Conservation Easements and Amendments

Conservation Values and Public Benefits

The following excerpts from the Sawtelle Farm Conservation Easements, Amendments and Supplements (Appendix 1 through 5) describe the conservation values and public benefits of the Sawtelle Farm Conservation Easement. (Note: emphasis added for ease of reference and Sections that are the same as the original Conservation Easement within the Amendments and Supplements are not repeated.)

1979 Sawtelle Farm Conservation Easement and Affidavit (Appendix 1).

> *WHEREAS, the Grantors and the Grantee, recognizing the uniquely attractive character of the shoreland at Freeport, Maine and its essential place in the scenic beauty of the area, acknowledge a common purpose to conserve the scenic values of the shore near the Harraseeket River, as it enters the Atlantic Ocean and to prevent its use or development for any purpose or in any manner that would conflict with the maintenance of said property as an open or wooded space and predominantly natural area; and*
>
> *WHEREAS, the Grantee holds the Benefited Property for the purpose of maintaining it forever in its present natural state; and*
>
> *WHEREAS, the Protected Property and the Benefited Property are closely related and appurtenant to one another so that any change in the natural, scenic, open and wooded condition of the Protected Property would have a deleterious effect on the natural character of the Benefited Property in terms of the view from the latter as well as the purity of the air, water and the environment in and around the Benefited Property.*

The 1980 Davenport Amendment to the Conservation Easement (Appendix 2) added subsection *e* to Section 5 of the original CE and pertains to the entire protected property:

> *WHEREAS, since the creation of the Conservation Easement, Egerton B. Sawtelle and Muriel S. Sawtelle have granted and conveyed certain interests in the property subject thereto to Philip Davenport and Dorothy Davenport, John R. Houghton and Janet S. Houghton, Joseph L. Delafield III and Audrey S. Delafield, and Janet S. Houghton as Trustee as aforesaid (all of whom, together with Egerton B. Sawtelle and Muriel S. Sawtelle, being herein referred to collectively as the "Grantors"); and*
>
> *WHEREAS, the Conservation Easement, in Section 5 thereof, prohibits the cutting of standing timber on the property except for certain narrowly restricted purposes, and does not specifically permit the use of professional woodcutters; and*
>
> *WHEREAS, removal of certain trees may be consistent with the scenic and conservation purposes of the Conservation Easement.*

The 1983 Davenport Amendment to the Conservation Easement (Appendix 3) added subsection *f* to Section 5 of the original CE and pertains to the land currently owned by Deutsch:

> *WHEREAS, the right to erect one single family residence and appurtenant non-residence structures on that part of the protected property located to the northeast of Bartol Island Road was permitted by the Conservation Easement, and by Easement and Deed of even date the location of such residence and non-residential structures has been located on the face of the earth; and*
>
> *WHEREAS, pursuant to Section 5 of the Conservation Easement, the cutting of standing timber is regulated and cutting to provide a view is permitted, but recognizing that the maintenance of a vegetative screen between the said structures and the shoreline of the Harraseeket River is critical to the scenic appearance of the landscape when viewed from offshore.*

The 1983 Dorsey Conservation Easement (Appendix 4) contains no additional references to public benefits.

The 1984 Dorsey Supplemental Conservation Easement (Appendix 5) contains no additional references to public benefits.

Easement Provisions

The original Conservation Easement signed by the Sawtelles in December 15, 1979 (Appendix 1) allowed the future construction of 4 additional single family homes on the protected property: one on the north side of Bartol Island Road and three on the south side. One acre (+/-) surrounding the Davenport home was excluded from the original Conservation Easement (Figures 2, 3 and 4; Photo 60). Three of the four allowed homes have been constructed. The Deutsch home is located on the north side of Bartol Island Road. The Pierce and Goodwin homes are on the south side of Bartol Island Road. The remaining lot on which a fourth and final home could be built is currently owned by Pierce (Figures 2 and 3; Appendix 7).

The original 1979 Conservation Easement was followed by an Affidavit recorded in December 1979 that addressed items which had been inadvertently omitted from the original 1979 Easement (also included in Appendix 1). Those items include a plot plan with the location of the existing 1979 structures on the protected property and a description of the two parcels owned in fee by FCT. The conservation easements associated with the FCT properties owned in fee are not included in this report.

An Amendment to the Conservation Easement in 1980 added subsection *e* to Section 5 of the original CE, addressing the right to selectively cut and remove trees for the purpose of improving scenic and ecological values. This amendment pertains to the entire protected property. (1980 Davenport Amendment, Appendix 2).

The 1980 Davenport Amendment was followed in 1983 by an Amendment to the Conservation Easement that added subsection *f* to Section 5 of the original CE, recognizing that the vegetative screen between any new structure on the north side of Bartol Island Road and the shoreline was critical to the view from the Harraseeket River. This amendment pertains to the land currently owned by Deutsch (1983 Davenport Amendment, Appendix 3).

In 1983 another Conservation Easement addressed the one additional single family home to be built on the north side of Bartol Island Road (currently the Deutsch Home) (1983 Dorsey Conservation Easement, Appendix 4). This CE addresses specifics of the location and design of the single family home. Early in 1984 a Supplemental Conservation Easement (the 1984 Dorsey Supplement, Appendix 5) added 35 feet to the existing driveway right of way of 15 feet on the land currently owned by Deutsch.

The following illustrate the relevant easement language of restrictions and retained rights within each CE/ Amendment/Supplement. (Note: emphasis added for ease of reference; only subsections pertaining to Conservation Values and Public Benefit are listed and formatting has been modified for clarity.)

The 1979 Sawtelle Conservation Easement (signed by the Sawtelles in December 15, 1979, registered Dec 18, 1979, Book 4543 Page 156). The original 1979 conservation Easement stipulated that the protected property be used only for single family residential or conservation purposes. The property included the following structures:

> *2. Attached hereto and made a part hereof is a plot plan indicating the location of the present structures. At present there are on the Protected Property:*
>
> *a. two single-family residences one of which contains an apartment for lease or rent, which use shall be permitted hereunder in that building*

b. one tool shed

c. two barns, one of which is connected with one of the residences

d. one combination garage and tool shed

e. farm equipment shelter

In addition, Section 2 of the Conservation Easement allowed 4 structures to be constructed in the future; permitted certain alterations to the existing buildings; retained rights to certain activities; and restricted certain vegetation management activities:

No additional structures of any kind, temporary or permanent, shall be located on the Protected Property except that there is retained to the Grantors, their heirs and assigns, the following rights:

a. the right to erect the following structures:

Four (4) single-family residences and other non-residential structures accessory to the residences which do not materially alter the natural and scenic appearance of the landscape when viewed from off shore. One of such residences may be erected on that part of the Protected Property located to the northeast of Bartol Island Road, and three on that part of the Protected Property located to the Southwest of Bartol Island Road.

No buildings or structures shall be located within the area between high and low water marks on the Protected Property or between high water mark and a line parallel to and set back 250 feet from said high water mark. No buildings or structures shall be located in an open field. None of the single-family residences located on the Protected Property shall be a mobile home.

b. the right to replace, rebuild, or alter any or all of the existing structures or additional structures allowed hereunder, provided that the replaced, rebuilt, or altered structures shall not materially alter the natural and scenic appearance of the landscape when viewed from the shore.

c. the right to perform ordinary maintenance on the structures allowed hereunder.

3. No alteration shall be made to the surface of the Protected Property other than that caused by the forces of nature, unless such alteration is approved in advance and in writing by the Grantee, provided however, there is retained in the Grantors, their heirs and assigns, the following rights:

a. the right to cultivate land for farming or personal gardens and to plant additional vegetation.

b. the right to maintain domestic livestock so long as their numbers do not produce overgrazing or removal of vegetative cover so that the bare soil is exposed and subject to erosion.

c. the right to excavate in connection with the maintenance, improvement, replacement, rebuilding, alteration or construction either of the structures authorized hereunder or of the water, sewerage and other services related to the residential use of the Protected Property or for historical, archaeological or conservation purposes.

d. the right to construct and maintain foot trails and unpaved driveways.

e. the right to construct one or more farm ponds under the supervision of the Soil Conservation Service.

4. Without limiting the generality of the foregoing, billboards, bridges and causeways or utilization of the Protected Property as an aircraft landing site are specifically prohibited on the Protected Property, provided however, there is retained in the Grantors, their heirs and assigns, the right to post the Protected Property to control unauthorized use.

5. The cutting of standing timber shall not be permitted, provided however, there is retained in the Grantors, their heirs and assigns, the following rights:

a. the right to clear and restore forest cover that is damaged or disturbed by the forces of nature.

b. the right to gather, use or remove dead wood.

c. the right to prune or selectively thin trees to provide firewood for personal use and to provide or maintain views from the dwellings.

d. the right to provide and maintain fields, lawns, meadows and gardens, provided however, that any such clearings are set back at least 100 feet from high water mark.

6. Any modification, alteration, construction or reconstruction of any waste disposal system shall be done in a manner that will prevent discharge of any waste, treated or otherwise, into salt or fresh waters located on or about the Protected Property.

The 1980 Davenport Amendment to the Conservation Easement (signed November 27, 1980, accepted by FCT December 11, 1980) added subsection *e* to Section 5, **pertaining to the entire protected property:**

e. the right selectively to cut and remove trees for the purpose of improving the scenic and ecological values of the Protected Property, provided that such cutting be done under an individual tree and small group selection system, as designated by a professional forester. In making such designations, the forester shall be guided solely by the following criteria:

1) the removal of over-mature, diseased, poorly formed or over-crowded trees;

2) the improvement of habitat for wildlife;

3) the preservation of scenic values. Trees so designated may be cut by a professional woodcutter. Provided, however, that notwithstanding the foregoing, without prior approval of the Freeport Conservation Trust, no trees larger in circumference than ten (10) feet at breast height shall be cut, no motor-propelled skidders weighing over five (5) tons shall be used, and no trees except those already fallen shall be cut within one hundred (100) feet of any public road or high water mark.

The 1983 Davenport Amendment to the Conservation Easement (signed September 29, 1983, registered October 14, 1983 Book 6296 Page: 44) added subsection *f* to Section 5, **pertaining to the land currently owned by Deutsch:**

f. no trees along the Harraseeket River adjacent to the house permitted to be erected on that part of the protected property located to the northeast of Bartol Island Road shall be pruned or cut if any house or structure would thereby be made more visible when viewed from the water, except that within a quadrant, when viewed from the center of the house, between N 79° E and S 71° E (bearings from true north), the right to prune or selectively thin trees to provide a view is permitted except that

(1) no tree with a trunk size greater than 6 inches in diameter at breast height may be cut,

(2) no branch with a diameter greater than 5 inches may be cut, and

(3) any pruning must not jeopardize the health of the remaining tree.

The 1983 Dorsey Conservation Easement (signed on September 29, 1983) added additional restrictions **pertaining to the land currently owned by Deutsch:**

1. No structures of any kind shall be located on the Protected Property except within an area which is bounded on the southwest by the southwesterly sideline of said lot; on the northwest by a line which is parallel to and 175 feet in a southeasterly direction from the northwesterly sideline of said lot; on the northeast by a

line which is parallel to and 140 feet in a northeasterly sideline of said lot; on the southeast by a line which is 250 feet from the mean high water mark of the Harraseeket River.

2. No structure shall have a roof higher than 25 feet above the natural grade of said lot, and no chimney, antenna, or other appurtenant structure shall extend more than 3 feet above the roof line.

3. Roofing and siding shall be of natural weathered wood, of colors and textures as approved by the Freeport Conservation Trust.

4. There shall be planted and maintained a screen of white pine trees at least 25 feet high and of sufficient length and density to screen all structures when viewed anywhere from Bartol Island Road. Evergreens must be at least 15 feet high at planting and must be planted within 6 months from the commencement of construction.

5. All driveways shall be unpaved.

The 1984 Dorsey Supplemental Conservation Easement (signed on January 11, 1984) increased the driveway right of way from 15 feet to 50 feet in width, and added restrictions to the right-of-way property, **pertaining to the land currently owned by Deutsch:**

1. No structures of any kind shall be located on the Protected Property.

2. All driveways shall be unpaved, and no trees shall be cut in the 50' right of way for driveway purposes. approved for the protected property.

Existing Conditions

The following are excerpted from the Conservation Easements/Amendments/Supplements granted on Sawtelle Farm from 1979 through 1984. (Note: emphasis added for ease of reference; only subsections pertaining to Conservation Values and Public Benefit are listed.)

1979 Sawtelle Farm Conservation Easement (Appendix 1)

1. The Protected Property shall be used for single family residential or conservation purposes only. For purposes of this document, the presence in a residence of space for, or the occupation of a residence by, a person related by blood or marriage to the immediate family members shall not remove the residence from the meaning of the term "single-family residence." No industrial or mining activities shall be permitted on the Protected Property. No commercial activities shall be permitted on the Protected Property except agriculture, fishing and the rental of structures allowed hereunder. No apartment buildings, multi-family units, motels or hotels shall be located or constructed on the Protected Property.

Observed Conditions: As of the date of this report, the protected property contains only single family residences, associated residential buildings and agricultural buildings. No industrial or mining activities, commercial activities, apartment buildings, multi-family units, motels or hotels were observed o the protected property.

2. Attached hereto and made a part hereof is a plot plan indicating the location of the present structures. At present there are on the Protected Property:

a. two single-family residences one of which contains an apartment for lease or rent, which use shall be permitted hereunder in that building

b. one tool shed

c. two barns, one of which is connected with one of the residences

d. one combination garage and tool shed

e. farm equipment shelter

Observed Conditions: The existing buildings located on the protected property are listed on page 10 of this report. Not all buildings on the Davenport, Moore and Vertenten properties were observed for this report. It is unknown if the Town considers certain of these buildings (sheds) to be attached to other buildings on the same property.

No additional structures of any kind, temporary or permanent, shall be located on the Protected Property except that there is retained to the Grantors, their heirs and assigns, the following rights:

a. the right to erect the following structures:

Four (4) single-family residences and other non-residential structures accessory to the residences which do not materially alter the natural and scenic appearance of the landscape when viewed from off shore. One of such residences may be erected on that part of the Protected Property located to the northeast of Bartol Island Road, and three on that part of the Protected Property located to the Southwest of Bartol Island Road.

No buildings or structures shall be located within the area between high and low water marks on the Protected Property or between high water mark and a line parallel to and set back 250 feet from said high water mark. No buildings or structures shall be located in an open field. None of the single-family residences located on the Protected Property shall be a mobile home.

b. the right to replace, rebuild, or alter any or all of the existing structures or additional structures allowed hereunder, provided that the replaced, rebuilt, or altered structures shall not materially alter the natural and scenic appearance of the landscape when viewed from the shore.

c. the right to perform ordinary maintenance on the structures allowed hereunder.

Observed Conditions: In addition to the existing buildings noted in 1979, three of the four homes allowed to be built under the CE have been constructed. The Deutsch home is on the north side of Bartol Island Road. The Pierce and Goodwin buildings are on the south side of Bartol Island Road. The Pierces own the remaining lot on which a fourth and final home could be built. (Figures 2 and 3). There are no buildings or structures located in the 250 foot set back from the high water mark. None of the buildings or structures constructed after 1979 are located in an open field, except that the Deutsch home and the Goodwin home and garage/barn are in positions which are now on the edge of existing fields. None of the buildings on the protected property are mobile homes. No recent alterations to existing buildings were observed.

We were unable to locate survey markers defining the one acre (+/-) of Davenport property that is not within the CE or clearly locate the boundary between the Moore and Davenport properties and the FCT property. It is recommended that these boundaries be located and marked to clarify and facilitate future inspections byt FCT.

3. No alteration shall be made to the surface of the Protected Property other than that caused by the forces of nature, unless such alteration is approved in advance and in writing by the Grantee, provided however, there is retained in the Grantors, their heirs and assigns, the following rights:

a. the right to cultivate land for farming or personal gardens and to plant additional vegetation.

b. the right to maintain domestic livestock so long as their numbers do not produce overgrazing or removal of vegetative cover so that the bare soil is exposed and subject to erosion.

c. the right to excavate in connection with the maintenance, improvement, replacement, rebuilding, alteration or construction either of the structures authorized hereunder or of the water, sewerage and other services related to the residential use of the Protected Property or for historical, archaeological or conservation purposes.

d the right to construct and maintain foot trails and unpaved driveways.

e. the right to construct one or more farm ponds under the supervision of the Soil Conservation Service.

Observed Conditions: As of the date of this report, there are no recent alterations observed to the surface of the protected property with the exception of the following allowable rights: cultivation for farming and/or personal gardens, additional vegetation plantings, housing of domestic livestock (without excessive exposure of bare soil), footpaths and unpaved driveways. There were no farm ponds or recent alterations of the water, sewerage or other services related to the residential uses noted.

4. Without limiting the generality of the foregoing, billboards, bridges and causeways or utilization of the Protected Property as an aircraft landing site are specifically prohibited on the Protected Property, provided however, there is retained in the Grantors, their heirs and assigns, the right to post the Protected Property to control unauthorized use.

Observed Conditions: As of the date of this report, there are no billboards, bridges, causeways or aircraft landing sites on the protected property. The westerly side of the Davenport was posted (Photo 59); no other signage was observed on the protected property.

5. The cutting of standing timber shall not be permitted, provided however, there is retained in the Grantors, their heirs and assigns, the following rights:

a. the right to clear and restore forest cover that is damaged or disturbed by the forces of nature.

b. the right to gather, use or remove dead wood.

c. the right to prune or selectively thin trees to provide firewood for personal use and to provide or maintain views from the dwellings.

d. the right to provide and maintain fields, lawns, meadows and gardens, provided however, that any such clearings are set back at least 100 feet from high water mark.

Observed Conditions. As of the date of the on-site inspections, there is evidence of removing dead wood, pruning and selectively thinning trees throughout the protected property. The purposes of this cutting and pruning are unknown. However, some pruning and mowing appear to have been within, or close to the 100 foot setback from the high water mark as illustrated in Photos 12 and 55 (cutting), 31 (pruning), and 26 (mowing).

6. Any modification, alteration, construction or reconstruction of any waste disposal system shall be done in a manner that will prevent discharge of any waste, treated or otherwise, into salt or fresh waters located on or about the Protected Property.

Observed Conditions: As of the date of the on-site inspections, there was no evidence of any recent modification, alteration, construction or reconstruction of any wastewater system on the protected property.

The 1980 Davenport Amendment to the Conservation Easement (Appendix 2)

NOW THEREFORE, the parties agree that Section 5 of the Conservation Easement be amended by adding thereto the following Subsection e:

e. the right selectively to cut and remove trees for the purpose of improving the scenic and ecological values of the Protected Property, provided that such cutting be done under an individual tree and small group selection system, as designated by a professional forester. In making such designations, the forester shall be guided solely by the following criteria:

1) the removal of over-mature, diseased, poorly formed or over-crowded trees;

2) the improvement of habitat for wildlife;

3) the preservation of scenic values. Trees so designated may be cut by a professional woodcutter. Provided, however, that notwithstanding the foregoing, without prior approval of the Freeport Conservation Trust,

no trees larger in circumference than ten (10) feet at breast height shall be cut, no motor-propelled skidders weighing over five (5) tons shall be used, and no trees except those already fallen shall be cut within one hundred (100) feet of any public road or high water mark.

Observed Conditions: As of the dates of the on-site inspections there does not appear to be any recent cutting that is outside of the allowable cutting described above. However, there was current cutting occurring on the Moore and Davenport properties. While current cutting was observed to be within the limits described above, it is advisable that FCT stewardship inspections be mindful of the limitation of cutting within 100' of any public road and high water mark (horizontal distance). Observations of cutting, illustrated in Photos 12 and 55, and pruning, illustrated in Photo 31, may have been within or close to the 100 foot limit from the high tide line. It is recommended that the boundary between the Davenport and Moore properties and the FCT property be located and marked.

The 1983 Davenport Amendment to the Conservation Easement (Appendix 3) pertaining to the land currently owned by Deutsch.

NOW, THEREFORE, the parties agree that Section 5 of the Conservation Easement, as amended, be further amended by adding thereto the following Subsection f:

f. no trees along the Harraseeket River adjacent to the house permitted to be erected on that part of the protected property located to the northeast of Bartol Island Road shall be pruned or cut if any house or structure would thereby be made more visible when viewed from the water, except that within a quadrant, when viewed from the center of the house, between N 79° E and S 71° E (bearings from true north), the right to prune or selectively thin trees to provide a view is permitted except that

(1) no tree with a trunk size greater than 6 inches in diameter at breast height may be cut,

(2) no branch with a diameter greater than 5 inches may be cut, and

(3) any pruning must not jeopardize the health of the remaining tree.

Observed Conditions: As of the date of this report, Photo 3 illustrates pruning within the boundaries outlined above. Other observations of pruning and cutting that appear to be at least a few years old were within, or close to, the limits described above. Figure 3 illustrates the limits of the viewshed pruning and cutting limits described above for the Deutsch home. It is advised that these boundaries be located and marked on the ground to clarify an d facilitate annual stewardship inspections.

The 1983 Dorsey Conservation Easement (Appendix 4) pertaining to the land currently owned by Deutsch.

1. No structures of any kind shall be located on the Protected Property except within an area which is bounded on the southwest by the southwesterly sideline of said lot; on the northwest by a line which is parallel to and 175 feet in a southeasterly direction from the northwesterly sideline of said lot; on the northeast by a line which is parallel to and 140 feet in a northeasterly sideline of said lot; on the southeast by a line which is 250 feet from the mean high water mark of the Harraseeket River.

2. No structure shall have a roof higher than 25 feet above the natural grade of said lot, and no chimney, antenna, or other appurtenant structure shall extend more than 3 feet above the roof line.

3. Roofing and siding shall be of natural weathered wood, of colors and textures as approved by the Freeport Conservation Trust.

4. There shall be planted and maintained a screen of white pine trees at least 25 feet high and of sufficient length and density to screen all structures when viewed anywhere from Bartol Island Road. Evergreens must be at least 15 feet high at planting and must be planted within 6 months from the commencement of construction.

5. All driveways shall be unpaved.

Observed Conditions: As of the date of this report, the current structure does lie within the allowable area as described in item 1 above. The current structure does not appear to have been altered recently in terms of original height or chimney construction. There currently exists a row of white pine trees in excess of 25 feet tall that screen the majority of the view of the house from Bartol Island Road. However, the pines are of an age that the lower branches are thinning and beginning to show glimpses of the house from Bartol Island Road between the Moore home and the Deutsch driveway, which is unpaved (Photos 1, 5 and 57).

The 1984 Dorsey Supplemental Conservation Easement (Appendix 5) pertaining to the right-of-way on the land currently owned by Deutsch.

1. *No structures of any kind shall be located on the Protected Property.*

2. *All driveways shall be unpaved, and no trees shall be cut in the 50' right of way for driveway purposes.*

Observed Conditions: As of the date of this report, the existing driveway is unpaved. The exact location of the driveway right-of-way is uncertain. However, as of the dates of the on-site inspections, it does not appear that any trees have recently been cut between the driveway and Bartol Island Road. Since the driveway runs along the tree line, there are no trees currently locate to the north of the driveway. There are no structures located on either side of the driveway within the approximate 50' right-of-way (Photo 5).

Field Work Methods

Katherine Bither and Dr. John Creasy completed fieldwork on November 4 and 6, 2102 and September 27, 2013. The property features were located in the field using a Trimble Juno SB data recorder; no differential corrections were applied to the collected locations. Digital photographs of property and easement features were recorded with a GPS-enabled Sony XRD500 camera. The accompanying maps were prepared in ArcMap10.1 using these field data and using topographic and orthophotographic base layers from the Maine Office of GIS. Alex Abbott and the Freeport Conservation Trust kindly provided the base layer of protected properties in the Freeport area.

Katherine M. Bither, C.G., M.S.

Katherine Bither is a Maine Certified Geologist and received her M.S. in Hydrogeology from the University of New Hampshire. In addition to completing numerous hydrogeologic studies and site assessments within Maine, she has completed surficial geology mapping for the Maine State Geological Survey. Ms. Bither has more than twenty years of consulting experience and has conducted hydrogeologic investigations and site assessments throughout Maine, including Freeport, Brunswick, Vinalhaven, Gorham, Wells, Biddeford, Portland and Warren.

John W. Creasy, PhD

John Creasy received his Ph.D. in Geology from Harvard University and has taught at Bates College since 1975. He has engaged in field studies as part of his academic research in Maine and New Hampshire, as an independent contractor for the Maine Geologic Survey and as a consultant to mineral exploration and mining companies in Maine. In related community service, Creasy is a former member of the Freeport Conservation Commission and the Freeport Planning Board.

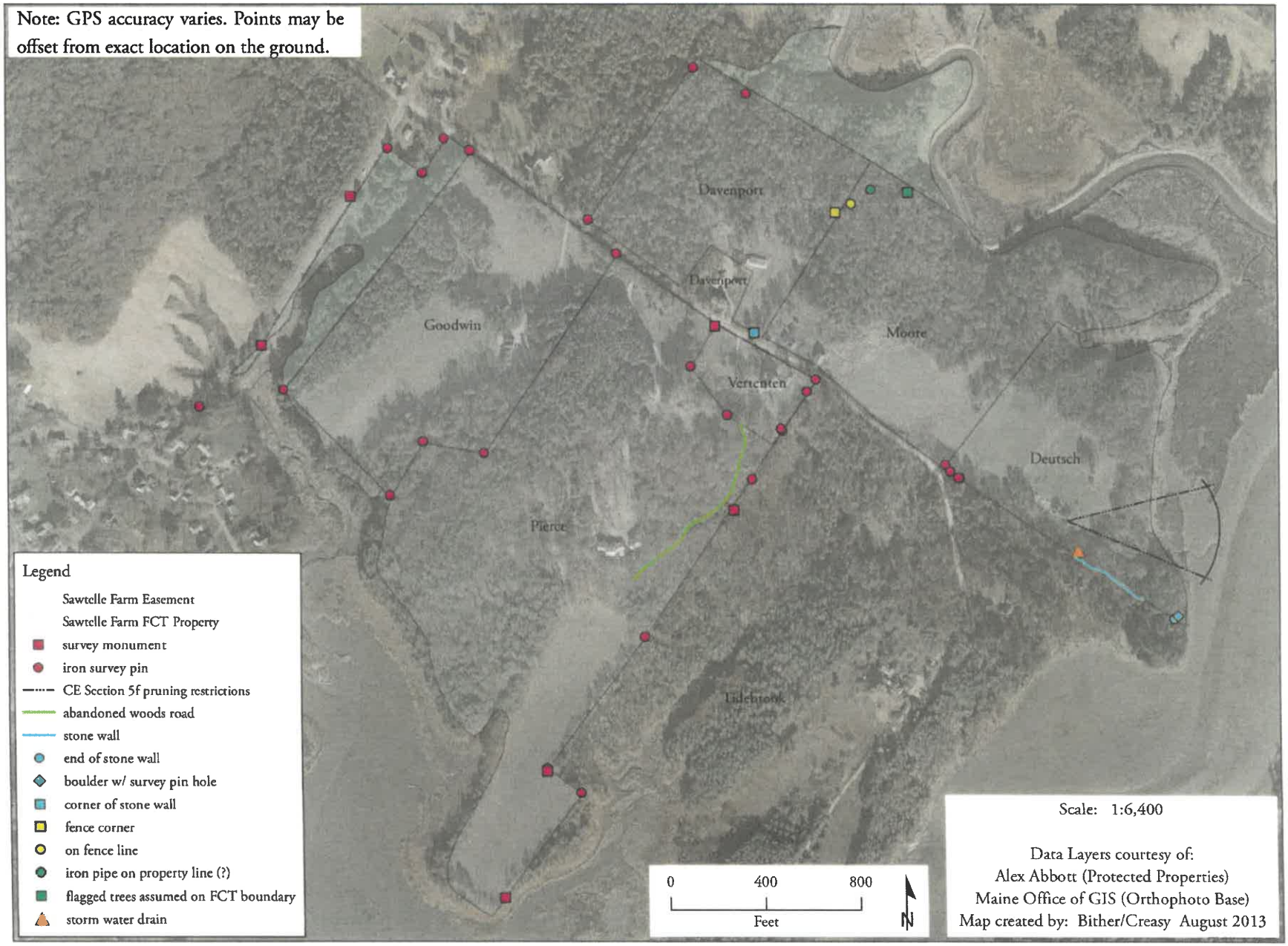


Figure 3. Survey Features, Sawtelle Farm Easement, Freeport, Maine

AMENDMENT TO CONSERVATION EASEMENT

This Amendment, made this 21 day of [illegible], 1983, by and between Philip Davenport and Dorothy Davenport of Freeport, Maine, (being husband and wife), and the Freeport Conservation Trust, a non-profit corporation organized and existing under the laws of the state of Maine and having its principal office at Freeport, Maine,

WITNESSETH:

WHEREAS, by indenture dated December 15, 1979, and recorded in Cumberland County Registry of Deeds, Book 4543, Page 156, Egerton B. Sawtelle and Muriel S. Sawtelle granted a Conservation Easement to the Freeport Conservation Trust covering certain property in Freeport, Maine, which indenture was amended by instrument dated November 27, 1980 (said indenture, as amended, being herein referred to as the "Conservation Easement"); and

WHEREAS, "parcel two" of the Protected Property as described in said Conservation Easement has been conveyed to Philip and Dorothy Davenport, and recognizing that "parcel two" is "that part of the Protected Property located to the northeast of Bartol Island Road" as described in the Conservation Easement; and

WHEREAS, the right to erect one single family residence and appurtenant non-residence structures on that part of the protected property located to the northeast of Bartol Island Road was permitted by the Conservation Easement, and by Easement and Deed of even date the location of such residence and non-residential structures has been located on the face of the earth; and

WHEREAS, pursuant to Section 5 of the Conservation Easement, the cutting of standing timber is regulated and cutting to provide a view is permitted, but recognizing that the maintenance of a vegetative screen between the said structures and the shoreline of the Harraseeket River is critical to the scenic appearance of the landscape when viewed from offshore,

NOW, THEREFORE, the parties agree that Section 5 of the Conservation Easement, as amended, be further amended by adding thereto the following Subsection f:

f: no trees along the Harraseeket River adjacent to the house permitted to be erected on that part of the protected property located to the northeast of Bartol Island Road shall be pruned or cut if any house or structure would thereby be made more visible when viewed from the water, except that within a quadrant, when viewed from the center of the house, between N 79° E and S 71° E (bearings from true north), the right to prune or selectively thin trees to provide a view is permitted except that (1) no tree with a trunk size greater than 6 inches in diameter at breast height may be cut, (2) no branch with a diameter greater than 5 inches may be cut, and (3) any pruning must not jeopardize the health of the remaining tree.

Except as amended hereby, the Conservation Easement remains in full force and effect. This Amendment shall be binding upon the parties hereto and their agents, personal representatives, heirs, and assigns and all other successors to their interests and shall continue as a servitude running in perpetuity with the Protected Propery for the benefit of the Benefitted Property.

IN WITNESS WHEREOF, the parties have duly executed this instrument the day and year first above written.

Philip Davenport

Dorothy Davenport

Freeport Conservation Trust

By: _____
Frederick H. Greene, III

STATE OF MAINE
Cumberland, ss

Personally appeared the above-named Philip Davenport and acknowledged the foregoing instrument to be his free act and deed.

Before me,

_____
Notary Public

STATE OF MAINE
Cumberland, ss

September 27 1983

Personally appeared the above-named Dorothy Davenport and acknowledged the foregoing instrument to be his free act and deed.

Before me,

_____
Notary Public

STATE OF MAINE
Cumberland, ss

Personally appeared the above-named Frederick H. Greene, III of the Freeport Conservation Trust, and acknowledged the above instrument to be his free act and deed in his said capacity and the free act and deed of said Corporation.

Before me, SEAL

_____
Notary Public

OCT 14 1983

REGISTRY OF DEEDS CUMBERLAND COUNTY, MAINE
Received at 8:30 M., and recorded in
BOOK 6296 PAGE 44

Register

35503

CONSERVATION EASEMENT

This INDENTURE made this 29th day of September, 1983 by and between MARK M. DORSEY and VICTORIA E. DORSEY of South Street Freeport, Maine, hereinafter referred to as the Grantors, and the FREEPORT CONSERVATION TRUST, a non-profit corporation organized and existing under the laws of the State of Maine and havings its principal office at Freeport, Curberland County, Maine, hereinafter referred to as the Grantee,

W I T N E S S E T H:

WHEREAS, Grantors hold title to certain real property with the buildings thereon situated in said Freeport and more particularly described in Exhibit A attached hereto (hereinafter called the Protected Property); and

WHEREAS, the Grantors and the Grantee, recognizing the uniquely attractive character of the shoreland at Freeport, Maine and its essential place in the scenic beauty of the area, acknowledge a common purpose to conserve the scenic values of the shore near the Harraseeket River, as it enters the Atlantic Ocean and to prevent its use or development for any purpose or in any manner that would conflict with the maintenance of said property as an open or wooded space and predominantly natural area; and

WHEREAS, said common purpose is shared by other owners of land at, or in the vicinity of, said property; and

WHEREAS, the Grantee is a non-profit corporation, whose purpose is to preserve and conserve ecologically significant natural areas for aesthetic, scientific and educational purposes; and

WHEREAS, the Grantee is the owner of certain land which is in close proximity to the Protected Property and is more particularly described in a deed from Egerton B. Sawtelle and Muriel S. Sawtelle to the Grantee dated December 1, 1979 and recorded in Cumberland County Registry of Deeds, Book 4538, Page 120, hereinafter referred to as the Benefited Property; and

WHEREAS, the Grantee is the holder of a Conservation Easement dated December 15, 1979 and recorded in said Registry of Deeds in Book 4543, Page 156, as amended, which imposes certain restrictions on the Protected Property and adjoining property for the benefit of the Benefited Property, and

WHEREAS, the Grantee holds the Benefited Property for the pupose of maintaining it forever in its present natural state; and

WHEREAS, the Protected Property and the Benefited Property are closely related and appurtenant to one another so that any change in the natural, scenic, open and wooded condition of the Protected Property would have a deletorious effect on the natural character of the Benefited Property in terms of the view from the latter as well as the purity of the air, water and the environment in and around the Benefited Property.

222

NOW, THEREFORE, the Grantors, without receipt of consideration and as an absolute and unconditional gift, subject to the convenants herein contained, do hereby freely give, grant and convey unto the Grantee and its successors and assigns forever, for the benefit of the Benefited Property, a Conservation Easement, in perpetuity over the Protected Property, consisting of the following convenants of the Grantors, on behalf of themselves, their heirs and assigns, which shall run with and bind the Protected Property in favor of the Benefited Property in perpetuity:

1. No structures of any kind shall be located on the Protected Property except within an area which is bounded on the southwest by the soutwesterly sideline of said lot; on the northwest by a line which is parallel to and 175 feet in a southeasterly direction from the northwesterly sideline of said lot; on the northeast by a line which is parallel to and 140 feet in a northeasterly direction from the southwesterly sideline of said lot; on the southeast by a line which is 250 feet from the mean high water mark of the Harraseeket River.

2. No structure shall have a roof higher than 25 feet above the natural grade of said lot, and no chimney, antenna, or other appurtenant structure shall extend more than 3 feet above the roof line.

3. Roofing and siding shall be of natural weathered wood, of colors and textures as approved by the Freeport Conservation Trust.

4. There shall be planted and maintained a screen of white pine trees at least 25 feet high and of sufficient length and density to screen all structures when viewed anywhere from Bartol Island Road. Evergreens must be at least 15 feet high at planting and must be planted within 6 months from the commencement of construction.

5. All driveways shall be unpaved.

6. Except as expressly limited herein, the Grantors reserve for themselves, their heirs and assigns, all rights as owners of the Protected Property, including the right to use the Protected Property for all purposes not inconsistent with this grant.

The covenants agreed to and the terms, conditions, restrictions and purposes imposed with this conservation easement shall not only be binding upon the Grantors but also their agents, personal representatives, heirs and assigns and all other successors to their interests and shall continue as a servitude running in perpetuity with the Protected Property for the benefit of the Benefited Property.

By acceptance of this conservation easement, Grantee, its successors and assigns, covenants and agrees, as real covenants running with the land in perpetuity, not as conditions to this conservation easement or as restraints on alienability, (1) that they will hold this conservation easement and the Benefited Property for the purposes for which Grantee, its successors and assigns, were organized, (2) that they will not transfer said conservation easement or the Benefited Property,

except to an entity able to enforce the rights granted in this conservation easement, which entity shall also have purposes similar to that of Grantee and which encompas the purposes set forth in this conservation easement, (3) that any such transferee shall be an organization described in Section 170(c)(2) and Section 501(c)(3) of the Internal Revenue Code of 1954, as amended or a governmental entity described in Section 170(c)(1) of said Internal Revenue Code and shall not be a private foundation as defined in Section 509 of said Internal Revenue Code and (4) that any such transfer shall not be in exchange for money or services.

TO HAVE AND TO HOLD the said Conservation Easement unto the said Grantee and its assigns forever.

IN WITNESS WHEREOF, the said Grantors being husband and wife have hereunto set their hands and seals the day and year first above written.

Mark M. Dorsey 9/29/83

Mark M. Dorsey

Victoria E. Dorsey 9/29/83

Victoria E. Dorsey

STATE OF MAINE
Cumberland, ss.

September 29, 1983

Personally appeared the above-named Mark M. Dorsey and acknowledged the foregoing instrument to be his free act and deed.

Before me,

Notary Public
attorney at law

STATE OF MAINE
Cumberland, ss.

September 29, 1983

Personally appeared the above-named Victoria E. Dorsey and acknowledged the foregoing instrument to be her free act and deed.

Before me,

Notary Public
attorney at law

224

EXHIBIT A

A certain lot or parcel of land situated in the Town of Freeport, County of Cumberland, State of Maine and lying Easterly of, but not adjacent to the current location of the Torrey Range Road, so called and being more particularly bounded and described as follows, to with:

Beginning at an iron rod set on the division line between the land now or formerly of Philip Davenport and land now or formerly of John F. McGrath, Jr. said point being situated 576.56' as measured Southwesterly along said division line from an iron rod set in stone, said rod in stone being situated 790' +/- from the Southerly corner of a certain parcel of land deeded to Robert A. Davenport as described in the deed given him and recorded in the Cumberland County Registry of Deeds book 3175, page 360, said rod in stone and division line all as shown on a plan recorded in said Registry dated Nov. 1979 by Wrtight Pierce Co. of Topsham, Me. and recorded in book 125, page 24;

Thence S40°-09'-25"E along land now or formerly of said McGrath and stone wall and fence remnants for a distance of 389.95' to an iron rod set for a corner, said rod being situated 536' +/- from the approximate high water mark of the Harrasseket River on the extension of same course;

Thence for the following courses along remaining land of this grantor to an iron rod set at the end of each said course.

N60°-08'E for a distance of 227.15'
N30°-03'-50"E for a distance of 209.63'
N28°-24'-30"W for a distance of 135.65'
N35°-35'-20"W for a distance of 105.41'
N39°-51-'50"W for a distance of 99.95'
S52°-34'-10"W for a distance of 457.81' to the iron rod at the point of begining.

Meaning and intending to describe and hereby describing a the parcel of land conveyed to Grantors by deed of even date herewith to be recorded in said Registry, said parcel herein conveyed containing 4.00 acres. All bearings are magnetic 1946.

Also including herein a 15' wide right of way along the Northeasterly side of said division line above mentioned running from the Westerly corner of the lot herein described designated by the said iron rod at the aforesaid point of beginning and running N40°-09'-25"W for a distance of 270.63' to a point for the purposes of passing and repassing together with the right to lay and maintain utility poles, wires, conduits, etc. above or below the said 15' right of way.

Reserving to Philip Davenport and Dorothy Davenport, their heirs and assigns, a 15' wide right of way along the Northeasterly side of said division line above mentioned running from the Westerly corner of the lot herein described designated by the said iron rod at the aforesaid point point of beginning and running S40°-09'-25"E for a distance of 389.95' through the lot herein described and along land now or formerly of McGrath to the remaining land of said Davenports for the purposes of passing and repassing.

SEP 30 1993
REGISTRY OF DEEDS CUMBERLAND COUNTY, MAINE
Received at 1 H27 M4 M. and recorded in
BOOK 6284 PAGE 221 James J. Walsh Register

Appendix 5. 1984 Dorsey Supplemental Conservation Easement

SUPPLEMENTAL CONSERVATION EASEMENT

This INDENTURE made this 23rd day of December, 1983 by and between MARK M. DORSEY and VICTORIA E. DORSEY of South Street, Freeport, Maine, hereinafter referred to as the Grnators, and the FREEPORT CONSERVATION TRUST, a non-profit corporation organized and existing under the laws of the State of Maine and having its principal office at Freeport, Cumberland County, Maine, hereinafter referred to as the Grantee,

W I T N E S S E T H:

WHEREAS, Grantors hold title to certain real property with the buildings thereon situated in said Freeport and more particularly described in Exhibit A attached hereto (hereinafter called the Protected Property); and

WHEREAS, the Grntors and the Grantee, recognizing the uniquely attractive character of the shoreland at Freeport, Maine and its essential place in the scenic beauty of the area, acknowledge a common purpose to conserve the scenic values of the shore near the Harraseeket River, as it enters the Atlantic Ocean and to prevent its use or development for any purpose or in any manner that would conflict with the maintenance of said property as an open or wooded space and predominantly natural area; and

WHEREAS, said common purpose is shared by other owners of land at, or in the vicinity of, said property; and

WHEREAS, the Grantee is a non-profit corporation, whose purpose is to preserve and conserve ecologically significant natural areas for aesthetic, scientific and educational purposes; and

WHEREAS, the Grantee is the owner of certain land which is in close proximity to the Protected Property and is more particularly described in a deed from Egerton B. Sawtelle and Muriel S. Sawtelle to the Grantee dated December 1, 1979 and recorded in Cumberland County Registry of Deeds, Book 4538, Page 120, hereinafter referred to as the Benefited Property; and

WHEREAS, the Grantee is the holder of a Conservation Easement dated December 15, 1979 and recorded in said Registry of Deeds in Book 4543, Page 156, as amended, which imposes certain restrictions on the Protected Property and adjoining property for the Benefit of the Benefited Property, and

WHEREAS, the Grantors have previously granted a Conservation Easement to Grantees by document dated September 29, 1983 and recorded in Cumberland County Registry of Deeds, Book 6284, Page 221.

WHEREAS, the Grantee holds the Benefited Property for the purpose of maintaining it forever in its present natural state; and

WHEREAS, the Protected Proerty and the Benefited Property are closely related and appurtenant to one another so that any

change in the natural, scenic, open and wooded condition of the Protected Property would have a deleterious effect on the natural character of the Benefited Property in terms of the view from the latter as well as the purity of the air, water and the environment in and around the Benefited Property.

NOW, THEREFORE, the Grantors, without receipt of consideration and as an absolute and unconditional gift, subject to the covenants herein contained, do hereby freely give, grant and convey unto the Grantee and its successors and assigns forever, for the benefit of the Benefited Property, a Conservation Easement, in perpetuity over the Protected Property, consisting of the following covenants of the Grantors, on behalf of themselves, their heirs and assigns, which shall run with and bind the Protected Property in favor of the Benefited Property in perpetuity:

1. No structures of any kind shall be located on the Protected Property.

2. All driveways shall be unpaved, and no trees shall be cut in the 50 right of way for driveway purposes. MMO VED

3. Except as expressly limited herein, the Grantors reserve for themselves, their heirs and assigns, all rights as owners of the Protected Property, including the right to use the Protected Property for all purposes not inconsistent with this grant.

The covenants agreed to and the terms, conditions, restrictions and purposes imposed with this conservation easement shall not only be binding upon the Grnators but also their agents, personal representatives, heirs and assigns and all other successors to their interests and shall continue as a servitude running in perpetuity with the Protected Property for the benefit of the Benefited Property.

By acceptance of this conservation easement, Grantee, its successors and assigns, covenants and agrees, as real covenants running with the land in perpetuity, not as conditions to this conservation easement or as restraints on alienability, (1) that they will hold this conservation easement and the Benefited Property for the purposes for which Grantee, its successors and assigns, were organized, (2) that they will not transfer said conservation easement or the Benefited Property, except to an entity able to enforce the rights granted in this conservation easement, which entity shall also have purposes similar to that of Grantee and which encompass the purposes set forth in this conservation easement, (3) that any such transferee shall be an organization described in Section 170(c)(2) and Section 501(c)(3) of the Internal Revenue Code of 1954, as amended or a governmental entity described in Section 170(c)(1) of said Internal Revenue Code and shall not be a private foundation as defined in Section 509 of said Internal Revenue Code and (4) that any such transfer shall not be in exchange for money or services.

The Parties hereto agree that the real estate interests described in Exhibit A attached hereto shall be incorporated into the Conservation Easement dated September 29, 1983 and recorded in said Registry in Book 6284, Page 221 as if the same

had been described therein at its time of execution and all of the terms and conditions of said Conservation Easement shall equally apply to the premises described in Exhibit A.

TO HAVE AND TO HOLD the said Conservation Easement unto the said Grantee and its assigns forever.

IN WITNESS WHEREOF, the said Grantors being husband and wife have hereunto set their hands and seals the day and year first above written.

Mark M. Dorsey

Victoria E. Dorsey

STATE OF MAINE
Cumberland, ss.

1/11, 1984

Personally appeared the above-named Mark M. Dorsey and acknowledged the foregoing instrument to be his free act and deed.

Before me,

Barnum B. Burrall
Notary Public
Barnum Beach Burrall
MY COMMISSION EXPIRES
SEPTEMBER 30, 1984

STATE OF MAINE
Cumberland, ss.

1/11, 1984

Personally appeared the above-named Victoria E. Dorsey and acknowledged the foregoing instrument to be her free act and deed.

Before me,

Barnum B. Burrall
Notary Public
Barnum Beach Burrall
MY COMMISSION EXPIRES
SEPTEMBER 30, 1984

SEAL

EXHIBIT A

A certain lot or parcel of land situated in the Town of Freeport, County of Cumberland, State of Maine and lying Easterly of, but not adjacent to, the current location of the Torrey Range Road, so-called and being more particularly bounded and described as follows, to wit; a 35' wide right of way parallel to and along the Northeasterly side of the 15' wide right of way previously granted by Philip Davenport and Dorothy Davenport to Mark M. Dorsey and Victoria E. Dorsey by deed dated September 29, 1983 and recorded in the Cumberland County Registry of Deeds, Book 6284, Page 213, running from the North Westerly boundary of the lot conveyed by said deed N 40° -09' -25" W for a distance of 270.63' to a point for the urposes of passing and repassing together with the right to lay and maintain utility poles, wires, conduits, etc. below the said 35' right of way, all in common with Grantor.

RECEIVED
1984 AUG 22 AM 10:19
RECORDED REGISTRY OF DEEDS
CUMBERLAND COUNTY

James J. Walsh