire and purpose to provide and insure a permanent and perpetually protected source of water supply for said Bethel Village and the community and territory which may be naturally, reasonably and safely served thereby, and that to this end the tree and forest growth of all kinds upon said tract shall be forever conserved and perpetuated and that nothing shall ever be done upon or in connection with said tract of land which may interfere with, endanger, injure or pollute the water taken therefrom for such supply, either in quality or quantity, but that said tract be

\$50.  
U.S.I.R.  
duly cancelled.

See Book 384 Page 590

forever held, kept and maintained as such a protected source of water supply and all things done which are needed or required to make and keep the water therefrom forever and at all times pure and suitable in all ways for domestic use, and such supply adequate and undiminished for such use and for protective purposes, by care of said tract and the conservation of the tree and forest growth thereof:

Now, therefore, I William Bingham 2d. aforesaid, in consideration of one dollar and other valuable considerations paid by said Bethel Water Company, a corporation organized and existing under the laws of the State of Maine and located at said Bethel, the receipt whereof is hereby acknowledged, do hereby give, grant, bargain, sell and convey unto said Bethel Water Company, its successors and assigns, the above bounded and described tract or parcel of land, IN TRUST, NEVERTHELESS, to the uses, intents and purposes in this instrument expressed and subject to the restrictions and limitations herein declared.

The said Company, its successors or assigns shall never cut or remove, or permit to be cut and removed, on or from said tract of land, any trees, wood, timber or growth of any kind excepting as hereinafter provided, to-wit: said Company, its successors or assigns, may cut and remove from said tract, if so desired, in a judicious and workmanlike manner, from year to year, wood and timber sufficient to provide money to pay the taxes legally assessed against said Company, its successors or assigns, upon said particular tract, if and to that extent only, that such cutting and removing will not in any way, directly or indirectly, affect the purity or quality of water therefrom, and if and to that extent only that such wood or timber can be cut or removed without detriment to the perpetual conservation of the tree and timber growth thereon and without depleting or diminishing the same in any way which may be a present or future menace to the permanency and purity of said water supply, and if and to that extent only that such cutting may be done in full conformity with the purposes and intents of this conveyance as in this instrument set forth. Provided, however, that such wood and timber so cut for the payment of such taxes need not be cut each year but such taxes may be otherwise provided for during a period of years, if desired, and such cutting be done in one operation to procure money to reimburse said Company, its successors or assigns, for such payments, but no cutting shall be done in advance of the assessment of such taxes but only to provide money to pay such taxes as may be already assessed, due or paid.

It is hereby provided that the Assessors of Bethel Village Corporation aforesaid, then in office, shall constitute a board or commission, to receive and investigate any complaints relative to the violation or threatened violation of any of the limitations or restrictions herein contained, or relative to the neglect or failure of said Company, its successors or assigns, to do and perform any of those acts or things needed to be done or performed in order that the purpose and intent of this trust may be fully and completely carried out and fulfilled, and, if satisfied that cause exists, to make application to the Supreme Judicial Court of the State of Maine, or to some other proper tribunal then existing, to prohibit by injunction or otherwise, such violation, threatened or actual, and to do any and all things proper and necessary to protect said water supply in accordance with the terms, meaning and intent of this conveyance.

It is further provided that if anytime a Water District or other corporation or legal organization shall succeed to the rights, business, duties and obligations of said Water Company, then said tract may be taken over by said Water District, corporation or organization, to be forever held in trust for the uses, purposes and intents and under the limitations and restrictions herein provided.

To have and to hold the aforesaid and bargained premises with all the privileges and appurtenances thereto belonging to the said Bethel Water Company, its successors and assigns, in trust, nevertheless, for the uses, intents and purposes, and under the limitations and restrictions hereinbefore set forth, expressed and declared.

Provided, however, that if said tract of land shall ever be abandoned as a source of such water supply or cease to be used as such, then, in such case, the title to said land shall pass in fee simple to the State of Maine to be by it forever held, maintained and managed as a public game preserve, bird or game sanctuary, public park or State Forest reserve as said State may determine, and under such conditions as said State may prescribe and designate; and in such case the said Bethel Water Company, its successors or assigns, shall execute all necessary instruments of conveyance to give title to said tract to said State of Maine.

In witness whereof, I, the said William Bingham 2d., being a single person, have hereunto set my hand and seal this twenty-seventh day of March, A. D. 1925.

Signed, Sealed and Delivered  
in Presence of

Ellery C Park

William Bingham 2d.

Seal.

State of Maine. Oxford ss. March 30th 1925.

Personally appeared the above named William Bingham 2d. and acknowledged the foregoing instrument to be his free act and deed,

Before me,

Ellery C. Park Justice of the Peace.

Rec'd April 9, 1925, at 8 h. A. M., and recorded from the original.

-----O-----



JANET T. MILLS  
ATTORNEY GENERAL



REGIONAL OFFICES:  
84 HARLOW ST., 2ND FLOOR  
BANGOR, MAINE 04401  
TEL: (207) 941-3070  
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415 CONGRESS ST., STE. 301  
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FAX: (207) 822-0259

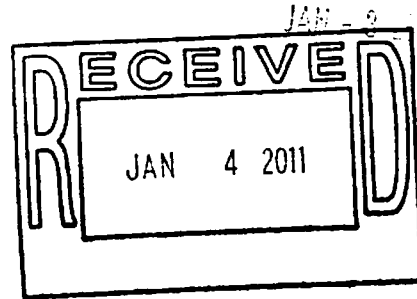
14 ACCESS HIGHWAY, STE. 1  
CARIBOU, MAINE 04736  
TEL: (207) 496-3792  
FAX: (207) 496-3291

TEL: (207) 626-8800  
TTY: 1-800-577-6690

STATE OF MAINE  
OFFICE OF THE ATTORNEY GENERAL  
6 STATE HOUSE STATION  
AUGUSTA, MAINE 04333-0006

December 30, 2010

Donna Howe, Clerk  
Oxford County Superior Court  
26 Western Ave.  
P.O. Box 179  
South Paris, Maine 04281



Re: *Mills v. Bethel Water District*

Dear Ms. Howe:

Please find enclosed for filing in the above-referenced matter the Complaint and proposed Consent Order, which is signed by the parties.

Very truly yours,

A handwritten signature in cursive script, appearing to read 'Linda Conti'.

Linda Conti  
Chief, Consumer Protection Division

cc: Geoffrey H. Hole, Esq.

STATE OF MAINE  
OXFORD, SS.

SUPERIOR COURT  
CIVIL ACTION  
DOCKET NO. \_\_\_\_\_

JANET T. MILLS, in her capacity )  
as the ATTORNEY GENERAL OF )  
THE STATE OF MAINE, )

Plaintiff )

v. )

BETHEL WATER DISTRICT, a )  
public utility organized under )  
the laws of the State of Maine )

Defendant. )

**COMPLAINT FOR  
DECLARATORY and  
INJUNCTIVE RELIEF**

Plaintiff, the Attorney General of the State of Maine (the Attorney General) files this complaint pursuant to 5 M.R.S. § 194 for declaratory and injunctive relief as an officer of the State of Maine and on behalf of the citizens of the State of Maine. The Attorney General asks this Court to declare that property once owned by William Bingham, 2d. (the Bingham Land), located in Newry, Oxford County, Maine, is subject to a charitable trust for the benefit of the people of Maine, and may not be used in contravention of the trust’s purposes. The Attorney General also asks the Court to find that the current use of the Bingham Land violates the trust’s charitable purposes and restrictions on use. In support thereof, the Attorney General states:

**PARTIES**

1. The Attorney General is authorized to bring this action pursuant to 5 M.R.S. § 194 and the powers vested in her at common law.

2. Defendant, the Bethel Water District (the Water District) is a public utility organized under the laws of the State of Maine, P.& S.L. 1967, c. 48, with an office in Bethel, Maine.

### **JURISDICTION**

3. This Court has jurisdiction over this matter pursuant to 4 M.R.S. § 105.

### **ALLEGATIONS**

4. The Water District is the successor-in-interest to the Bethel Water Company, which acquired the Bingham Land from William Bingham, 2d. by deed dated March 27, 1925 and recorded in the Oxford County Registry of Deeds in Book 366, Page 453. A copy of the deed is attached hereto as exhibit A.

5. Mr. Bingham conveyed the Bingham Land in trust for “the uses, intents and purposes,” and “subject to the restrictions and limitations,” set forth in the deed.

6. The deed states that the Bingham Land “constitutes the water-shed of Chapman Brook” from which water is supplied to the inhabitants of Bethel, and that it is Mr. Bingham’s “desire and purpose to provide and insure a permanent and perpetually protected source of water supply . . . .”

7. The deed further provides that, “the tree and forest growth of all kinds upon said tract shall be forever conserved and perpetuated and that nothing shall ever be done upon or in connection with said tract of land which may interfere with, endanger, injure or pollute the water taken therefrom for such supply, either in quality or quantity, but that said tract be forever held, kept and maintained as such a protected source of water supply and all things done which are needed or required to make and keep the water therefrom forever and at all times pure and suitable in all ways for domestic use, and such supply adequate

and undiminished for such use and for protective purposes, by care of said tract and the conservation of the tree and forest growth thereof. . . .”

8. The deed further provides that the Water District “shall never cut or remove, or permit to be cut and removed, on or from said tract of land, any trees, wood, timber or growth of any kind excepting as hereinafter provided, to-wit: [the Water District] may cut and remove from said tract, if so desired, in a judicious and workmanlike manner, from year to year, wood and timber sufficient to provide money to pay the taxes legally assessed against [the Water District] upon said particular tract, if and to that extent only, that such cutting and removing will not in any way, directly or indirectly, affect the purity or quality of water therefrom, and if and to that extent only that such wood or timber can be cut or removed without detriment to the perpetual conservation of the tree and timber growth thereon and without depleting or diminishing the same in any way which maybe a present or future menace to the permanency and purity of said water supply, and if and to the extent only that such cutting maybe done in full conformity with the purposes and intents of this conveyance as in this instrument set forth.”

9. The deed provides, however, “that such wood and timber so cut for the payment of such taxes need not be cut each year but such taxes may be otherwise provided for during a period of years, if desired, and such cutting be done in one operation to procure money to reimburse [the Water District] for such payments, but no cutting shall be done in advance of the assessment of such taxes but only to provide money to pay such taxes as may be already assessed, due or paid.”

10. The deed provides “that if said tract of land shall ever be abandoned as a source of such water supply or cease to be used as such, then, in such case, the title to said



land shall pass in fee simple to the State of Maine to be by it forever held, maintained and managed as a public game preserve, bird or game sanctuary, public park or State Forest reserve as said State may determine, and under such conditions as said State may prescribe and designate . . . .”

11. In July 2007, the watershed of Chapman Brook was inundated by a rain event, resulting in erosion and a diminishment in water quality such that the Bingham Land could no longer serve as the primary water supply for the Water District without installation of a costly filtration system.

12. Following the July 2007 rain event, the Water District developed an alternative groundwater source of water, and the Chapman Brook of the Bingham Land no longer serves as the primary water supply for the Water District.

13. The Water District has leased a portion of the Bingham Land to Sunday River Skiway Corporation for ski area activities.

14. The Water District intends to harvest timber from the Bingham Land to fund capital improvements to its water system.

**COUNT I**  
**(Declaration of Charitable Trust)**

15. The State repeats and realleges the allegations set forth in the preceding paragraphs of this Complaint.

16. Mr. Bingham intended to permanently protect the Bingham Land for use as a water supply, and to restrict timber harvesting to only that necessary to pay assessed property taxes.

17. If the Bingham Land no longer served as a water supply, Mr. Bingham restricted use of the land to a public bird or game preserve or sanctuary, or a public park or forest reserve.

18. Mr. Bingham conveyed the Bingham Land for express purposes and with express restrictions, and thus with a charitable intent to protect and preserve the land for the benefit of the people of the State of Maine as provided in 5 M.R.S. § 194(3).

19. The Bingham Land is subject to a charitable trust, for the benefit of the public, in accordance with the purposes and restrictions set forth in the deed and within the meaning of 5 M.R.S. § 194(1)(B).

20. The Water District, as the successor-in-interest to the Bethel Water Company, accepted the Bingham Land and, because the Land is a trust property, the District is charged with enforcing the terms of the trust deed for the benefit of the public.

21. The Attorney General is vested with statutory and common law authority to enforce the terms of charitable trusts in the State of Maine. 5 M.R.S. §§ 194(2) & (4).

**COUNT II**  
**(Violation of Charitable Trust)**

22. The State repeats and realleges the allegations set forth in the preceding paragraphs of this Complaint.

23. The Bingham Land is no longer being used as a water supply in violation of the purposes and restrictions of the charitable trust.

**COUNT III**  
**(Violation of Charitable Trust)**

24. The State repeats and realleges the allegations set forth in the preceding paragraphs of this Complaint.

25. The lease of a portion of the Bingham Land to Sunday River Skiway Corporation for ski area activities violates the purposes and restrictions of the charitable trust because it fails to advance the protection and preservation of the Bingham Land, and it is not otherwise authorized by the terms of the charitable trust.

**COUNT IV  
(Violation of Charitable Trust)**

26. The State repeats and realleges the allegations set forth in the preceding paragraphs of this Complaint.

27. The proposed timber harvesting to fund capital improvements to the water system is not consistent with the charitable trust restrictions, which restrict timber harvesting to that necessary to pay assessed property taxes.

WHEREFORE, the Attorney General respectfully requests that this Court:

A. Declare that the Bingham Land is subject to a charitable trust, for the benefit of the public, in accordance with the purposes and restrictions set forth in the trust deed;

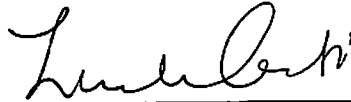
B. Declare the current use of the Bingham Land violates the purposes and restrictions of the Bingham Land charitable trust because the land is not being used as a water supply;

C. Declare that the lease of a portion of the Bingham Land for ski area activities violates the purposes and restrictions of the Bingham Land charitable trust;

D. Declare that the proposed timber harvesting to fund capital improvements to the water system would violate the purposes and restrictions of the Bingham Land charitable trust;

- E. Issue an order enforcing the terms of the Bingham Land charitable trust deed; and
- F. Grant such other and further relief as justice requires, including application of the doctrine of *cy pres* or equitable deviation if appropriate.

Respectfully submitted,  
JANET T. MILLS,  
ATTORNEY GENERAL



Dated: December 30, 2010

---

LINDA CONTI ME BAR NO 3638  
AMY B. MILLS, ME BAR NO 9562  
ASSISTANT ATTORNEYS GENERAL  
STATE HOUSE STATION 6  
AUGUSTA, ME 04333

Attorneys for Plaintiff,  
Attorney General of the  
State of Maine

STATE OF MAINE  
OXFORD, SS.

SUPERIOR COURT  
CIVIL ACTION  
DOCKET NO. \_\_\_\_\_

JANET T. MILLS, in her capacity )  
as the ATTORNEY GENERAL OF )  
THE STATE OF MAINE, )

Plaintiff )

v. )

BETHEL WATER DISTRICT, a )  
public utility organized under )  
the laws of the State of Maine )

Defendant. )

**CONSENT ORDER**

WHEREAS the Bethel Water District (the Water District) is a public utility organized under the laws of the State of Maine;

WHEREAS the Town of Bethel is a municipality located in Oxford County, Maine;

WHEREAS the Water District, as trustee, owns property once owned by William Bingham, 2d. (the Bingham Land), located in Newry, Oxford County, Maine and conveyed by Mr. Bingham by trust deed, subject to express purposes and restrictions, such trust deed recorded in the Oxford County Registry of Deeds at Book 366, Page 453;

WHEREAS Mr. Bingham intended the Bingham Land, the watershed of Chapman Brook, to perpetually serve as a water supply and restricted timber harvesting to that necessary to pay assessed property taxes;

WHEREAS Mr. Bingham intended for the Bingham Land to be maintained and managed as public game preserve, bird or game sanctuary, public park or state forest reserve if the Land ever ceased to serve as a water supply;



WHEREAS a rain event in 2007 rendered use of the Bingham Land as a primary water supply impossible without installation of a costly filtration system, and the Water District is no longer using the Bingham Land as its primary water supply;

WHEREAS the Water District has leased a portion of the Bingham Land to Sunday River Skiway Corporation for ski area activities;

WHEREAS the Bingham Land could serve as an emergency water supply in the event the primary groundwater source is disrupted; and

WHEREAS the Attorney General of the State of Maine (the Attorney General) is vested with statutory and common law authority to enforce the terms of charitable trusts in the State of Maine;

The Court having considered the pleadings and this Consent Order executed by the parties, and good cause appearing,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

1. The Bingham Land is subject to a charitable trust, for the benefit of the people of Maine, in accordance with the purposes and restrictions set forth in the trust deed.
2. Under the doctrine of *cypres* the court has the power to order that a charitable trust be applied to a charitable purpose different from that named by the trustor where the settlor had an intent to benefit charity and the accomplishment of the settlor's charitable purpose is impossible or impractical.
3. Under the doctrine of deviation, the court has the power to change administrative provisions in charitable trusts where the settlor's directions hinder the trustee in accomplishing the trust purpose.

4. It is impractical or impossible for the Bingham Land to continue to serve as a primary water supply.

5. Mr. Bingham had a general charitable intent as his gift of land provided that, should the Bingham Land cease to serve as a water supply, then the land would be given to the State of Maine so that it could be preserved as a public game preserve, bird or game sanctuary, public park or state forest reserve.

6. Under the doctrine of *cy pres*, the Bingham Land can serve, however, as an emergency water supply in the event the primary groundwater source is disrupted, and it can simultaneously serve as a public game preserve, bird or game sanctuary, public park or forest reserve, in accordance with the purposes and restrictions of the trust deed.

7. Under the trust deed the Water District is the trustee so long as the land is used as a water supply and the State takes on that role if it becomes a preserve, sanctuary, park, or forest reserve. The Attorney General and the Water District agree that the Town of Bethel is an appropriate trustee to oversee the use of the Bingham Land as an emergency water supply and as a preserve, sanctuary, park, or forest reserve.

8. Pursuant to the doctrine of *cy pres* the Bingham Land may serve as an emergency water supply.

9. Pursuant to the doctrine of deviation, the Town of Bethel is appointed trustee of the Bingham Land and is responsible for enforcing the purposes and restrictions in the trust deed, thereby protecting the water quality of Chapman Brook and its tributaries such that the Bingham Land may be put into service as an emergency water supply in the event the primary groundwater source is disrupted.

10. The Town of Bethel shall maintain and manage the Bingham Land: consistent with Chapman Brook and its tributaries serving as an emergency water supply; in accordance with the purposes and restrictions of the trust deed as modified by this Consent Order; and in accordance with a Management Plan and Forest Management Plan, which shall be drafted in accordance with the requirements set forth more specifically below.

11. The Town of Bethel shall prepare a baseline documentation report, including a baseline map, recording the condition of the Bingham Land and identifying the Land's condition and important natural resource attributes necessary to draft the Management Plan and Forest Management Plan. The Town shall hire a qualified person to prepare the baseline documentation report, which may be funded by a timber harvest subject to the following conditions:

- a. While cutting may occur before the adoption of the Management Plan and Forest Management Plan, no cutting shall be done in advance of preparation of the baseline documentation report. A limited cut may be done only to pay the costs of the completed report.
- b. The cutting shall be done pursuant to a written harvest prescription plan, certified by a state-licensed professional forester.
- c. The cutting shall be done in view of the data reflected in the baseline documentation report, and otherwise in accordance with the requirements and management practices that his Consent Order requires to be incorporated into the Management Plan and Forest Management Plan.

12. The Town shall hire a qualified person to prepare a Management Plan, which the Town shall adopt and implement as soon as reasonably possible but in any event no later than two years from the effective date of this Consent Order. The Management Plan shall be updated from time to time, but not less than every 20 years, to reflect the then-current best available science, and shall conform to the following requirements:

- a. The Management Plan shall soundly plan for the protection of water quality in Chapman Brook and its tributaries; the conservation of significant wildlife habitat, as defined by the Maine Natural Resources Protection Act, 38 M.R.S. §§ 480-A to 480-HH, as amended, and other locally significant wildlife habitat, including but not limited to deer wintering areas; and the preservation of the natural resource, recreational, and scenic qualities of the Bingham Land.
- b. Management of the Bingham Land shall support multiple uses, including the conservation of scenic and natural resources, low-impact outdoor recreation, wildlife habitat, sustainable yield timber harvesting, and other uses consistent with management of the watershed for protection of the water quality of Chapman Brook and its tributaries.
- c. The Management Plan may provide for public access on the Bingham Land, however, motorized public access shall be limited to snowmobiles. The Town shall not allow public access to the extent that it interferes with protecting the water quality of Chapman Brook and its tributaries.
- d. Management of the Bingham Land may provide for timber harvesting, however, any timber harvesting must be carried out in accordance with a

written Forest Management Plan, as set forth more specifically below, and which shall be made a part of the Management Plan.

- e. Income generated from any timber harvest shall be used: first to pay the property taxes on the Bingham Land; and second to manage the Bingham Land in accordance with the Management Plan.

13. The Forest Management Plan shall be drafted and certified by a state-licensed professional forester. A written harvest prescription plan, drafted to conform with the Forest Management Plan and certified by a state-licensed professional forester, shall be required for each harvest. Timber harvests shall not exceed sustained yield levels, and shall be secondary to and compatible with management of the Bingham Land as a natural area supporting and protecting water quality and quantity, while providing high quality wildlife habitat and low-impact public recreation. The Forest Management Plan shall define management practices that:

- a. Employ the highest standards for protection of water quality, and at a minimum, the Forest Management Plan shall include a one hundred foot no-cut buffer adjacent to Chapman Brook and all its perennial tributaries.
- b. Maintain a healthy and biologically diverse forest that supports a full range of native flora and fauna, employing diverse silvicultural methods and rotation periods, including management for late successional forest components.
- c. Protect sensitive resources, including scenic, riparian and high elevation areas.
- d. Enhance wildlife values, as set forth below.



14. The Forest Management Plan shall enhance the wildlife values of the Bingham Land through:
- a. The retention of late successional trees (also known as forest legacy trees) to a minimum standard of five square feet of retained legacy trees per acre for every forty acres where trees, which are appropriate for retention as legacy trees, are present in the existing stand.
  - b. The retention of mast cull trees (including oak and beech), large diameter snag trees (dead or dying trees suitable for cavity nesters, bat roosts, invertebrate refuge, and fungi, moss and lichen growth medium), and live den trees, where “live den trees” means live cull trees at least 18 inches in diameter with existing cavities.
  - c. The restoration and maintenance, adjacent to Chapman Brook, of a two hundred and thirty-foot riparian wildlife management area, extending beyond the one hundred foot no-cut buffer adjacent to Chapman Brook set forth above, consisting of a well-stocked softwood forest, where “well-stocked” means containing trees spaced widely enough to prevent competition yet closely enough to utilize the entire site, as recommended by the most current silvicultural guides issued by the United States Forest Service or its successor agency.
  - d. Adherence to current deer wintering area management guidelines, endorsed by the Maine Department of Inland Fisheries and Wildlife or its successor agency, where any deer wintering complexes are found to occur on the Bingham Land.

- e. Adherence to current state or federal management guidelines for any rare, endangered, or special concern species found to occur on the Bingham Land.
- f. The retention and protection of vernal pool wetlands and vernal pool wetland buffers, in accordance with current best management practices endorsed by the Maine Department of Inland Fisheries and Wildlife or its successor agency, and of any other features beneficial to wildlife as may be recommended by a wildlife biologist.

15. The Town shall each calendar year no later than December 31<sup>st</sup>, serve on the Office of the Attorney General, Consumer Protection Division, certification that the Town has, during the preceding year, maintained and managed the Bingham Land in accordance with the purposes and restrictions of the trust deed as modified by this Consent Order, including but not limited to, the Management Plan and the Forest Management Plan.

16. The Water District has leased a portion of the Bingham Land for ski area activities (ski-area lease) since approximately 1972, and has from time to time renewed the ski-area lease. The current ski-area lease, effective August 1, 2009 and expiring August 1, 2028, leases approximately 9.4 acres, as particularly set forth in the ski-area lease, which is attached to this Consent Order as Exhibit A. The Water District has not entered into any other lease with respect to the Bingham Land. The ski-area lease violates the purposes and restrictions of the Bingham Land trust deed.

- a. Other than renewing the ski-area lease under the existing terms, as set forth in Exhibit A to this Consent Order, except that the yearly rent schedule may be adjusted from time to time by reasonable agreement of the parties

thereto, the Town of Bethel shall not lease, give, grant, bargain, sell or convey with respect to any portion of the Bingham Land.

- b. The Town shall each calendar year no later than December 31<sup>st</sup> serve on the Office of the Attorney General, Consumer Protection Division, certification that, during the preceding year, other than the ski-area lease described above, none of the Bingham Land has been leased, given, granted, bargained, sold or conveyed .

17. Following the Town's June 2011 town meeting, the Town shall serve on the Court proof of the Town's ratification of this Consent Order. If the Town fails to ratify this Consent Order at the June 2011 town meeting, then the Bingham Land shall pass in fee simple to the State of Maine as set forth in the trust deed.

18. Within 10 business days of the Town's ratification of this Consent Order, the Town shall record this Consent Order in the Oxford County Registry of Deeds in a manner that causes it to be properly indexed with respect to the Bingham Land, and shall submit a copy of the recorded Consent Order with notation of the book and page number of the recording to the Office of the Attorney General.

19. Nothing in this Consent Order precludes the Attorney General from taking action to enforce her responsibilities under her statutory, 5 M.R.S. § 194, and common law authority on issues not specifically addressed herein.

20. Should the Town of Bethel become unwilling or unable to serve as the trustee of the Bingham Land in accordance with the with the purposes and restrictions of the trust deed as modified by the terms this Consent Order, then title to the Bingham Land shall pass in fee simple to the State of Maine as set forth in the trust deed.

21. Jurisdiction is retained by this Court for purposes of entering further orders as may be necessary or appropriate for the modification, enforcement, or execution of this Consent Order, including but not limited to an order vesting fee simple title in the Bingham Land in the State of Maine in accordance with the terms of the trust deed.

22. This Consent Order shall be effective upon entry.

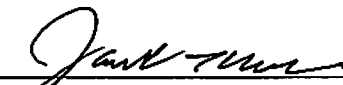
SO ORDERED.

Dated: \_\_\_\_\_

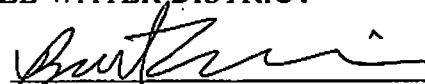
\_\_\_\_\_  
Justice, Superior Court

WE CONSENT:

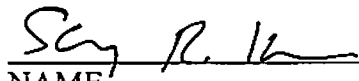
STATE OF MAINE  
OFFICE OF THE ATTORNEY GENERAL

By:   
Janet T. Mills, Attorney General

BETHEL WATER DISTRICT

By:   
NAME  
Its CHAIR, duly authorized

TOWN OF BETHEL

By:   
NAME  
Its chair, duly authorized



**EXHIBIT A**

*Mills v. Bethel Water District*

COPY

**AMENDMENT TO LEASE AGREEMENT**

**THIS AMENDMENT** (the "Amendment"), made effective as of the 1st day of August, 2009, by and between the **BETHEL WATER DISTRICT**, a public utility organized under Chapter 48 of the Private and Special Laws of the State of Maine ("Lessor"), and **CNL INCOME SUNDAY RIVER, LLC**, a Delaware limited liability company, with a mailing address of 450 South Orange Avenue, 12<sup>th</sup> Floor, Orlando, FL 32801 ("Lessee").

**WITNESSETH:**

**WHEREAS**, Lessor, as lessor, and Sunday River Skiway Corporation, a Maine corporation ("SRSC"), as tenant, entered into that certain lease agreement dated October 26, 2004, and recorded at the Oxford County Registry of Deeds at Book 3615, Page 302 (the "Lease"); and

**WHEREAS**, SRSC assigned its rights under the Lease to Lessee via that certain Assignment and Assumption of Ground Leases dated August 7, 2007, and recorded at the Oxford County Registry of Deeds at Book 4175, Page 241; and

**WHEREAS**, Lessee, as landlord, entered into that certain Lease Agreement with SRSC, as tenant, dated August 7, 2007, a memorandum of which was recorded at the Oxford County Registry of Deeds at Book 4175, Page 307; and

**WHEREAS**, Lessor and Lessee now desire to modify the terms of the Lease as hereinafter set forth;

**NOW THEREFORE**, in consideration for the mutual promises herein contained, Lessor and Lessee agree as follows:

1. **Recitals/Use of Terms**: The recitals set forth above are true and correct and are incorporated herein by this reference. Unless otherwise set forth herein, all capitalized terms utilized herein shall have the same meanings as set forth in the Lease.
2. **Term**: The term of the Lease shall be extended by an additional nineteen (19) years, commencing as of noon on August 1, 2009 and expiring at noon on August 1, 2028, unless sooner terminated pursuant to any provision of the Lease.
3. **Rent**: For each year of the term commencing on August 1, 2009, Lessee shall pay Lessor rent in the amount of FIVE THOUSAND AND 00/100 DOLLARS (\$5,000.00), with an annual 5% non-compounded increase, to be payable yearly in advance, with a final rent rate of NINE THOUSAND FIVE HUNDRED DOLLARS (\$9,500.00) for year nineteen (19). The yearly rent schedule is more particularly described in Exhibit "A" attached hereto and by this reference incorporated herein.
4. **Modification of Leasehold Property**: The leasehold property as described in Section 1 of the Lease (the "Lease Property") and more particularly described in Exhibit "B" attached

hereto and by this reference incorporated herein, shall be reduced from the approximately 200 acres provided by the Lease to a parcel approximately 20 acres in area more particularly described in Exhibit "C" attached hereto and by this reference incorporated herein (the "Amendment Property").

**5. Default: Landlord's Rights of Termination:** Landlord may terminate this Lease if the Tenant shall neglect or fail to perform or observe any of its obligations herein previously set out, for a period of fifteen (15) days after notice in writing from the Landlord in respect to the nature of the default. Landlord may terminate this lease if the Tenant shall be adjudicated a bankrupt or insolvent according to law and no appeal shall be taken from such finding by the Tenant, or if such appeal shall be taken and prosecuted diligently or if the Tenant shall make an assignment of its property for the benefit of creditors, or if a receiver, trustee, or similar officer shall be appointed to take charge of all or any portion of the Tenant's property and its is not removed within sixty (60) days, or if the Tenant shall file a petition under any bankruptcy law, and the same shall not be dismissed within sixty (60) days, then and in any of said cases (notwithstanding any license of any former breach of covenant or waiver of the benefit thereof or consent in a former instance). Landlord may lawfully, immediately after the expiration of any of the aforesaid notice periods or at any time after, and without further demand or notice, enter into and upon the said Premises or any party thereof in the name of the whole and repossess the same as of its former estate and expel the Tenant and those claiming by, through, or under it and remove its effects.

**6. Use Restriction:** Tenant's use of the Amendment Property for ski area activities shall not be deemed to include maintaining on the Amendment Property any building on the Amendment Property other than buildings used for the purpose of operating ski lifts. This restriction is intended to prohibit residential buildings, restaurants, bars and the like.

**7. Ratification:** Lessor and Lessee hereby ratify and confirm the continuing effect and validity of the Lease, as amended by this Amendment to Lease Agreement.

**8. Legal Fees:** Lessee shall pay all of Lessor's legal fees reasonably arising from and in conjunction with the execution of this Amendment.

**9. Effect of Amendment:** Except as amended and modified hereby, the Lease shall remain in full force and effect in accordance with its terms.


**10. Execution/Counterparts:** This Amendment may be executed in any number of counterparts, each of which shall be deemed to be an original as to any party whose signature appears hereon, and all of which shall constitute one in the same instrument. This Amendment shall become binding when one or more counterparts hereof, individually or taken together, shall bear the signatures of Lessor and Lessee. Each of the parties hereto have the right to rely on a fax signature from the other party, the same as having received an original counterpart.

**IN WITNESS WHEREOF,** the parties hereto have executed this Amendment as of the date first written above.



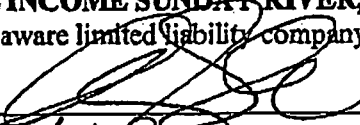
**LESSOR:**

**BETHEL WATER DISTRICT,**  
a public utility organized under Chapter 48 of the  
Private and Special Laws of the State of Maine

By:   
Name: BRENT ANGEVINE  
Title: CHAIR

**LESSEE:**

**CNL INCOME SUNDAY RIVER, LLC,**  
a Delaware limited liability company

By:   
Name: AMY SENELET  
Title: SVR

ACKNOWLEDGEMENT

STATE OF MAINE  
COUNTY OF OXFORD

The foregoing instrument was acknowledged before me this 24 day of November 2009, by Brent Angevine as Chair of the **BETHEL WATER DISTRICT**, a public utility organized under Chapter 48 of the Private and Special Laws of the State of Maine, on behalf of the corporation. He/She is personally known to me or has produced \_\_\_\_\_ as identification.

(NOTARY SEAL)

Notary Public Signature Jeri B. Greenwell  
Jeri B. Greenwell  
(Name typed, printed or stamped)  
Notary Public, State of Maine  
Commission No.: \_\_\_\_\_

My Commission Expires: 9/21/2013

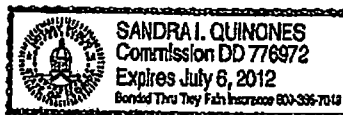
STATE OF FLORIDA  
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this 15 day of ~~November~~ <sup>December</sup> 2009, by Quyn Sinelli as Sr. Vice President of **CNL INCOME SUNDAY RIVER, LLC**, a Delaware limited liability company. He/She is personally known to me or has produced \_\_\_\_\_ as identification.

(NOTARY SEAL)

Notary Public Signature  
S. Quinones  
(Name typed, printed or stamped)  
Notary Public, State of Florida  
Commission No.: \_\_\_\_\_

My Commission Expires: July 6, 2012



**EXHIBIT "A"**

**YEARLY RENT SCHEDULE**

<b>Year</b>	<b>Rent</b>
1	\$5,000.00
2	\$5,250.00
3	\$5,500.00
4	\$5,750.00
5	\$6,000.00
6	\$6,250.00
7	\$6,500.00
8	\$6,750.00
9	\$7,000.00
10	\$7,250.00
11	\$7,500.00
12	\$7,750.00
13	\$8,000.00
14	\$8,250.00
15	\$8,500.00
16	\$8,750.00
17	\$9,000.00
18	\$9,250.00
19	\$9,500.00

**EXHIBIT "B"**

**DESCRIPTION OF THE LEASE PROPERTY**



EXHIBIT B

A strip of land three hundred (300) feet in width, near the top of Barker Mountain, so-called, in the town of Newry, County of Oxford, and State of Maine, said parcel to be three hundred (300) feet in width along the height of land which separates land of the Lessor and land of CNL Income Sunday River, LLC, a Delaware limited liability company, PEN-EM, Inc., a Maine corporation and Mega Mountain, Inc., a Maine corporation, being the same premises leased by the Bethel Water District to Sunday River Skiway Corporation herein by a Lease dated October 26<sup>th</sup>, 2004 and recorded in the Oxford County Registry of Deeds in Book 16603, page 302;

Also so much of the property owned by the Lessor, but now being used by the Lessee, located in said Newry for Lessee's ski area activities.

**EXHIBIT "C"**

DESCRIPTION OF THE AMENDMENT PROPERTY

[TO BE ADDED]

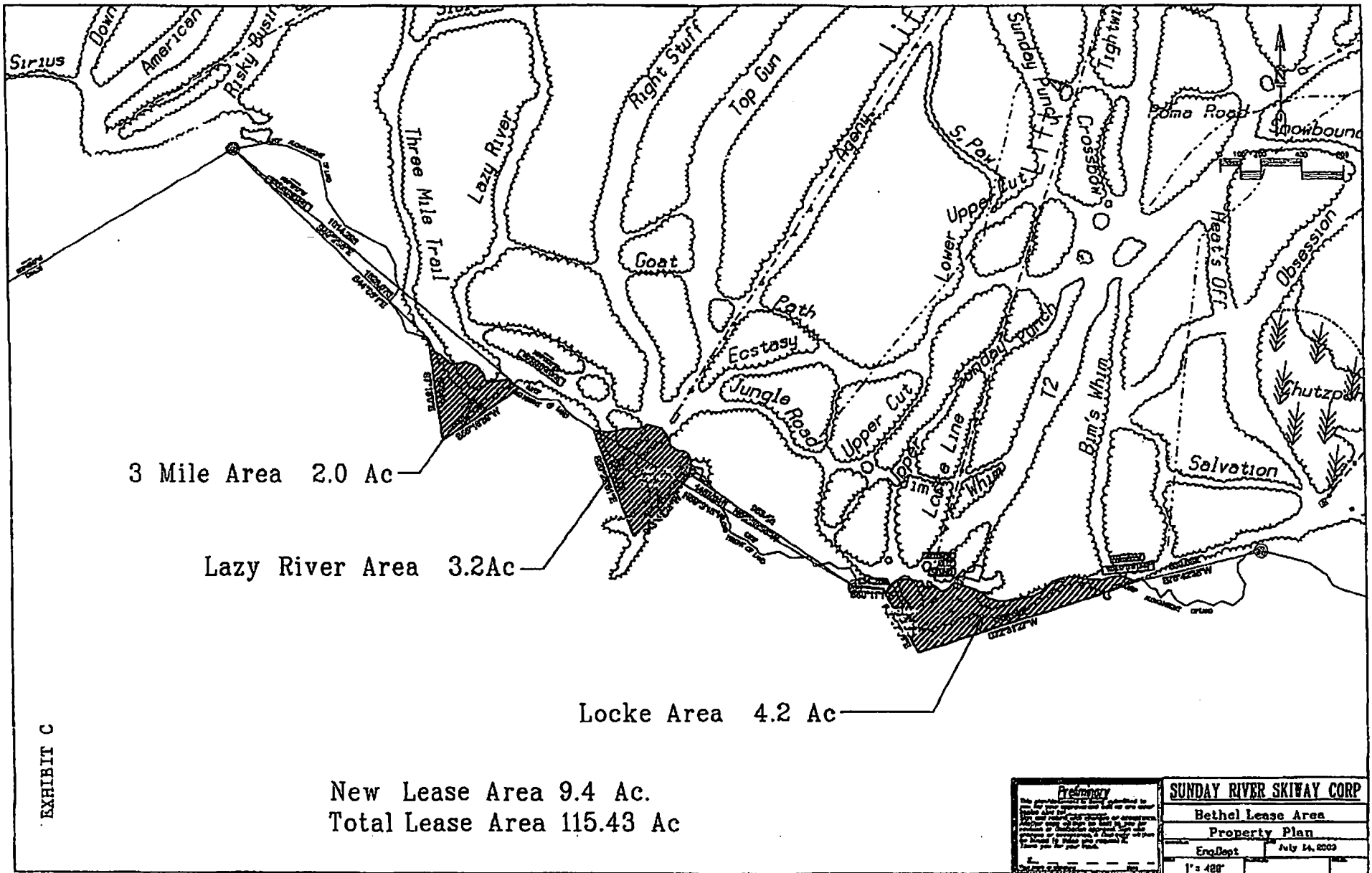
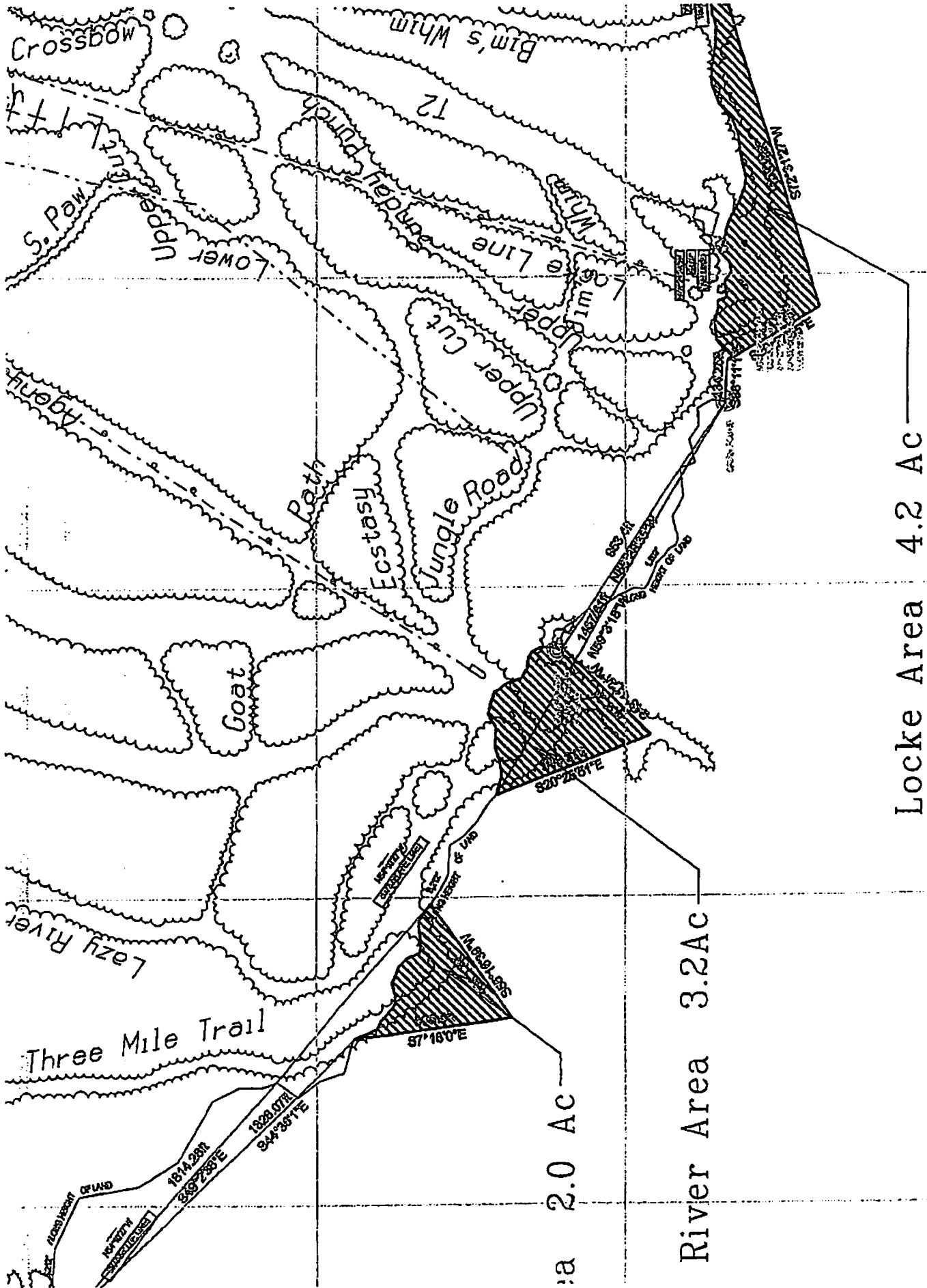


EXHIBIT C

Preliminary <small>           This map is a preliminary map and is not intended to be used for legal purposes. It is subject to change without notice. The user of this map assumes all responsibility for its use.         </small>	<b>SUNDAY RIVER SKIWAY CORP</b>	
	Bethel Lease Area	
	Property Plan	
	Eng Dept	July 14, 2003
1" = 400'		



2.0 AC

River Area 3.2AC

Locke Area 4.2 AC





John Elias Baldacci  
Governor

**Maine Department of Health and Human Services**

Maine Center for Disease Control and Prevention  
(Maine CDC)  
286 Water Street  
11 State House Station  
Augusta, ME 04333-0011

Brenda Harvey  
Commissioner

Dora Anne Mills, MD, MPH  
Public Health Director  
Maine CDC Director

July 19, 2007

Lucien Roberge, Superintendent  
Bethel Water District  
P.O Box 104  
Bethel, Maine 04217

RE: Withdrawal of Avoidance to Filtration For Bethel Water District

Dear Mr. Roberge:

Recent weather events in Bethel have severely altered the course of Chapman Brook and caused drastic changes within the Chapman Brook watershed. The original impoundment now contains 16 feet of sand, silt, rocks, and trees, and the upper regions of the watershed appear to have suffered serious erosion and landslides, exposing layers of clay and silt. Until July 12, 2007, water in Chapman Brook was clear; however, the source is now full of clay, strongly affecting turbidity levels. The water quality diminished as a result of the events on July 12, 2007, and the source may never return to the pristine conditions existent before the storm.

Therefore, the Maine Drinking Water Program has determined that the Bethel Water District no longer meets all filtration avoidance criteria as established in the February 26, 1993 Consent Agreement between Maine Drinking Water Program and Bethel Water District. Title 40 of the Code of Federal Regulations, Section 141.71 (a) (2) requires that public water systems maintain turbidity levels under 5 NTU's to maintain filtration avoidance. Based upon a physical inspection of the site after the landslide, the Maine Drinking Water Program determined that turbidity levels not only exceeded the filtration avoidance criteria, but may never return to required standards.

If the Bethel Water District chooses to start using Chapman Brook as a source again, the Water District must install filtration within eighteen (18) months, before January 12, 2009. (See 40 CFR § 141.71). Additionally, because the turbidity levels are about 5 NTU's, the use of this source will require an immediate boil water order for the Water District. Failing to adhere to the above timeframe would require the Maine Drinking Water Program to employ formal enforcement actions that may include administrative orders and possible fines. Should you have any questions about this letter, please call me at 207-287-5684 or email me at roger.crouse@maine.gov.

Yours for Safe Drinking Water,

Roger Crouse, Acting Director  
Maine Drinking Water Program  
Maine Center for Disease Control and Prevention  
Department of Health and Human Services

CC: AEH Engineering  
Robert McAleer, Maine Emergency Management Agency  
Stephani Morancie, PUC

ECC: Nancy Beardsley, Acting Director, Division of Environmental Health, MeCDC;  
Drinking Water Program Staff

*Our vision is Maine people living safe, healthy and productive lives.*  
[www.mainepublichealth.gov](http://www.mainepublichealth.gov)

Phone: (207) 287-2070

Fax: (207) 287-4172

TTY: 1-800-606-0215



Sherman R. Small, Consulting Forester P.O. Box 621, Bethel, ME 04217 (207) 824-6122 [sherms@megalink.net](mailto:sherms@megalink.net)

August 3, 2007

Mr. Lucien G. Roberge, Superintendent  
Bethel Water District  
P.O. Box 104  
Bethel, ME 04217

Dear Lucien,

As requested, I have inspected the Bethel Water District watershed to record damage done by the July 11, 2007 storm. A Trimble Pro XH GPS unit was used to collect data regarding the location of damage along Chapman Brook and any of its tributaries that exhibited storm damage. Digital photographs were taken of many of the damaged areas and have been correlated with the GPS data to provide a photographic record. The area inspected along Chapman Brook runs from the North Road north and west through Bethel and Newry to within approximately 600 yards of the Riley – Newry town line.

Storm damage data was collected and categorized by the following system:

Bank Erosion:

Extreme: Large areas of exposed soil or undercut banks that pose an immediate risk to water quality.

Moderate: Exposed soil along bank with no undercutting, should be stabilized before winter to prevent water quality issues from spring runoff.

Low: Some exposed soil, no immediate threat to water quality, should be stabilized within one year.

Debris Dams:

Extreme: Debris diverting water from normal channel and causing ongoing erosion problems, debris has potential to cause pooled water with increase in stream flow or settling of debris.

Moderate: Debris stable, but should be removed to prevent long term damage or collection of further debris.

Low: Debris piled along side of channel causing no immediate danger.

### Clay Slides:

Extreme: Large area of exposed unstable soils sliding on hardpan layer, water running over exposed soils, sliding topsoil with unstable trees, areas causing current water quality issues.

Moderate: Exposed soils liable to slide further with heavy rains or spring runoff.

Low: Minimal exposed soils, or located away from the main stream channel.

### Stream Channels:

Old Course: Historic main channel as shown by water flow, vegetation, and other evidence.

New Course: Current main water flow, either new channels cut by flood or historic overflow channels that now carry the majority of water flow.

Additional data was collected to locate the temporary supply pipe and other relevant features.

All GPS data was differentially corrected to improve accuracy and exported to Geographic Information System software for further analysis. A data CD will be provided so all GPS and GIS data can be installed on the Bethel Water District computer. The attached map shows the damage by category and location. Areas where erosion damage or clay slides extended along the stream for more than approximately fifty feet were added to the GIS as a line feature. Damage of lesser lengths were added as point features. The summary of damage by class is:

### Bank Erosion:

Extreme: 17 of 85 point features, and 731 feet of 3,951 total feet.

Moderate: 43 of 85 point features, and 2,310 feet of 3,951 total feet.

Low: 25 of 85 point features, and 910 feet of 3,951 total feet.

### Debris Dams:

Extreme: 17 of 65 point features.

Moderate: 27 of 65 point features.

Low: 21 of 65 point features.

### Clay Slides:

Extreme: 7 of 15 point features, and 1,356 feet of 1,468 total feet.

Moderate: 5 of 15 point features, and 112 feet of 1,468 total feet.

Low: 3 of 15 point features, and 0 feet of 1,468 total feet.

### Stream Channels:

Old Course: 31,022 feet of 38,096 total feet.

New Course: 7,074 feet of 38,096 total feet.

In many cases the erosion areas, clay slides, and debris dams occur in close proximity to each other which creates long sections of damage. The damage appears to increase in intensity from west to east as the water from tributaries was added to the flow. The damage reaches its peak at the impoundment area which slowed the water velocity. Below the impoundment area damage is mainly moderate to low. The stream velocity would have been slowed in this area by the numerous channels and flatter terrain. One area of concern below the impoundment area is a debris dam rated Extreme which is located approximately 2,000 feet northwest of the North Road. The debris has blocked the entire stream channel with the water currently flowing around the westerly edge of the debris. An increase in stream flow will either cause a pool of water to build up behind the debris, or cause erosion to the westerly stream bank. Other than this one area, the majority of the pressing issues are north and west of the impoundment area. I have attached a few digital photos to this report as an example of the various categories of damage. Please contact me if I can be of further service.

Sincerely,

Sherman R. Small  
Consulting Forester





Bank erosion rated as Extreme.



Bank erosion rated as Moderate.





Debris dam rated as Extreme.



Debris dam rated as Moderate.



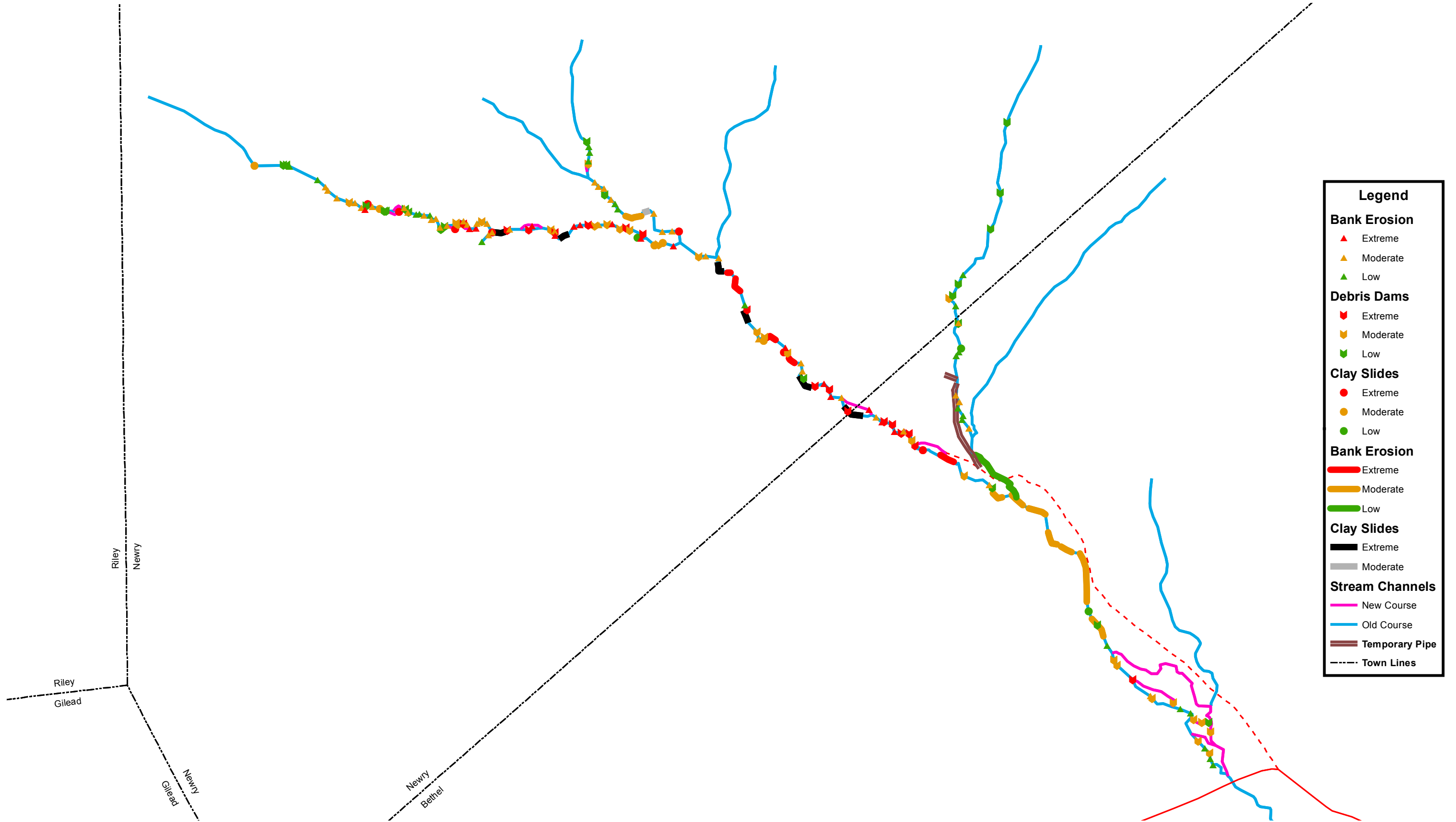


Clay slide rated as Extreme.



Clay slide rated as Moderate.

Bethel Water District  
July 11, 2007 Storm Damage



**Legend**

**Bank Erosion**

- ▲ Extreme
- ▲ Moderate
- ▲ Low

**Debris Dams**

- ▼ Extreme
- ▼ Moderate
- ▼ Low

**Clay Slides**

- Extreme
- Moderate
- Low

**Bank Erosion**

- █ Extreme
- █ Moderate
- █ Low

**Clay Slides**

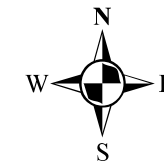
- █ Extreme
- █ Moderate

**Stream Channels**

- New Course
- Old Course
- Temporary Pipe
- - - Town Lines

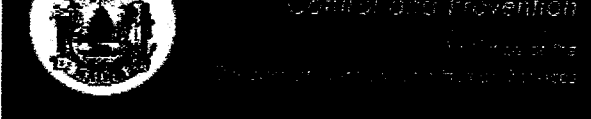


Sketch map for management and planning purposes only, NOT A LEGAL SURVEY  
Data obtained from Maine Office of GIS & New England Forestry Consultants, Inc.



Prepared by:  
New England Forestry Consultants, Inc  
Sherman R. Small, Consulting Forester  
Maine License # LF655  
August 3, 2007





John E. Baldacci, Governor

Brenda M. Harvey, Commissioner

Maine Center for Disease Control and Prevention  
286 Water Street  
# 11 State House Station  
Augusta, Maine 04333-0011  
Tel: (207) 287-2070  
Fax: (207) 287-4172; TTY: 1-800-606-0215

September 29, 2009

Bethel Water District Trustees  
Bethel Water District  
PO Box 104  
Bethel, ME 04217

Attention: Lucien Roberge

PWSID: ME0090160

Dear Water District Trustees:

The Maine Drinking Water Program (DWP) understands that Bethel Water District (District) has designated Chapman Brook as an emergency supply for the District. The DWP fully supports the efforts for the District to actively maintain an emergency supply of water. We encourage all water systems to have a backup or emergency water source in the event that their primary source is disrupted.

The DWP recommends that District implement appropriate measures to protect the water quality in the Chapman Brook watershed to endure it's availability in the future. An emergency water source allows a water system to plan for unexpected short-term (hours to day) and long-term (weeks to months) emergency events.

In the recent past, the District has had a devastating loss of their primary source and did not have an immediate backup source to turn to. We commend your efforts to reduce the risk of a water outage in Bethel.

Yours for safe drinking water,

Roger L. Crouse, P.E.  
Director, Maine Drinking Water Program

Ec: Amy Mills, Assistant Attorney General  
Alan Sterns, Department of Conservation

---

*Caring..Responsive..Well-Managed..We are DHHS.*

MAY FLY

**From:** Supt.BWD (bwd@megalink.net)  
**To:** Mike Broderick (work); Brent Angevine; Reginald Brown  
**Date:** Mon, October 26, 2009 8:48:11 AM  
**Subject:** Fw: Newry (Bethel Water District): DIFW analysis

Lucien G. Roberge  
Superintendent

Bethel Water District  
9 Philbrook Street  
P.O. Box 104  
Bethel, Maine 04217-0104

Tel/Fax 207.824.2342

Email [bwd@megalink.net](mailto:bwd@megalink.net)

— Original Message —

**From:** Stearns, Alan  
**To:** [jarroldscrockett@gmail.com](mailto:jarroldscrockett@gmail.com) ; [swight@sundayriverinn.com](mailto:swight@sundayriverinn.com) ; [Landon](#) ; [bwd@megalink.net](mailto:bwd@megalink.net) ; [Jim Mitchell](#)  
**Cc:** [Cutko, Andrew](#) ; [Mills, Amy](#) ; [Wiley, Joe](#) ; [Stearns, Alan](#)  
**Sent:** Monday, October 26, 2009 8:00  
**Subject:** Newry (Bethel Water District): DIFW analysis

Rep Crockett et al:

Additional analysis from DIFW, for continued discussion.

\*\*\*\*\*

Alan Stearns, Deputy Director  
Bureau of Parks & Lands  
Maine Department of Conservation  
22 State House Station  
18 Elkins Lane (Harlow Bldg)  
Augusta, ME 04333-0022  
(207)287-4911 (direct)  
(207)287-4960 (assistant)  
[alan.stearns@maine.gov](mailto:alan.stearns@maine.gov)  
[www.parksandlands.com](http://www.parksandlands.com)

-----Original Message-----

**From:** Cordes, Robert  
**Sent:** Tuesday, October 20, 2009 3:21 PM  
**To:** Stearns, Alan  
**Cc:** Pratte, John; Hulsey, Charles; Carter, Vasco  
**Subject:** RE: Bethel/Newry quick turnaround: DIFW??

Alan,

I've been out of the office for most of the last two weeks and today was the first opportunity to review the Bethel Water districts management plan. Hopefully, wildlife comments can still be incorporated into the

planning for the district.

I searched our historic DWA records and found that DWA# 060410 and DWA# 060414 are located within the Bethel Water District property (see attached map). Both are historic DWAs associated with Chapman Brook. The winter aerial surveys of DWAs in organized towns during the 1990's, did not documented use within the Water District property. However, a portion of historic DWA# 060414 was formally surveyed and mapped as DWA# 060070 (Twitchell Brook Yard), in 1997. This DWA was rated Moderate value and remains a candidate Significant Wildlife habitat.

Creeper has been identified in Chapman Brook near the confluence with the Androscoggin River. Creeper is a species of freshwater mussel listed as a species of special concern in Maine. Creepers are usually found in clean, flowing streams and rivers, and are vulnerable to major disturbances to their habitats.

Finally, there is potential for suitable habitat throughout the Bethel Water District property for Roaring Brook Mayflies to occur. The Roaring Brook Mayfly (*Epeorus frisoni*) is a state-Endangered mayfly that is currently known from only five sites in Maine, one site in New Hampshire, and one site in Vermont. This globally rare mayfly appears to be restricted to undisturbed, high-elevation headwater streams along the northern Appalachian Mountain Range, and may be New England's only endemic mayfly. Four of Maine's five occurrences are located in the State's western mountains. I have attached draft forest management guidelines to aid in the protection of this species.

Let me know if you have any questions or would like additional information.

Thanks for the opportunity to review,  
Bob Cordes

Robert C. Cordes  
Assistant Regional Wildlife Biologist  
Region D  
Maine Dept. of Inland Fisheries and Wildlife  
689 Farmington Road  
Strong, ME 04983  
Tel. 207-778-3324  
Fax 207-778-3323  
e-mail: [robert.cordes@maine.gov](mailto:robert.cordes@maine.gov)

## ROARING BROOK MAYFLY (*Epeorus frisoni*)

### Draft Management Guidelines

In order to protect the integrity of fragile high elevation stream habitats as potential habitat for the state-endangered Roaring Brook Mayfly (*Epeorus frisoni*), we recommend maintaining a riparian buffer of at least 250', within which the first 100 feet from the stream be retained as a no-cut and no disturbance zone; and the remaining 100-250 feet be maintained with no less than 60-70% forest canopy cover using single-tree or small-group selection cuts. Stream-crossings should be avoided whenever possible, and minimized to a narrow trail width with canopy cover maintained when crossing is unavoidable. Development and land use conversion activities within the 250 foot riparian zone should be avoided. At sites where these recommendations may not be feasible or desirable, surveys should first be conducted to rule out the presence of the Roaring Brook Mayfly prior to harvest or development activities, using survey protocols recommended and approved by MDIFW.

*Prepared by Beth Swartz, 3/12/08*





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**New England  
Forestry Consultants, Inc.**  
www.cforesters.com

## **Forest Management & Harvest Plan**

Property of:  
Bethel Water District  
Town of Bethel Tax Map 16, Lot 30 111 +/- acres  
Town of Newry Tax Map R-12, Lot 6 2,358 +/- acres  
Oxford County, Maine

Prepared for: Bethel Water District  
P.O. Box 104  
Bethel, ME 04217

Prepared by: Sherman R. Small  
Consulting Forester, Maine License # LF655  
P.O. Box 621  
Bethel, ME 04217  
207 824-6122  
[sherms@megalink.net](mailto:sherms@megalink.net)

July 14, 2009

### **Location:**

The property is located in the towns of Bethel and Newry, Maine. It is shown as Lot 30 on Town of Bethel Tax Map 16 and Lot 6 on Town of Newry Tax Map R-12. The property is north of the North Road in the northwesterly portion of Bethel and the southwesterly portion of Newry. The Newry portion of the property runs from the Bethel - Newry town line to the Newry – Riley Township town line.

### **Area:**

Town of Bethel Tax Map 6 Lot 30 covers approximately 111 acres and Town of Newry Tax Map R-12 Lot 6 covers approximately 2,358 acres. A formal survey might show a different acreage than current tax records indicate.

### **History:**

The Bethel Water District property was maintained primarily as a public water supply for many years. The Newry portion of the property was deeded to the Water District in 1925 by William Bingham II. Timber harvesting has occurred regularly on the property with an emphasis on maintaining the water quality of Chapman Brook and its tributaries. A severe storm in July, 2007 caused extensive erosion and damage in the watershed and forced the Water District to stop using Chapman Brook as the main water supply for the Town of Bethel. Some repair and stabilization work was done near the reservoir, but the scope of the damage was too great to stabilize the entire length of Chapman Brook. Trees with root systems damaged by the 2007 storm continue to fall into Chapman Brook, and some of the unstable clay banks continue to slump into the stream channel. The scope of the damage is visible on 2007 aerial photos.

### **Owners' Objectives:**

The owner's objective is to maintain a healthy forest to produce commercial forest products for harvest. In addition, the Water District recognizes the recreational uses and wildlife habitat the property offers and wishes to manage the property to enhance their value.

### **General Condition of the Woodland:**

The Bethel Water District property is a well stocked forest with a mix of age classes, species composition, size classes, and quality. Timber harvesting has occurred on the property on a regular basis. A salvage harvest was conducted on a portion of the property after the 1998 ice storm. Because of the variations in topography and soil conditions, there is a diversity of forest types.

### **Terrain:**

The terrain on the lot consists of a mixture of exposed ledge, steep rocky slopes, and moderately to gently sloping woodland. The elevations vary from just under 840 feet where Chapman Brook intersects the southerly edge of the property in Bethel to just over 2,900 feet near the northwesterly corner of the Newry parcel on the Newry – Riley Township town line. Portions of the property are too steep to operate with current logging equipment. Areas of the lot above 2,700 feet in elevation would require a permit from the Maine Department of Environmental Protection prior to any timber harvesting. No harvesting is anticipated in these areas as the portions of the property above 2,700 feet in elevation are not operable with current logging equipment.

### **Water:**

Chapman Brook is the major water features on the Bethel Water District property. It was used for many years as the drinking water source for the Town of Bethel. A severe storm in the headwaters of Chapman Brook in July of 2007 caused erosion and other damage all the way to the Androscoggin River south of the Bethel Water District property. The storm forced the Water District to stop using Chapman Brook as a water source. Erosion, landslides of clay banks, and the deposit of trees into the stream channel due to the undercutting of the root system occurred during the runoff from the heavy rains. The stream channel is still not fully stabilized in 2009 as evidenced by additional trees falling in the brook and clay banks that continue to slump into the stream channel after heavy rains. The severe erosion caused by the 2007 storm has relocated the stream channel in some areas. The changes to Chapman Brook are severe enough to be visible on August 2007 aerial photos. Damage to the tributaries of Chapman Brook was less severe.

The “Best Management Practices for Forestry” handbook produced by the Maine Forest Service should be used for guidance during timber harvesting operations near any water or wetland feature to prevent erosion and water quality problems.

### **Access:**

The Bethel Water District property is accessed by the Daisy Bryant Road which leaves the North Road in Bethel and runs northwesterly onto the Water District property. Truck roads run from this main access road to service the areas north of Chapman Brook. The majority of these roads are built to be used when frozen. The portion of Bethel Water District property south of Chapman Brook is accessed by a truck road leaving the Chapman Hill Road in Bethel and crossing abutting properties. This road enters the Bethel Water District property and runs parallel to Chapman Brook into the center of the lot. This road has not been used for many years and will require considerable work to be passable for heavy trucks. A brief examination of deeds did not reveal if this access is across a deeded right of way or dependant on permission from abutters.

### **Logging Conditions:**

Logging conditions on this property range from good to very difficult. The majority of the lot can be operated with current logging equipment. Approximately 532 acres has been mapped as inoperable due to steep slopes based on field observations and aerial photos. The majority of the steep slopes are on the higher ground on the sides of the mountains. Some of the inoperable areas are steep or unstable slopes along Chapman Brook. Timber harvesting on the operable areas will be limited to dry or frozen ground conditions due to soil conditions, wetland areas, and steep slopes found on the property. The rocky slopes and wet areas would be harvested more easily with snow on the ground to prevent soil disturbance.

### **Soils:**

The United States Department of Agriculture Soil Conservation Service has mapped the soils on the property as: Abram-Rock outcrop-Lyman complex, rolling; Abram-Rock outcrop-Lyman complex, very hilly; Brayton-Peacham complex, gently sloping, very stony; Hermon & Monadnock soils, moderately steep, very stony; Hermon & Monadnock soils, steep, very stony; Hermon-Skerry association, strongly sloping, very stony; Lyman-Turnbridge-Becket complex, hilly, very stony; Lyman-Turnbridge-Monadnock complex, hilly, very stony; Lyman-Turnbridge-Monadnock complex, very hilly, very stony; Lyman-Turnbridge-Skerry complex, rolling, very stony; Ricker-Saddleback-Rock outcrop complex, very hilly; Rock outcrop-Ricker complex, very hilly; Saddleback-Ricker complex, moderately steep; Saddleback-Ricker complex, steep; Skerry-Becket association, strongly sloping, very stony; Skerry-Becket association, moderately steep, very stony; Skerry-Colonel association, strongly sloping, very stony; and Skerry-Colonel association, moderately steep, very stony. The location of these soils and some of their woodland characteristics are shown on the attached Soils Map and Soils Map Legend.

### **Wildlife:**

The Maine Department of Inland Fisheries and Wildlife has not mapped any Significant Wildlife Habitats or Essential Wildlife Habitat on the Bethel Water District property. In addition, no endangered, threatened, or special concern wildlife species or their habitats have been mapped by Inland Fisheries and Wildlife on the property.

The lot does provide good wildlife habitat for a number of woodland species. The combination of riparian zones, various forest types, and edge areas between them provide habitat for many species. Deer, bear, moose, grouse, coyote, and hare are common wildlife species found on the property. A number of furbearing species while not directly observed are sure to be present in such habitat.



### **Boundaries:**

The boundaries of the Bethel Water District property are blazed and painted lines. The westerly line is the Newry – Riley Township town line. The southerly portion of this line is in fair shape, but the northerly portion was not found in the steep ground. The southerly boundary is a blazed and yellow painted line in both Bethel and Newry. This line is in good condition. The easterly boundary is a blazed and blue painted line in fair condition. Part of this boundary is the Bethel – Newry town line. The northerly boundary is the height of the land along Barker Mountain. No blazed and painted line was obvious for this boundary. The boundaries should be regularly maintained so their location is obvious.

### **Recreation:**

Because the property has been used primarily as a public water supply, recreation in the past has been limited to low impact non-motorized uses. The Trustees of the Water District have expressed an interest in increasing the recreational opportunities for the public now that the property is not the main water source for the Town of Bethel. Existing truck roads and skid roads can form a base to start this process. These roads could be used for hiking, snowmobiling, snowshoeing, and cross country skiing with a minimum of preparation. An agreement with a properly organized club could facilitate the development of trails. The agreement should include some level of maintenance on Water District roads to reduce the cost to the District.

### **Stand Descriptions:**

The forested portion of this property was divided into nine different areas for the purposes of this management plan. A visual estimate of timber volumes and values has been developed based on field observations and aerial photos. These volumes are based on visual estimates only and are not the result of a formal timber cruise. As a result they are subject to much more error than a formal timber cruise and should be used only for general planning purposes.

Hardwood species include red oak, sugar and red maple, white ash, white and yellow birch, beech, poplar, and basswood. Softwood species include hemlock, red spruce, balsam fir, white and red pine.

Stand A is a mixed wood stand covering the majority of the lot in Bethel. It covers approximately 78 acres and contains hemlock, white pine, and red spruce sawlogs and pulpwood along with a mixture of hardwood sawlogs and pulpwood. The majority of the hardwood is pulpwood size. The majority of the area north of Chapman Brook has been thinned in recent years and does not need immediate timber harvesting. The portion of Stand A south of Chapman Brook has a steep slope to Chapman Brook. Harvesting will be limited on the steep slope above Chapman Brook due to unstable soils conditions.

### **Stand Descriptions (continued):**

Stand B is a hardwood stand south of Chapman Brook in both Bethel and Newry. It covers approximately 402 acres and contains a mixture of hardwood sawlogs and pulpwood along with minor amounts of hemlock and spruce sawlogs and pulpwood. Much of the hardwood in Stand B is mature with ice damage from the 1998 ice storm evident. The beech shows the most ice damage. Stand B should be thinned in a series of harvests to remove the diseased, poorly formed, and mature hardwood.

Stands C and D are softwood stands along the southerly boundary. Stand C covers approximately 28 acres and Stand D approximately 33 acres. Both stands are stocked with red spruce and balsam fir sawlogs and pulpwood along with minor amounts of hardwood pulpwood and sawlogs. Stands C and D should be harvested to remove the diseased, poorly formed, and mature spruce, fir, and hardwood. Because of the topography of Stands C and D, small patch or irregular strip cuts may be necessary to minimize blowdown of spruce and fir in the residual stand.

Stand E is a softwood stand covering the majority of the westerly portion of the property in Newry. It covers approximately 649 acres running from the southerly boundary line to the Newry – Riley Township town line and to the northerly boundary line. Stand E contains red spruce and balsam fir sawlogs and pulpwood along with minor volumes of hardwood pulpwood and sawlogs. The portion of Stand E south of Chapman Brook can be access by the truck road that runs through Stand B. The portion north of Chapman Brook can be access by a winter road that runs parallel to Chapman Brook through Stands F, H, and I. Much of the spruce and fir in Stand E is mature with some areas of blowdown occurring where rot has weakened the trees. Stand E should be harvested in a series of harvests. The challenge to harvesting in Stand E will be to leave a residual stand that is windfirm while harvesting mature, poorly formed, and diseased spruce, fir, and hardwood. One way to approach the harvests is dispersing small patches or irregularly shaped strips through the stand. Steep slopes along the banks of Chapman Brook and its tributaries should have light or no harvest buffers to protect water quality and prevent erosion of unstable soils.

Stand F is a mixed wood stand in the center of the property in Newry. It covers approximately 115 acres with the majority being north of Chapman Brook. Stand F contains a mixture of red spruce, balsam fir, and hardwood sawlogs and pulpwood. Portions of Stand F away from Chapman Brook have been harvested within the last ten years. Timber harvesting is not needed in this stand for the next ten years unless insect, disease, or other conditions require a salvage harvest.

### **Stand Descriptions (continued):**

Stand G is a softwood stand covering approximately 58 acres west of an inoperable ledge area in the center of the lot in Newry. Stand G is stocked with red spruce and balsam fir sawlogs and pulpwood along with minor amounts of hardwood pulpwood and sawlogs. Stand G should be harvested to remove the mature, diseased, and poorly formed spruce, fir, and hardwood. The challenges in Stand G are the same ones faced in the other softwood stands on the property. To leave a residual stand that is windfirm will require a series of small harvests rather than one harvest that covers the entire stand. Due to the amount of road that must be opened up to reach Stand G, the harvests should be combined with harvests in adjacent stands.

Stand H is a mixed wood stand north of Chapman Brook between the brook and the truck road that parallels it. Stand H covers approximately 45 acres and contains a mixture of red spruce, balsam fir, and hardwood sawlogs and pulpwood. Portions of Stand H away from Chapman Brook have been harvested within the last ten years. Timber harvesting is not needed in this stand for the next ten years unless insect, disease, or other conditions require a salvage harvest.

Stand I is a hardwood stand north of Chapman Brook in the easterly portion of the property in both Newry and Bethel. Stand I covers approximately 529 acres and contains a mixture of hardwood sawlogs and pulpwood along with minor amounts of spruce and hemlock sawlogs and pulpwood. Portions of Stand I have been harvested within the last ten years in regular timber harvests and a salvage operation resulting from the 1998 ice storm. The easterly portion of Stand I should be harvested to remove damaged, diseased, poorly formed, and mature hardwood, spruce, and hemlock.

## Volume and Value Estimate

<u>Sawlogs (MBF)</u>	<u>Volume</u>	<u>Stumpage Rate</u>	<u>Value</u>
Hemlock	75	75	\$ 5,625.00
Spruce & Fir	2,184	125	\$ 273,000.00
White Pine	10	215	\$ 2,150.00
Red Maple	75	80	\$ 6,000.00
Red Oak	20	250	\$ 5,000.00
Red Oak Pallet	10	95	\$ 950.00
Sugar Maple	150	225	\$ 33,750.00
Sugar Maple Pallet	75	95	\$ 7,125.00
White Ash	50	100	\$ 5,000.00
White Birch	30	100	\$ 3,000.00
Yellow Birch	100	225	\$ 22,500.00
Hardwood Pallet	100	75	\$ 7,500.00
<u>Pulpwood (Cords)</u>			
Hemlock	375	15	\$ 5,625.00
Spruce & Fir	11,754	20	\$ 235,080.00
Poplar	100	15	\$ 1,500.00
Hardwood	16,077	15	\$ 241,155.00
Total Value:			\$ 854,960.00

The estimated volumes and values shown are the result of a visual estimate only. They are not the result of a formal timber cruise and are subject to more error than a formal timber cruise. Volumes and values should be used for general planning purposes only. MBF stands for thousand board feet. The volumes shown are gross volumes for the operable portion of the property. The entire volume could not be cut in a short time period due to regulatory constraints.



## **Recommendations:**

The boundaries should be cleared, blazed, and painted on a regular basis so their location remains obvious. Existing blazed and painted boundaries should be re-painted within the next ten years. This can be done by scheduling a specific distance each year until the boundary work is completed. The boundary lines cover approximately 9 miles. The height of land boundary on the northerly portion of the lot would be the lowest priority as most of the boundary is on inoperable slopes. Areas near scheduled timber harvests could be done most efficiently.

The Newry portion of the Bethel Water District land is impacted by language in the 1925 Bingham deed that puts limitations on timber harvesting income. The Trustees of the Bethel Water District are exploring the options available to the Water District for managing income from timber harvests. Once the appropriate path is determined the size and income from the recommended timber harvests will be refined to meet the income criteria.

Stand B should be harvested to remove mature, diseased, and poorly formed trees of all species. Hardwood pulpwood and sawlogs will be the majority of the volume harvested. The truck road to access Stand B and adjacent stands south of Chapman Brook will require considerable work to carry logging trucks. A series of harvests covering 75 to 100 acres would allow the truck road to be improved in stages to avoid a large road cost in a short time period.

Stands C, D, and E should be harvested to remove mature, diseased, and poorly formed trees of all species. Spruce and fir pulpwood and sawlogs will be the majority of the volume harvested. The harvests in Stands C and D and the portion of Stand E south of Chapman Brook should be scheduled in coordination with the harvests in Stand B to make the most efficient use of the truck road as it is improved. Due to the large acreage involved in these stands and the need to leave windfirm residual stands, a series of small patch or irregular strip cuts should be located in the stands to reduce the danger of blowdown and manage the visual impact.

The portion of Stand E north of Chapman Brook should be harvested in the same manner as the portion south of Chapman Brook. The winter road north of the brook will be used to access this portion of the stand. At least two streams will need to be bridged to access the westerly portion of the stand. These will be temporary bridges for logging equipment only. One permanent bridge on the truck road will need to be re-decked before it can be used by heavy trucks. The steel frame of the bridge is in good condition.

Stand F should be thinned in ten to fifteen years. A more detailed prescription should be developed as the thinning approaches. Harvesting in Stand F prior to that time would only be needed if a salvage situation should arise.

## **Recommendations (continued):**

Stand G should be harvested with the same prescription as Stand E. Harvesting in Stand G can be combined with harvesting in Stand E for more efficient use of the winter road.

Stand H should be thinned in ten to fifteen years. A more detailed prescription should be developed as the thinning approaches. Harvesting in Stand H prior to that time would only be needed if a salvage situation should arise.

The easterly portion of Stand I should be harvested to remove damaged, diseased, poorly formed, and mature hardwood, spruce, and hemlock. One stream will need to be bridged to access this portion of Stand I. A temporary bridge will be used for logging equipment. The existing landing and truck road will be used for truck access. The remainder of Stand I should be thinned in ten to fifteen years.

The recommended timber harvests should be marked and overseen by a Licensed Professional Forester to insure the owner's interests are protected and timber harvesting laws are followed.

The truck roads on the Bethel Water District property access some steep topography. A regular schedule of road inspection is recommended to make sure that culverts remain open and waterbars remain effective.

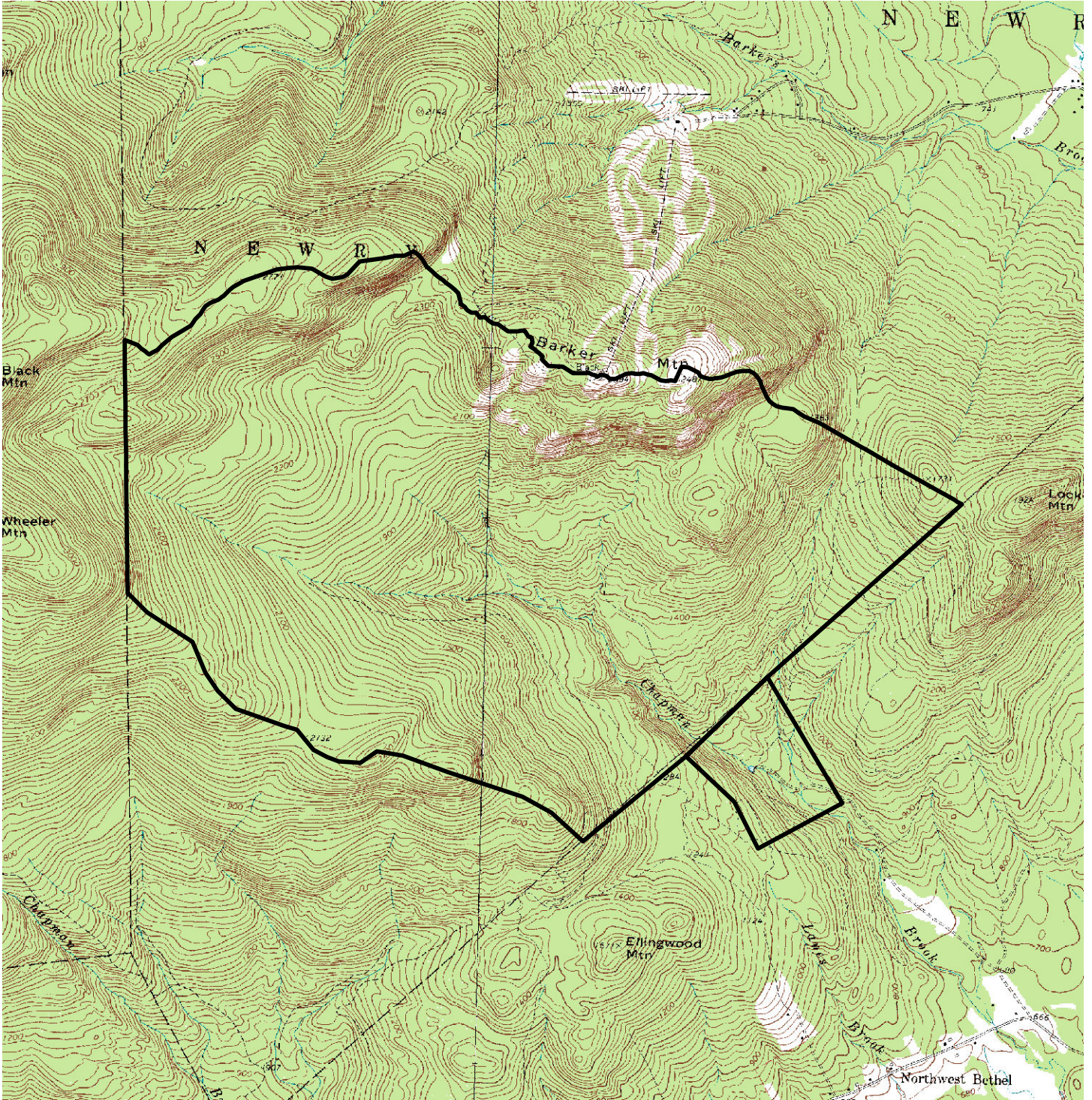
The existing truck roads and skid trails can be easily opened to the public for hiking trails. A loop trail could be developed using the existing roads by establishing two crossing sites of Chapman Brook. One crossing could be done below the reservoir where the brook is shallower. A section of trail would have to be established to connect with the truck road south of Chapman Brook. This truck road and one fork can be followed to the central portion of the lot where another brook crossing would be necessary along with another short section of trail to connect with the truck road system north of Chapman Brook. The assistance of an organized trails club could make this process easier.

Establishing a snowmobile trail along the same path would be a longer term project as two snowmobile bridges would be required to cross Chapman Brook as well as a connector trail to existing snowmobile trails east of the Water District property. An agreement with the local snowmobile clubs could include some culvert and waterbar maintenance on Water District roads by the snowmobile clubs.

These recommendations recognize that markets and conditions change constantly. This will affect the potential timing and execution of the above recommendations.



Bethel Water District  
Bethel & Newry, Maine  
Bethel & Gilead Quadrangles



Prepared by:  
New England Forestry Consultants, Inc  
Sherman R. Small, Consulting Forester  
Maine License # LF655  
July 14, 2009

Sketch map for management and planning purposes only, NOT A LEGAL SURVEY  
Data obtained from Maine Office of GIS & New England Forestry Consultants, Inc.



Bethel Water District  
Bethel & Newry, Maine  
2003 Aerial Photo



2,640 1,320 0 2,640 5,280 Feet

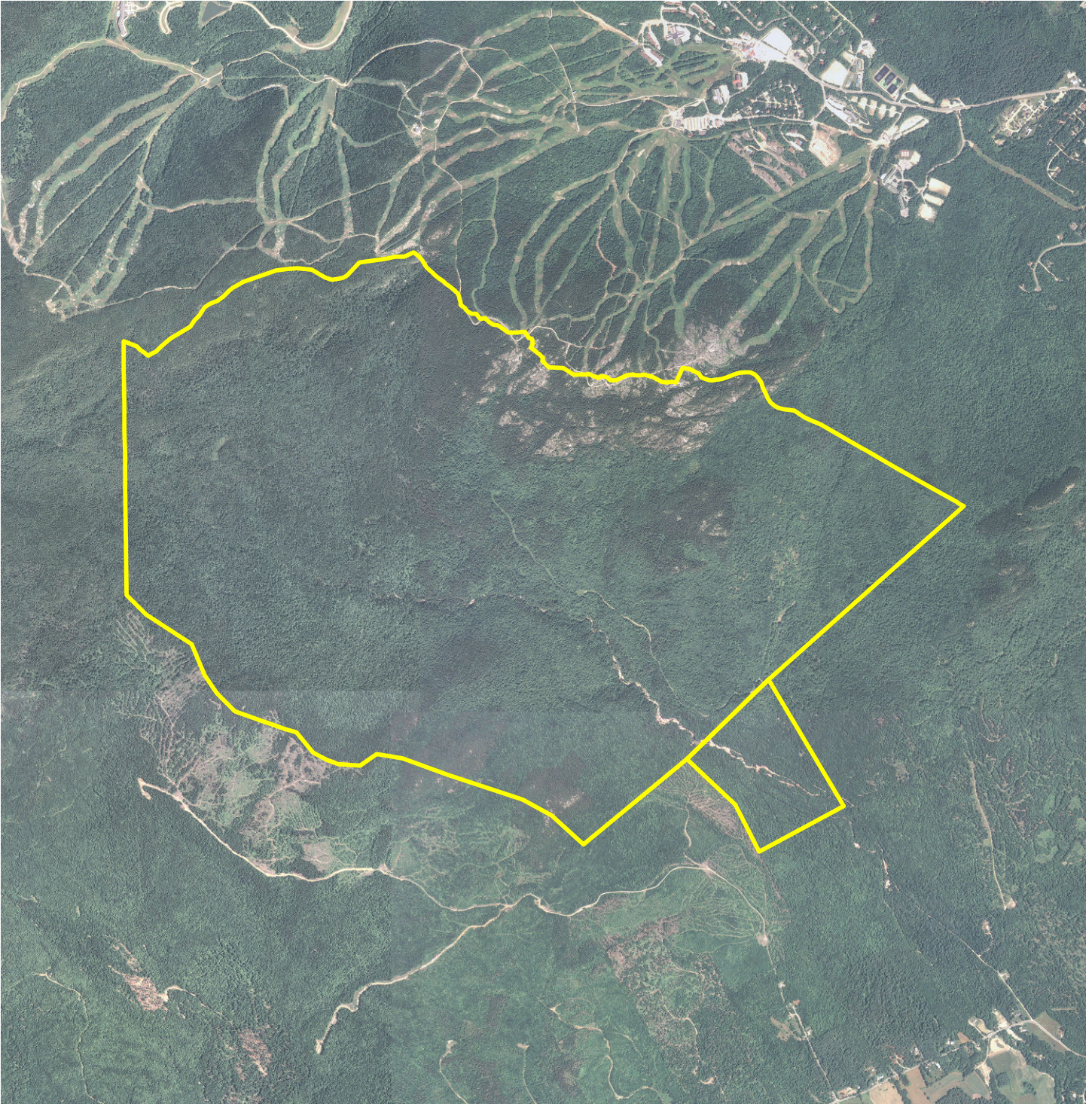


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Bethel Water District  
Bethel & Newry, Maine  
2007 Aerial Photo



2,640 1,320 0 2,640 5,280 Feet

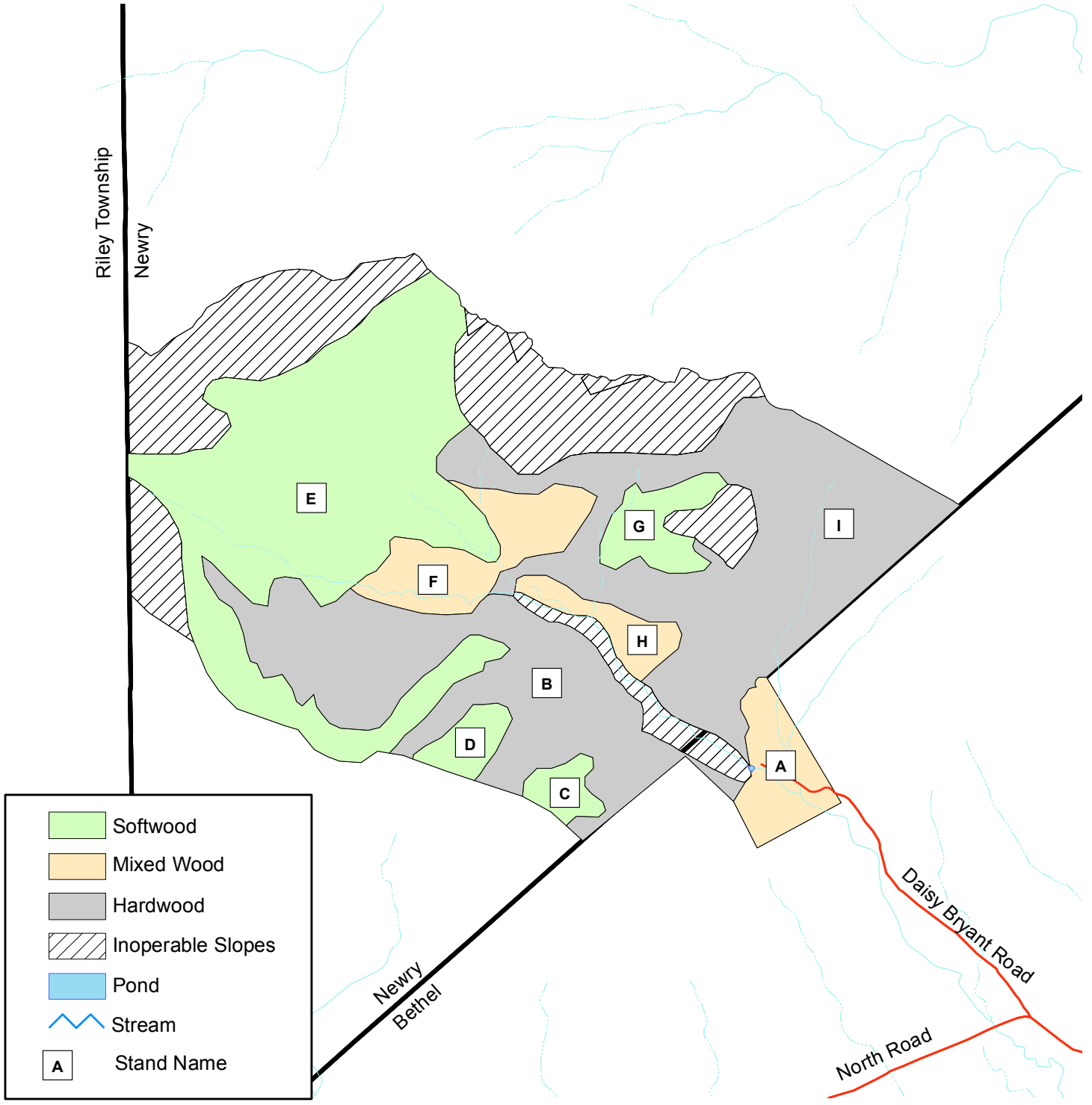


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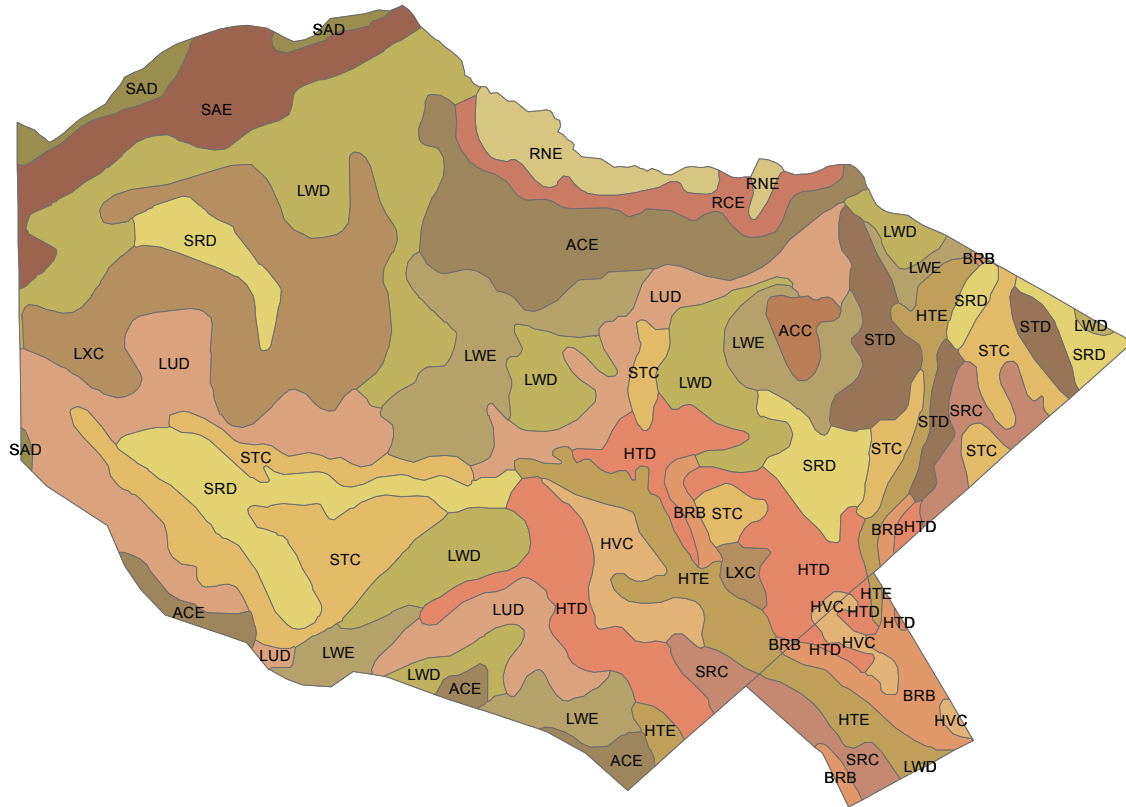
# Bethel Water District Bethel & Newry, Maine Forest Stands Map



Prepared by:  
New England Forestry Consultants, Inc  
Sherman R. Small, Consulting Forester  
Maine License # LF655  
July 14, 2009

Sketch map for management and planning purposes only, NOT A LEGAL SURVEY  
Data obtained from Maine Office of GIS & New England Forestry Consultants, Inc.

# Bethel Water District Bethel & Newry, Maine Soils Map



- ACC Abram-Rock outcrop-Lyman complex, rolling
- ACE Abram-Rock outcrop-Lyman complex, very hilly
- BRB Brayton-Peacham complex, gently sloping, very stony
- HTD Hermon & Monadnock soils, moderately steep, very stony
- HTE Hermon & Monadnock soils, steep, very stony
- HVC Hermon-Skerry association, strongly sloping, very stony
- LUD Lyman-Turnbridge-Becket complex, hilly, very stony
- LWD Lyman-Turnbridge-Monadnock complex, hilly, very stony
- LWE Lyman-Turnbridge-Monadnock complex, very hilly, very stony

- LXC Lyman-Turnbridge-Skerry complex, rolling, very stony
- RCE Ricker-Saddleback-Rock outcrop complex, very hilly
- RNE Rock outcrop-Ricker complex, very hilly
- SAD Saddleback-Ricker complex, moderately steep
- SAE Saddleback-Ricker complex, steep
- SRC Skerry-Becket association, strongly sloping, very stony
- SRD Skerry-Becket association, moderately steep, very stony
- STC Skerry-Colonel association, strongly sloping, very stony
- STD Skerry-Colonel association, moderately steep, very stony



Prepared by:  
New England Forestry Consultants, Inc  
Sherman R. Small, Consulting Forester  
Maine License # LF655  
July 14, 2009

Sketch map for management and planning purposes only, NOT A LEGAL SURVEY  
Data obtained from Maine Office of GIS & New England Forestry Consultants, Inc.

**Soils Map Legend**  
**Woodland Characteristics**  
**Property of Bethel Water District, Bethel & Newry, Oxford County, Maine**

Characteristic	Soil Symbols																		
	ACC	ACE	BRB	HTD	HTE	HVC	LUD	LUE	LWD	LWE	LXC	RCE	RNE	SAD	SAE	SRC	SRD	STC	STD
Erosion Hazard	slight	severe	slight	moderate	severe	slight	moderate	severe	moderate	severe	slight	severe	severe	moderate	severe	slight	moderate	slight	moderate
Equipment Limitation	slight	severe	severe	moderate	severe	slight	moderate	severe	moderate	severe	slight	severe	severe	moderate	severe	slight	moderate	slight	moderate
Seedling Mortality	severe	severe	moderate	moderate	moderate	moderate	moderate	moderate	moderate	moderate	moderate	severe	severe	moderate	moderate	slight	slight	slight	slight
Windthrow Hazard	severe	severe	severe	slight	slight	slight	severe	severe	severe	severe	severe	severe	severe	severe	severe	moderate	moderate	moderate	moderate
Drainage *1	ed	ed	pd	wd	wd	sed	sed	sed	sed	sed	sed	wd	ed	wd	wd	mwd	mwd	mwd	mwd
Common Tree	red spruce	red spruce	red maple	sugar maple	red spruce	sugar maple	white pine	red spruce	red spruce	red spruce	red spruce	balsam fir	red spruce	red spruce	red spruce	sugar maple	sugar maple	sugar maple	sugar maple
Site Index *2	34	34	65	55	46	55	58	40	40	40	40	20	20	35	35	60	60	60	60

\*1 Drainage abbreviations:  
ed: excessively drained  
mwd: moderately well drained  
pd: poorly drained  
sed: somewhat excessively drained  
spd: somewhat poorly drained  
vpd: very poorly drained  
wd: well drained

\*2 Site Index: "a designation of the quality of a forest site based on the height of the dominant stand at an arbitrarily chosen age. For example, if the average height attained by dominant and codominant trees in a fully stocked stand at the age of 50 years is 75 feet, the site index is 75 feet."

**REFERENCE: Soil Survey of Oxford County Area, Maine - issued March 1995**  
**USDA, Soil Conservation Service**



## Bethel Water District Property

Chapman Brook Watershed, Newry  
Site Visit, October 6, 2009

Andy Cutko, Ecologist, Maine Natural Areas Program

### ***Background:***

The property is owned by the Bethel Water District, and the state of Maine retains a legal interest. (Adjacent lands owned by the District in Bethel are not encumbered by a state legal interest.) A forest management plan developed in July 2009 describes the overall forest conditions of the property, including timber stocking and financial value estimates. The primary intent of the October one-day field reconnaissance was to determine if the property contains natural features (i.e., rare or exemplary natural communities) that might merit special consideration in forest management.

### ***Summary:***

Based on a review of air photos, significant portions of the eastern half of the property have been harvested within the last few decades. Consequently, the October site visit focused on the interior western half of the property (see attached map), which supports mature forest. The far northwestern portion of the property was not visited.

No rare or exemplary natural communities were identified. All of the stands visited were either harvested at various times during the 1900s or burned within the last 150 years. Some areas contain scattered individual old *trees* (>150 years old) that could be considered for retention in management planning. However, I did not encounter intact old growth or late-successional *stands* worthy of set aside from timber harvest. Limited or negligible past forest management in streamshore zones, coupled with their high value as trout habitat, suggest that riparian areas are a key ecological feature of the property.

### ***Site Description:***

The 2,358-acre tract encompasses nearly the entire upper watershed of Chapman Brook. The property is bounded by Barker Mountain and the ridgelines of Black Mountain and Locke Mountain to the north. The steep upper slopes of Barker Mountain are sparsely wooded, with open ledges and exposure to high winds and snow/ice storms.

The forest on the western half of the property is ecologically and silviculturally mature. Basal area generally exceeds 110 ft<sup>2</sup>/acre in



*South-facing ledges of Barker Mountain*

softwood stands and 80 ft<sup>2</sup>/acre in the hardwood stands, with considerable stocking in the pole and small sawtimber (10"-15") diameter classes. Nonetheless, old logging roads were encountered on both sides of Chapman Brook, and most of the area has been harvested in the past. Widely scattered stumps suggest single, and in some cases multiple, harvest entries in the mid to late 1900s.

Some stands that were cut long ago (40 + years) now contain scattered large old trees. The oldest red spruces encountered were 178 years old (18 inches diameter), 175 years old (19 inches), 158 years old (19 inches), and 142 years old (21 inches). Hardwood stands feature sparsely scattered large yellow birch and sugar maple trees, with cored trees ranging from 80 to 100 years old. These large old trees were the exception rather than the rule, and no stands visited would score high on Manonet's 'late successional index' (a measure of old growth characteristics). Moreover, no stands exhibited the volume or distribution of large downed logs that is representative of old growth stands.



*Cut stump from old winter harvest*

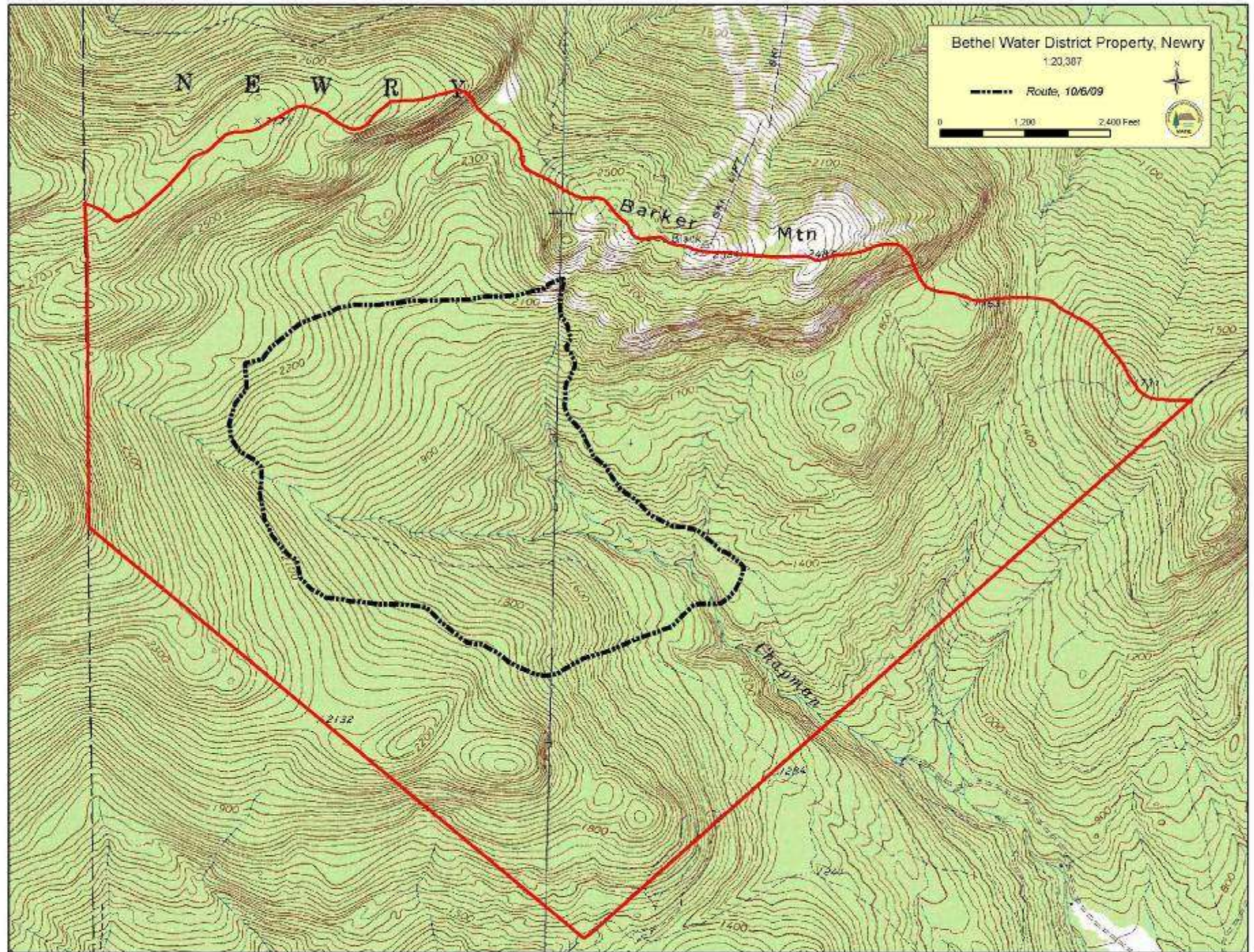
Some softwood stands in the northern portion of the property – particularly around the steep slopes of Barker Mountain – showed no signs of past harvesting. However, charcoal chunks in the soil of these stands and the presence of old, decaying paper birch trees indicate that these slopes burned within the last 150 years. Spruce trees in these stands appeared to be roughly even-aged, with cored trees ranging from 108 to 128 years old.

There are many smaller tributaries to Chapman Brook, including both mapped and unmapped streams. Recent harvesting appears to have sufficiently avoided the streamshores. As a result, aside from the 2007 flood-induced disturbance to Chapman Brook itself, the riparian zones within the watershed appear to be intact. Given their good condition and source of habitat for wild brook trout and rainbow trout (according to an IFW biologist), the riparian areas are a key ecological feature of the property. IFW has not mapped any Deer Wintering Areas within the subject parcel.



*Unnamed tributary to Chapman Brook*







COPY

**AMENDMENT TO LEASE AGREEMENT**

**THIS AMENDMENT** (the "Amendment"), made effective as of the 1st day of August, 2009, by and between the **BETHEL WATER DISTRICT**, a public utility organized under Chapter 48 of the Private and Special Laws of the State of Maine ("Lessor"), and **CNL INCOME SUNDAY RIVER, LLC**, a Delaware limited liability company, with a mailing address of 450 South Orange Avenue, 12<sup>th</sup> Floor, Orlando, FL 32801 ("Lessee").

**WITNESSETH:**

**WHEREAS**, Lessor, as lessor, and Sunday River Skiway Corporation, a Maine corporation ("SRSC"), as tenant, entered into that certain lease agreement dated October 26, 2004, and recorded at the Oxford County Registry of Deeds at Book 3615, Page 302 (the "Lease"); and

**WHEREAS**, SRSC assigned its rights under the Lease to Lessee via that certain Assignment and Assumption of Ground Leases dated August 7, 2007, and recorded at the Oxford County Registry of Deeds at Book 4175, Page 241; and

**WHEREAS**, Lessee, as landlord, entered into that certain Lease Agreement with SRSC, as tenant, dated August 7, 2007, a memorandum of which was recorded at the Oxford County Registry of Deeds at Book 4175, Page 307; and

**WHEREAS**, Lessor and Lessee now desire to modify the terms of the Lease as hereinafter set forth;

**NOW THEREFORE**, in consideration for the mutual promises herein contained, Lessor and Lessee agree as follows:

1. **Recitals/Use of Terms**: The recitals set forth above are true and correct and are incorporated herein by this reference. Unless otherwise set forth herein, all capitalized terms utilized herein shall have the same meanings as set forth in the Lease.
2. **Term**: The term of the Lease shall be extended by an additional nineteen (19) years, commencing as of noon on August 1, 2009 and expiring at noon on August 1, 2028, unless sooner terminated pursuant to any provision of the Lease.
3. **Rent**: For each year of the term commencing on August 1, 2009, Lessee shall pay Lessor rent in the amount of FIVE THOUSAND AND 00/100 DOLLARS (\$5,000.00), with an annual 5% non-compounded increase, to be payable yearly in advance, with a final rent rate of NINE THOUSAND FIVE HUNDRED DOLLARS (\$9,500.00) for year nineteen (19). The yearly rent schedule is more particularly described in Exhibit "A" attached hereto and by this reference incorporated herein.
4. **Modification of Leasehold Property**: The leasehold property as described in Section 1 of the Lease (the "Lease Property") and more particularly described in Exhibit "B" attached



hereto and by this reference incorporated herein, shall be reduced from the approximately 200 acres provided by the Lease to a parcel approximately 20 acres in area more particularly described in Exhibit "C" attached hereto and by this reference incorporated herein (the "Amendment Property").

**5. Default: Landlord's Rights of Termination:** Landlord may terminate this Lease if the Tenant shall neglect or fail to perform or observe any of its obligations herein previously set out, for a period of fifteen (15) days after notice in writing from the Landlord in respect to the nature of the default. Landlord may terminate this lease if the Tenant shall be adjudicated a bankrupt or insolvent according to law and no appeal shall be taken from such finding by the Tenant, or if such appeal shall be taken and prosecuted diligently or if the Tenant shall make an assignment of its property for the benefit of creditors, or if a receiver, trustee, or similar officer shall be appointed to take charge of all or any portion of the Tenant's property and it is not removed within sixty (60) days, or if the Tenant shall file a petition under any bankruptcy law, and the same shall not be dismissed within sixty (60) days, then and in any of said cases (notwithstanding any license of any former breach of covenant or waiver of the benefit thereof or consent in a former instance). Landlord may lawfully, immediately after the expiration of any of the aforesaid notice periods or at any time after, and without further demand or notice, enter into and upon the said Premises or any party thereof in the name of the whole and repossess the same as of its former estate and expel the Tenant and those claiming by, through, or under it and remove its effects.

**6. Use Restriction:** Tenant's use of the Amendment Property for ski area activities shall not be deemed to include maintaining on the Amendment Property any building on the Amendment Property other than buildings used for the purpose of operating ski lifts. This restriction is intended to prohibit residential buildings, restaurants, bars and the like.

**7. Ratification:** Lessor and Lessee hereby ratify and confirm the continuing effect and validity of the Lease, as amended by this Amendment to Lease Agreement.

**8. Legal Fees:** Lessee shall pay all of Lessor's legal fees reasonably arising from and in conjunction with the execution of this Amendment.


**9. Effect of Amendment:** Except as amended and modified hereby, the Lease shall remain in full force and effect in accordance with its terms.

**10. Execution/Counterparts:** This Amendment may be executed in any number of counterparts, each of which shall be deemed to be an original as to any party whose signature appears hereon, and all of which shall constitute one in the same instrument. This Amendment shall become binding when one or more counterparts hereof, individually or taken together, shall bear the signatures of Lessor and Lessee. Each of the parties hereto have the right to rely on a fax signature from the other party, the same as having received an original counterpart.

**IN WITNESS WHEREOF**, the parties hereto have executed this Amendment as of the date first written above.

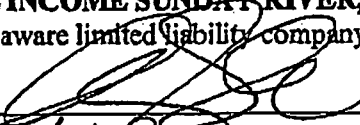
**LESSOR:**

**BETHEL WATER DISTRICT,**  
a public utility organized under Chapter 48 of the  
Private and Special Laws of the State of Maine

By:   
Name: BRENT ANGEVINE  
Title: CHAIR

**LESSEE:**

**CNL INCOME SUNDAY RIVER, LLC,**  
a Delaware limited liability company

By:   
Name: AMY SENELET  
Title: SVR

ACKNOWLEDGEMENT

STATE OF MAINE  
COUNTY OF OXFORD

The foregoing instrument was acknowledged before me this 24 day of November 2009, by Brent Angevine as Chair of the **BETHEL WATER DISTRICT**, a public utility organized under Chapter 48 of the Private and Special Laws of the State of Maine, on behalf of the corporation. He/She is personally known to me or has produced \_\_\_\_\_ as identification.

(NOTARY SEAL)

Notary Public Signature Jeri B. Greenwell  
Jeri B. Greenwell  
(Name typed, printed or stamped)  
Notary Public, State of Maine  
Commission No.: \_\_\_\_\_

My Commission Expires: 9/21/2013

STATE OF FLORIDA  
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this 15 day of ~~November~~ <sup>December</sup> 2009, by Quyn Sinelli as Sr. Vice President of **CNL INCOME SUNDAY RIVER, LLC**, a Delaware limited liability company. He/She is personally known to me ~~or has produced~~ \_\_\_\_\_ as identification.

(NOTARY SEAL)

Notary Public Signature  
S. Quinones  
(Name typed, printed or stamped)  
Notary Public, State of Florida  
Commission No.: \_\_\_\_\_

My Commission Expires: July 6, 2012



**EXHIBIT "A"**

**YEARLY RENT SCHEDULE**

<b>Year</b>	<b>Rent</b>
1	\$5,000.00
2	\$5,250.00
3	\$5,500.00
4	\$5,750.00
5	\$6,000.00
6	\$6,250.00
7	\$6,500.00
8	\$6,750.00
9	\$7,000.00
10	\$7,250.00
11	\$7,500.00
12	\$7,750.00
13	\$8,000.00
14	\$8,250.00
15	\$8,500.00
16	\$8,750.00
17	\$9,000.00
18	\$9,250.00
19	\$9,500.00



**EXHIBIT "B"**

**DESCRIPTION OF THE LEASE PROPERTY**

EXHIBIT B

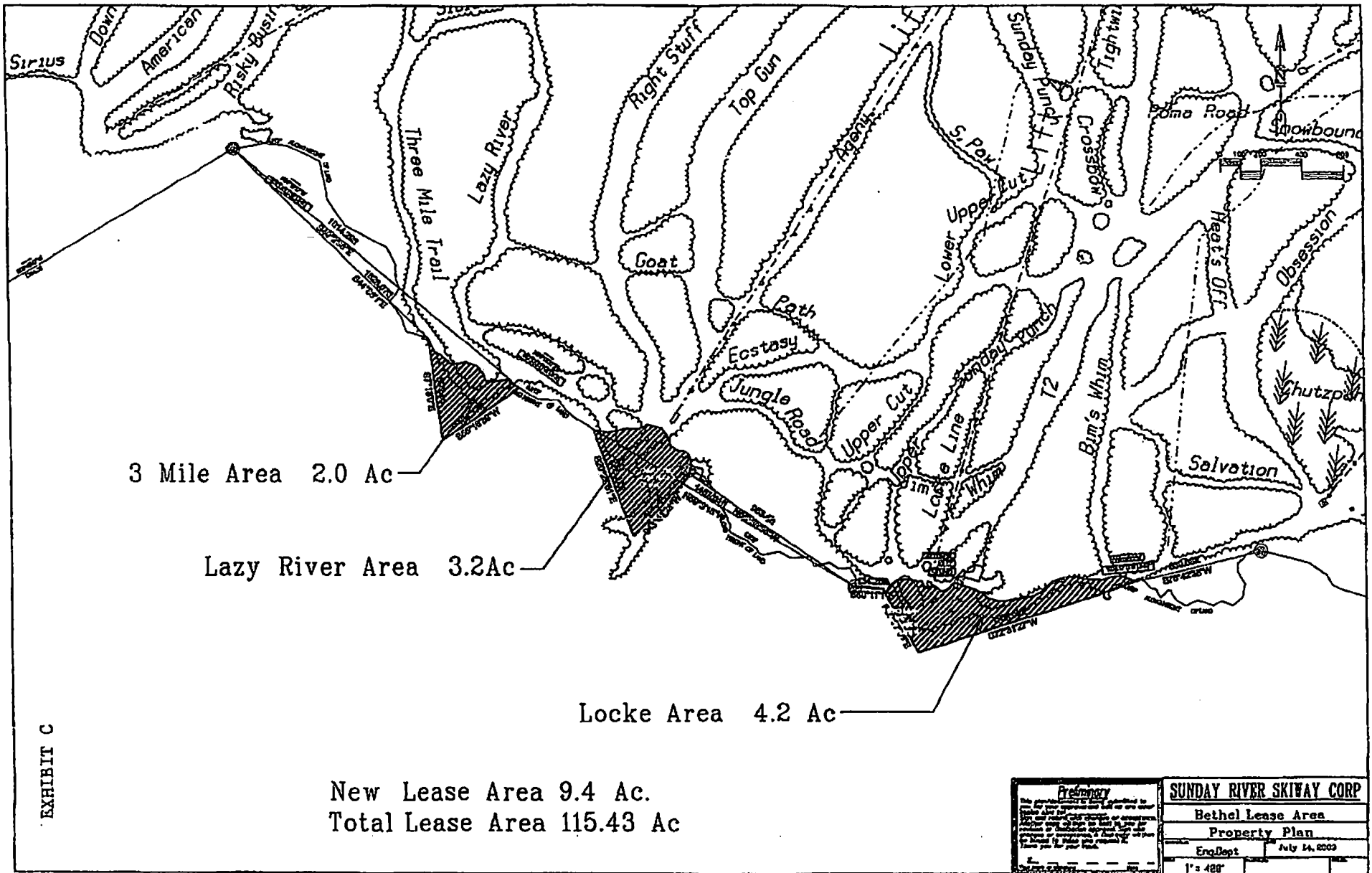
A strip of land three hundred (300) feet in width, near the top of Barker Mountain, so-called, in the town of Newry, County of Oxford, and State of Maine, said parcel to be three hundred (300) feet in width along the height of land which separates land of the Lessor and land of CNL Income Sunday River, LLC, a Delaware limited liability company, PEN-EM, Inc., a Maine corporation and Mega Mountain, Inc., a Maine corporation, being the same premises leased by the Bethel Water District to Sunday River Skiway Corporation herein by a Lease dated October 26<sup>th</sup>, 2004 and recorded in the Oxford County Registry of Deeds in Book 16603, page 302;

Also so much of the property owned by the Lessor, but now being used by the Lessee, located in said Newry for Lessee's ski area activities.

**EXHIBIT "C"**

DESCRIPTION OF THE AMENDMENT PROPERTY

[TO BE ADDED]



3 Mile Area 2.0 Ac

Lazy River Area 3.2Ac

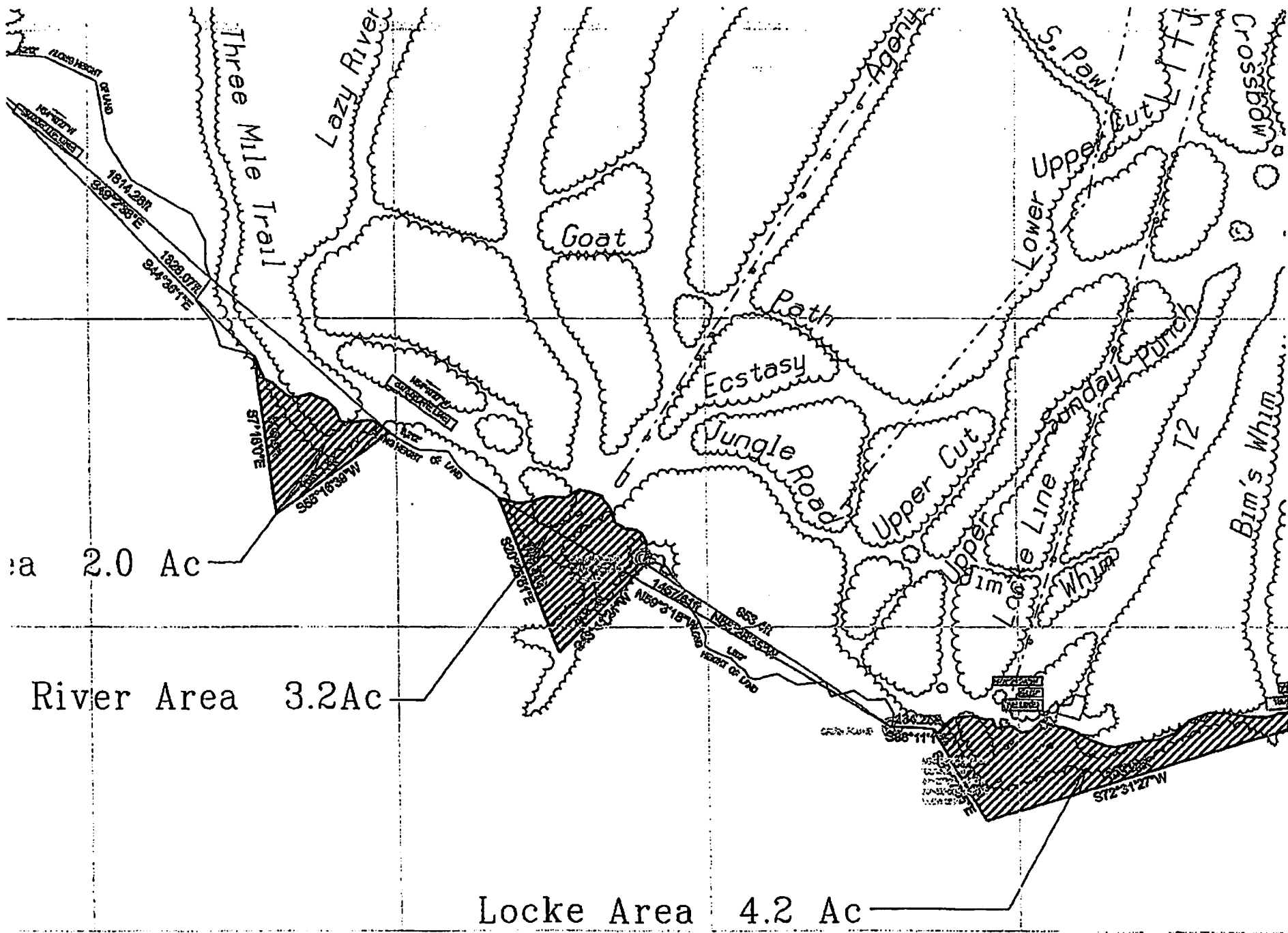
Locke Area 4.2 Ac

New Lease Area 9.4 Ac.  
 Total Lease Area 115.43 Ac

<p><b>Preliminary</b></p> <p><small>This map is a preliminary map and is not intended to be used for legal purposes. It is subject to change without notice. The State of Alaska Department of Natural Resources reserves the right to modify or cancel this map at any time.</small></p>	<b>SUNDAY RIVER SKIWAY CORP</b>	
	Bethel Lease Area	
	Property Plan	
	Eng/Dept	July 14, 2003
1" = 400'		

EXHIBIT C





STATE OF MAINE

OXFORD, ss.

**AFFIDAVIT OF CHRISTEN MASON  
REGARDING TOWN OF BETHEL RECORDS**

I, Christen Mason, being first duly sworn, hereby depose and say on oath as follows:

1. My name is Christen Mason. The statements in this affidavit are made upon my personal knowledge.
2. I am the Town Clerk for the Town of Bethel, Maine.
3. The Town of Bethel is a party to a Consent Order dated January 12, 2011 (Oxford Superior Court Docket No. CV-11-04) between the State of Maine Attorney General and the Bethel Water District regarding the Town of Bethel becoming the trustee to oversee the use of the Bingham Land (as defined in the Consent Order) as an emergency water supply and as a preserve, sanctuary, park or forest reserve. The Bingham Land was acquired by the Bethel Water District by trust deed recorded in the Oxford County Registry of Deeds at Book 366, Page 453.
4. Pursuant to the Consent Order, the Town of Bethel was to ratify the Consent Order at its June 2011 town meeting, notify the Court of the ratification, and record the Consent Order in the Oxford County Registry of Deeds with proof of ratification.
5. In my capacity as Town Clerk, I am familiar with the Town's action at the June 2011 town meeting; specifically, on June 15, 2011, the Town of Bethel voted to approve the following article as written:

ARTICLE 3:

Shall the Town vote to approve a Consent Agreement entered into with the Maine State Attorney General's Office transferring the ownership of the so called Bingham Land from the Bethel Water District to the Town of Bethel with certain restrictions.


6. I have attached the Consent Order to this Affidavit as Exhibit A.

  
Christen Mason

STATE OF MAINE  
COUNTY OF OXFORD, ss.

Sept.  
October 29, 2011

PERSONALLY APPEARED the above-named Christen Mason and made oath that the foregoing statements made by her are true based upon her own personal knowledge.

  
Notary Public/Attorney at Law my commission expires:  
Keisty S. Aguilar 4/16/15

Selectmen Meeting Minutes  
Monday, August 15, 2011  
7:00PM, Selectmen Meeting Room

FULL DISCUSSION OF SUBJECT MATTER ON TAPE

Selectmen Present: Stan Howe, Robert Everett, Don Bennett, Pat Carter, and Lloyd Sweetser

Staff Present: Manager Doar, Clerk Mason, Public Works Director Sumner, and Treatment Plant Superintendent Gundersen

Others Present: Chris Garner, Jarrod & Paige Crockett, Donald G. Bennett, Jackie Cressy, Bob Chadbourne, Allison Aloisio, Thomas Custeau, and Steve Wight

Robert Everett moved, Don Bennett seconded to approve the minutes from the July 11, 2011 meeting. All were in favor.

Chairman Howe opened a public hearing on the Victualer License renewal for Hot Taco. No comments were heard from the public in attendance or from the board. Don Bennett moved, Robert Everett seconded to approve the Victualer License renewal for Hot Taco. All were in favor.

Pat Carter moved, Lloyd Sweetser seconded to appoint the following people to the Natural Gas Feasibility Ad Hoc Committee: Chris Garner, Jack Cressy, Joe Hollowell, Tim Borhardt, Bill Straus, Dennis Doyon, Dana Bullen, Scott Hynek, and Mike Steven. All were in favor.

Robert Everett moved, Pat Carter seconded to approve concealed weapon permits for Roiann Twitchell, Stuart Twitchell, and Joshua Mowery. All were in favor.

The board discussed an additional application received from Francis Dumont that was missing some information. Pat Carter moved, Don Bennett seconded to require Mr. Dumont to take an approved handgun safety course. Stan Howe, Robert Everett, Pat Carter, and Lloyd Sweetser were in favor. Don Bennett was opposed.

Don Bennett moved, Robert Everett seconded to waive the bidding process for the procurement of Winter Sand and to contract with Verrill & Tibbetts for the purchase of winter sand at \$7.00 per yard. All were in favor.

The board discussed the paving bids received, and the town's bid specs in regards to the base index pricing for liquid asphalt. Manager Doar read a letter to the board from Pike Industries, Inc. regarding the index pricing and the fact that the low bidder did not use the same index pricing that the other two bidders used. The towns current bid specs do not state what price index should be used. Robert Everett moved, Pat Carter seconded to award the 2011 Town of Bethel Paving Bid to Bruce A. Manzer for their warm mix bid. All were in favor.

Manager Doar discussed the capital plan with the Board in regards to paving. Different alternatives were discussed. The first warm mix alternative included 2500' of pavement up Paradise Rd. and shim on Spring Street. The second warm mix alternative did not include the shim on Spring Street and only included paving of 2000' of Paradise Rd. Don Bennett moved, Robert Everett seconded to go with the second warm mix alternative. All were in favor.

Manager Doar inquired from the Board if there were any objections to swapping the paving on Vernon St. for the Gore Rd. because the Vernon St. construction would not be done until next year. The Gore Rd. is in the Capital Plan to be paved next year. The board agreed to swap the paving on Vernon St. for the Gore Rd.

Don Bennett moved, Robert Everett seconded to approve the Fiscal Year 2012 Airport Budget as presented. All were in favor.

The board discussed the Fiscal Year 2012 Sewer Budget, it was agreed that a special workshop meeting would be needed to review the presented budget. The board agreed to schedule a special workshop meeting for June 22, 2011 at 7:00PM.

The board discussed the baseline study for the Bingham Land. Pat Carter moved, Don Bennett seconded to charge the Conservation Commission with the following: 1) Have the Conservation Commission make written recommendations to the Board for what should be included in the Baseline Study, and 2) Have the Conservation Commission serve as the facilitators to gather ideas about what the Town would like to see the land used for. All were in favor.

Pat Carter moved, Lloyd Sweetser seconded to contract with Responsible Pet Care for Stray Dogs. All were in favor.

The board discussed the tax acquired property on Balsam Rd. The Town placed the property out to bid and the successful bidder had thirty days to finalize the purchase of the property. The thirty days have expired without the purchase being finalized. Don Bennett moved, Pat Carter seconded to authorize the bidder an additional thirty days to finalize the purchase of the property. All were in favor.



Don Bennett moved, Lloyd Sweetser seconded to sign and authorize Manager Doar to send a letter to Mr. Rick Savage of Savage Land Development, LLC. Mr. Savage recently contacted each board member individually with various allegations regarding the conduct of town business, the board is requesting Mr. Savage submit his allegations in writing so that the board may answer his concerns. All were in favor.

The board reviewed the correspondence received from Oxford County regarding their annual budget committee caucus meeting. The meeting is scheduled for Wednesday, August 31, 2011 in Lovell. The board agreed that Selectmen Everett would attend the meeting.

Don Bennett moved, Robert Everett seconded to write off uncollected Ambulance revenue in the amount of \$85,727.92. All were in favor.

The board signed a Quit Claim Deed for the Albert Raymond property on the Intervale Rd.

The board reviewed the FY12 Town Financials.

Don Bennett moved, Robert Everett seconded to approve and sign warrants numbered 2012-02,03,04,05, and 06. Journals number 2012-034 and 57. All were in favor.

Don Bennett moved, Pat Carter seconded to postpone the executive session to discuss a personnel matter with the Town Manager until the August 22, 2011 meeting. All were in favor.

Robert Everett moved, Don Bennett seconded to adjourn the meeting. All were in favor.

The meeting adjourned at 9:18PM.

Respectfully Submitted:

Christen Mason  
Town Clerk

Selectmen Meeting Minutes  
Monday, October 17, 2011  
7:00PM, Selectmen Meeting Room

FULL DISCUSSION OF SUBJECT MATTER ON TAPE

Selectmen Present: Stan Howe, Robert Everett, Don Bennett, Pat Carter, and Lloyd Sweetser.

Staff Present: Manager Doar, Clerk Mason, Public Works Director Sumner, Treatment Plant Superintendent Gundersen, and Animal Control Officer Milligan.

Others Present: Jackie Cressy, Jessie Perkins, Landon Fake, Don Bennett, Jeff Parsons, Sue & Mike O'Donnell, Jackie Schuesler, Kathy Jo Farren, and Jeanne Boelsma.

Don Bennett moved, Robert Everett seconded to approve the minutes of the September 12, 2011 meeting. All were in favor.

Chairman Howe opened a public hearing on the proposed rate increase on Sewer Accounts. No comments were heard from the public in attendance. Manager Doar read two comments that were submitted via email. Both comments were against the proposed increase. Don Bennett moved, Lloyd Sweetser seconded to set the new sewer rate at \$121.35 per quarter for the minimum usage of 1500 cubic feet or under, and \$8.09 per cubic foot over the minimum. All were in favor.

Chairman Howe opened a public hearing on the Liquor License renewals for Pat's Pizza and Jolly Drayman. No comments were heard from the board or the public in attendance. Don Bennett moved, Robert Everett seconded to approve and sign the Liquor License renewals for Pat's Pizza and the Jolly Drayman. All were in favor.

Chairman Howe opened a public hearing on the Victualer License renewal for Isabella's Sticky Buns. No comments were heard from the board or the public in attendance. Pat Carter moved, Don Bennett seconded to approve the Victualer License renewal for Isabella's Sticky Buns. All were in favor.

Chairman Howe opened a public hearing on the proposed amendments to the General Assistance Ordinance. No comments were heard from the board or the public in attendance. Don Bennett moved, Lloyd Sweetser seconded to approve and sign the amendments to the General Assistance Ordinance.

The board discussed the current Town policy for stray cats with Animal Control Officer Milligan. As it stands if a stray cat is injured or sick the Animal Control Officer will pick up the cat and take it to a shelter, most commonly Responsible Pet Care. The only problem is that Responsible Pet Care does not always have the room for the cats. Animal Control Officer Milligan would like to see the Town contract with a shelter for stray cats. It was agreed that Animal Control Officer Milligan would contact area shelters to discuss the details of their contracts with them and report back to the board at the next meeting. Pat Carter moved, Don Bennett seconded to authorize the further investigation of the stray cat situation, and have the Animal Control Officer report back to them on her findings at the next meeting. All were in favor.

Jackie Cressy updated the board on the progress of the Natural Gas Committee. The Committee expects to report to the board again at their first meeting in December.

The board reviewed the proposal submitted by the Conservation Commission regarding the process to solicit public input for the use of the Bethel Water District land, and the Commission's recommendation to be included in the Baseline Document. Don Bennett moved, Robert Everett seconded to approve the public input process as outlined by the Conservation Commission and to authorize Manager Doar to hire Sherman Small of New England Forest Consultants to do the Baseline Document. All were in favor.

Manager Doar discussed with the board a request from Karen Brown for sewer abatement on 68 Elm Street. The property is currently receiving two sewer bills, but Ms. Brown would like one abated because the property is currently not occupied. The property was assessed two Sewer System Development Charges, one in 1990 and the other in 1991, and Wastewater Superintendent Gundersen has stated that there are two sewer connections for the building. Robert Everett moved, Lloyd Sweetser seconded to deny Karen Brown's request for sewer abatement on 68 Elm Street. All were in favor.

The Garden Club is requesting the board authorize the placement of a water source near the Skateboard Park, which could be used for a visitor drinking fountain and for the club to attach a hose and water the flowers. The board agreed to discuss this subject with the Budget Committee during the regularly scheduled budget meeting.

Robert Everett moved, Pat Carter seconded to approve a new concealed weapons permit for Neil A. Scanlon and a renewal weapons permit for Michael John Renaud. All were in favor.

Robert Everett moved, Pat Carter seconded to approve and sign a Sewer System Development Charge in the amount of \$859.55 for Pat Blake on 18 Riverside Lane. All were in favor.

Manager Doar reported to the board the success of the Wastewater Treatment Plant compost program, and the plan to start selling the compost.

Don Bennett moved, Robert Everett seconded to approve and sign two Quit Claim Deeds for Penny and Greg Braley. All were in favor.

Manager Doar updated the board on the town financials.

Robert Everett moved, Lloyd Sweetser seconded to approve and sign warrants numbered 2012-11,12,13,14, 15, and Journals numbered 2012-117. All were in favor.

Robert Everett moved, Don Bennett seconded to adjourn the meeting. All were in favor.

Meeting adjourned at 8:45PM.

Respectfully Submitted:

Christen Mason  
Town Clerk



## Report to Selectboard on Bingham Land Public Hearings and Proposal for Next Steps

The Bethel Conservation Commission, 2/13/12

The Bethel Conservation Commission (BCC) hosted two public hearings, December 12, 2011 and January 10, 2012, to collect input on the use of the Bingham Land. The format for both meetings was the same: Introductions; History of the land and Consent Agreement Terms (Landon Fake); Maps and photographs (Sherm Small); Questions and open discussion.

For reference, the Consent Agreement requires:

- The land be managed for
  - **Conservation of scenic and natural resources**
  - **Low impact outdoor recreation**
  - **Wildlife habitat**
  - **Sustainable yield timber harvesting**
  - **Other uses consistent with protection of water quality**
- The Town to create a baseline documentation report (this is currently being done by Sherm Small, managed by Jim Doar).
- The Town to hire a “qualified person” to write a Management Plan (the Plan):
  - The Plan must include an integrated Forest Management Plan
  - The Plan must be adopted and implemented **by January 12, 2013**

There were 22 people at the first hearing and 9 at the second (not including BCC members, Sherm Small, Jim Doar). The participants’ names were recorded and an audio recording of both hearings was made.

Residents in both meetings were generally very eager to have the property developed and used as a recreational area. The most mentioned activities were:

Mountain biking

Hiking

Hunting

XC skiing

Education, community service, job opportunities for local students

(See Appendix for additional suggested uses)

Mountain biking generated the most discussion, both as an activity and as a means to attract tourists in the summer:

- Other towns similar to Bethel have good mountain biking areas; it is becoming more of an expectation among tourists
- This terrain is “ideal,” and it fits well with the “low-impact outdoor recreation” mandate of the Agreement
- Demand is high for new places to bike. Gould’s small network is the only publicly available one and they don’t want to advertise it

- A Sunday River representative supported the idea because it would offer options for less extreme bikers and families and would complement their lift-served, steep terrain; the land could also provide an excellent connection between Sunday River and the village, with biking, hiking, or walking trails
- Several examples of town-owned mountain biking (and walking/hiking) trail operations were mentioned. (See Appendix)
- Several questions were raised and included in the Appendix.

Issues that participants thought should be addressed:

**Access, trail design:**

- Use of the abutting land still held by the BWD. This is the main access and obvious place for parking; planning for other locations for parking, and basic facilities if BWD land is unavailable or unsuitable for necessary facilities
- Some handicapped accessible facilities should be available
- All trail design should be integrated with timber management roads; stream banks may still be unstable
- Certain areas that are unable to be managed for timber should be preserved as possible study/ educational areas. They could be compatible with trails with proper planning and represent a variety of habitats

**Management:**

- Assessment of potential for fishing and address in plan
- The compatibility of some activities and hunting: those present felt that compromises could be worked out to prevent conflicts between hunters and other users
- Who/how can services be administered? Resources would be needed for:
  - Trail design
  - Construction of trails, parking areas, outhouses/restrooms
  - Ongoing maintenance and management
- There are local people/organizations in town that have experience/expertise in this
- Management could be done by a new board or authority representing a variety of interests: users, town officials, BWD board, etc.
- This could be considered a regional asset. Is there a way other towns can contribute?

**Proposed next steps:**

**The BCC proposes to:**

- Research existing management plans and structure and provide models to the Town Manager and Selectboard
- Research qualified people to write the Plan and provide list to Town Manager and Selectboard

- Facilitate meetings to generally map out a preliminary plan that reflects the “purposes” listed in the Agreement and the prevailing interests expressed in the public hearings. The meetings would include the town forester, a representative from the BWD, the BCC, the hospitality business community, the selectboard and town manager. Others, who would be brought in on an as-needed basis are: local hiking, snowmobile and mountain bike trail experts; a Sunday River representative; a hunter who currently hunts the land; representatives from other towns with active community forests and similar resources; an educator from Telstar with insight on educational, volunteer and employment opportunities; another forester. The planning would include:
  - General mapping of current and future management roads to insure efficient harvesting and integration with recreation uses
  - Review a draft of the Forest Management Plan, estimate income stream and timing
  - General area identified for a mountain biking trail network
  - A hunting management plan
  - Assessing the current snowmobile trail and possibility of expanding
  - Identification of set-aside areas, including stream buffers, etc.
  - A general corridor for a hiking trail or loop that ascends to the ridge and a moderate walking trail that accesses scenic parts of the stream, etc.
  - Land access and use worked out with BWD for parking and basic facilities
  - Provision for the addition of other trails, uses in the future
- Update selectboard monthly
- When the plan author is hired, facilitate access to the property, resources and all necessary people
- Present the draft Plan to the Selectboard for review

The BCC is able to manage the process of getting a Management Plan written and make recommendations, but the long-term management of this resource seems beyond its scope.

**The Selectboard and Town Manager will, as part of the proposal:**

- Approve and hire the person to write the Plan (there is \$15,000 in the town budget for this, which can be reimbursed from the first timber harvest)
- Approve a permanent oversight structure. BCC and the town manager will make recommendations. This could be the existing BCC, a town employee, a board like the airport authority, or other structure
- Decide whether and how to work with a separate organization, which would develop and manage a trail system, coordinate with Sunday River, BWD, the Town, etc. This could be an RFP process and then managed with a contract or MOU

**Proposed Timeline**

Report on Public Hearings	BCC	February 27, 2012
Approve BCC recommendations	Selectboard	February 27, 2012
Provide Mgmt Plan models to Town Manager and Selectboard	BCC	February 27, 2012
Recommend qualified people to write Management Plan to Town Manager and Selectboard	BCC	February 27, 2012
Baseline Documentation Completed	Town Forester	March 31, 2012
Hire person to write Management Plan	Selectboard/Town Manager	April 30, 2012
Finish preliminary planning meetings	BCC, Forester, BWD, et al	June 30, 2012
Recommend management structure to Selectboard	BCC and Town Manager	June 30, 2012
Update selectboard	BCC	monthly
Present draft Management Plan to Selectboard	BCC	August 31, 2012
Approve the Plan or remand to BCC	Selectboard	September 30, 2012
Final Management Plan to State	Town Manager	January 12, 2013



## **Appendix**

### **I. Other uses mentioned in hearings:**

- Bird watching
- Fishing
- Horseback riding
- Nature/Interpretive trails
- Dog park
- Fairy houses
- Geocaching
- Maple sugaring
- Edible garden
- Gathering space/natural amphitheatre

### **II. Examples of town/state-owned trail systems:**

- Rutland, VT's Pine Hill Mountain Bike Park
- Bradbury State Park in Pownal, ME– popular mountain biking destination, plus horseback riding and hiking
- The Barre, VT community forest has mountain bike trails managed by a nonprofit

### **III. The most significant Questions raised (and BCC answers), were:**

- Will camping be allowed?
  - The Consent Agreement does not forbid camping. Whether the town wants to manage camping is another question that should be addressed in the Plan
- Can town charge a fee to use the land and how would that affect liability issues?
  - The town manager will research this but says that towns have fairly broad immunity from liability.
- The brook needs to remain an emergency water source for Bethel. How do we ensure security of water supply?
  - The specific mandates in the Agreement will provide general protection of the watershed; representatives from the BWD should have input on all aspects of the Plan and especially security issues.
- Will plans include considerations for birds and game?
  - The specific mandates in the Agreement will provide general protection for wildlife. Wildlife protection is one of the four purposes mandated by the consent agreement. The baseline documentation will identify wildlife populations and the Plan will specify general management strategies.
- Are temporary structures possible?
  - The consent agreement does not explicitly forbid or allow structures. It is assumed that if the temporary structures fell within the purposes and mandates of the consent agreement, they would be allowed. Again, management issues may preclude them.



STATE OF MAINE  
DEPARTMENT OF CONSERVATION  
93 STATE HOUSE STATION  
AUGUSTA, MAINE  
04333-0093

PAUL R. LEPAGE  
GOVERNOR

WILLIAM H. BEARDSLEY  
COMMISSIONER

May 9, 2012

Sherman Small  
New England Forestry Consultants, Inc.  
PO Box 621  
Bethel, ME 04217

Re: Forest Management Plan Review

Dear Mr. Small:

In response to your request received on April 12, 2012, I have searched our data system for information on rare or unique botanical features, rare animal populations, and essential or significant wildlife habitats in the vicinity of the Bethel Water District property in Newry and Bethel.

For individual parcel reviews, we use a simple checklist that summarizes our findings. The enclosed checklist includes our review of several data sets, some of which are maintained by MNAP and others that are maintained by the Maine Department of Inland Fisheries and Wildlife (MDIFW), and the U.S. Fish and Wildlife Service (USFWS). If a parcel intersects with a data set maintained by MDIFW or USFWS, please contact the appropriate biologist indicated on the checklist for additional information.

The lower reach of Chapman Brook has a documented Spring Salamander (Special Concern) record, and this species is likely present higher up in the watershed where habitat quality for it is expected to be even better. Chapman Brook, its tributaries, and any other headwater streams, mapped or unmapped, coming off slopes above 1000 feet in the parcel should also be considered Roaring Brook Mayfly (Endangered) habitat. Please see the attached management guidelines for recommendations regarding forestry within Spring Salamander and Roaring Brook Mayfly Habitat.

In addition, Chapman Brook and other tributaries to the Androscoggin River support populations of wild brook trout. Brook trout prefer cool, well oxygenated waters that benefit from intact riparian corridors. Any forest management activities planned for riparian zones should closely follow the state's Best Management Practices, including appropriate buffer distances, shade retention, and minimization of sediment runoff. Please see the attached factsheets for information about these fish species in Maine.

Good management of these habitats is consistent with good forestry, and your regional wildlife and/or fisheries biologist (see checklist for contact info) is available to assist you in maintaining

Letter to Sherman Small  
Comments RE: Forest Management Plan  
May 9, 2012  
Page 2 of 4

their integrity while allowing for forest management and timber procurement. According to the information currently in our files, there are no other rare species or important habitats documented within the property. This lack of data may indicate minimal survey efforts rather than confirm the absence of rare features.

Thank you for using the MNAP in the forest management planning process. If you have questions about the MNAP, or if you would like more information about this site, please feel free to contact me. You can also visit us on the web at <http://www.maine.gov/doc/nrimc/mnap/>.

Sincerely,

*Lisa St. Hilaire*

Information Manager  
Maine Natural Areas Program  
[maine.nap@maine.gov](mailto:maine.nap@maine.gov)  
Phone: (207) 287-8046 Fax: (207) 287-8040

Enclosure  
cc: Bob Cordes, Jason Seiders, MDIFW

### Forest Management Plan Review

Forester: *Sherman Small*      Landowner: *Bethel Water District*      Lot Name: *Bethel Water District*  
 Date Received: *4/12/2012*      Town: *Newry and Bethel*      County: *Oxford*      MDIFW Region: *D*

PLANT, ANIMAL, AND HABITATS	Documented to occur at the site?		Contact the following biologist to discuss conservation considerations
	YES	NO	
<b>Plants:</b> rare, threatened and/or endangered <i>If yes, see attached summary table.</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<b>Natural Communities:</b> rare and/or exemplary <i>If yes, see attached summary table.</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<b>Animals:</b> rare, threatened, or endangered <i>If yes, see attached summary table.</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	MDIFW Regional Wildlife Biologist, Bob Cordes, 778-3324
<b>Mapped Essential Wildlife Habitats:</b> Roseate tern Piping plover and Least tern	<input type="checkbox"/> <input type="checkbox"/>	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	
<b>Mapped Significant Wildlife Habitats:</b> Deer wintering area Inland waterfowl and wading bird habitat Tidal waterfowl and wading bird habitat Significant vernal pool Shorebird roosting area	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	
<b>Wild brook trout habitat</b>	Yes <input checked="" type="checkbox"/>	Unknown <input type="checkbox"/>	MDIFW Regional Fisheries Biologist, Jason Seiders, 778-3322
<b>Atlantic Salmon:</b> Salmon watershed Salmon habitat: <input type="checkbox"/> General <input type="checkbox"/> Rearing <input type="checkbox"/> Spawning	<input type="checkbox"/> <input type="checkbox"/>	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	
<b>Canada lynx:</b> Does the site occur within a town which may provide habitat for lynx?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	

LANDSCAPE CONTEXT	YES	NO
Does parcel intersect with a Beginning with Habitat Focus Area? Focus Area Name: Additional information on this focus area may be available at <a href="http://www.maine.gov/doc/nrimc/mnap/focusarea/index.htm">http://www.maine.gov/doc/nrimc/mnap/focusarea/index.htm</a>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Is the parcel adjacent to state-owned land?      Owner: Ownership type: <input checked="" type="checkbox"/> Fee <input type="checkbox"/> Easement      Area Name:	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Is the parcel within an area identified by MNAP as a potential inventory site for undocumented rare plants or exemplary natural communities? If so, MNAP will contact the landowner for permission prior to any inventory work.	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Review completed by: LRS  
 Date: 4/19/2012  
 MNAP #: 2012\_04\_19\_LS\_03



Forester: *Sherman Small* Landowner: *Bethel Water District* Lot Name: *Bethel Water District*

**Summary Table: Plants, natural communities, and animals documented to occur at the site**

Feature Name	State Status <sup>a</sup>	State Rank <sup>b</sup>	Global Rank <sup>c</sup>	EO Rank	Additional Information
Spring Salamander	SC	S3	G5	NA	Chapman Brook

<sup>a</sup> **State Status**

- E** Endangered; Rare and in danger of being lost from the state in the foreseeable future; or federally listed as Endangered.
- T** Threatened; Rare and, with further decline, could become endangered; or federally listed as Threatened.
- SC** Special concern; Rare in Maine, based on available information, but not sufficiently rare to be considered Threatened or Endangered (non-legal status).

<sup>b</sup> **State Rank (State Rarity Rank)**

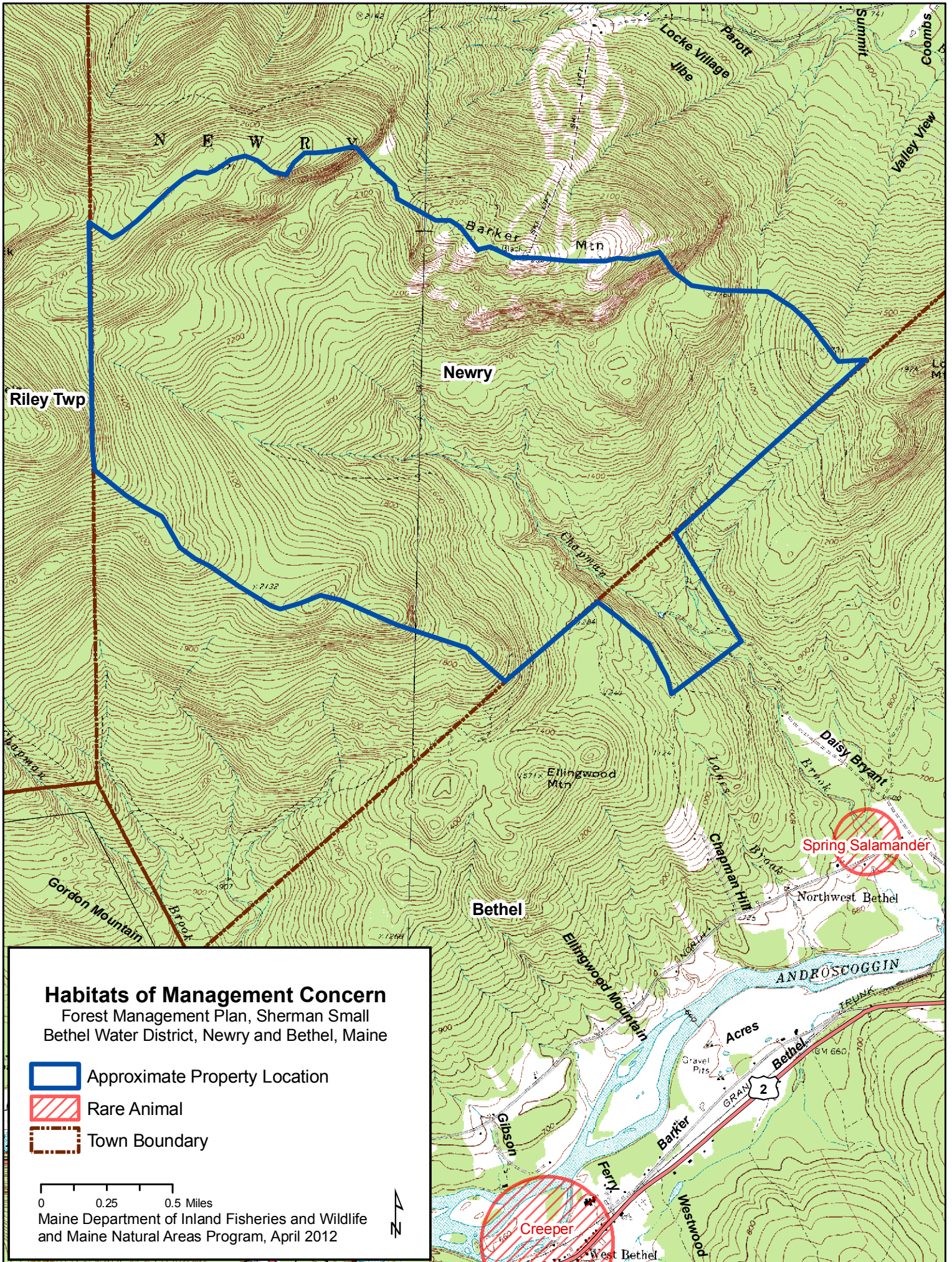
- S1** Critically imperiled in Maine because of extreme rarity or because some aspect of its biology makes it especially vulnerable to extirpation from the State of Maine.
- S2** Imperiled in Maine because of rarity or because of other factors making it vulnerable to further decline.
- S3** Rare in Maine.
- S4** Apparently secure in Maine.
- S5** Demonstrably secure in Maine.
- SU** Under consideration for assigning rarity status; more information needed.
- SNR** Not yet ranked.
- SNA** Rank not applicable.
- S#?** Current occurrence data suggests assigned rank, but lack of survey effort along with amount of potential habitat create uncertainty (e.g. S3?).

<sup>c</sup> **Global Rank (Global Rarity Rank)**

- G1** Critically imperiled globally because of extreme rarity or because some aspect of its biology makes it especially vulnerable to extinction.
- G2** Globally imperiled because of rarity or because of other factors making it vulnerable to further decline.
- G3** Globally rare.
- G4** Apparently secure globally.
- G5** Demonstrably secure globally.
- GNR** Not yet ranked.

<sup>d</sup> **EO Rank (Element Occurrence Rank)**

Describes the quality of a rare plant population or natural community based on size, condition and landscape context. Ranks range from A-E, where **A** indicates an **excellent** example of the community or population and **D** indicates a **poor** example of the community or population. A rank of **E** indicates that the community or population is **extant** but there is not enough data to assign a quality rank.



Riley Twp

Newry

Bethel

Spring Salamander

Creepers

N E W R V

Barker Mtn

Mtn

Ellingwood Mtn

Northwest Bethel

ANDROSCOGGIN

Acres

Bethel

2

Ferry

West Bethel

Westwood

Locke Village

Parrott

Summit

Coombs

Valley View

Gordon Mountain

Ellingwood Mountain

Chapman Hill

Northwest Bethel

Northwest Bethel

Northwest Bethel

Northwest Bethel

Northwest Bethel

Northwest Bethel

Northwest Bethel

Northwest Bethel

Northwest Bethel

Northwest Bethel

Northwest Bethel

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Northwest Bethel

Northwest Bethel

Northwest Bethel





**RECOMMENDED MANAGEMENT GUIDELINES  
FOR LAND USE IN OR ADJACENT TO  
ROARING BROOK MAYFLY AND SPRING SALAMANDER HABITAT**

*Maine Department of Inland Fisheries and Wildlife  
Draft October 15, 2010*

To protect the integrity of stream habitats with documented or potential occurrences of Roaring Brook Mayfly (Endangered) or Spring Salamander (Special Concern), MDIFW recommends the following guidelines for development and/or forestry activities proposed in or near the stream channel. These management guidelines are based on the best professional judgment of MDIFW Wildlife Biologists and modeled after previously published standards for protecting rare aquatic and stream-side fauna (Carlson and Sweeney 1999, Elliott 1999, Mitchell et al. 2006, deMaynadier et al. 2007). The goal of these recommendations is to avoid or minimize impacts to these rare species and their habitat. If impacts are unavoidable and could lead to Take of the Roaring Brook Mayfly, MDIFW may recommend an Incidental Take Plan be developed to ensure compliance with Maine’s Endangered Species Act [12MRSA, Chpt. 925, §12808].

Streams having potentially suitable habitat should be surveyed for the presence of Roaring Brook Mayfly or Spring Salamander prior to any disturbance of riparian vegetation in preparation for development projects, using survey protocols recommended and approved by MDIFW. In the absence of surveys, suitable stream habitat should be considered as potentially occupied and protected using the following guidelines:

**Management Guidelines**

- No construction activities, use of machinery, or other disturbances should occur within the stream channel except as necessary to place stream crossing structures per the standards below.
- Maintain a riparian buffer of 250 feet, within which the first 25 feet from the stream be retained as a no-cut and no-disturbance zone; and the remaining 25-250 feet be maintained with no less than 60-70% forest canopy cover using single-tree or small-group selection cuts.
- On slopes facing the stream, maintain an unscarified filter strip of at least the width indicated below between the normal highwater mark of the stream and any exposed mineral soil created by operation of machinery. These recommendations follow minimum performance standards for timber harvest as defined in the Maine Land Use Regulation Commission’s Rules and Regulations (Chapter 10.27E)<sup>1</sup>.

<b>Average Slope of Land</b> (%)	<b>Width of Strip</b> (Feet Along Surface of Ground)
0	25
10	45
20	65
30	85
40	105
50	125
60	145
70	165

- No development or permanent land use conversion should occur within the 250 ft. riparian buffer. Permanent land use conversion includes any alteration that prevents succession of riparian vegetation to its formerly natural state (e.g., gravel and winter roads, turbine pads and laydown areas, buildings). Powerline right-of-way crossings should meet minimum performance standards as defined for Maine’s Site Location of Development law (ME DEP Rules, Chapter 375, Appendix A, Section 2)<sup>2</sup>.

- Stream-crossings should be avoided. If crossings are unavoidable, they should be minimized to a narrow trail with forest canopy cover maintained to the greatest extent possible. Crossing structures should span at least 1.5 times the bankfull width of the stream channel and provide an openness ratio<sup>3</sup> of at least 0.60 meters. In the case of permanent crossings, a spanning arch or bridge structure is recommended. Current, published Best Management Practices (e.g., Moesswilde 2004) for stream crossings should be followed in order to prevent erosion, sedimentation, alteration of stream flow, or other impacts to stream habitat.
- Avoid the use of herbicides or pesticides within the 250 ft. riparian buffer. Exceptions may be considered depending on product and circumstance following consultation with MDIFW biologists.

### References Cited:

Carlson, B.D. and J.M. Sweeney. 1999. Threatened and Endangered Species in Forests of Maine: A Guide to Assist with Forestry Activities. A cooperative publication of Champion International Corp., U.S. Fish and Wildlife Service, Maine Department of Inland Fisheries and Wildlife, Maine Natural Areas Program, and the University of Maine Cooperative Extension Service.

deMaynadier, P., T. Hodgman, and B. Vickery. 2007. Forest Management Recommendations for Maine's Riparian Ecosystems. Unpublished technical report submitted to the Maine Department of Inland Fisheries and Wildlife, Bangor, ME.

Elliott, C.A. (ed.). 1999. Biodiversity in the Forests of Maine: Guidelines for Land Management. University of Maine Cooperative Extension Bulletin #7147, Orono, Maine.

Mitchell, J.C., A.R. Breisch, and K.A. Buhlmann. 2006. Habitat Management Guidelines for Amphibians and Reptiles of the Northeastern United States. Partners in Amphibian and Reptile Conservation, Tech. Pub. HMG-3, Montgomery, AL.

Moesswilde, M. 2004. Best Management Practices for Forestry: Protecting Maine's Water Quality. Maine Department of Conservation, Maine Forest Service, Augusta, ME.

<sup>1</sup> text available at [http://www.maine.gov/doc/lurc/reference/rulechapters/chapter10\\_1-20-09.pdf](http://www.maine.gov/doc/lurc/reference/rulechapters/chapter10_1-20-09.pdf)

<sup>2</sup> text available at [http://www.maine.gov/dep/blwq/topic/site\\_storm\\_revisions/site\\_rules/fourth\\_informal\\_draft/APPENDIX\\_A\\_2\\_cl.pdf](http://www.maine.gov/dep/blwq/topic/site_storm_revisions/site_rules/fourth_informal_draft/APPENDIX_A_2_cl.pdf)

<sup>3</sup> The openness aspect or "ratio" of a structure is defined as the width times the height of the structure, which is then divided by the total length of the structure (Maine DOT publication "Waterway and Wildlife Crossing Policy and Design Guide", 3<sup>rd</sup> edition, July 2008)



## MAINE DEPARTMENT OF INLAND FISHERIES AND WILDLIFE



### Forest Management Recommendations for Brook Trout

#### **Background**

Brook trout (*Salvelinus fontinalis*), commonly referred to as squaretail, brookie, and speckled trout, are native to Maine and are the most preferred sport fish sought by Maine anglers. Size may vary, depending on water temperature, productivity, and food sources, but 3 year-old brook trout in Maine lakes may range from 7.5 to 17.5 inches long. Stream populations are typically slower growing, and lengths of 6 to 10 inches are more common place, although some populations mature and reproduce at lengths smaller than 6 inches.

Maine is the last stronghold for wild brook trout in the eastern United States. There are more than twice as many watersheds supporting wild populations in Maine than all of the other 16 states within the historical eastern brook trout range combined. Maine is also the only remaining state with extensive intact lake and pond dwelling populations of wild brook trout.

Brook trout require clean, cool, well oxygenated water and are very sensitive to changes in habitat and water quality. Rivers and streams typically provide spawning and nursery habitat. Adults are commonly resident in streams, but migrate throughout and between drainages to meet seasonal life history requirements.

Stream habitat suitability is maintained by the presence of intact, mature wooded riparian corridors that conserve forest soils, provide shade to reduce stream warming, protect stream water quality, provide cover for fish, and provide a source of woody debris and leaf litter from mature trees that maintain in-stream habitat for fish and the aquatic insects they feed upon. Floodplain and fringe wetlands associated with streams can be a significant source of springs and groundwater discharge that maintain stream flows and cool temperatures during warm low flow summer periods. Protection of these important riparian and wetland functions ensures that the overall health of the stream habitat and watershed is maintained.

Maine brook trout fisheries are unique and highly valuable, but they are vulnerable to habitat alteration that may be caused by poorly planned and implemented land management activities. Well planned forestry operations can protect habitat and help ensure that forests remain as forest; a compatible land use for brook trout and many other fish and wildlife.

### ***Forest Management Recommendations***

Brook trout are not afforded any special state or federal regulatory protection for forestry operations, and as such management recommendations are advisory.

The MDIFW recommends following Best Management Practices (BMPs) during all road and trail building activities, as well as timber harvesting. BMPs are detailed in the booklet titled *Best Management Practices for Forestry*, which offers guidance on managing and protecting water quality, installing road-stream crossings, and providing fish passage. This booklet is available at: [http://www.maine.gov/doc/mfs/pubs/bmp\\_manual.htm](http://www.maine.gov/doc/mfs/pubs/bmp_manual.htm) or contact the Maine Forest Service at 1-800-367-0223.

Potential harmful impacts to fish and wildlife may be further minimized by designating low impact “riparian management zones” adjacent to streams and stream-associated fringe and floodplain wetlands in forest management and harvest plans. Smaller streams may be greatly influenced by land management practices; these systems benefit the most from well-managed and intact riparian corridors.

The MDIFW also recommends limiting the harvest of trees and alteration of other vegetation within 100 feet of streams and their associated fringe and floodplain wetlands to maintain an intact and stable mature stand of trees, characterized by heavy crown closure (at least 60 – 70%) and resistance to wind-throw. In some situations wider buffers should be considered where severe site conditions (e.g., steep slope, vulnerable soils, poor drainage, etc) increase risk to soil and stand stability. Any harvest within the riparian management zone should be selective with a goal of maintaining relatively uniform crown closure.

# Sherman R. Small

---

Education                      1976 – 1980                      University of Maine                      Orono, Maine  
BS Forestry  
▪ Graduated “With Distinction”

Professional  
experience                      August 2001 – Present    New England Forestry Consultants, Inc.  
Consulting Forester  
▪ Provide forest management services for clients throughout Maine and New Hampshire, including Geographic Information System management, timber cruising, writing forest management plans, boundary maintenance, timber trespass appraisals, and overseeing timber harvests.  
▪ Monitor conservation easement on over 762,000 acres of forest land. Monitoring duties include developing a Geographic Information System for the easement holder, locating exclusions from easement by GPS, monitoring and documenting landowner compliance with the easement.

May 2000 – July 2001    Chadbourne Tree Farms                      Bethel, Maine  
Forester  
▪ Responsible for operation of Geographic Information System, supervision of contract logging crews, marketing of logs and boltwood, and evaluating land being considered for purchase.  
▪ GIS duties include obtaining data through GPS and other sources, organizing and evaluating information. Familiar with Trimble® GPS units and Pathfinder Office software, and ArcView® software  
▪ Marketing responsibilities include locating markets for products harvested, negotiating prices, and scheduling deliveries.

August 1983 – May 2000    P.H. Chadbourne & Co.                      Bethel, Maine  
Forester  
▪ Duties varied over time, but have included operation of GIS, supervision of contract logging crews, marketing of forest products, purchasing White Pine sawlogs for company sawmill, and cruising timber.  
▪ I have had daily supervision of up to 7 contract logging crews. Responsible for locating sites to be harvested, laying out road and harvest areas, and overseeing cutting operations with an emphasis on intensive management of White Pine.  
▪ Log buying duties included contacting suppliers, explaining log grades, and check scaling in millyard. Have purchased from 5 to 18 million board feet annually. Also managed and maintained voice activated computerized log scaling system.  
▪ Have been in charge of cruising over 4,000 acres of land being considered for purchase or sale. Also involved in the sale of over 6,000

acres of woodland.

Professional  
Licenses

Maine Licensed Professional Forester # LF655

New Hampshire Professional Forester # 409

Maine Licensed Wood Scaler # 2-18850

Professional  
Associations

Society of American Foresters, member

American Tree Farm System, inspector

Community  
activities

Active member of the Bethel Alliance Church