



# Vermont Mandatory Flood Disclosure



Date Prepared: 01/23/2025

Seller's Name(s): C3 Energy Capital, LLC - C/O Chris Lamonia

Property Address: 38.59 +/- Acres off Carroll Road, Waitsfield, VT 05673

27 V.S.A. § 380 requires all Sellers of real property in Vermont to disclose the flood status of their property to the Purchaser. The FEMA search engine can be found at <https://msc.fema.gov/portal/home>.

Descriptions of FEMA's flood hazard areas can be found at <https://www.fema.gov/glossary/flood-zones>.

1	Is the real property located in a Federal Emergency Management Agency (FEMA) mapped Special Flood Hazard Area?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
2	Is the real property located in a Federal Emergency Management Agency (FEMA) mapped Moderate Flood Hazard Area?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
3	Has the real property been subject to flooding or flood damage while the seller possessed the property, including flood damage from inundation or from flood-related erosion or landslide damage?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
3a	If yes, please describe: There are some wetlands on the property and there is a wetland delineation map in the MLS listing.		
4	Does the seller maintain flood insurance on the real property?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

*Seller has completed this form personally, reviewed the FEMA map and associated data themselves, and has not relied upon anyone else to provide this information.*

**THE STATEMENTS IN THIS REPORT ARE MADE BY THE SELLER. THEY ARE NOT STATEMENTS OR REPRESENTATIONS MADE BY ANY REAL ESTATE AGENT(S).**

Seller: 

C3 Energy Capital, LLC - C/O Chris Lamonia

dotloop verified  
01/27/25 11:35 AM EST  
VUFM-ACAA-ANYF-T1HA

  
(Signature) (Date)

Seller:   
(Signature) (Date)

Seller:   
(Signature) (Date)

Seller:   
(Signature) (Date)

*Purchaser acknowledges receipt of this Disclosure*

Purchaser:   
(Signature) (Date)

Purchaser:   
(Signature) (Date)

Purchaser:   
(Signature) (Date)

Purchaser:   
(Signature) (Date)















Attest: Rene Spier Town Clerk

## PROJECT LOCATION

NOTES

- THIS PLAT IS BASED ON DEEDS RESEARCHED IN THE TOWNS OF  
WATSFIELD AND FAYETTE LAND RECORDS AND A  
CLOSED FIELD TRAVELER'S RECORD OF THE  
1870'S. THE 1870'S BEARINGS ARE BASED ON  
STATION PLANE GRID NORTH ESTABLISHED WITH  
OBSERVATIONS FROM VERNON CORNS STATION. VCAI  
INSTRUMENTS  
REMARKS SET ARE NO. 5 REINFORCING BARS WITH ALUMINUM  
CAPS STAMPED "TRUSTEES OF THE STATE OF MISSISSIPPI"  
AND "1870". THE REMAINING PORTION OF THE LANDS  
CONVEYED TO WATSFIELD INVESTMENT, INC. IN VOLUME 34  
PAGE 187  
DISTANCES ARE SHOWN TO THE HUNDREDTH OF A FOOT  
AND BEARINGS ARE SHOWN TO THE SECOND FOR  
THE FIRST TWO CLOSEST TO THE CORNER  
AN ATTEMPT HAS BEEN MADE TO IDENTIFY OR DELINEATE  
EASEMENTS, RIGHTS OF WAY, LEASE LANDS,  
ENCUMBRANCES, ETC. IF ANY EASEMENTS OR RIGHTS OF  
WAY OR ENCUMBRANCES ARE SHOWN OR RECALCULATED  
FOUND IN THE LAND RECORDS, ADDITIONAL  
ENCUMBRANCES MAY EXIST WHICH ARE NOT SHOWN ON  
THIS PLAT  
THIS LAND IS SUBJECT TO EASEMENTS TO GREEN MOUNTAIN  
POWER CORPORATION AS DESCRIBED IN VOLUME 24 PAGE  
232 AND VOLUME 25 PAGE 467  
THIS LAND MAY BE SUBJECT TO SPLITTING RIGHTS AS  
DESCRIBED IN VOLUME 20 PAGE 187  
THIS LAND IS SUBJECTED BY THE 1870'S BEARING CORNER  
THE LINE SHOWN BETWEEN WATSFIELD INVESTMENTS AND  
ONE IS BASED ON THE DESCRIPTION OF THE PLAT AS A  
STRAIGHT LINE.

### LEGEND

- |   |                                 |
|---|---------------------------------|
|  | REBAR (TO BE SET)               |
|  | IRON PIPE ( FOUND )             |
|  | CONCRETE MONUMENT ( FOUND )     |
|  | CONCRETE MONUMENT ( TO BE SET ) |
|  | REINFORCING BAR ( FOUND )       |
|  | CALCULATED POINT                |
|  | UTILITY POLE                    |
|  | OVERHEAD UTILITY LINES          |
|  | BARBED WIRE FENCE               |
|  | STONE WALL                      |
|  | CURVE DATA TABLE REFERENCE      |
|  | LINE DATA TABLE REFERENCE       |

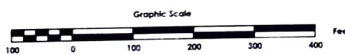


**Boundary Plat**  
**WAITSFIELD INVESTMENT, INC.**

Carroll Road  
field, Vermont

**CONSULTING ENGINEERS**  
1701 N. VERBENTON BLVD. SUITE 870 ASP | WWW.TCEVT.COM

Date:	2/19/15
Scale:	1"x100'
Project Number:	15-013
Drawn By:	SDT
Project Manager:	JAAA
Approved By:	
Field Book:	331
Crd file:	2015013
Sheet:	<b>C1-01</b>

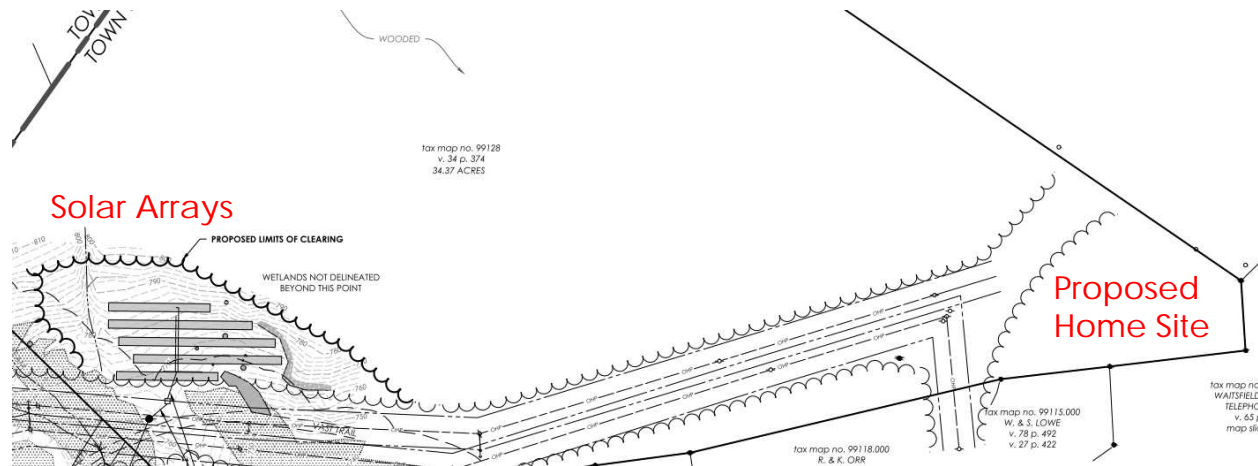


Revisions	#	Description	Date	By
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## Field Report – Test Pits

Project Name: Winterpark  
 Project Number: 15-013 Date: 05-29-2015  
 Time Arrived Site: 7:30 am Departed: 9:30 am  
 TCE Staff: Amanda Raab  
 Others Present on Site: Tom Flynn, Dana Naqy, Nils Behn  
 Weather: Clear Sky, Sunny, 70°F, Wooded area  
 Submitted to: Aegis Winterpark Solar Farm Date: 07/07/2015

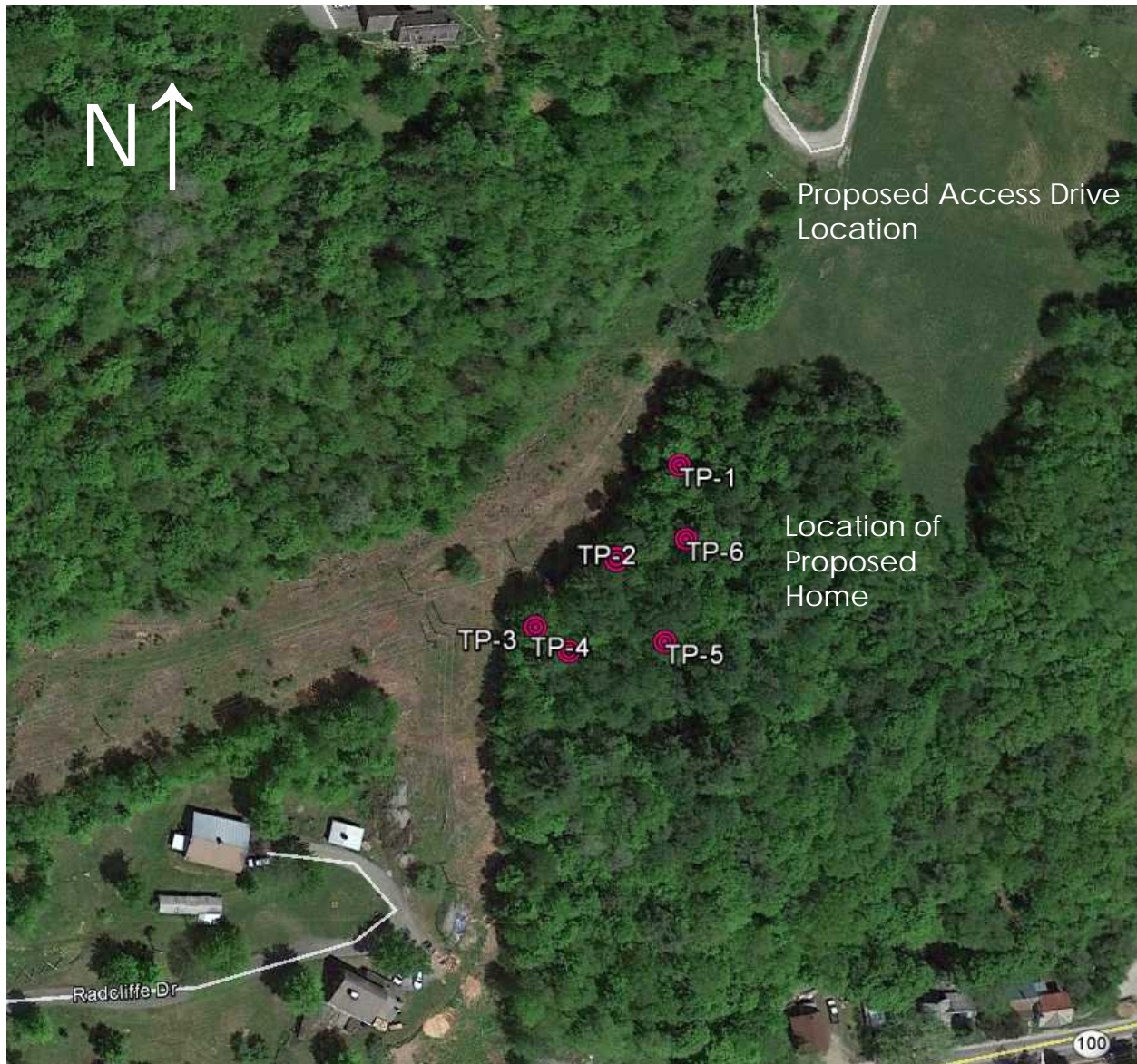
Comments: I arrived on site near the movie theater and met with Dana Nagy, State of Vermont Regional Engineer and Tom Flynn, Aegis Renewable Energy and their excavator. We proceeded to the east corner of the  $\pm 34.5$  acre lot where a proposed house site would be investigated. Remaining portions of the lot would contain solar arrays along with undeveloped areas.



A total of six (6) test pits were excavated at the site proposed for the home in an area that seemed visually capable of sustaining on-site wastewater disposal and was the preferred area for the site developer, Nils. In general, the test pits consisted of silt loams, fine sandy loams and fine sand. Each pit had indications of a high water table constraining the disposal design a mound system. TestPit-6 was excavated to ledge for exploratory and construction purposes, which was found at a depth of 4.5 feet below grade. After we found an area for a single family mound system, the excavation ended as Nils was satisfied with the location and satisfied with Dana's preliminary approval. Nils, Dana and I exited the parcel to the east to explore the proposed entrance which will be shared with the neighbor, if they allow. The proposed shared entrance appears




to be the most economical entrance as a driveway from the west would be costly due to its length from existing access near the movie theater.



Courtesy google earth

In conclusion, the site will support on-site waste disposal and once the access has been decided, the wastewater and water design can begin.

Enclosed: Test Pit Logs

  
Signature of Preparer

Test Pit Log

15-013 Aegis Winterpark – Waitsfield, VT

Persons: Amanda Raab – TCE, Dana Nagy – State of VT, Nils Behn – Aegis

Weather: Sunny, 70°F, Clear Skies

Topography: Wooded area, 5%±5% slopes

Date: 05/29/2015



**TRUDELL**  
*Consulting Engineers*

**TP-1 N44-11-26-25.6 W 72-49-39.0**

0-10" silt topsoil, dark brown, with organics

10-23" dense silt, mottled to 23"

SHWT @ 10" based on mottling, no observed groundwater seeps or ledge to depth of pit

**TP-2 N44-11-26-24.8 W 72-49-39.7**

0-12" silt topsoil, dark brown, with organics

12-36" silt loam, some stone, very dense

SHWT @ 12", based on mottling, no observed groundwater seeps or ledge to depth of pit

**TP-3 N44-11-26-24.2 W 72-49-40.6**

0-20" silt loam, medium density

12-36" silt loam, some stone, very dense

SHWT @ 20", based on mottling, no observed groundwater seeps or ledge to depth of pit

**TP-4 N44-11-26-24.0 W 72-49-40.2**

0-8" silt loam, medium density

8-23" silt loam, dense, mottled throughout

23-39" fine sandy loam, medium density, mottled throughout, stones

39-45" fine sand, mottled throughout

SHWT @ 8" based on mottling, no observed groundwater seeps or ledge to depth of pit

**TP-5 N44-11-26-24.1 W 72-49-39.1**

0-10" silt loam, medium density

10-22" silt loam, dense

SHTW @ 10" based on mottling, no observed groundwater seeps or ledge to depth of pit

**TP-6 N44-11-26-25.0 W 72-49-38.9**

0-12" silt loam, medium density

12-25" silt loam, dense, mottled throughout

SHWT @ 8", Ledge @ 54", based on mottling, no observed groundwater seeps



Vermont Property Transfer Tax  
32 V.S.A. Chap. 231  
**-ACKNOWLEDGMENT-**  
Return Received

Return No. 62-16  
Signed [Signature] Clerk  
Date 12-22-16

**VERMONT WARRANTY DEED**

WAITSFIELD TOWN CLERKS OFFICE  
RECEIVED FOR RECORD

DATE 12-22-16 TIME 9:15 a.  
RECORDED IN BOOK 162 PAGE 575-577  
ATTEST [Signature] TOWN CLERK

KNOW ALL PERSONS BY THESE PRESENTS: That

**AEGIS RENEWABLE ENERGY, INC.**, a Vermont corporation

of Waitsfield, County of Washington, and State of Vermont, Grantor, successor in interest to Aegis Wind, LLC pursuant to a Statement of Conversion filed with the Vermont Secretary of State on or about January 7, 2016, Grantor, in the consideration of THIRTY-FIVE THOUSAND DOLLARS paid to its full satisfaction by:

**C3 ENERGY CAPITAL, LLC**

of Waitsfield, County of Washington, and State of Vermont, Grantees, by these presents do freely Give, Grant, Sell, Convey and Confirm unto the said Grantee,

**C3 ENERGY CAPITAL, LLC**

and its heirs, successors and assigns forever, a certain piece of land in the TOWN OF WAITSFIELD, in the County of Washington, and STATE OF VERMONT, described as follows, viz:

Being all and the same land and premises conveyed to the Seller by Warranty Deed of Waitsfield Investments, Inc., dated March 30, 2015 and recorded at Book 156, Pages 337-340 of the Waitsfield Land Records.

Said lands and premises are located on the northerly side of Route 100 in the Town of Waitsfield, and includes two contiguous parcels of undeveloped land with appurtenances thereto (collectively the "Property") as depicted on a survey entitled, BOUNDARY PLAT, WAITSFIELD INVESTMENT, INC., prepared by Trudell Consulting Engineers, dated February 19, 2015 and recorded as Map Slide 315A in the Waitsfield Land Records (the "Survey").

Parcel One contains 4.12 acres and is subject to a Conservation Easement granted to Vermont Land Trust, by Grant dated as of April 13, 2016 and recorded at Book 160, Pages 330-337 of the Waitsfield Land Records; and

Parcel Two contains 34.47 acres and has been improved with a solar farm having a footprint of two acres, more or less. Parcel Two will be subject to the terms and conditions of a Land Lease between Grantee and Mad River Community Solar Farm, LLC for a term of 30 years with related rights of access to operate, maintain, upgrade, replace and/or decommission the system site.

The Property includes a fifty foot (50') wide right of way for access and utilities from Carrol Road across the lands of Potter Properties, LLC and Winter Park Associates as depicted on the Survey. The right of way shall be limited to use for energy related

installations, forestry and one single family dwelling with guest house or apartment or one commercial establishment.

The Property also includes a utility easement from Winter Park Associates for placement of a utility pole on Lot 6 of the Winter Park Subdivision, which pole is to be installed at Grantee's cost for use in common with the Grantor. All utilities from the newly place pole to the Property shall be underground.

The Property does not include any off-site water or sewer rights.

**To Have and to Hold** said granted premises, with all the privileges and appurtenances thereof, to the said Grantee,

**C3 ENERGY CAPITAL, LLC** and its heirs, successors and assigns, to their own use and behoof forever; and the said Grantors,

**AEGIS RENEWABLE ENERGY, INC.**


for themselves and their successors and assigns, do covenant with the said Grantee,

**C3 ENERGY CAPITAL, LLC**

and its heirs, successors and assigns, that until the ensembling of these presents AEGIS RENEWABLE ENERGY, INC. is the sole owner of the premises, and have good right and title to convey the same in manner aforesaid, that they are **Free From Every Encumbrance**, except as above set forth; and AEGIS RENEWABLE ENERGY, INC. hereby engage to **Warrant and Defend** the same against all lawful claims whatever, except as aforesaid.

**In Witness Whereof**, I, hereunto set my hand and seal this 16 day of December, A.D. 2016.

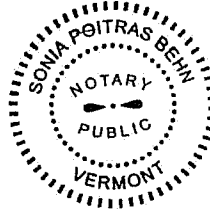
**AEGIS RENEWABLE ENERGY, INC.**

By   
Its Duly Authorized Agent

STATE OF VERMONT  
COUNTY OF WASHINGTON, ss.

At Waitsfield, this 16 day of December, 2016, Nils Behn, duly authorized agent for AEGIS RENEWABLE ENERGY, INC., personally appeared, and he acknowledged this instrument, by him sealed and subscribed, to be his free act and deed and the free act and deed of Aegis Renewable Energy, Inc.

Before me, Sonia Behn  
NOTARY PUBLIC  
My Commission Expires: 02/10/19





WAITSFIELD TOWN CLERKS OFFICE  
RECEIVED FOR RECORD

DATE 12-22-16 TIME 9:15 a.

RECORDED IN BOOK 162 PAGE 578-580

ATTEST [Signature] TOWN CLERK

**EXHIBIT "C"**

**MEMORANDUM/NOTICE OF LEASE**

Site Name/Location: Mad River Community Solar Farm  
0 Carroll Road, Waitsfield, Vermont 05763

This Memorandum/Notice of Lease, dated as of December 16, 2016, evidences that a Land Lease Agreement (the "Lease") dated as of December 16, 2016, was made and written between **C3 Energy Capital** ("Lessor"), a Vermont limited liability company, and **Mad River Community Solar Farm** ("Lessee"), a Vermont limited liability company with an address at 136 West Hill Extension, Warren, Vermont 05674, and the terms and conditions of such Lease are incorporated herein by this reference. Nothing in this Memorandum/Notice of Lease shall be deemed to modify, amend, limit, or otherwise affect the terms and conditions of the Lease. In the event of any inconsistency between the terms of this Memorandum/Notice of Lease and the terms of the Lease, the terms of the Lease shall control.

Such Lease provides in part that Lessor leases to Lessee a certain parcel of real property located at 0 Carroll Road, Town of Waitsfield, State of Vermont, more particularly described in Exhibit B attached hereto (the "Solar Site"). The Solar Site is situated within a larger parcel of real property that is owned by Lessor and more particularly described in Exhibit A attached hereto ("Lessor's Property"). Pursuant to the Lease, Lessor has also granted to Lessee an easement for non-exclusive rights of access to the Solar Site and for electric, stormwater and other utilities services and facilities to the Solar Site. The date of the Lease is as of December 16, 2016. The Lease term shall commence on the commissioning date of the Solar Site (the "Commissioning Date") and ends on the 30th anniversary of such Commissioning Date. Lessee has three options to extend this Lease, each option being for a term of ten (10) years.

The Lease provides Lessee the right to assign or transfer its rights under the Lease, in whole or in part, to any person or any business entity at any time, subject to the assignee assuming all of Lessee's obligations thereunder. After delivery by Lessee to Lessor of an instrument of assumption by an assignee wherein such assignee assumes all of the obligations of Lessee under the Lease, Lessee will thereafter be relieved of all liabilities and obligations pursuant to the Lease.

Upon the cancellation, termination or expiration of the Lease, Lessee will make, execute and deliver to Lessor an instrument releasing this Memorandum/Notice of Lease, which instrument shall in form and substance be satisfactory to Lessor and shall be in recordable form.

Lessee does hereby make, constitute and appoint Lessor Lessee's true and lawful attorney-in-fact for the limited, specific and exclusive purpose of executing, delivering and recording a termination of this Memorandum/Notice of Lease in the event that Lessee has not signed and returned to Lessor, within ten (10) business days after the cancellation, termination or expiration of the Lease in accordance with the terms thereof, a signed termination of this Memorandum/Notice of Lease. This power of attorney is coupled with an interest and shall be irrevocable until this Memorandum/Notice of Lease has been validly released of record. The

power of attorney set forth in this paragraph is hereby expressly limited to the specific matters and rights set forth in such paragraph.

This Memorandum/Notice of Lease may be executed in counterparts, each of which, when executed, shall be deemed an original instrument, but all of which taken together shall constitute one and the same agreement. Capitalized terms not otherwise defined herein shall have the respective meanings ascribed to such terms in the Lease.

The location of the original lease is on file and available for inspection during usual business hours at the offices of Tenant.

IN WITNESS WHEREOF, the parties have executed the Memorandum/Notice of Lease as of the day and year first above written.

IN PRESENCE OF:

**C3 ENERGY CAPITAL, LLC**

Sonia Behn  
Witness

By:

[Signature]  
Duly Authorized Agent

**MAD RIVER COMMUNITY SOLAR  
FARM, LLC**

Sonia Behn  
Witness

By:

[Signature]  
Duly Authorized Agent

STATE OF VERMONT  
COUNTY OF Washington, SS.

On this 16 day of December, 2016 personally appeared Chris Lamonica  
President of **C3 ENERGY CAPITAL, LLC** to me known to be the person who executed the  
foregoing instrument, and he acknowledged this instrument, by him signed, to be his free act and  
deed and the free act and deed of **C3 ENERGY CAPITAL, LLC**.

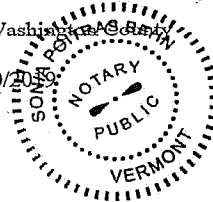
Before me, Sonia Behn  
Notary Public

Printed Name: Sonia Behn

Notary commission issued in Washington County

My commission expires: 02/10/2019

STATE OF VERMONT  
COUNTY OF Washington, SS.

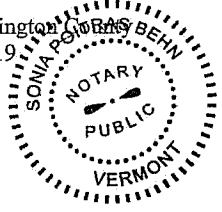


On this 16 day of December, 2016 personally appeared Dorothy Kyle Duly Authorized Agent of **MAD RIVER COMMUNITY SOLAR FARM, LLC** to ~~me~~ known to be the person who executed the foregoing instrument, and he acknowledged this instrument, by ~~him~~ <sup>her</sup> signed, to be his free act and deed and the free act and deed of **MAD RIVER COMMUNITY SOLAR FARM, LLC**.

Before me, Sonia Behn  
Notary Public

Printed Name: Sonia Behn

Notary commission issued in Washington County  
My commission expires: 02/10/2019



## GRANT OF CONSERVATION EASEMENT

THIS GRANT OF CONSERVATION EASEMENT (this "Grant") dated as of April 13, 2016 (the "Easement Date") is by and between Aegis Renewable Energy ("the undersigned Owner or Owners") and the Vermont Agency of Natural Resources (the "Holder").

### Article I. Background

#### 1.01 Property

The undersigned Owner or Owners are the sole owners in fee simple of the Property described in Exhibit "A" (the "Property"). The Property is also described as:

Street Address: Carroll Road  
Municipality: Waitsfield  
County: Washington  
State: Vermont  
Acreage: 4.3

#### 1.02 Conservation Plan

Attached as Exhibit "B" is a graphic depiction of the Property (the "Conservation Plan") showing, among other details, the approximate location of Class II wetlands and wetlands buffer areas located on the Property.

#### 1.03 Conservation Objectives

By this Grant, the undersigned Owner or Owners impose a conservation servitude (the "Conservation Easement") on the Property according to the objectives set forth below:

##### (a) Resource Protection Objectives

- (i) **Water Resources.** To maintain and improve the quality of water resources, both surface and groundwater, within, around and downstream of the Property.
- (ii) **Forest, Wetland, Woodland and Other Vegetative Resources.** To perpetuate and foster the growth of a healthy and unfragmented forest, wetland complex, and/or woodland; to maintain a continuous canopy of vegetation with multi-tiered understory of trees, shrubs, wildflowers and grasses; to support healthy ecosystem processes; and to trap air pollution particulates for healthier air and sequester carbon in trees and soil in order to mitigate rising atmospheric carbon levels.
- (iii) **Wildlife Resources.** To maintain and improve the quality of wildlife habitat; to protect breeding sites; to promote biodiversity and Native Species; to preserve large intact areas of wildlife habitat, connect patches of wildlife habitat and secure migration corridors. Large habitat patches typically support greater biodiversity than small patches; migration corridors enable wildlife to move to meet nutritional and reproductive needs and facilitate the migration of species in response to changes in environmental conditions.
- (iv) **Scenic Resources.** To preserve the relationship of scenic resources within the Property to natural and scenic resources in its surrounds and to protect scenic vistas visible from public rights-of-way and other public access points in the vicinity of the Property.
- (v) **Sustainable Land Uses.** To ensure that Agriculture, Forestry, and other uses, to the extent that they are permitted, are conducted in a manner that will neither diminish the biological integrity of the Property nor deplete natural resources over time nor lead to an irreversible disruption of ecosystems and associated processes. Agricultural and Forestry activities are regulated so as to protect soils of high productivity; to ensure future availability for Sustainable uses; and to minimize adverse effects of Agricultural and Forestry uses on water resources described in the Conservation Objectives.

#### 1.04 Baseline Documentation

As of the Easement Date, the undersigned Owner or Owners and Holder have signed for identification purposes the report (the "Baseline Documentation"), to be kept on file at the principal office of Holder, that contains an original, full-size version of the Conservation Plan and other information sufficient to identify on the ground the protection areas identified in this Article; that describes Existing Improvements; that identifies

WAITSFIELD TOWN CLERKS OFFICE  
RECEIVED FOR RECORD

- 1 -  
DATE 4.13.16 TIME 11:55a.  
RECORDED IN BOOK 160 PAGE 330-337  
ATTEST J. But TOWN CLERK

the conservation resources of the Property described in the Conservation Objectives; and that includes, among other information, photographs depicting existing conditions of the Property as of the Easement Date.

#### 1.05 Federal Tax Items

##### (a) Qualified Conservation Contribution

The Conservation Easement has been donated in whole or in part by the undersigned Owner or Owners. The donation of the Conservation Easement by this Grant is intended to qualify as a charitable donation of a partial interest in real estate (as defined under §170(f)(3)(B)(iii) of the Code) to a qualified organization (a "Qualified Organization") as defined in §1.170(A-14(c)(1) of the Regulations. If the Conservation Easement is transferred to any Person, that Person must commit to hold the Conservation Easement exclusively for conservation purposes as defined in the Regulations.

##### (b) Public Benefit

The undersigned Owner or Owners have granted the Conservation Easement to provide a significant public benefit (as defined in §1.170A-14(d)(4) of the Regulations). In addition to the public benefits described in the Conservation Objectives, the Baseline Documentation identifies public policy statements and other factual information supporting the significant public benefit of the Conservation Easement.

##### (c) Mineral Interests

No Person has retained a qualified mineral interest in the Property of a nature that would disqualify the Conservation Easement for purposes of §1.170A-14(g)(4) of the Regulations. From and after the Easement Date, the grant of any such interest is prohibited and Holder has the right to prohibit the exercise of any such right or interest if granted in violation of this provision.

##### (d) Notice Required under Regulations

To the extent required for compliance with §1.170A-14(g)(5)(ii) of the Regulations, and only to the extent such activity is not otherwise subject to Review under this Grant, Owners agree to notify Holder before exercising any reserved right that may have an adverse impact on the conservation interests associated with the Property.

##### (e) Property Right

In accordance with §1.170A-14(g)(6) of the Regulations, the undersigned Owner or Owners agree that the grant of this Conservation Easement gives rise to a property right, immediately vested in the Holder, that entitles the Holder to compensation upon extinguishment of the easement. The fair market value of the property right is to be determined in accordance with the Regulations; i.e., it is at least equal to the proportionate value that the Conservation Easement as of the Easement Date bears to the value of the Property as a whole as of the Easement Date (the "Proportionate Value"). If the Proportionate Value exceeds the compensation otherwise payable to Holder under this Easement, Holder is entitled to payment of the Proportionate Value. Holder must use any funds received on account of the Proportionate Value for conservation purposes (as that phrase is defined in the Regulations).

##### (f) Qualification under §2031(c) of the Code

To the extent required to qualify for exemption from federal estate tax under §2031(c) of the Code, and only to the extent such activity is not otherwise prohibited or limited under this Grant, Owners agree that commercial recreational uses are not permitted within the Property.

##### (g) Acknowledgment of Donation

Except for such monetary consideration (if any) as is set forth in this Article, Holder acknowledges that no goods or services were received in consideration of this Grant.

##### (h) No Representation of Tax Benefits

The undersigned Owner or Owners represent, warrant and covenant to Holder that:

(i) The undersigned Owner or Owners have not relied upon any information or analyses furnished by Holder with respect to either the availability, amount or effect of any deduction, credit or other benefit to Owners under Applicable Law; or the value of the Conservation Easement or the Property.

(ii) The undersigned Owner or Owners have relied solely upon their own judgment and/or professional advice furnished by the appraiser and legal, financial and accounting professionals engaged by the undersigned Owner or Owners. If any Person providing services in connection with this Grant or



the Property was recommended by Holder, the undersigned Owner or Owners acknowledge that Holder is not responsible in any way for the performance of services by these Persons.

(iii) This Grant is not conditioned upon the availability or amount of any deduction, credit or other benefit under Applicable Law.

**1.06 Beneficiaries**

This Grant does not confer any rights or remedies upon any Person other than Owners, Holder, and Persons (the "Beneficiaries"), if any, specifically named in this Grant. No other Persons are vested with any rights, whether arising under this Grant or otherwise under Applicable Law. No Beneficiary is identified in this Grant.

**1.07 Consideration**

The undersigned Owner or Owners acknowledge receipt, as of the Easement Date, of the sum of \$1.00 in consideration of this Grant.

## **Article II. Transfer; Subdivision**

**2.01 Prohibitions**

No transfer, no change in the boundary of any Lot; and no other Subdivision is permitted, except as set forth below.

**2.02 Permitted Changes**

Subject to Review, creation of a Lot for transfer to a Qualified Organization for park, nature preserve, public trail or other conservation purposes approved by Holder after Review is permitted.

## **Article III. Improvements**

**3.01 Prohibition**

Improvements within the Property are prohibited except as permitted below in this Article.

**3.02 Permitted Improvements**

The following Improvements are permitted:

**(a) Existing Improvements**

Any Existing Improvement may be maintained, repaired and replaced in its existing location. Existing Improvements may be expanded or relocated if the expanded or relocated Improvement complies with requirements applicable to Additional Improvements of the same type.

**(b) Additional Improvements**

The following Additional Improvements are permitted:

(i) Fences, walls and gates, not to exceed four (4) feet in Height or such greater Height as is approved by Holder after Review.

(ii) Regulatory Signs.

(iii) Habitat enhancement devices such as birdhouses and bat houses.

(iv) Trails covered (if at all) by wood chips, gravel, or other highly porous surface.

(v) Subject to Review, footbridges, stream crossing structures and stream access structures.

(vi) Subject to Review, Access Drives and Utility Improvements to service Improvements within the Property but only if there is no other reasonably feasible means to provide access and utility services to the Property.

(vii) Subject to Review, Extraction Improvements and Improvements for generating and transmitting Renewable Energy but only if located wholly beneath the surface at a depth at which there can be no impairment of water or other resources described in the Conservation Objectives. No Access Drives to service any such Improvements are permitted.

## **Article IV. Activities; Uses; Disturbance of Resources**

### **4.01 Prohibition**

Activities and uses are limited to those permitted below in this Article and provided in any case that the intensity or frequency of the activity or use does not materially and adversely affect maintenance or attainment of Conservation Objectives.

### **4.02 Permitted Uses**

The following activities and uses are permitted:

#### **(a) Disturbance of Resources**

- (i) Cutting trees, Construction or other disturbance of resources, including removal of Invasive Species, to the extent reasonably prudent to remove, mitigate or warn against an unreasonable risk of harm to Persons, property or health of Native Species on or about the Property. Owners must take such steps as are reasonable under the circumstances to consult with Holder prior to taking actions that, but for this provision, would not be permitted or would be permitted only after Review.
- (ii) Planting a diversity of Native Species of trees, shrubs and herbaceous plant materials in accordance with Best Management Practices.
- (iii) Removal and disturbance of soil, rock and vegetative resources to the extent reasonably necessary to accommodate Construction of Improvements allowed by this Easement with restoration as soon as reasonably feasible by replanting with a diversity of Native Species of trees, shrubs and herbaceous plant materials in accordance with Best Management Practices.
- (iv) Vehicular use, including but not limited to snowmobiles, all-terrain vehicles (ATV), automobiles, and other vehicles that must cross the Property to access abutting parcels.
- (v) Subject to Review, removal of vegetation to accommodate replanting with a diversity of Native Species of trees, shrubs and herbaceous plant materials.
- (vi) Generation of Renewable Energy and transmission of such energy if and to the extent Improvements for that purpose are permitted under Article III.
- (vii) Other resource management activities that Holder, without any obligation to do so, determines are consistent with maintenance or attainment of Conservation Objectives and are conducted in accordance with the Resource Management Plan approved for that activity after Review.

#### **(b). Release and Disposal**

- (i) Application of manure and plant material, both well composted, and, subject to compliance with manufacturer's recommendations, other substances to promote the health and growth of vegetation. (These permitted substances do not include sludge, biosolids, septic system effluent and related substances.)
- (ii) Piling of brush and other vegetation to the extent reasonably necessary to accommodate activities or uses permitted under this Easement.

#### **(c) Other Activities**

Activities that do not require Improvements other than trails and do not materially and adversely affect maintenance or attainment of Conservation Objectives such as the following: (i) walking, horseback riding on trails, cross-country skiing, bird watching, nature study, fishing and hunting; and (ii) educational or scientific activities consistent with and in furtherance of the Conservation Objectives.

## **Article V. Rights and Duties of Holder and Beneficiaries**

### **5.01 Grant to Holder**

#### **(a) Grant in Perpetuity**

By signing this Grant and unconditionally delivering it to Holder, the undersigned Owner or Owners, intending to be legally bound, grant and convey to Holder a Conservation Easement over the Property in perpetuity for the purpose of advancing the Conservation Objectives and administering and enforcing the restrictions and limitations set forth in Articles II, III, and IV in furtherance of the Conservation Objectives.

**(b) Superior to all Liens**

The undersigned Owner or Owners warrant to Holder that the Property is, as of the Easement Date, free and clear of all Liens or, if it is not, that Owners have obtained and recorded in the Public Records the legally binding subordination of any Liens affecting the Property as of the Easement Date.

**5.02 Rights and Duties of Holder**

The items set forth below are both rights and duties vested in Holder by this Grant:

**(a) Enforcement**

To enter the Property to investigate a suspected, alleged or threatened violation and, if found, to enforce the terms of this Grant by exercising Holder's remedies in Article VI.

**(b) Inspection**

To enter and inspect the Property for compliance with the requirements of this Grant upon reasonable notice, in a reasonable manner and at reasonable times.

**(c) Review**

To exercise rights of Review in accordance with the requirements of this Article.

**(d) Interpretation**

To interpret the terms of this Grant and, at the request of Owners, furnish Holder's explanation of the application of such terms to then-existing, proposed or reasonably foreseeable conditions within the Property.

**5.03 Other Rights of Holder**

The items set forth below are also rights vested in Holder by this Grant; however, Holder, in its discretion, may or may not exercise them:

**(a) Amendment**

To enter into an Amendment with Owners if Holder determines that the Amendment is consistent with and in furtherance of the Conservation Objectives; will not result in any private benefit prohibited under the Code; and otherwise conforms to Holder's policy with respect to Amendments.

**(b) Signs**

To install one or more signs within the Property identifying the interest of Holder or one or more Beneficiaries in the Conservation Easement. Any signs installed by Holder do not reduce the number or size of signs permitted to Owners under Article III. Signs are to be of the customary size installed by Holder or Beneficiary, as the case may be, and must be installed in locations readable from the public right-of-way and otherwise reasonably acceptable to Owners.

**(c) Proceedings**

To assert a claim, defend or intervene in, or appeal, any proceeding under Applicable Law that (i) pertains to the impairment of Conservation Objectives; or (ii) may result in a transfer, Improvement or use that violates the terms of this Grant.

## **Article VI. Violation; Remedies**

**6.01 Breach of Duty**

If Holder fails to enforce the terms of this Grant, or ceases to qualify as a Qualified Organization, then the Conservation Easement may be transferred to another Qualified Organization by a court of competent jurisdiction.

**6.02 Violation**

If Holder determines that the terms of this Grant are being or have been violated or that a violation is threatened or imminent then the provisions of this section will apply:

**(a) Notice**

Holder must notify Owners of the violation. Holder's notice may include its recommendations of measures to be taken by Owners to cure the violation and restore features of the Property damaged or altered as a result of the violation.

**(b) Opportunity to Cure**

Owners' cure period expires thirty (30) days after the date of Holder's notice to Owners subject to extension for the time reasonably necessary to cure but only if all of the following conditions are satisfied:

- (i) Owners cease the activity constituting the violation promptly upon receipt of Holder's notice;
- (ii) Owners and Holder agree, within the initial thirty (30) day period, upon the measures Owners will take to cure the violation;
- (iii) Owners commence to cure within the initial thirty (30) day period; and
- (iv) Owners continue thereafter to use best efforts and due diligence to complete the agreed upon cure.

**(c) Imminent Harm**

No notice or cure period is required if circumstances require prompt action to prevent or mitigate irreparable harm or alteration to any natural resource or other feature of the Property described in the Conservation Objectives.

**6.03 Remedies**

Upon expiration of the cure period (if any) described in the preceding section, Holder may do any one or more of the following:

**(a) Injunctive Relief**

Seek injunctive relief to specifically enforce the terms of this Grant; to restrain present or future violations of the terms of this Grant; and/or to compel restoration of resources destroyed or altered as a result of the violation.

**(b) Civil Action**

Recover from Owners or other Persons responsible for the violation all sums owing to Holder under applicable provisions of this Grant together with interest thereon from the date due at the Default Rate.

**6.04 Modification or Termination**

If the Conservation Easement is or is about to be modified or terminated by exercise of the power of eminent domain (condemnation) or adjudication of a court of competent jurisdiction sought by a Person other than Holder the following provisions apply:

**(a) Compensatory Damages**

Holder is entitled to collect from the Person seeking the modification or termination, compensatory damages in an amount equal to the increase in Market Value of the Property resulting from the modification or termination.

**(b) Restitution**

Holder is entitled to recover from the Person seeking the modification or termination restitution of amounts paid for this Grant (if any) and any other sums invested in the Property for the benefit of the public as a result of rights vested by this Grant.

**6.05 Remedies Cumulative**

The description of Holder's remedies in this Article does not preclude Holder from exercising any other right or remedy that may at any time be available to Holder under this Article or Applicable Law. If Holder chooses to exercise one remedy, Holder may nevertheless choose to exercise any one or more of the other rights or remedies available to Holder at the same time or at any other time.

**6.06 Waiver**

If Holder does not exercise any right or remedy when it is available to Holder, that is to be interpreted as a waiver of any non-compliance with the terms of this Grant or a waiver of Holder's rights to exercise its rights or remedies at another time.

**6.07 No Fault of Owners**

Holder will waive its right to reimbursement under this Article as to Owners (but not other Persons who may be responsible for the violation) if the violation was not the fault of Owners and could not have been anticipated or prevented by Owners by reasonable means.

## Article VII. Miscellaneous

### 7.01 Notices

#### (a) Requirements

Each Person giving any notice pursuant to this Grant must give the notice in writing and must use one of the following methods of delivery: (i) personal delivery; (ii) email delivery; (iii) certified mail, return receipt requested and postage prepaid; or (iv) nationally recognized overnight courier, with all fees prepaid.

#### (b) Address for Notices

Each Person giving a notice must address the notice to the appropriate Person at the receiving party at the address listed below or to another address designated by that Person by notice to the other Person:

If to Owners: Nils Behn  
Aegis Renewable Energy  
340 Mad River Park, Suite 6  
Waitsfield, VT 05673  
[nbehn@aegis-re.com](mailto:nbehn@aegis-re.com)

If to Holder: Vermont Agency of Natural Resources  
1 National Life Dr.  
Montpelier, VT 05620

### 7.02 Governing Law

The laws of the State of Vermont govern this Grant.

### 7.03 Assignment and Transfer

Owners or Holder may assign or otherwise transfer any of their respective rights or duties under this Grant voluntarily or involuntarily, whether by merger, consolidation, dissolution, operation of law or any other manner subject to the following conditions:

#### (a) By Holder

Holder may assign its rights and duties under this Grant, either in whole or in part, but only to a Qualified Organization that executes and records in the Public Records a written agreement assuming the obligations of Holder under this Grant. The assigning Holder must deliver the Baseline Documentation to the assignee Holder as of the date of the assignment. Holder must assign its rights and duties under this Grant to another Qualified Organization if Holder becomes the Owner of the Property.

#### (b) By Owners

This Grant vests a servitude running with the land binding upon the undersigned Owners and, upon recordation in the Public Records, all subsequent Owners of the Property or any portion of the Property are bound by its terms whether or not the Owners had actual notice of this Grant and whether or not the deed of transfer specifically referred to the transfer being under and subject to this Grant.

### 7.04 Burdens; Benefits; Exclusive to Holder

Subject to the restrictions on assignment and transfer set forth in the preceding section, this Grant binds and benefits Owners and Holder and their respective personal representatives, successors and assigns. Except for rights of Beneficiaries (if any) under Article V, only the Holder has the right to enforce the terms of this Grant and exercise rights of Review, Waiver, Amendment or other discretionary rights of Holder. Only the Owners of the Lot that is the subject of a request for Review, Waiver, Amendment, interpretation or other decision by Holder have any right to notice of, or other participation in, such decision.

### 7.05 Requirement of Writing

No Amendment, Waiver, approval after Review, interpretation or other decision by Holder is valid or effective unless it is in writing and signed by an authorized signatory for Holder. This requirement may not be changed by oral agreement. The grant of an Amendment or Waiver in any instance or with respect to any Lot does not imply that an Amendment or Waiver will be granted in any other instance.

### 7.06 Severability

If any provision of this Grant is determined to be invalid, illegal or unenforceable, the remaining provisions of this Grant remain valid, binding and enforceable. To the extent permitted by Applicable Law, the parties



waive any provision of Applicable Law that renders any provision of this Grant invalid, illegal or unenforceable in any respect.

**7.07 Counterparts**

This Grant may be signed in multiple counterparts, each of which constitutes an original, and all of which, collectively, constitute only one document.

**7.08 Indemnity**

Owners must indemnify and defend the Indemnified Parties against all Losses and Litigation Expenses arising out of or relating to: (a) any breach or violation of this Grant or Applicable Law; and (b) damage to property or personal injury (including death) occurring on or about the Property if and to the extent not caused by the negligent or wrongful acts or omissions of an Indemnified Party.

**7.09 Guides to Interpretation**

**(a) Captions**

Except for the identification of defined terms in the Glossary, the descriptive headings of the articles, sections and subsections of this Grant are for convenience only and do not constitute a part of this Grant.

**(b) Other Terms**

- (i) The word "including" means "including but not limited to".
- (ii) The word "must" is obligatory; the word "may" is permissive and does not imply any obligation.

**(c) Restatement (Third) of the Law of Property: Servitudes**

This Grant is intended to be interpreted so as to convey to Holder all of the rights and privileges of a holder of a conservation servitude under the Restatement (Third) of the Law of Property: Servitudes.

**7.10 Entire Agreement**

This is the entire agreement of Owners, Holder and Beneficiaries (if any) pertaining to the subject matter of this Grant. The terms of this Grant supersede in full all statements and writings between Owners, Holder and others pertaining to the transaction set forth in this Grant.

**7.11 Incorporation by Reference**

Each exhibit attached to this Grant is incorporated into this Grant by this reference. The Baseline Documentation (whether or not attached to this Grant) is incorporated into this Grant by this reference.

IN WITNESS WHEREOF, Owner hereunto set its hand and seal this 13<sup>th</sup> day of April, 2016.

In Presence of:

(Witness)

(Signature)

STATE OF VERMONT  
COUNTY OF WASHINGTON, SS.

On this 13<sup>th</sup> day of APRIL, 2016, personally appeared NILS BEHN, duly authorized agent of Aegis Renewable Energy, Inc. and he swore to the truth of the forgoing statements and the free act and deed of Owner.

Before me, \_\_\_\_\_  
Notary Public

Printed Name: Samantha Mashler  
Notary commission issued in Washington County  
My commission expires: Feb. 2019

**VERMONT AGENCY OF NATURAL RESOURCES  
DEPARTMENT OF ENVIRONMENTAL CONSERVATION**

**INDIVIDUAL WETLAND PERMIT**

In the matter of:

Aegis Wind, LLC  
340 Mad River Park Suite 6  
Waitsfield, VT 05673

**Application for the installation of a 150 kW community solar farm with proposed impacts to 0 square feet of wetland and 14,786 square feet of buffer zone.**

Carrol Road, Waitsfield

File #: 2015-308  
DEC ID #: BR92-0011

Date of Decision: November 3, 2015  
Decision: **Issued**  
Expiration Date: November 3, 2020

Any activity in a Class I or Class II wetland or its associated buffer zone is prohibited unless it is an allowed use under the Vermont Wetland Rules (VWR) or unless it receives a permit allowing such activity. 10 V.S.A. § 913. Applicants for an individual permit for a proposed activity in any Class I or Class II wetland or its buffer zone must demonstrate that the proposed activity complies with the VWR and will have no undue adverse effects on protected functions and values. VWR § 9.5(a).

The Vermont Agency of Natural Resources (Agency) received an application dated August 19, 2015 from Aegis Wind, LLC (permittee) seeking an individual Vermont Wetland Permit for a project involving activities in a wetland and associated buffer zone located in Waitsfield, Vermont. The Agency gave notice of the application in accordance with the VWR. The Agency considered all comments received during the public comment period during review of the application and issuance of this permit.

**DECISION AND PERMIT CONDITIONS**

1. Based on the Findings contained in this permit below, the Secretary has determined that the proposed project will comply with 10 V.S.A. chapter 37 and the VWR and will have no undue adverse effect on protected functions and values of the wetland. The permittee has demonstrated that the project will have no undue adverse effects on the protected functions and values of the significant wetland and associated buffer zone, provided the project is conducted in accordance with the following conditions:
  - A. All activities in the wetland and buffer zone shall be completed, operated, and maintained as set forth in the permit application #2015-308 and the supporting

materials submitted with the permit application including site plans titled Location Map (C2-01), Overall Site Plan (C2-02), and Site Plan (C2-03) dated 9/22/2015 prepared by Trudell Consulting Engineering. In addition, supplemental materials were provided in an August 6, 2015 submittal that includes "Aegis Renewable Energy Vegetation Management Plan, Mad River Community Solar Farm, Waitsfield, VT" dated September 2016. No material or substantial changes, including transfer of property ownership prior to commencement of a project, shall be made to the project without the prior written approval of the Vermont Wetlands Program. Project changes may require a permit amendment and additional public notice.

- B. The permittee shall record this permit in the land records of the Town of Waitsfield for all properties subject to the permit. Within 30 days of the date of issuance of this permit, the permittee shall supply the Vermont Wetlands Program with a copy of the recording of this permit.
- C. The permittee shall notify the Vermont Wetlands Program in writing or by email prior to the start of the approved project.
- D. **Prohibitions:** No additional activities are allowed in the wetland and associated buffer zone without the approval of the Secretary unless such activities are allowed uses under VWR § 6. No draining, dredging, filling, grading, or alterations of the water flow is allowed. No cutting, clearing, or removal of vegetation within the wetland and buffer zone is allowed with the exception of the proposed project area as approved by this permit. The staging area/laydown area will be located outside of all wetlands and buffer zones other than those areas permitted here.
- E. All construction activities in the wetland and adjacent 50-foot buffer zone shall be completed within five years of the issuance date of this permit or this permit will expire. Any request for an extension must be received by the Agency at least 30 days prior to the end of the five year period in order to prevent the expiration of the permit. A request for extension may be considered a minor modification at the discretion of the Secretary. Pursuant to VWR § 9.1, projects may not be extended beyond ten years of the issuance date.
- F. The wetland boundary delineation is valid for five years. The delineation will need to be re-evaluated by a qualified wetland consultant if the project is not constructed during the five-year period and a request for an extension is submitted.
- G. Within 30 days of completion of the work approved by this permit, the permittee shall supply the Vermont Wetlands Program with a letter certifying that the project was constructed in compliance with the conditions of this permit.
- H. A continuous line of orange snow fence or flagging tape shall be installed along the limits of disturbance prior to the start of construction.
- I. If a stormwater construction permit is obtained for this project, the erosion prevention and control requirements of that permit shall be followed. At minimum, the permittee shall comply with the following: A continuous line of silt fence shall be properly installed by the permittee immediately upgradient of the snow fence or

tape prior to any construction and shall be regularly maintained. Care shall be taken to ensure that silt fence is installed on the contour and not in areas of concentrated flow such as stream channels or ditches. Sediment shall be cleaned out before and after any significant storm event or when sediment has reached less than half the height of the fence. Removed sediments shall be disposed of in a stable, upland area outside the 50-foot buffer zone at least 100 feet from waters of the state and stabilized immediately with seed and mulch at a minimum. All other disturbed soils shall be seeded and mulched within 48 hours of final grading. All sediment barriers and construction fencing shall be removed following the successful establishment of vegetation.

- J. The method of culvert replacement shall be that which presents the least disturbance of stream flow and prevents any discharge of sediment downstream. Stream flow at all times shall be diverted from the work area. The contractor's equipment shall be clean and well maintained, free of fuel, hydraulic, and gear oil leaks, especially if such equipment is to be used in or adjacent to the water. There shall be absolutely no discharge of uncured concrete to the stream flow. Pumping from excavation areas shall be discharged to an overland area or settling basin such that the effluent shall be essentially clarified before reentering the stream flow. All areas of stream bank disturbed during construction shall be suitably reshaped and stabilized with stone fill or a vegetative planting prior to completion of the project. Additionally, the extent of stream bank disturbance shall be strictly limited, and all existing vegetation maintained to the greatest degree practicable. The permittee shall contact the Stream Alteration Engineer prior to commencing construction to arrange a pre-construction conference. Stream work shall be limited to the period June 1 to October 1. Culvert invert elevations shall be installed six inches below the stream bed level.
- K. All contractors' equipment shall be cleaned so as to contain no observable soil or vegetation prior to work in wetlands and buffer zones to prevent the spread of invasive species. The permittee shall monitor the portion of the wetland in question annually during early July for five years following construction for the nuisance plant species purple loosestrife (*Lythrum salicaria*) and common reed (*Phragmites australis*). All nuisance plants found shall be pulled by hand and disposed of by burial or burning in a non-wetland location. If hand pulling is not feasible, a state approved invasive species control plan is required.
- L. The permittee shall retain an environmental compliance monitor to inspect the construction site and report weekly to the Vermont wetlands program of progress. The monitor will provide information about revegetation and any erosion issues prior to the end of the growing season. Spring monitoring will take place until the wetlands ecologist can verify that the site is stabilized. Corrective measures must be taken immediately if any erosion issues are noted.
- M. A signed Conservation Easement for Lot 4 will be signed and submitted to the wetlands program within 30 days of the issuance of this permit.

2. The Secretary maintains continuing jurisdiction over this project and may at any time order that remedial measures be taken if it appears that undue adverse impacts to the protected functions and values of the wetland or buffer are occurring or will occur.
3. This permit does not relieve the permittee of the responsibility to comply with any other applicable federal, state, and local laws, regulations, and permits.
4. The permittee shall allow the Secretary or the Secretary's representatives, at reasonable times and upon presentation of credentials, to enter upon and inspect the permitted property for the purpose of ascertaining compliance with this permit, the VWR, and the Vermont Water Quality Standards, and to have access to and copy all records required to be prepared pursuant to this permit.
5. The Agency accepts no legal responsibility for any damage direct or indirect of whatever nature and by whomever suffered arising out of the approved project. This permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to public or private property, or any invasion of personal rights, or any infringement of federal, state, or local laws or regulations. This permit does not obviate the necessity of obtaining such federal, state, or local permits or approvals as may be required by law. Nothing in this permit shall be construed to preclude the institution of legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject to under other laws.
6. Within 15 days of the date of the decision, the permittee, any person entitled to notice under VWR § 9.2, or any person who filed written comments regarding the permit application may request in writing reconsideration of the decision by the Secretary in accordance with VWR § 9.6.
7. Any person with an interest in this matter may appeal this decision pursuant to 10 V.S.A. § 917. Pursuant to 10 V.S.A. chapter 220, any appeals of this decision must be filed with the Vermont Public Service Board pursuant to 10 V.S.A. § 8506. Any appeal under this section must be filed with the Clerk of the Public Service Board within 30 days of the date of this decision; the appellant must file with the Clerk an original and six copies of its appeal. The appellant shall provide notice of the filing of an appeal in accordance with 10 V.S.A. § 8504(c)(2), and shall also serve a copy of the Notice of Appeal on the Vermont Department of Public Service. For further information, see the Rules and General Orders of the Public Service Board, available on line at [www.psb.vermont.gov](http://www.psb.vermont.gov). The address for the Public Service Board is 112 State Street, Montpelier, Vermont, 05620-2701 (Tel. # 802-828-2358).

## **FINDINGS**

1. The Agency received a complete application from Aegis Wind, LLC for Vermont Wetland Permit on August 19, 2015.
2. The wetland and adjacent 50-foot buffer zone are located off Carrol Road in Waitsfield Vermont, north and east of the Big Picture Theater.



3. Shannon Morrison, District Wetlands Ecologist, conducted a site visit to the subject property with Karina Daily of Trudell Consulting Engineering on 6/4/2015.
4. The subject wetland is identified as a palustrine wetland on the Vermont Significant Wetlands Inventory maps and therefore is designated as a Class II wetland under VWR § 4.6.
5. The wetland in question is described in detail in Sections 7 and 8 of the permit application. The wetland is approximately seven acres in size, and is a scrub shrub wetland dominated by alder and willow, with areas of emergent wetland and forested wetland. Wetland soils are Grange silt loams and wetland hydrology is characterized as saturated to the soil surface.
6. The proposed project is described in detail in Sections 10 and 11 of the permit application. The project consists of installation of a 150 kW community solar farm. Access to the site through the wetland will be on an existing snowmobile trail using mats so is not included in the impact calculation. Impacts to the buffer zone include clearing, stumping, grading and installation of panels and a transformer pad. A vegetation management plan has been submitted as part of this application.
7. Proposed impacts to the wetland and buffer zone, summarized in Section 12 of the permit application, are as follows:

<b>Wetland Alteration:</b>		<b>Buffer Zone Alteration:</b>	
Wetland Fill:	0 sq.ft.		
Temporary:	0 sq.ft.	Temporary:	0 sq.ft.
Other Permanent: :	0 sq.ft.	Permanent: :	14,786 sq.ft.
<b>Total Wetland Impact</b>	<b>0 sq.ft.</b>	<b>Total Buffer Zone Impact:</b>	<b>14,786 sq.ft.</b>

8. The protected functions of the wetland complex include the following: water storage for flood water and storm runoff (VWR § 5.1), surface and groundwater protection (VWR § 5.2), fish habitat (VWR § 5.3), wildlife and migratory bird habitat (VWR § 5.4), and erosion control through binding and stabilizing the soil (VWR § 5.10).
9. The following functions are either not present or are present at such a minimal level as to not be protected functions: exemplary wetland natural community (VWR § 5.5), threatened and endangered species habitat (VWR § 5.6), education and research in natural sciences (VWR § 5.7), recreational value and economic benefits (VWR § 5.8), and open space and aesthetics (VWR § 5.9).
10. **Water Storage for Flood Water and Storm Runoff.** The subject wetland is significant for the water storage for flood water and storm runoff function as demonstrated in Section 16 of the permit application. Based on the factors described in Section 16.2 of the application, as confirmed through a site visit by Agency staff, the proposed project will not result in an undue adverse impact to this function.
11. **Surface and Groundwater Protection.** The wetland is significant for the surface and ground water protection function as described in Section 17 of the permit application.

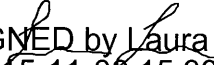
Based on the factors described in Section 17.2 of the application, as confirmed through a site visit by Agency staff, the proposed project will not result in an undue adverse impact to this function.

12. **Fish Habitat.** The wetland is significant for the fish habitat function as described in Section 18 of the permit application. Based on the factors described in Section 18.2 of the application, as confirmed through a site visit by Agency staff, the proposed project will not result in an undue adverse impact to this function.
13. **Wildlife and Migratory Bird Habitat.** The wetland is significant for the wildlife and migratory bird habitat function as described in Section 19 of the permit application. Based on the factors described in Section 19.2 of the application, as confirmed through a site visit by Agency staff, the proposed project will not result in an undue adverse impact to this function.
14. **Erosion Control.** The wetland is significant for the erosion control function demonstrated in Section 25 of the permit application. Based on the factors described in Section 25.2 of the application, as confirmed through a site visit by Agency staff, the proposed project will not result in an undue adverse impact to this function.
15. Under 10 V.S.A. § 913 and VWR § 9.5, the Secretary may authorize activities in a Class II wetland or in its buffer zone if the Secretary determines that it complies with the VWR and will have no undue adverse effect on the protected functions and values. Based on the permit application, the site visit(s) by Agency staff, and the foregoing findings and analysis, the Secretary has determined that the proposed project will have no undue adverse effects on the protected functions and values of the subject Class II wetlands.
16. Pursuant to VWR § 9.5(b), the permittee has demonstrated that the proposed activity in the subject wetland cannot practicably be located outside the wetland or on another site owned, controlled, or available to satisfy the basic project purpose. All practicable measures have been taken in this proposal to avoid adverse impacts on protected functions, as described in the application.

The project was originally proposed in the shrub wetland on parcel labelled Lot 4. This area will now be placed under permanent conservation easement to protect wetland function on an ongoing basis. The existing culvert on the VAST trail will be replaced in order to enhance habitat and water flow. Access to the site will use mats to avoid permanent/temporary impacts to the wetland. The vegetative management plan calls for limited clearing and vegetative management along the seasonal stream that flows through the site and into the wetland. All wetland impacts have been avoided.

17. No public comments were received during the public comment period.

Alyssa B. Schuren, Commissioner  
Department of Environmental Conservation

E-SIGNED by   
by: on 2015-11-03 15:33:08 GMT

Laura Lapierre, Program Manager  
Wetlands Program  
Watershed Management Division

Dated at Montpelier, Vermont  
this third day of November, 2015

AS/LVPL/SLM



Aegis Renewable Energy  
**Vegetation Management Plan**



Mad River Community Solar Farm  
Waitsfield, VT

September 2015



## **Introduction**

Aegis Renewable Energy (“Aegis”) has developed this Vegetation Management Plan (“Plan”) to be integrated into the site design of the Mad River Community Solar Farm, Aegis’ proposed 150 kW (AC) community solar farm to be located off of Carroll Road in Waitsfield, VT (the “Project”). The Project will provide renewable energy to approximately 30 Vermont homes and business.

### Purpose

The purpose of this Plan is to analyze how existing vegetation contributes to the natural area on and around the MRCSF array area and to provide guidance with respect to how it should be managed over time. Vegetative management priorities include:

- Maintenance of existing native species
- Mitigation or elimination of any invasive, non-native plant species that may be introduced to the area during Project development;
- Soil stabilization during and after vegetative clearing, tree cutting, and limited stump removal;
- Providing assurances of successful re-vegetation of cleared areas.

### Plan Design

In order to suit the aforementioned purposes, the Plan will be in the following format:

- I. Identifying Information
- II. Current State of Vegetation
- III. Major Factors Affecting Vegetation Management
- IV. Impacts to Vegetation During Project Installation
- V. Desired Vegetation Conditions
- VI. Vegetation Management Activities and Schedule

## I. Identifying Information

### VEGETATION MANAGEMENT PLANNING FOR 150 kW (AC) COMMUNITY SOLAR PROJECT Mad River Community Solar Farm

**Vegetation Plan/ Date:** September 23, 2015

**Site Name:** Mad River Community Solar Farm

**Location:** Waitsfield, VT

**Site Description:** The Mad River Community Solar Farm ("Project") will be sited on wooded area located on the north side of Carroll Road near the intersection of Carroll Road and Route 100 ("Project area"). The Project area slopes to the north and west. An intermittent stream runs near the western boundary of the Project area and connects to an unnamed tributary of the Mad River. Although the Project area is not currently in use, the southern portion of the parcel has been significantly disturbed in the past, as evident by vegetative and soil condition.

**Size (acres):** 1.75

**Future Development Plan:** The Project will be located on a small portion of a larger (35+/-acre) parcel of undeveloped land. Aegis does not plan to develop any of the property outside of the 1.75 acre (+/-) Project area. As a result, vegetation management will be limited to the proposed Project area. Aegis does not anticipate any vegetation impacts from future development outside of the Project area.

**Mitigation Plan:** Aegis owns the property that the Project will be sited on, as well as the surrounding larger parcel and a second 4 acre parcel of land to the south of the proposed project area. This second 4 acre parcel of land to the south of the proposed Project area contains a large wetlands complex. In order to mitigate the wetlands and other natural resource impacts resulting from the Project, Aegis is offering to place a permanent conservation easement on the 4 acre parcel of land to the south of the proposed project area. Please see attached materials for additional information on this Mitigation Plan.

## II. Current State Of Vegetation

The proposed Project area is located near Class II wetlands and within some Class II wetlands buffer zones. As a result, much of the current vegetation is distinctive to wetlands ecology. The remaining vegetation is mostly mature deciduous forest with an interspersing of conifers. Predominant soils within the Project area consist of Grange silt loam, 0% to 3% slopes, and Tunbridge-Lyman complex, 15% to 35% slopes, very rocky. Grange silt loam is listed as a hydric soil.

The following dominant species of vegetation are currently located on and around the Project area:

- Eastern white pine (*Pinus strobus*)
- Red maple (*Acer rubrum*)
- White birch (*Betula papyrifera*)
- American beech (*Fagus grandifolia*)
- Ash spp. (*Fraxinus* spp.)

The following dominant species of vegetation are currently located within the Class II wetlands buffer Project area:

- Red maple (*Acer rubrum*)
- Green ash (*Fraxinus pennsylvanica*)
- Speckled alder (*Alnus incana*)
- Willow spp. (*Salix* spp.)
- White meadowsweet (*Spiraea alba*)
- Sensitive fern (*Onoclea sensibilis*)
- Reed canary grass (*Phalaris arundinacea*)

### III. Major Factors Affecting Vegetation Management

The activities during Project construction and operation that may influence vegetation management are as follows:

#### DISTURBANCE FACTORS

<b><i>Insects, Diseases, Animal, and Other Damages</i></b>
The Project will be constructed within an approximately 6-week period. After construction, the site will not be accessed by humans, pets, or other non-native animals or insects on a regular basis. The only human activity in the Project area after construction will be periodic mowing, and this will be limited to the stumping zone identified in Enclosures 1 and 2.
<b><i>Abiotic / Physical Influences</i></b>
The Project area has no existing Abiotic or Physical disturbance factors. However, after trees are cleared and stumps are removed from the stumping zone identified in enclosed site plans, there may be some impacts to soil stability. In order to secure soil stabilization during construction, Aegis will follow the Department of Environmental Conservation's Low Risk Site Handbook for Erosion Prevention and Sediment Control (2006). This specifically includes the installation and maintenance of a silt fence, which is identified in the enclosed plan labeled VMP-1. In order to secure permanent soil stabilization after construction, Aegis will revegetate the project area with Vermont Conservation and Wildlife Mix from Vermont Wetland Plant Supply (or approved equal) at a rate of 25lbs/acre. The timing of the project will be such that successful revegetation occurs prior to winter and spring runoff issues.
<b><i>Fuels Load and Wildfire Threats</i></b>
There are no fuel loads or wildfire threats in the area.
<b><i>Planned Infrastructure Changes</i></b>
The Project will involve tree clearing, mowing, grading, pile driving of post-supported solar PV racking, the installation of solar PV racking, and the installation of a pad-mounted transformer. Grading will be limited to smoothing out land disturbance resulting from stumping. There will be no grading outside of the stumping zone, and there will be no change in contouring. The construction staging area will be in an existing parking lot approximately 700' southwest of the Project, and so there will be no impacts associated with construction staging.
<b><i>Other</i></b>
There are no other anticipated disturbance factors.

#### IV. Desired Vegetation Conditions

In order to be made suitable for the operations of a solar PV array, the Project area must be cleared of trees and tall vegetation. The following describes the desired vegetation conditions within the Project area.

**Trees** (over and understory): In order to prevent shading, trees will be cut within the tree clearing area identified in Enclosures 1 and 2 and stumps will be removed from the stumping zone identified in Enclosures 1 and 2. Trees will be cut with chain saws, chipped, and then sent to the McNeil incinerator as biofuel. Stumps will be pulled using a stump puller and then buried on another portion of the Project area. Trees bordering the tree clearing area will be trimmed periodically to prevent overgrowth. After the Project is decommissioned, all of the equipment will be removed and the Project area will be allowed to return to its natural state. No herbicides or incineration will be used to control vegetation.

**Shrub, Forb, Grass Vegetation:** The Project area will be cleared of shrub, forb, and grass vegetation while Aegis performs grading and other earthwork. After construction, Aegis will revegetate the project area with Vermont Conservation and Wildlife Mix from Vermont Wetland Plant Supply (or approved equal) at a rate of 25lbs/acre. Re-vegetation will not occur until after Project construction is complete so that successful revegetation can take place without interference by winter and spring runoff issues. This re-vegetation will be mowed annually during summer months in order to keep vegetation from growing too near electrical equipment. After the Project is decommissioned, all of the equipment will be removed and the Project area will be allowed to return to its natural state. No herbicides or incineration will be used to control vegetation.

## v. **Vegetation Management Activities And Schedule**

Vegetation management within the Project area will proceed as follows:

<b>Vegetation Management Activity</b>	<b>Date</b>
Tree cutting	October 2015
Stump removal	October 2015
Grading and vegetative clearing <sup>1</sup>	November 2015
Re-vegetation	April-May 2016
Mowing (limited to the mapped Stumping Zone only)	Annually during Summer Months throughout Project life

Tree cutting, stump removal, and grading will take place in the Stumping Zone identified in the accompanying site maps. During any periods of soil disturbance, Aegis will follow the best management practices identified in the Department of Environmental Conservation Low Risk Site Handbook for Erosion and Sediment Control. Prior to any vegetation management or soil disturbance activities, Aegis will install a contiguous line of silt fencing across the downhill (southern) boarder of planned construction activity. Furthermore, vegetative cutting/trimming will be avoided in any areas outside of the immediate array footprint during the construction and operation of the Project to the extent possible, giving due consideration to the safe and efficient operation of the solar array.

Tree cutting, stump removal, and grading activities will impact 8,360 square feet of Class II wetland buffer area. Limited tree trimming will occur in an additional 6,426 square feet of Class II wetland buffer area near the project site. Following re-vegetation of the project area with Vermont Conservation and Wildlife Mix Supply (or approved equal), approximately 8360 square feet of Class II wetland buffer area will be mowed annually throughout the Project life. The total area of Class II wetland buffer area impact resulting from this Project is 14,786 square feet.

No vegetative clearing, mowing, stump removal, grading, or other soil disturbance will occur in the riparian buffer zone of the intermittent stream shown on the attached maps. Vegetation management in the riparian buffer zone of the intermittent stream is limited to the trimming of large trees, and it will be limited to the minimum trimming necessary to prevent shading on the panels.

There will be no vegetation management in the perennial stream or its riparian buffer zone shown on attached maps. The only impacts to the mapped perennial stream will be the restoration of an existing culvert approximately 250 feet southwest of the Project area. This culvert restoration was approved by the Department of Environmental Conservation in June 2015 and will be performed pursuant to the terms of the Agency of Natural Resources Stream Alteration General Permit (2014).

Aegis Renewable Energy  
**Mitigation Plan**



Mad River Community Solar Farm  
Waitsfield, VT

September 2015







Aegis Renewable Energy

## **Sample Grant of Conservation Easement**



Mad River Community Solar Farm  
Waitsfield, VT

August 2015



# GRANT OF CONSERVATION EASEMENT

THIS GRANT OF CONSERVATION EASEMENT (this “Grant”) dated as of \_\_\_\_\_ (the “Easement Date”) is by and between Aegis Renewable Energy (“the undersigned Owner or Owners”) and the Vermont Agency of Natural Resources (the “Holder”).

## Article I. Background

### 1.01 Property

The undersigned Owner or Owners are the sole owners in fee simple of the Property described in Exhibit “A” (the “Property”). The Property is also described as:

Street Address: Carroll Road  
Municipality: Waitsfield  
County: Washington  
State: Vermont  
Acreage: 4.3

### 1.02 Conservation Plan

Attached as Exhibit “B” is a graphic depiction of the Property (the “Conservation Plan”) showing, among other details, the approximate location of Class II wetlands and wetlands buffer areas located on the Property.

### 1.03 Conservation Objectives

By this Grant, the undersigned Owner or Owners impose a conservation servitude (the “Conservation Easement”) on the Property according to the objectives set forth below:

#### (a) Resource Protection Objectives

(i) **Water Resources.** To maintain and improve the quality of water resources, both surface and groundwater, within, around and downstream of the Property.

(ii) **Forest, Wetland, Woodland and Other Vegetative Resources.** To perpetuate and foster the growth of a healthy and unfragmented forest, wetland complex, and/or woodland; to maintain a continuous canopy of vegetation with multi-tiered understory of trees, shrubs, wildflowers and grasses; to support healthy ecosystem processes; and to trap air pollution particulates for healthier air and sequester carbon in trees and soil in order to mitigate rising atmospheric carbon levels.

(iii) **Wildlife Resources.** To maintain and improve the quality of wildlife habitat; to protect breeding sites; to promote biodiversity and Native Species; to preserve large intact areas of wildlife habitat, connect patches of wildlife habitat and secure migration corridors. Large habitat patches typically support greater biodiversity than small patches; migration corridors enable wildlife to move to meet nutritional and reproductive needs and facilitate the migration of species in response to changes in environmental conditions.

(iv) **Scenic Resources.** To preserve the relationship of scenic resources within the Property to natural and scenic resources in its surrounds and to protect scenic vistas visible from public rights-of-way and other public access points in the vicinity of the Property.

(v) **Sustainable Land Uses.** To ensure that Agriculture, Forestry, and other uses, to the extent that they are permitted, are conducted in a manner that will neither diminish the biological integrity of the Property nor deplete natural resources over time nor lead to an irreversible disruption of ecosystems and associated processes. Agricultural and Forestry activities are regulated so as to protect soils of high productivity; to ensure future availability for Sustainable uses; and to minimize adverse effects of Agricultural and Forestry uses on water resources described in the Conservation Objectives.

### 1.04 Baseline Documentation

As of the Easement Date, the undersigned Owner or Owners and Holder have signed for identification purposes the report (the “Baseline Documentation”), to be kept on file at the principal office of Holder, that contains an original, full-size version of the Conservation Plan and other information sufficient to identify on the ground the protection areas identified in this Article; that describes Existing Improvements; that identifies

the conservation resources of the Property described in the Conservation Objectives; and that includes, among other information, photographs depicting existing conditions of the Property as of the Easement Date.

## **1.05 Federal Tax Items**

### **(a) Qualified Conservation Contribution**

The Conservation Easement has been donated in whole or in part by the undersigned Owner or Owners. The donation of the Conservation Easement by this Grant is intended to qualify as a charitable donation of a partial interest in real estate (as defined under §170(f)(3)(B)(iii) of the Code) to a qualified organization (a “Qualified Organization”) as defined in §1.170(A-14(c)(1) of the Regulations. If the Conservation Easement is transferred to any Person, that Person must commit to hold the Conservation Easement exclusively for conservation purposes as defined in the Regulations.

### **(b) Public Benefit**

The undersigned Owner or Owners have granted the Conservation Easement to provide a significant public benefit (as defined in §1.170A-14(d)(4) of the Regulations). In addition to the public benefits described in the Conservation Objectives, the Baseline Documentation identifies public policy statements and other factual information supporting the significant public benefit of the Conservation Easement.

### **(c) Mineral Interests**

No Person has retained a qualified mineral interest in the Property of a nature that would disqualify the Conservation Easement for purposes of §1.170A-14(g)(4) of the Regulations. From and after the Easement Date, the grant of any such interest is prohibited and Holder has the right to prohibit the exercise of any such right or interest if granted in violation of this provision.

### **(d) Notice Required under Regulations**

To the extent required for compliance with §1.170A-14(g)(5)(ii) of the Regulations, and only to the extent such activity is not otherwise subject to Review under this Grant, Owners agree to notify Holder before exercising any reserved right that may have an adverse impact on the conservation interests associated with the Property.

### **(e) Property Right**

In accordance with §1.170A-14(g)(6) of the Regulations, the undersigned Owner or Owners agree that the grant of this Conservation Easement gives rise to a property right, immediately vested in the Holder, that entitles the Holder to compensation upon extinguishment of the easement. The fair market value of the property right is to be determined in accordance with the Regulations; i.e., it is at least equal to the proportionate value that the Conservation Easement as of the Easement Date bears to the value of the Property as a whole as of the Easement Date (the “Proportionate Value”). If the Proportionate Value exceeds the compensation otherwise payable to Holder under this Easement, Holder is entitled to payment of the Proportionate Value. Holder must use any funds received on account of the Proportionate Value for conservation purposes (as that phrase is defined in the Regulations).

### **(f) Qualification under §2031(c) of the Code**

To the extent required to qualify for exemption from federal estate tax under §2031(c) of the Code, and only to the extent such activity is not otherwise prohibited or limited under this Grant, Owners agree that commercial recreational uses are not permitted within the Property.

### **(g) Acknowledgment of Donation**

Except for such monetary consideration (if any) as is set forth in this Article, Holder acknowledges that no goods or services were received in consideration of this Grant.

### **(h) No Representation of Tax Benefits**

The undersigned Owner or Owners represent, warrant and covenant to Holder that:

(i) The undersigned Owner or Owners have not relied upon any information or analyses furnished by Holder with respect to either the availability, amount or effect of any deduction, credit or other benefit to Owners under Applicable Law; or the value of the Conservation Easement or the Property.

(ii) The undersigned Owner or Owners have relied solely upon their own judgment and/or professional advice furnished by the appraiser and legal, financial and accounting professionals engaged by the undersigned Owner or Owners. If any Person providing services in connection with this Grant or

the Property was recommended by Holder, the undersigned Owner or Owners acknowledge that Holder is not responsible in any way for the performance of services by these Persons.

(iii) This Grant is not conditioned upon the availability or amount of any deduction, credit or other benefit under Applicable Law.

#### **1.06 Beneficiaries**

This Grant does not confer any rights or remedies upon any Person other than Owners, Holder, and Persons (the "Beneficiaries"), if any, specifically named in this Grant. No other Persons are vested with any rights, whether arising under this Grant or otherwise under Applicable Law. No Beneficiary is identified in this Grant.

#### **1.07 Consideration**

The undersigned Owner or Owners acknowledge receipt, as of the Easement Date, of the sum of \$1.00 in consideration of this Grant.

## **Article II. Transfer; Subdivision**

#### **2.01 Prohibitions**

No transfer, no change in the boundary of any Lot; and no other Subdivision is permitted, except as set forth below.

#### **2.02 Permitted Changes**

Subject to Review, creation of a Lot for transfer to a Qualified Organization for park, nature preserve, public trail or other conservation purposes approved by Holder after Review is permitted.

## **Article III. Improvements**

#### **3.01 Prohibition**

Improvements within the Property are prohibited except as permitted below in this Article.

#### **3.02 Permitted Improvements**

The following Improvements are permitted:

##### **(a) Existing Improvements**

Any Existing Improvement may be maintained, repaired and replaced in its existing location. Existing Improvements may be expanded or relocated if the expanded or relocated Improvement complies with requirements applicable to Additional Improvements of the same type.

##### **(b) Additional Improvements**

The following Additional Improvements are permitted:

- (i) Fences, walls and gates, not to exceed four (4) feet in Height or such greater Height as is approved by Holder after Review.
- (ii) Regulatory Signs.
- (iii) Habitat enhancement devices such as birdhouses and bat houses.
- (iv) Trails covered (if at all) by wood chips, gravel, or other highly porous surface.
- (v) Subject to Review, footbridges, stream crossing structures and stream access structures.
- (vi) Subject to Review, Access Drives and Utility Improvements to service Improvements within the Property but only if there is no other reasonably feasible means to provide access and utility services to the Property.
- (vii) Subject to Review, Extraction Improvements and Improvements for generating and transmitting Renewable Energy but only if located wholly beneath the surface at a depth at which there can be no impairment of water or other resources described in the Conservation Objectives. No Access Drives to service any such Improvements are permitted.

## **Article IV. Activities; Uses; Disturbance of Resources**

### **4.01 Prohibition**

Activities and uses are limited to those permitted below in this Article and provided in any case that the intensity or frequency of the activity or use does not materially and adversely affect maintenance or attainment of Conservation Objectives.

### **4.02 Permitted Uses**

The following activities and uses are permitted:

#### **(a) Disturbance of Resources**

- (i) Cutting trees, Construction or other disturbance of resources, including removal of Invasive Species, to the extent reasonably prudent to remove, mitigate or warn against an unreasonable risk of harm to Persons, property or health of Native Species on or about the Property. Owners must take such steps as are reasonable under the circumstances to consult with Holder prior to taking actions that, but for this provision, would not be permitted or would be permitted only after Review.
- (ii) Planting a diversity of Native Species of trees, shrubs and herbaceous plant materials in accordance with Best Management Practices.
- (iii) Removal and disturbance of soil, rock and vegetative resources to the extent reasonably necessary to accommodate Construction of Improvements allowed by this Easement with restoration as soon as reasonably feasible by replanting with a diversity of Native Species of trees, shrubs and herbaceous plant materials in accordance with Best Management Practices.
- (iv) Vehicular use, including but not limited to snowmobiles, all-terrain vehicles (ATV), automobiles, and other vehicles that must cross the Property to access abutting parcels.
- (v) Subject to Review, removal of vegetation to accommodate replanting with a diversity of Native Species of trees, shrubs and herbaceous plant materials.
- (vi) Generation of Renewable Energy and transmission of such energy if and to the extent Improvements for that purpose are permitted under Article III.
- (vii) Other resource management activities that Holder, without any obligation to do so, determines are consistent with maintenance or attainment of Conservation Objectives and are conducted in accordance with the Resource Management Plan approved for that activity after Review.

#### **(b) Release and Disposal**

- (i) Application of manure and plant material, both well composted, and, subject to compliance with manufacturer's recommendations, other substances to promote the health and growth of vegetation. (These permitted substances do not include sludge, biosolids, septic system effluent and related substances.)
- (ii) Piling of brush and other vegetation to the extent reasonably necessary to accommodate activities or uses permitted under this Easement.

#### **(c) Other Activities**

Activities that do not require Improvements other than trails and do not materially and adversely affect maintenance or attainment of Conservation Objectives such as the following: (i) walking, horseback riding on trails, cross-country skiing, bird watching, nature study, fishing and hunting; and (ii) educational or scientific activities consistent with and in furtherance of the Conservation Objectives.

## **Article V. Rights and Duties of Holder and Beneficiaries**

### **5.01 Grant to Holder**

#### **(a) Grant in Perpetuity**

By signing this Grant and unconditionally delivering it to Holder, the undersigned Owner or Owners, intending to be legally bound, grant and convey to Holder a Conservation Easement over the Property in perpetuity for the purpose of advancing the Conservation Objectives and administering and enforcing the restrictions and limitations set forth in Articles II, III, and IV in furtherance of the Conservation Objectives.

**(b) Superior to all Liens**

The undersigned Owner or Owners warrant to Holder that the Property is, as of the Easement Date, free and clear of all Liens or, if it is not, that Owners have obtained and recorded in the Public Records the legally binding subordination of any Liens affecting the Property as of the Easement Date.

**5.02 Rights and Duties of Holder**

The items set forth below are both rights and duties vested in Holder by this Grant:

**(a) Enforcement**

To enter the Property to investigate a suspected, alleged or threatened violation and, if found, to enforce the terms of this Grant by exercising Holder's remedies in Article VI.

**(b) Inspection**

To enter and inspect the Property for compliance with the requirements of this Grant upon reasonable notice, in a reasonable manner and at reasonable times.

**(c) Review**

To exercise rights of Review in accordance with the requirements of this Article.

**(d) Interpretation**

To interpret the terms of this Grant and, at the request of Owners, furnish Holder's explanation of the application of such terms to then-existing, proposed or reasonably foreseeable conditions within the Property.

**5.03 Other Rights of Holder**

The items set forth below are also rights vested in Holder by this Grant; however, Holder, in its discretion, may or may not exercise them:

**(a) Amendment**

To enter into an Amendment with Owners if Holder determines that the Amendment is consistent with and in furtherance of the Conservation Objectives; will not result in any private benefit prohibited under the Code; and otherwise conforms to Holder's policy with respect to Amendments.

**(b) Signs**

To install one or more signs within the Property identifying the interest of Holder or one or more Beneficiaries in the Conservation Easement. Any signs installed by Holder do not reduce the number or size of signs permitted to Owners under Article III. Signs are to be of the customary size installed by Holder or Beneficiary, as the case may be, and must be installed in locations readable from the public right-of-way and otherwise reasonably acceptable to Owners.

**(c) Proceedings**

To assert a claim, defend or intervene in, or appeal, any proceeding under Applicable Law that (i) pertains to the impairment of Conservation Objectives; or (ii) may result in a transfer, Improvement or use that violates the terms of this Grant.

## **Article VI. Violation; Remedies**

**6.01 Breach of Duty**

If Holder fails to enforce the terms of this Grant, or ceases to qualify as a Qualified Organization, then the Conservation Easement may be transferred to another Qualified Organization by a court of competent jurisdiction.

**6.02 Violation**

If Holder determines that the terms of this Grant are being or have been violated or that a violation is threatened or imminent then the provisions of this section will apply:

**(a) Notice**

Holder must notify Owners of the violation. Holder's notice may include its recommendations of measures to be taken by Owners to cure the violation and restore features of the Property damaged or altered as a result of the violation.



**(b) Opportunity to Cure**

Owners' cure period expires thirty (30) days after the date of Holder's notice to Owners subject to extension for the time reasonably necessary to cure but only if all of the following conditions are satisfied:

- (i) Owners cease the activity constituting the violation promptly upon receipt of Holder's notice;
- (ii) Owners and Holder agree, within the initial thirty (30) day period, upon the measures Owners will take to cure the violation;
- (iii) Owners commence to cure within the initial thirty (30) day period; and
- (iv) Owners continue thereafter to use best efforts and due diligence to complete the agreed upon cure.

**(c) Imminent Harm**

No notice or cure period is required if circumstances require prompt action to prevent or mitigate irreparable harm or alteration to any natural resource or other feature of the Property described in the Conservation Objectives.

**6.03 Remedies**

Upon expiration of the cure period (if any) described in the preceding section, Holder may do any one or more of the following:

**(a) Injunctive Relief**

Seek injunctive relief to specifically enforce the terms of this Grant; to restrain present or future violations of the terms of this Grant; and/or to compel restoration of resources destroyed or altered as a result of the violation.

**(b) Civil Action**

Recover from Owners or other Persons responsible for the violation all sums owing to Holder under applicable provisions of this Grant together with interest thereon from the date due at the Default Rate.

**6.04 Modification or Termination**

If the Conservation Easement is or is about to be modified or terminated by exercise of the power of eminent domain (condemnation) or adjudication of a court of competent jurisdiction sought by a Person other than Holder the following provisions apply:

**(a) Compensatory Damages**

Holder is entitled to collect from the Person seeking the modification or termination, compensatory damages in an amount equal to the increase in Market Value of the Property resulting from the modification or termination.

**(b) Restitution**

Holder is entitled to recover from the Person seeking the modification or termination restitution of amounts paid for this Grant (if any) and any other sums invested in the Property for the benefit of the public as a result of rights vested by this Grant.

**6.05 Remedies Cumulative**

The description of Holder's remedies in this Article does not preclude Holder from exercising any other right or remedy that may at any time be available to Holder under this Article or Applicable Law. If Holder chooses to exercise one remedy, Holder may nevertheless choose to exercise any one or more of the other rights or remedies available to Holder at the same time or at any other time.

**6.06 Waiver**

If Holder does not exercise any right or remedy when it is available to Holder, that is to be interpreted as a waiver of any non-compliance with the terms of this Grant or a waiver of Holder's rights to exercise its rights or remedies at another time.

**6.07 No Fault of Owners**

Holder will waive its right to reimbursement under this Article as to Owners (but not other Persons who may be responsible for the violation) if the violation was not the fault of Owners and could not have been anticipated or prevented by Owners by reasonable means.

## Article VII. Miscellaneous

### 7.01 Notices

#### (a) Requirements

Each Person giving any notice pursuant to this Grant must give the notice in writing and must use one of the following methods of delivery: (i) personal delivery; (ii) email delivery; (iii) certified mail, return receipt requested and postage prepaid; or (iv) nationally recognized overnight courier, with all fees prepaid.

#### (b) Address for Notices

Each Person giving a notice must address the notice to the appropriate Person at the receiving party at the address listed below or to another address designated by that Person by notice to the other Person:

If to Owners:                      Nils Behn  
   Aegis Renewable Energy  
   340 Mad River Park, Suite 6  
   Waitsfield, VT 05673  
   [nbehn@aegis-re.com](mailto:nbehn@aegis-re.com)

If to Holder:

### 7.02 Governing Law

The laws of the State of Vermont govern this Grant.

### 7.03 Assignment and Transfer

Owners or Holder may assign or otherwise transfer any of their respective rights or duties under this Grant voluntarily or involuntarily, whether by merger, consolidation, dissolution, operation of law or any other manner subject to the following conditions:

#### (a) By Holder

Holder may assign its rights and duties under this Grant, either in whole or in part, but only to a Qualified Organization that executes and records in the Public Records a written agreement assuming the obligations of Holder under this Grant. The assigning Holder must deliver the Baseline Documentation to the assignee Holder as of the date of the assignment. Holder must assign its rights and duties under this Grant to another Qualified Organization if Holder becomes the Owner of the Property.

#### (b) By Owners

This Grant vests a servitude running with the land binding upon the undersigned Owners and, upon recordation in the Public Records, all subsequent Owners of the Property or any portion of the Property are bound by its terms whether or not the Owners had actual notice of this Grant and whether or not the deed of transfer specifically referred to the transfer being under and subject to this Grant.

### 7.04 Burdens; Benefits; Exclusive to Holder

Subject to the restrictions on assignment and transfer set forth in the preceding section, this Grant binds and benefits Owners and Holder and their respective personal representatives, successors and assigns. Except for rights of Beneficiaries (if any) under Article V, only the Holder has the right to enforce the terms of this Grant and exercise rights of Review, Waiver, Amendment or other discretionary rights of Holder. Only the Owners of the Lot that is the subject of a request for Review, Waiver, Amendment, interpretation or other decision by Holder have any right to notice of, or other participation in, such decision.

### 7.05 Requirement of Writing

No Amendment, Waiver, approval after Review, interpretation or other decision by Holder is valid or effective unless it is in writing and signed by an authorized signatory for Holder. This requirement may not be changed by oral agreement. The grant of an Amendment or Waiver in any instance or with respect to any Lot does not imply that an Amendment or Waiver will be granted in any other instance.

### 7.06 Severability

If any provision of this Grant is determined to be invalid, illegal or unenforceable, the remaining provisions of this Grant remain valid, binding and enforceable. To the extent permitted by Applicable Law, the parties

waive any provision of Applicable Law that renders any provision of this Grant invalid, illegal or unenforceable in any respect.

**7.07 Counterparts**

This Grant may be signed in multiple counterparts, each of which constitutes an original, and all of which, collectively, constitute only one document.

**7.08 Indemnity**

Owners must indemnify and defend the Indemnified Parties against all Losses and Litigation Expenses arising out of or relating to: (a) any breach or violation of this Grant or Applicable Law; and (b) damage to property or personal injury (including death) occurring on or about the Property if and to the extent not caused by the negligent or wrongful acts or omissions of an Indemnified Party.

**7.09 Guides to Interpretation**

**(a) Captions**

Except for the identification of defined terms in the Glossary, the descriptive headings of the articles, sections and subsections of this Grant are for convenience only and do not constitute a part of this Grant.

**(b) Glossary**

If any term defined in the Glossary is not used in this Grant, the defined term is to be disregarded as surplus material.

**(c) Other Terms**

(i) The word “including” means “including but not limited to”.

(ii) The word “must” is obligatory; the word “may” is permissive and does not imply any obligation.

**(d) Restatement (Third) of the Law of Property: Servitudes**

This Grant is intended to be interpreted so as to convey to Holder all of the rights and privileges of a holder of a conservation servitude under the Restatement (Third) of the Law of Property: Servitudes.

**7.10 Entire Agreement**

This is the entire agreement of Owners, Holder and Beneficiaries (if any) pertaining to the subject matter of this Grant. The terms of this Grant supersede in full all statements and writings between Owners, Holder and others pertaining to the transaction set forth in this Grant.

**7.11 Incorporation by Reference**

Each exhibit attached to this Grant is incorporated into this Grant by this reference. The Baseline Documentation (whether or not attached to this Grant) is incorporated into this Grant by this reference.

## **Article VIII. Glossary**

**8.01 Access Drive(s)**

Roads, drives or lanes providing vehicular access and located within the Property.

**8.02 Additional Improvements**

All buildings, structures, facilities and other improvements within the Property, whether temporary or permanent, other than Existing Improvements.

**8.03 Agricultural Improvements**

Improvements used or usable in furtherance of Agricultural uses such as barn, stable, silo, spring house, green house, hoop house, riding arena (whether indoor or outdoor), horse walker, manure storage pit, storage buildings, feeding and irrigation facilities.

**8.04 Agricultural or Agriculture**

Any one or more of the following and the leasing of land for any of these purposes:

**(a) Farming**

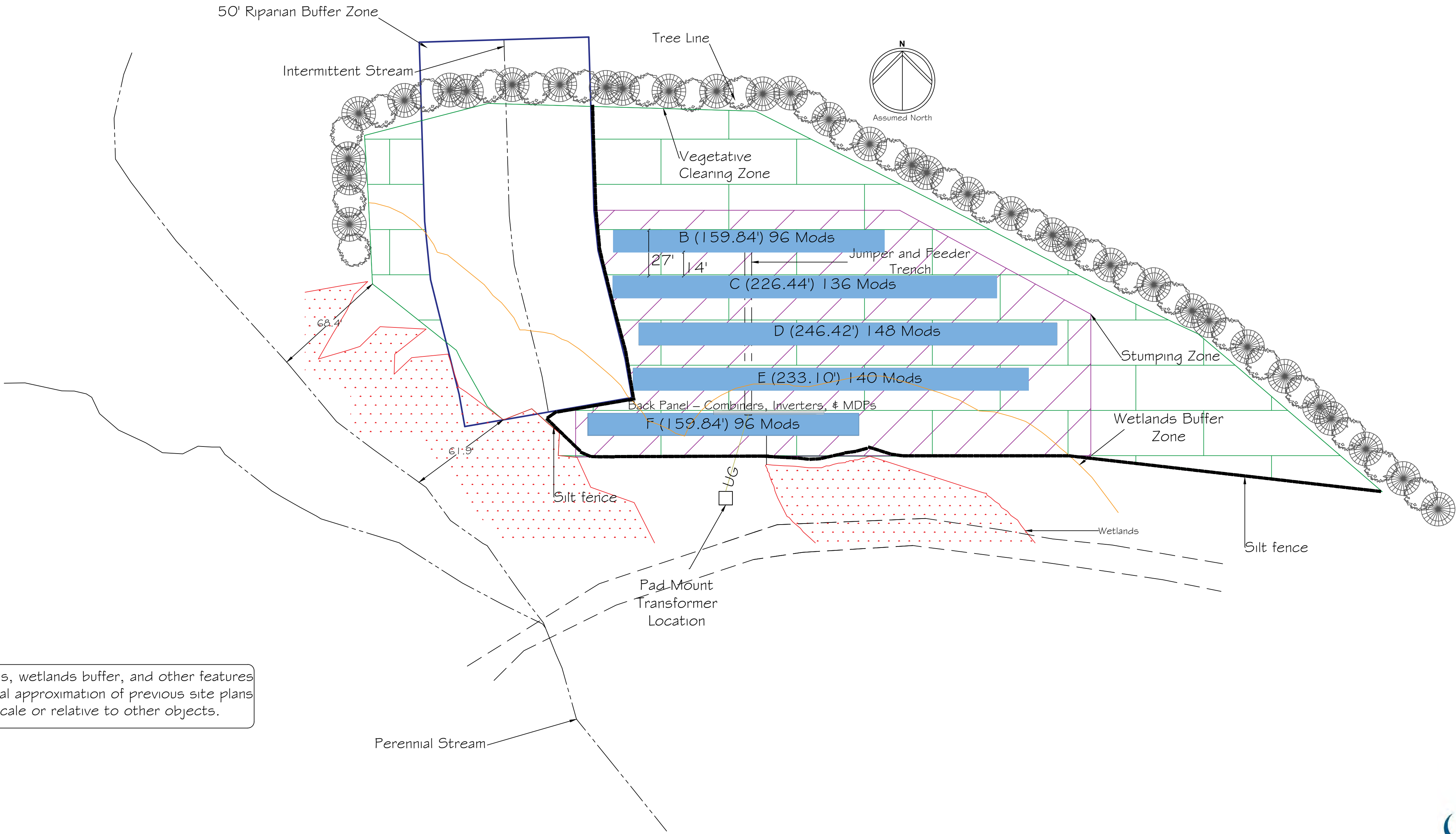
(i) Production of vegetables, fruits, seeds, mushrooms, nuts and nursery crops (including trees) for sale.

PROJECT NOTES			
No.	Description	Date	By
1	Riparian Zone Alterations	8/6/15	NC
2	Tree Stumping Area	8/6/15	NC
3	Stumping in Wetlands Buffer Zone	8/6/15	NC
4	Construction Staging Area	8/26/15	NC
5	Silt Fence	9/23/15	NC
6	Trimming west of Intermittent Stream Buffer Zone	9/23/15	NC

1. To maintain proper functions and protect aquatic resources, no vegetation other than trees that will shade the array will be cleared in the riparian buffer area of the intermittent stream and no vegetation trimming should occur below a prescribed height. The specific restrictions and allowances are defined in the Vegetation Management Plan.
2. Total Stumping Zone Area is approximately 0.9 acres.
3. Approximately 8300 square feet of stumping occurs in the wetland buffer zone. No stumping occurs in the wetlands themselves or the riparian buffer zone.
4. The construction staging area will be in the parking lot approximately 700 feet to the southwest of the array.
5. There will be a silt fence located at the edge of the disturbed area between it and any wetland/bufferzone.
6. Although no vegetative clearing will occur in the buffer area of the intermittent stream, Aegis has identified a number of trees with large overhanging branches to the west of the intermittent stream buffer zone that may potentially fall or cast shade on the solar array. Aegis will perform minimal tree trimming in the vegetative clearing zone identified to the west of the intermittent stream buffer zone.

Disclaimer: The locations of the wetlands, wetlands buffer, and other features of this site plan were based off of a visual approximation of previous site plans and may not be placed exactly to scale or relative to other objects.

- Array location is based on a Boundary Survey, Topographic Survey and Wetlands Delineation (accepted by VT ANR) by Trudell Consulting Engineers.
- Proposed Site Layout requires GMP location of Overhead and Underground Power Lines, Transformer (preferably pole mounted), and other Interconnection Requirements.



Date: September 23, 2015  
Scale: 1" = 40'  
Project No: 15WAIPV02  
Drawn By: NC  
Project Engineer: TAF  
Approved By: NB  
File Location: Aegis Server/Projects/Projects/ Waitsfield Back/Permitting

REVISIONS			
No.	Description	Date	By
1	Silt Fence and Construction Staging Area Added	8/26/15	NC
2	Changed Location of Silt Fence	9/11/15	NC
3	Changed Location of Silt Fence	9/22/15	NC

PROJECT TITLE  
Waitsfield Community Array  
48 Carroll Road  
Waitsfield, VT 05673

SHEET TITLE  
Site Plan

VMP-1



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