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Renewable Energy Generation in Draft New Model Conservation Easement Presentation by Tom Howe, Society for the Protection of NH Forests NH Land Trust Coalition, Thurs., October 13, 2016

KEY NOTES:

- The following approach has not yet been finalized by the Forest Society's staff nor approved by legal counsel, so please do not use what is presented here. To obtain our new CE language once finalized, send request to thowe@forestsociety.org only if you've not already done so (have saved prior requests).
- The approach below does NOT apply to existing CE's.

A. Objectives

- a. Allow expanded, routine use of renewables (non-fossil fuels) on CE Area ("Area"), beyond needs of traditional permitted uses (forestry, ag., etc.), to help mitigate climate change & thus help protect Conservation Attributes ("Attributes")
- b. Allow renewables to meet most common offsite need of one residence
- c. Allow renewables to serve commercial purposes other than forestry/ag, but only if *de minimus* impacts
- d. Favor solar over other sources as generally less impacting
- e. Configure excluded area as preferred location for renewables, or window w/in Area for renewables, wherever possible
- f. Consider downplaying/eliminating scenic value as Purpose to reduce potential conflicts w/ use of renewables

B. Preamble

- a. Explains climate change as threat to Attributes, & use of renewables mitigating same thus helping protect Attributes



- b. Text appears after listing of Attributes, w/ documentation of threats (e.g. development)

C. Standards for structures/improvements

- i. Must be for permitted uses: forestry, agriculture, commercial use w/ *de minimus* impacts (i.e. non-forestry, non-ag.; see below), conservation, habitat mgt., non-commercial outdoor recreation/education, or renewable energy production
- ii. Not detrimental to Purposes
- iii. Can't exceed impervious surface limit for Area (2% default)
- iv. Renewable energy production facilities
 - 1. Advance notice to & approval by E. Holder
 - 2. Sized at construction, per measurement over 1 yr. period, to serve not more than:
 - a. Permitted forestry, agriculture, conservation, habitat mgt., non-commercial outdoor recreation/education uses of Area;
 - b. For solar systems only, energy serving one (offsite) residence of Landowner;

(Under scenarios a & b, momentary sale of surplus/incidental energy generated in excess of then-current demand by non-commercial uses is *not* considered commercial.)
 - c. Approved commercial use w/ *de minimus* impacts (below).
- v. Commercial use w/ *de minimus* impacts:
 - 1. Advance notice to & approval by E. Holder
 - 2. General *de minimus* stds.:
 - a. Not detrimental to Purposes
 - b. Not materially impair Cons. Attributes
 - c. Doesn't diminish Area's productive capacity or potential future uses for agriculture, forestry, open space, or conservation;
 - d. Doesn't affect IRS qualification of Easement or E. Holder

3. **PLUS** addit. stds. for structures/improvements:

- a. Roofed structure footprint \leq 500 sq. ft. per structure, \leq 750 cumulative sq. ft. for Area
- b. Height max. 25'
- c. Permanent power & communication lines visible to public yr-round must be buried

vi. Commercial/industrial use w/ *more* than *de minimus* impacts

1. Structure as tailored reserved right
2. Advance notice to & approval by E. Holder
3. Appropriate limitations protecting Attributes
4. Address demolition, abandonment, etc.

EXCERPT OF TABLE OF CONTENTS FOR DRAFT MODEL CONSERVATION EASEMENT DEED, 13OCT2016, BY FOREST SOCIETY. NOT YET FINALIZED BY STAFF OR LEGAL COUNSEL, SO DO NOT USE.

Preparation and distribution of this model Conservation Easement Deed made possible, in part,



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