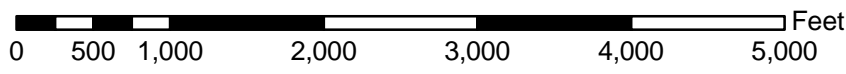
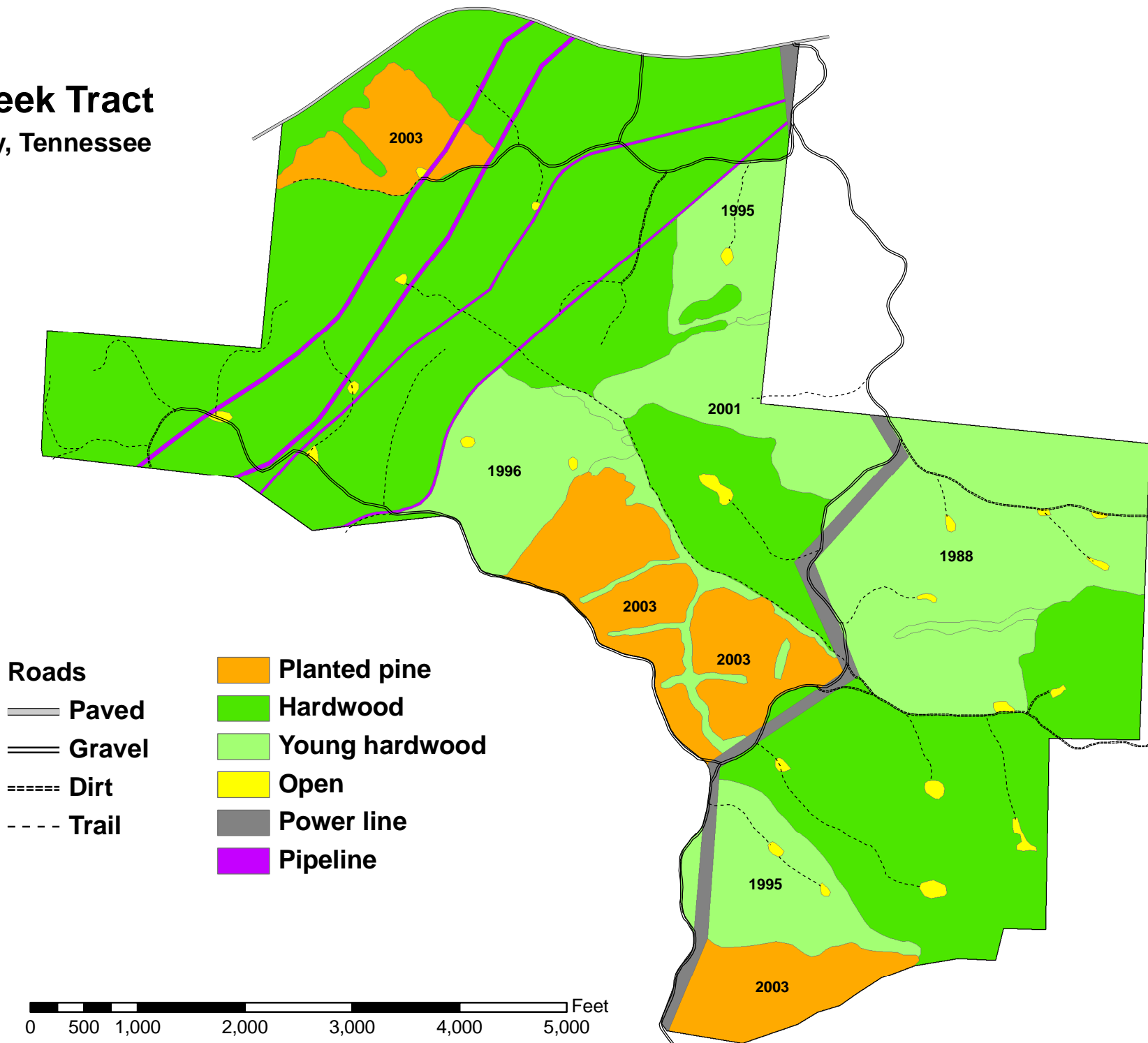


Toms Creek Tract

Perry County, Tennessee



This Instrument Prepared By:
Mark Jendrek
P.O. Box 549
Knoxville, Tennessee 37901
865-824-1900

APPROVED BY PROPERTY ASSESSOR
Map 35 Parcel 18.00
Garry Horner, Assessor

BK/PG: D23/886-933
16001634

**Notice of Conveyance
Required. See Section 12.2**

**Transfer Fee Required at
Conveyance. See Section 12.4**

49 PGS:AL-EASEMENT	
PATRICIA BATCH: 20736	12/28/2016 - 11:45 AM
VALUE	0.00
MORTGAGE TAX	0.00
TRANSFER TAX	0.00
RECORDING FEE	245.00
ARCHIVE FEE	0.00
DP FEE	2.00
REGISTER'S FEE	0.00
TOTAL AMOUNT	247.00

STATE OF TENNESSEE, PERRY COUNTY
PATRICIA W. BELL
REGISTER OF DEEDS

DEED OF CONSERVATION EASEMENT AND DECLARATION OF RESTRICTIVE COVENANTS

THIS CONSERVATION EASEMENT ("Easement") is made as of the 28
day of December, 2016, by Tom's Mountain Creek, LLC, a Georgia limited
liability company ("Grantor"), in favor of Foothills Land Conservancy, a Tennessee non-
profit corporation ("Grantee").

WITNESSETH:

WHEREAS, Grantor is the owner in fee simple of approximately One Thousand
Thirty-one and 80/100 (1,031.80) acres of real property in Perry County, Tennessee,
which is more particularly described on Exhibit A-1, and shown on the drawing attached
as Exhibit A-2, both of which are attached hereto and incorporated by this reference
("Property"); and

WHEREAS, Grantor certifies that the Property possesses certain ecological,
natural, scenic, open space, and wildlife habitat values, more specifically set forth below
(collectively, "Conservation Values") of great importance to Grantor, the citizens and
residents of, and visitors to, Perry County, Tennessee, and the people of, and visitors to,
the State of Tennessee, including visitors to the Nathan Bedford Forrest State Park,
Johnsonville State Historical Park, Dry Branch State Class II Natural-Scientific State
Natural Area, Mousetail Landing State Park, Natchez Trace State Park, the Land
Between the Lakes, and the other parks and natural areas in and around Perry County,
Tennessee, and which further local, state, and national goals to conserve scenery and
wildlife for the enjoyment of future generations; and

WHEREAS, the Property remains substantially undeveloped and is ecologically
well-balanced, and includes a variety of mature trees, creeks, and streams, all of which

provide habitat for a number of species of wildlife; therefore, preservation of the Property is desirable for conservation and ecological reasons as well as for aesthetic reasons; and

WHEREAS, the Property consist of approximately 1,031.8 acres of forested natural communities, including many high quality examples of Interior Low Plateau Chestnut Oak-Mixed Oak Forest and Southern Mesic Beech-Tuliptree Slopes; and

WHEREAS, the Property contains at least 155 species of vascular plants, including indicators of barrens habitats such as little bluestem, Virginia tephrosia, southern prairie aster, and post oak; and

WHEREAS, the Property contains suitable habitat for over 10 Greatest Conservation Need species identified in the 2015 Tennessee State Wildlife Action Plan, including Wood Thrush, Louisiana Waterthrush, Yellow-breasted Chat, Prairie Warbler, Timber Rattlesnake, and Eastern Box Turtle; and

WHEREAS, the Property lies in close proximity to a 450-acre conservation easement property held by The Land Trust for Tennessee; and

WHEREAS, the Tennessee State Wildlife Action Plan (2015) ranks the majority of the Property as a medium priority for the conservation of terrestrial, downstream aquatic, and nearby karst habitats; and

WHEREAS, the Property contains approximately 0.8 miles of North Fork Toms Creek, a perennial stream, and over 1 mile of intermittent streams serving as tributaries to North Fork Toms Creek, Pinhook Branch, and King Branch according to the USGS National Hydrography Dataset; and

WHEREAS, the Nature Conservancy's *Resilient Sites for Terrestrial Conservation in the Southeast Region Assessment* (2014) ranked the entire property as "Slightly Above Average" and "Above Average" for its resilience to climate change, based on the diversity of microhabitats and climatic gradients available on the property, and habitat connectivity in the landscape, indicating the Property is a strategic priority for biodiversity conservation in the face of climate change; and

WHEREAS, the specific Conservation Values of the Property are further documented in an inventory of relevant features of the Property, which is on file at the offices of Grantee, a partial listing of which is attached hereto as **Exhibit B** and incorporated by this reference ("Baseline Documentation"), which consists of reports, maps, photographs, and other documentation that, Grantor certifies and the parties agree, provide, collectively, an accurate representation of the Property at the time of this grant, and which is intended to serve as an objective, though non-exclusive, information baseline for monitoring compliance with the terms of this grant; and

WHEREAS, Grantor intends that the Conservation Values of the Property be preserved and maintained by prohibiting those land uses on the Property that impair, interfere, or are inconsistent with those Conservation Values; and

WHEREAS, Grantor further intends, as the owner of the Property, to convey to Grantee the right to preserve and protect the Conservation Values of the Property in perpetuity; and

WHEREAS, Grantee is a publicly supported, tax-exempt nonprofit organization and is a qualified organization under Sections 501(c)(3), 170(b)(1)(A)(vi) and 170(h), respectively, of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder ("Internal Revenue Code"), whose primary purpose is to preserve land, water, air, wildlife, scenic qualities, and open space by implementing programs for, without limitation, protecting unique or rare natural areas, water front, stream corridors, and watersheds; and

WHEREAS, Grantee has a commitment to protect the Conservation Values of the Property and has the resources to enforce conservation restrictions; and

WHEREAS, preservation of the Property shall serve the following purposes ("Conservation Purposes"):

- (a) Preservation of the viewshed for the scenic enjoyment of the general public, which will yield a significant public benefit;
- (b) Protection of a relatively natural habitat for fish, wildlife, plants, and the ecosystems in which they function;
- (c) Preservation of open space for the scenic enjoyment of the general public, pursuant to a clearly delineated government conservation policy which provides significant public benefit from both open space (including farm land and forest land) and agricultural use; and

WHEREAS, Grantor and Grantee desire to perpetually conserve the natural, scientific, educational, open space, and scenic resources of the Property to accomplish the Conservation Purposes; and

WHEREAS, Grantor intends to grant the easement and impose the restrictive covenants on the Property as set forth in this Easement to accomplish the Conservation Purposes;

NOW, THEREFORE, as an absolute charitable gift with no monetary consideration, but in consideration of the above and the mutual covenants, terms, conditions, and restrictions contained herein, the sufficiency of which is hereby

acknowledged, and pursuant to the laws of Tennessee and in particular the Tennessee Conservation Easement Act of 1981, Tennessee Code Annotated Section 66-9-301 et seq., and the Tennessee Agricultural, Forestry and Open Space Land Act of 1976, Tennessee Code Annotated Section 67-5-1001 et seq., Grantor hereby voluntarily, unconditionally, and absolutely declares the restrictions set forth herein and grants and conveys to Grantee a conservation easement, in gross, in perpetuity, on, in, and over the Property, of the nature and character and to the extent hereinafter set forth, together with covenants running with the land, in perpetuity, to accomplish the Conservation Purposes. Grantee hereby accepts the grant of the Easement and agrees to hold the Easement exclusively for the Conservation Purposes and to enforce the terms of the restrictive covenants set forth in this Easement. The execution, delivery, and recordation of this Easement creates a property right vesting immediately in Grantee.

1. **Purpose.** It is the purpose of this Easement to assure that the Property will be retained forever in its current natural, scenic, and undeveloped condition and to prevent any use of the Property that will impair or interfere with the Conservation Values of the Property or the Conservation Purposes of this Easement, subject only to the terms and provisions set forth herein. Grantor intends that this Easement will allow the use of the Property for such activities that are not inconsistent with the purposes of this Easement, including, without limitation, those involving permitted agricultural uses, forest management and protection, fire management and control, wildlife habitat improvement, and other permitted recreational uses that are not inconsistent with the purposes of this Easement.
2. **Rights of Grantee.** To accomplish the purposes of this Easement, the following rights are hereby conveyed to Grantee:
 - (a) To preserve and protect the Conservation Values of the Property and enforce the Conservation Purposes of this Easement;
 - (b) To enter on the Property at all reasonable times in order to monitor compliance with and otherwise enforce the terms of this Easement in accordance with the terms of this Easement; provided, however, that, except in cases where Grantee determines that immediate entry is required in order to prevent, terminate, or mitigate a violation of this Easement, or where entry is required to inspect the Property if a violation of the terms of this Easement is alleged or believed to have occurred, such entry shall be on prior reasonable notice to Grantor, and Grantee shall not unreasonably interfere with Grantor's use and enjoyment of the Property;
 - (c) To prevent any activity on or use of the Property that is inconsistent with the Conservation Purposes of this Easement and to require the restoration of such areas or features of the Property that may be damaged by any inconsistent activity or use, pursuant to the remedies set forth herein;

- (d) To use whatever technology or technological devices might be available from time to time to monitor and accomplish the purposes of this Easement, including, without limitation, still photography; audio and video recording and monitoring; aerial imaging, including, without limitation, still, audio, and video recording, archived, and real-time; and any other aid in monitoring which may yet be invented, discovered, or made available, all of which are intended to be used for the purpose of assuring compliance by Grantor with the provisions of this Easement;
- (e) To require the implementation of varying management practices for different areas of the Property to the extent necessary or reasonable, in Grantee's sole discretion, for the preservation of the Conservation Values of the Property, and for the enforcement of the Conservation Purposes of this Easement; and
- (f) To engage consultants, agents, and other third parties to assist Grantee in carrying out the rights of Grantee provided in this Easement.

3. Prohibited Uses. Any activity on or use of the Property inconsistent with the purpose of this Easement is prohibited. Without limiting the generality of the foregoing, the following activities and uses are expressly prohibited, subject to those reserved rights set forth in **Section 4** or elsewhere herein:

3.1 Subdivision. The Property may not be divided, partitioned, or subdivided. The terms "Subdivided" and "Subdivision" shall include a long-term lease or other use of the Property that creates the characteristics of a subdivision of the Property as determined in the sole discretion of Grantee;

3.2 Commercial Development. Any commercial or industrial use other than those relating to agriculture, silviculture, education, scientific research, de minimis recreational activity, or other customary rural enterprise, is prohibited;

3.3 Topography. The filling, excavating, dredging, surface mining, drilling, or any removal of topsoil, sand, gravel, shale, rock, peat, minerals, or other materials, on or from the Property. To the extent Grantor owns the mineral rights with respect to the Property, also prohibited is the exploration for, or development and extraction of, minerals and hydrocarbons by any mining method or any other method that, in the reasonable discretion of Grantee, would significantly impair or interfere with the Conservation Values of the Property or the Conservation Purposes of this Easement; provided, however, minimal filling, excavating, and dredging shall be permitted as may be necessary for creekfront and waterfront stabilization, wildlife habitat rehabilitation, grading and/or rerouting roads and travelways to the extent doing so enhances and/or further protects the Conservation Values

of the Property, and rehabilitation and pond maintenance as may be provided in **Section 4** of this Easement. No surface mining of any kind shall be permitted; surface mining is strictly prohibited;

- 3.4 Dumping; Underground Tanks.** The storage or dumping of trash, garbage, or other unsightly or offensive material, hazardous substance, or toxic waste, or any placement of underground storage tanks in, on, or under the Property, other than water tanks used for the purpose of establishing a water reserve for fire fighting purposes, so long as the area disturbed for such permitted placement is revegetated and restored to its natural condition promptly after completion of the work. There shall be no changing of the topography through the disposal of soil, spoil, or other substance or material such as land fill or dredging spoils, nor shall activities that could cause erosion or siltation on the Property be conducted on the Property or on adjacent property, if owned by Grantors;
- 3.5 Construction.** The placement or construction of any buildings, structures, communication towers or antennae, and related facilities or other improvements of any kind, other than as may be described in **Section 4** of this Easement;
- 3.6 Access.** Access by the public at large, except with the express permission of Grantor or pursuant to a written agreement with an agency of the State of Tennessee so long as the provisions of such agreement do not compromise, in Grantee's sole discretion, the Conservation Values of the Property or the Conservation Purposes of this Easement;
- 3.7 Hunting.** Hunting on or from the Property, except by permission of Grantor. This may in no way be interpreted to support any activity resembling a commercial hunting preserve;
- 3.8 Motorized Vehicle Use.** No All Terrain Vehicles or similar self-powered vehicles are allowed on the Property except as used by Grantor and/or Grantee, and then only for the purpose of maintaining and monitoring the Property;
- 3.9 Signs.** The placement of any commercial signs or billboards on the Property except those small, relatively unobtrusive signs, the placement, number, and design of which do not significantly diminish the scenic character of the Property, may be displayed to state the name and address of the Property and the names of persons living on the Property, to advertise the Property for sale or rent, to post the Property to control unauthorized entry, to provide notice that this is protected property, to identify Grantee as the holder of an interest in the Property, to identify a significant distinction of the Property, such as a Century Farm or National

Register of Historic Places, or as may be required by the pre-existing uses of the property;

- 3.10 Introduced Species.** The intentional introduction of any exotic or invasive plant species on the Property;
- 3.11 Surface Water; Ground Water.** The pollution, contamination, or alteration of surface water, natural water courses, lakes, ponds, marshes, ground or subsurface water, or any water on or near the Property, except such alteration as may be described below in **Section 4**, or as may be legally permitted for irrigation or for use in ponds. No ground or surface water from the Property shall be removed, collected, impounded, stored, transported, diverted, or otherwise used for any purpose or use outside the boundaries of the Property without the express written consent of Grantee, which consent may be granted or withheld in Grantee's sole discretion;
- 3.12 Timber.** The cutting of any trees other than pursuant to a forest management plan approved by Grantee, and in accordance with both the Grantee Guidelines (as defined below) and the Best Management Practices as published by the Tennessee Division of Forestry, all as more particularly described in **Section 4** of this Easement; provided, however, the cutting down or removal of dead, diseased, or storm-damaged trees that may pose a threat to life or property on the Property, trees to be removed for wildfire control purposes as determined by the Tennessee Division of Forestry, or that may be required in order to maintain views, or for use as personal firewood, shall be permitted; provided further, however, the provisions of this **Section 3.12** shall not be used or allowed for the purpose of avoiding compliance with the Forest Management provisions set forth in **Section 4** of this Easement; the allowances in this **Section 3.12** are intended to be minimal in scope;
- 3.13 Management Areas.** While the entire Property is subject to management for the preservation of the Conservation Values of the Property, there are variations of management techniques for different areas of the Property. Notwithstanding any other provision of this Easement, there shall be no timber cutting, timber harvesting, clearing or removal of vegetation, clearing or removal of leaf litter or other natural detritus, or any other activity that may have an adverse effect on the Conservation Values of the Property or the Conservation Purposes of this Easement in any area identified and designated by Grantee, either at the time of the conveyance of this Easement, or any time in the future, as a "Management Area B." Such areas include, but are not limited to, areas with significant Conservation Values with respect to relatively natural habitat for fish, wildlife, or plants or similar ecosystems and include, with or without specific designation by Grantee, any area within 100 feet, or such other

distance as may be required by (a) the Grantee Guidelines or (b) the specific terrain, of any cave, cave opening, or cave entrance; wetlands; any area evidencing aquatic or wetland-based plant species; creeks; streams; and blue-line streams. The same constraints apply to any area designated by Grantee as a "Management Area C" with the exception of the 100-foot buffer area, which will not apply to any area designated by Grantee as a Management Area C. Notwithstanding the above, in the event Grantee makes a written determination that certain forest management or other activities within a Management Area B or a Management Area C would enhance the Conservation Values of the Property or would further protect the Conservation Purposes of this Easement, subject to any and all Grantee requirements, such forest management or other activities, as outlined in writing by Grantee, shall be permitted within a Management Area B and/or within a Management Area C;

3.14 Density. No portion of the protected property may be used to satisfy land area requirements for other property not subject to this Conservation Easement for purposes of calculating building density, lot coverage, or open space under otherwise applicable laws, regulations, or ordinances controlling land use. No development rights that have been encumbered or extinguished by the Easement may be transferred to any other property; and

3.15 Any Use Inconsistent with Purpose. The parties recognize that this Easement cannot address every circumstance that may arise. The parties agree on the Conservation Values of the Property and the Conservation Purposes of this Easement, and that those Conservation Values and the Conservation Purposes of this Easement are paramount to any other use of the Property. The Property will be retained forever in its natural, scenic, and undeveloped condition, and will be used in a manner so as to prevent any use of the Property that will significantly impair or interfere with the Conservation Values of the Property, its wildlife habitat, and/or natural resources. Any use or activity which is inconsistent with, or materially threatens, the Conservation Values of the Property or the Conservation Purposes of this Easement is prohibited.

All activity on the Property shall be conducted so as to avoid the occurrence of soil erosion and sedimentation of streams or other water courses. Without limitation of the foregoing, Grantor and Grantee shall, in identifying practices that will prevent soil erosion and sedimentation, refer to the soil conservation practices as then established or recommended by the Natural Resources Conservation Service of the United States Department of Agriculture or any successor governmental office or organization performing the same function within the United States government, as approved in advance by Grantee.

4. Reserved Rights. Grantor reserves to itself and to its successors and assigns, all rights accruing from Grantor's ownership of the Property, including the right to engage in, or permit or invite others to engage in, all uses of the Property that are not expressly prohibited herein and that are not inconsistent with the purposes of this Easement. Without limiting the generality of the foregoing, and specifically subject to all other provisions of this Easement, the following rights are expressly reserved:

4.1 Reside. The right to reside on the Property in perpetuity within the areas described in **Section 4** of this Easement;

4.2 Convey and Pledge. The right to sell, donate, mortgage, lease, bequeath, or otherwise convey the Property, provided such conveyance is subject to the terms of this Conservation Easement, written notice is provided to Grantee, and the Transfer Fee is paid to Grantee, all in accordance with the provisions of **Section 12** of this Easement;

4.3 Public Park. The right to designate the Property, or specific portions thereof, as a public nature park or refuge for low impact activities such as hiking and nature study subject to the prior, written approval of Grantee, and further subject to a written agreement with an agency of the State of Tennessee, so long as the provisions of such agreement do not compromise the Conservation Values of the Property or the Conservation Purposes of this Easement in the sole discretion of Grantee;

4.4 Dwelling Structures. The right to construct, remodel, renovate, or replace one (1) residential dwelling on the Property in each of the two (2) 2-acre home sites ("Homesite"), the approximate location of which is shown on the attached **Exhibit C** and the coordinates for the centerpoint of which, and the legal description of which, is shown on the attached **Exhibit D**. Access to each Homesite is on a currently established, permanently-maintained travelway or road. The size, design, and construction of such residential dwellings shall be subject to the express, written consent of Grantee, and must not have an adverse effect on the Conservation Values of the Property or the Conservation Purposes of this Easement; provided that such dwellings shall not exceed 10,000 square feet of heated living area nor be greater than two (2) stories above ground in height, and further subject to the following:

(a) There shall be no construction nor removal of any trees on the Property for the foregoing purposes until each of the following conditions is satisfied:

(i) The location and dimensions of any new road, travelway, or driveway to serve the Homesite shall be reviewed and must be

approved by Grantee, there being a strong preference in favor of the use of roads, travelways, or driveways already existing on the Property. The location and dimension of each road, travelway, and/or driveway must not, in Grantee's sole discretion, result in any material adverse effect on any of the Conservation Purposes of this Easement or the Conservation Values of the Property;

- (ii) The location of any new road, travelway, or driveway and any new utility facilities shall be identified and surveyed by Grantor and such survey information shall be provided to Grantee in the form Grantee requires, at the sole expense of Grantor, prior to Grantee's review;
 - (iii) Grantee must approve, in writing, prior to any recordation and prior to the commencement of any work, all of Grantor's plans and concepts for the location and construction of any structure within any Homesite area as well as the location and nature of any road, travelway, driveway, easement, and utility facility;
 - (iv) Grantor, and not Grantee, shall bear all responsibility for obtaining permits or other approval and recordation of any state, county, or municipal government for the location and construction of the Homesite area, dwelling, utility facility, road, travelway, driveway, or other Structure the location of which is to be reviewed by Grantee under this **Section 4**;
 - (v) The description of each utility easement area and any new road, travelway, or driveway, as reviewed and as approved by Grantee, shall be re-surveyed following completion, and a set of "as built" drawings will be furnished to Grantee and shall be added to the monitoring reports and kept with the Baseline Document Report for this Easement; and
 - (vi) All of Grantee's expenses incurred in the review, approval, and oversight of the Reserved Rights in this **Section 4**, as well as the costs and expenses thereof, shall be paid, in full, by Grantor prior to undertaking any construction, including clearing of the areas. Grantee may require a deposit of its estimated expenses before granting any approval or reviewing any surveys or other submissions by Grantor;
- (b) At such time as the above requirements have been satisfied, the monitoring reports for the Baseline Documentation Report shall

include such Homesite and the access and utility easement serving such Homesite;

- (c) Grantor shall have the right to drill a water well within the Homesite area for the purpose of providing potable water to the dwelling located on that Homesite. Grantor shall give Grantee at least ten (10) business days' advance written notice of the intent to drill such a well and the approximate location of the intended well. Within five (5) calendar days of the completion of the well drilling, Grantor shall provide to Grantee the specific location of such well for purposes of updating and maintaining the Baseline Documentation Report;

Notwithstanding the establishment of any or all of the Homesite areas, those Homesite areas shall remain subject to all of the provisions of this Easement;

- 4.5 Agricultural Structures.** The right to construct one or more accessory structures, such as a barn, shed, or garage, within any of the Homesite areas described in **Section 4.4**; provided, however, no such accessory structure shall be used as a living or dwelling site. No such structure shall have a septic system or other wastewater disposal system. The specific location and size of all such structures, which is subject to the prior express, written approval of Grantee, shall not adversely affect the Conservation Values of the Property nor the Conservation Purposes of this Easement, in the sole discretion of Grantee;
- 4.6 Utilities.** The right to provide utilities to the residential dwelling described herein and any other permitted structure; provided, however, that while such utilities need not be underground, Grantee shall use its best efforts to locate any aboveground utilities in the least obtrusive location, at a minimum, staying as close as possible to roads, driveways, or other access or maintenance travelways;
- 4.7 Additional Agricultural Use.** Any low-impact agricultural use shall be allowed on the Property with prior notification to, and the written approval of, Grantee provided no existing Conservation Values of the Property are compromised, and further provided the Conservation Purposes of this Easement are not violated or compromised;
- 4.8 Forest Management.** Grantor retains the right to conduct forest management activities by tried and proven forestry methods designed to enhance the quality of the forest. Forest management activities must be conducted in accordance with:

- (i) a Forest Management Plan ("Plan");
- (ii) a Timber Sale Contract ("Contract");
- (iii) a Road Plan ("Road Plan"); and
- (iv) a Harvest Notice ("Notice");

(collectively, "Forest Management Documents") all of which must be in writing and approved by Grantee, in advance (as more specifically set forth below), all of which are more particularly described below, and all of which must comply with:

- (v) the terms, conditions, and provisions of this Easement;
- (vi) specific guidelines adopted by Grantee's Board of Directors, a copy of which was provided prior to the execution and delivery of this Easement ("Grantee Guidelines"), and which may be amended from time-to-time, and which, to the extent they are inconsistent with BMPs (as defined below), shall control;
- (vii) the Tennessee Division of Forestry Best Management Practices Guidelines ("BMPs"), as outlined in the Forestry Best Management Practices Manual in existence as of the date of this Easement or as may be amended from time-to-time by the Tennessee Division of Forestry; and
- (viii) any and all other applicable county, state, and federal forestry laws, rules, and regulations as they may apply to Grantor's specific timber management activities;

Items (v), (vi), (vii), and (viii), above, are collectively referred to as the "Requirements."

Grantee shall review the Forest Management Documents for consistency with the Requirements as well as with the purposes and with the terms, provisions, and conditions of this Easement. If Grantee is required to engage a forestry consultant to review any or all of the Forest Management Documents, Grantor agrees to reimburse Grantee for the costs, expenses, and fees incurred by Grantee in such review. If Grantee determines that any portion of any of the Forest Management Documents is inconsistent with the purposes, terms, provisions, and conditions of this Easement, does not comply with the Requirements, or

that any forest management activities contemplated by the Plan could result in a violation of this Easement, Grantee will provide written comments to Grantor identifying and explaining such inconsistencies. Neither Grantee's right to provide comments, nor its actual comments, shall constitute a waiver of the terms of this Easement.

(a) **Forest Management Plan.** Grantor must submit the Plan to Grantee for review at least ninety (90) days prior to the commencement of any forest management activities. The Plan must consider and be consistent with the Requirements and with the terms of this Easement, and shall be prepared as follows:

(i) **Plan Preparation.** The Plan must be prepared or approved and acknowledged by (a) the Tennessee Division of Forestry, (b) a forester who has received a degree from an accredited school of forestry located in the United States, (c) a student or students currently enrolled in an accredited school of forestry located in the United States who are working under the direct supervision of a qualified faculty member of such school, or (d) such other qualified person approved in advance and in writing by Grantee. Said Plan shall have been prepared and/or reviewed and updated not more than three (3) years prior to the date it is presented to Grantee for review, or shall have been reviewed and updated as required by such a forester or other qualified person at least thirty (30) days prior to said date. Otherwise, periodic amendments and updates to the Plan are encouraged but not required.

(ii) **Content of Plan.** The Plan shall include, at a minimum, the following information, together with maps and charts to support and illustrate the required documentation:

(a) Grantor's long-term management goals and objectives;

(b) Descriptions, mapped locations, and management considerations for:

- Forest stands (community type, species, age, size, history, condition);
- Soils;

- Known unique plant or animal communities and any ecologically sensitive and/or important areas;
 - Known archaeological, cultural, or historic sites;
 - Surface waters, including springs, streams, seeps, ponds, and wetlands; and
 - Existing man-made improvements and features including all roads, buildings, fences, etc.
- (c) Proposed timber harvest intent, silvicultural treatments, schedules; and
- (d) Other forest management practices, activities, and schedules.

The Plan is intended to be broad in scope and to contemplate the long-range management of forested areas on the Property.

- (b) **Timber Sale Contract.** No forest management activities shall take place on the Property other than pursuant to the terms and conditions of a Timber Sale Contract between Grantor and the timber purchaser, which must be approved, in advance, by Grantee. Grantor must provide Grantee with a proposed timber sale contract no less than ninety (90) days prior to any timber management activities, setting forth, at a minimum, the following:
- (i) Marking and Cutting Limitations of each sale area, the size and location of each sale area, a description of each sale area, the type of cutting for each such area (such as "clear cut" or "seed cut" or "select cut" etc.), the species and estimated yield of each species for each sale area;
 - (ii) Any constraints on harvesting;
 - (iii) Details regarding liability and worker's compensation insurance required to be carried by the timber purchaser;
 - (iv) A requirement that Grantee be named as an additional insured on all such policies;

- (v) An indemnification and hold harmless of Grantee by the timber purchaser for any liability imposed on Grantee arising out of or related to forest management activities;
 - (vi) A provision regarding damage to any property of Grantor, and specifically prohibiting any logging or timber harvesting outside the areas described in the Marking and Cutting Limitations section; and
 - (vii) An expiration date for the Timber Sale Contract by which (a) harvesting will be complete or, whether complete or not, will terminate under the current Timber Sale Contract, (b) all equipment will be removed from the Property, (c) all roads will have been recovered and/or rehabilitated, and (d) that all timber standing on any area within the Marking and Cutting Limitations areas will again become the property of Grantor.
- (c) **Forest Roads.** Grantor shall have the right to construct new forest management roads and associated improvements such as bridges, culverts, and other related improvements in aid of forest management activities, in consultation with Grantee, all of which must be approved by Grantee prior to the commencement of any forest management activities on the Property ("Road Plan"). The proposed Road Plan shall be provided to Grantee for review no less than thirty (30) days prior to any forest management activities, subject to the following:
- (i) Grantor and/or Grantor's consulting forester, must contact Grantee prior to developing the Road Plan;
 - (ii) Grantor retains the right to maintain and repair existing forest management roads and associated bridges and culverts (collectively, "Existing Roads") so long as such maintenance and repair, and the Existing Roads themselves, do not have an adverse effect on the Conservation Values of the Property or the Conservation Purposes of this Easement. In the event Grantee determines that the Existing Roads do have such an adverse effect, Grantee shall have the right to prohibit the use of some or all of the Existing Roads;
 - (iii) Grantor shall have the further right to improve existing forest management roads and associated structures and to construct new forest management roads and associated improvements, in active consultation with Grantee, provided that said

improvements, new roads, and associated improvements satisfy the Requirements, and that

- (A) additional roads or road improvements are necessary to provide reasonable forest management access to the Property;
 - (B) provision is made for the adequate and proper closure and revegetation of skid roads and landings; and
 - (C) Grantor secures Grantee's prior written consent to the design, layout, location, and construction techniques with respect to all additional roads, road improvements, and any associated improvements.
- (d) **Harvest Notice; Contractor Requirements.** The following conditions apply to the commencement of any forestry activity on the Property:
- (i) All forest management activities must be in compliance with the Plan, the Contract, and the Road Plan, and be approved, in advance, by Grantee, as is more fully described in this **Section 4.8**;
 - (ii) Grantor shall provide Grantee with a written notice ("Notice") at least seven (7) days prior to commencement of any forest management activities, and in no event less than thirty (30) days after Grantee's approval of the Plan, the Contract, and the Road Plan;
 - (iii) The Notice shall include the name of the forester supervising the activity as well as the identification of the person or entity actually conducting the activity, and shall include:
 - (A) a general description of the scope of the activity (size and location of area (including maps));
 - (B) prescribed silvicultural treatments which may be employed;
 - (C) the location and a description of all ingress, egress, and access routes, including the specific location of any stream crossings, and the location of landings and skid roads, and haul roads, all of which must be consistent

with the Plan, the Contract, and the Road Plan, as approved by Grantee;

- (iv) Forestry activities shall be conducted within the constraints of the Plan, the Contract, the Road Plan, and the Notice under a written contract with a professional logger, which contract must include a non-refundable performance bond naming Grantor and Grantee as co-payees in an amount mutually agreed by Grantor and Grantee, and shall be expressly subject to the terms, conditions, and provisions of this Easement; and
- (v) Grantee shall have the right to object to any portion or provision of the Notice and shall promptly notify Grantor of any objectionable provisions. In the event Grantee does object to any portion or provision of the Notice, Grantor shall not commence any forest management activities unless and until Grantee provides written approval of the Notice or withdraws Grantee's objection or objections to the Notice.

On completion of said harvest activities, Grantor shall close and water-bar all landings and skid roads, and provide a timely notice of completion to Grantee.

Notwithstanding any other provision of this Easement, there shall be no timber cutting or other forestry activities in any area identified and designated by Grantee, either at the time of the conveyance of this Easement or any time in the future, as a Management Area B. Such areas include, but are not limited to, areas with significant Conservation Values with respect to relatively natural habitat for fish, wildlife, or plants or similar ecosystems and include, with or without designation by Grantee, any area within 100 feet, or such other distance as may be required by (a) the Grantee Guidelines or (b) the specific terrain, of any cave, cave opening, or cave entrance; wetlands; any area evidencing aquatic or wetland-based plant species; creeks; streams; and blue-line streams. The same constraints apply to any area designated by Grantee as a "Management Area C" with the exception of the 100-foot buffer area, which will not apply to any area designated by Grantee as a Management Area C. Notwithstanding the above, in the event Grantee makes a determination that certain forest management activities within a Management Area B or a Management Area C would enhance the Conservation Values of the Property or would further protect the Conservation Purposes of this Easement, subject to any and all Grantee requirements, such forest management activities, as outlined in writing by Grantee, shall be

permitted within a Management Area B and/or within a Management Area C.

- 4.9 Chemical Agents.** The right to use governmentally-approved chemical agents in the control of non-indigenous plant species and invasive plant species (whether indigenous or non-indigenous) and otherwise hazardous plants, provided, however, such actions shall be consistent with and in compliance with all applicable federal, state, and local laws and manufacturer's guidelines; provided further, however, if the use of any such chemical agents will have an adverse effect on any of the Conservation Values of the Property, the use of such agents shall be prohibited. Any such herbicides or pesticides shall be the least toxic necessary to accomplish the task at hand;
- 4.10 Signs.** The right to display signs showing the location and address of the Property and its facilities and signs indicating that the Property is available for sale or rent, for purposes of public access, if applicable, or as may be useful to support permitted educational, scientific, and recreational activities, as well as any sign indicating that the Property is protected property subject to this Easement;
- 4.11 Public Access.** The right to allow public access with permission for low-impact, nature-related activities such as hiking, nature study, picnicking, and other de minimis recreational activity; provided, however, no member of the public shall have any expectation of privacy while on the Property. Reference is made to **Section 2** of this Easement and Grantee's entry and monitoring rights as set forth therein;
- 4.12 Scientific Activity.** The right, with prior approval of Grantee, to permit or allow the Property to be used for scientific research by a member of the faculty of any accredited college or university or by a student or a group of students working under the direct supervision of such a faculty member so long as such research activities do not adversely affect the Conservation Values of the Property or the Conservation Purposes of this Easement;
- 4.13 Ponds, Banks, and Frontage.** The right to maintain the existing ponds on the property in their current condition or as may be modified consistent with recommendations from any appropriate state or federal agency, which modifications are subject to the express written consent of Grantee. The right, with prior approval by Grantee, to construct and maintain one or more additional ponds as may be determined appropriate for horses or livestock or to maintain or enhance the physical stability and natural features of the current or any new ponds by ecologically appropriate methods as established or recommended by National Resource Conservation Service or any qualified organization performing the same function and approved by Grantee. The

right to rehabilitate and restore any and all creek, stream, and river banks and frontage areas, subject to the express written consent of Grantee, in compliance with all local, state, and federal water quality and other laws, rules, and regulations;

- 4.14 Hunting.** Hunting shall be permitted on the Property only with the express, written consent of Grantor. This, in no way, is intended to permit a commercial hunting operation or “game preserve” on the Property;
- 4.15 Feed Plots; Wildlife Observation.** The right to establish one or more additional feed plots on the Property in accordance with a Wildlife Management Plan devised in conjunction with and approved by the Tennessee Wildlife Resource Agency, or any other similar state or federal agency, the number and total acreage of which is subject to the express, written consent of Grantee, and the right to construct wildlife observation structures, in number and location subject to the express, written consent of Grantee, all of which must not adversely affect the Conservation Values of the Property or the Conservation Purposes of this Easement;
- 4.16 Leases and Other Interests.** The right to lease or to grant others less than fee-simple interests in the Property for any use permitted Grantor, subject to Grantee’s prior written approval, provided that such lease or other interest in the Property is subject to and consistent with the provisions of this Easement, and does not constitute an impermissible subdivision of the Property, and further provided the use contemplated by such lease or other interest in the Property does not adversely affect the Conservation Values of the Property or the Conservation Purposes of this Easement;
- 4.17 Forest Carbon.** Grantor hereby retains and may hold, market, and transfer any and all rights related to forest carbon, including, without limitation, mitigation credits and offsets, now present or existing in the future, and the right to report such mitigation credits or offsets to any relevant public or private regulatory/oversight body or registry whether pursuant to a voluntary system or one created by local, federal, or international law or regulation, which rights arise from or are generated by or from the Property on or after the date of this Easement (collectively, “Forest Carbon Services”). The Forest Carbon Services retained hereunder shall specifically include, without limitation, the right to hold, reserve, report, market, or retire any greenhouse gas mitigation credits or offsets that may be generated on the Property, and other types of mitigation credits or offsets that arise from the production of forest carbon. Grantor shall have the absolute discretion in determining the purchaser(s) and/or recipient(s) of any Forest Carbon Services and the consideration for such forest carbon services shall inure to the sole benefit of Grantor; provided, however, that nothing in this **Section 4.17** shall

compromise, usurp, or in any way affect any of Grantee's rights, or the remedies available to Grantee as set forth elsewhere in this Easement, to protect the Conservation Values of the Property and/or the Conservation Purposes of this Easement; and

4.18 Other Uses. Grantor may, or may permit others to, engage in or perform any other actions or activities that are not expressly prohibited herein, and which do not compromise the Conservation Values of the Property or adversely affect the Conservation Purposes of this Easement.

In connection with any reserved right of Grantor to install and maintain roads, travelways, and/or driveways for vehicular access to the areas of the Property on which the existing, if any, and additional structures and related ancillary improvements are and/or may be constructed pursuant and subject to the terms and conditions of this Easement, with such roadways, travelways, and/or driveways to provide for ingress and egress across the Property to such locations and to the adjacent properties, such right shall be subject to the following requirements and conditions: (i) such roadways, travelways, and/or driveways shall be located, to the extent possible, in the path of forestry roads or other travelways existing on the date of this Easement; (ii) the width of the area cleared for such roadways, travelways, and/or driveways shall not exceed that which is necessary for two lanes of vehicular traffic and the installation of underground utilities; (iii) all newly constructed roadways, travelways, and/or driveways, or any roadways, travelways, and/or driveways that are rebuilt or reconstructed shall be constructed only of pervious materials; (iv) such roadways, travelways, and/or driveways shall otherwise be installed in a manner to avoid unnecessary tree removal and land disturbance; (v) if such roadways, travelways, and/or driveways require any grading or change in topography, then such grading shall blend into the natural topography of the Property as much as reasonably possible, shall be constructed so as to control erosion, and shall be of design and location approved, in advance, by Grantee; and (vi) Grantee has approved the proposed roadways, travelways, and/or driveways and access to the adjacent lands based on the foregoing requirements. Notwithstanding any other provision of this **Section 4**, the activities enumerated herein shall be prohibited to the extent any such activity or activities adversely affect the Conservation Values of the Property or the Conservation Purposes of this Easement.

No assurance is given that any of the above reserved rights may be exercised in such manner as Grantor might propose without having an adverse effect on the Conservation Purposes of this Easement, the Conservation Values of the Property, or other significant ecological values of the Property. The procedure set forth herein is established for the purpose of making that determination. The reserved rights in this Easement may not be exercised unless and until Grantee is satisfied that the exercise of the reserved right in the manner proposed by Grantor, can be undertaken without an adverse effect on the Conservation Purposes of this Easement, the Conservation Values of the Property, or other significant ecological

values of the Property. Grantor hereby waives, for Grantor and Grantor's heirs, executors, successors, and assigns, to the fullest extent allowed by law, any and all right to seek or recover damages from Grantee in any litigation or other legal action arising from a dispute over Grantee's exercise of its rights, obligations, or interpretations under this **Section 4** or any other Section of this Easement and Grantor agrees that the sole remedy or legal right to seek redress arising from any adverse decision of Grantee shall be to seek a declaratory judgment or other legal declaration by a court of competent jurisdiction as to the rights of Grantor hereunder. Grantor and Grantee agree that it is their intent that the rights reserved by Grantor in this Easement conform to the requirements of 26 C.F.R. Section 1.170A-14, and any rights so reserved by Grantor shall be limited to the extent such rights do not conform with 26 C.F.R. Section 1.170A-14. Grantor may not exercise any of its rights reserved under this Easement, including those rights reserved in this **Section 4**, in such a manner to adversely impact the Conservation Values of the Property or the Conservation Purposes of this Easement. Notwithstanding any other provision of this Easement, Grantor shall notify Grantee, in writing, before exercising any of Grantor's reserved rights under **Section 4** of this Easement which may have an adverse impact on the Conservation Values of the Property or the Conservation Purposes of this Easement. If Grantee determines that any specific exercise by Grantor of any of its reserved rights under this Easement may have an adverse impact on the Conservation Values of the Property or the Conservation Purposes of this Easement, Grantee may withhold its approval of such action.

5. Notice and Approval.

5.1 Notice of Intention to Undertake Certain Permitted Action Pursuant to Section 4. The purpose of requiring Grantor to notify Grantee prior to undertaking any of the activities described in **Section 4**, is to afford Grantee an adequate opportunity to monitor the activities in question to ensure that they are designed and carried out in a manner that is not inconsistent with the purpose of this Easement. Whenever Grantor intends to exercise any right reserved in **Section 4**, Grantor shall notify Grantee in writing not less than thirty (30) days prior to the date Grantor intends to undertake the activity in question. The notice shall describe the nature, scope, design, location, timetable, and any other material aspects of the proposed activity in sufficient detail to permit Grantee to make an informed judgment as to its consistency with the purposes of this Easement.

5.2 Grantee's Approval. Grantee shall grant or withhold its approval in writing within thirty (30) days of actual receipt of Grantor's written request therefor. Grantee's approval may be withheld only on a reasonable determination by Grantee that the action as proposed would be inconsistent with the purposes of this Easement, would be inconsistent with the restrictions set forth in this Easement, would adversely affect the Conservation Values of the Property, or would adversely affect the Conservation Purposes of this Easement. In the

event Grantee has not replied in writing to Grantor's request within such thirty (30) day period, Grantor's request will be deemed denied.

6. Grantee's Remedies.

- 6.1 Notice of Violation; Corrective Action.** If Grantee determines that a violation of the terms of this Easement has occurred or is threatened, Grantee shall give written notice of such violation to Grantor and demand corrective action sufficient to cure the violation and, where the violation involves injury to the Property resulting from any use or activity inconsistent with the purpose of this Easement, to restore the portion of the Property so injured to its prior condition in accordance with a plan to which Grantor and Grantee have agreed in writing. In the event Grantor and Grantee, both operating in good faith, cannot agree to such plan, another organization that is qualified under Section 179(h) of the Internal Revenue Code and 26 C.F.R. Section 1.170A-14 to acquire and hold conservation easements, which organization holds at least 20 conservation easements in the same general area as Grantee, shall prepare the plan of restoration.
- 6.2 Injunctive Relief.** If Grantor fails to cure the violation within sixty (60) calendar days after receipt of notice thereof from Grantee or, under circumstances where the violation cannot reasonably be cured within a sixty (60) day period, if Grantor fails to begin curing such violation within the sixty (60) day period, or if Grantor fails to diligently pursue the cure to completion, Grantee may bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Easement, to enjoin the violation, ex parte as necessary, by temporary restraining order, temporary or permanent injunction, and/or, in Grantee's discretion, to require the restoration of the Property to its condition at the time of the donation of this Easement as set forth in 26 C.F.R. Section 1.170A-14(g)(5)(ii). The parties agree that any bond to be posted by Grantee in pursuit of such a remedy shall be no more than Five Hundred Dollars (\$500).
- 6.3 Damages.** If there is a violation of any of the provisions of this Easement, Grantee shall notify Grantor by written instrument, and Grantor shall promptly cure the violation by (a) ceasing the activity giving rise to the violation, (b) restoring the Property to its condition before the violation, or (c) both, as the case may be. Grantee shall have the right, but not the obligation, to pursue legal actions or proceedings at law and/or in equity to enforce the conservation restrictions, including the right to cause such violation to be cured, and if a court of competent jurisdiction determines that a violation has occurred hereunder, the then-current owner shall reimburse Grantee, as applicable, for all reasonable expenses incurred, including legal fees and attorney fees, whether in or out of court, and the cost of legal proceedings brought to cure the violation or to collect such reimbursement.

Additionally, if Grantor violates this Easement in such a manner as to cause damage to, extract, or remove any trees, mineral resources, pond, wetland, stream, or other natural resource protected by this Easement, including a violation resulting from failure to obtain Grantee's approval, Grantee shall be entitled to payment of damages in the amount of the value of the protected natural resource in addition to all other remedies and damages set forth herein. Grantee may seek payment and recovery of such damages by any means available. The value of the protected natural resource shall be established as the greater of (i) the market value of the resource or (ii) the cost of immediate restoration of the Property and all resources to their condition prior to the violation. If such immediate restoration is not reasonably possible then the market value of the resource shall be the amount of damages. If the resource does not have readily determinable market value then the amount of damages shall be the amount which a court of competent jurisdiction may determine, taking into account the importance of the resource to the fulfillment of the Conservation Purposes.

- 6.4 Emergency Enforcement.** If Grantee, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the Conservation Values of the Property, Grantee may pursue its remedies under this **Section 6** without prior notice to Grantor or without waiting for the expiration of the cure period.
- 6.5 Scope of Relief.** Grantee's rights under this **Section 6** apply equally in the event of either actual or threatened violations of the terms of this Easement. Grantor agrees that Grantee's remedies at law for any violation of the terms of this Easement are, or may be, inadequate and that Grantee shall be entitled to the injunctive relief described in **Section 6.2**, both prohibitive and mandatory, in addition to such other relief to which Grantee may be entitled, including specific performance of the terms of this Easement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. Grantee's remedies described in this **Section 6** shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.
- 6.6 Costs of Enforcement.** All reasonable, actual costs incurred by Grantee in enforcing the terms of this Easement against Grantor, including, without limitation, actual costs and expenses of suit, actual, reasonable attorney fees (with or without suit), and any costs of restoration necessitated by Grantor's violation of the terms of this Easement shall be borne by Grantor; provided, however, that if Grantor ultimately prevails in a judicial enforcement action, each party shall bear its own costs, fees, and expenses. In no event shall Grantee be liable to Grantor for any costs, fees, or expenses brought in the course of an enforcement action unless it is conclusively determined that Grantee acted with actual malice in bringing such enforcement action, in

which case Grantee shall be liable to Grantor only for Grantor's costs, fees, and expenses, including reasonable attorney fees, actually incurred in defending such a suit.

- 6.7 Forbearance.** Forbearance by Grantee to exercise any of its rights under this Easement in the event of any violation of this Easement by Grantor shall not be deemed or construed to be a waiver by Grantee of such provision or of any subsequent breach of the same or any other provision of this Easement or of any of Grantee's rights under this Easement. No delay or omission by Grantee in the exercise of any right or remedy on the occurrence of any breach by Grantor shall impair such right or remedy or be construed as a waiver.
- 6.8 Waiver of Certain Defenses.** Grantor hereby waives any defenses of laches, estoppel, prescription, statute of limitations, or any period of limitations of actions.
- 6.9 Acts Beyond Grantor's Control.** Nothing contained in this Easement shall be construed to entitle Grantee to bring any action against Grantor for any injury to or change in the Property resulting from causes beyond Grantor's control, including, without limitation, vandalism or illegal acts, fire, flood, storm, natural earth movement, or acts of God, or from any prudent action taken by Grantor in good faith under emergency conditions to prevent, abate, or mitigate significant injury to the Property resulting from such causes.
- 6.10 Rights and Remedies in Relation to Third Parties.** As the owner of a real property interest under this Easement, Grantee shall have the right, without limitation of any rights herein as against Grantor, to assert and enforce any of the rights and remedies in this Easement against any person or entity other than Grantor that engages in any activity on the Property that constitutes a violation of any of the covenants or restrictions of this Easement, whether such person or entity enters on the Property as a tenant, guest, or invitee of Grantor, by an act of trespass, or by any claim of right, and Grantor shall cooperate with Grantee by joining in any action or proceeding commenced by Grantee for such purpose. No trespasser or any other person on the Property with or without Grantor's express permission shall have any expectation of privacy while on the Property, and Grantee shall not be liable to any such trespasser or person on the Property for any "invasion of privacy" claim or any other or similar claim arising as a consequence, intended or unintended, of Grantee's activities in monitoring the Property and enforcing the provisions of this Easement.
- 6.11 No Third Party Rights of Enforcement.** This Easement may only be enforced by Grantor and Grantee and no third party beneficiary rights, rights of enforcement, or other rights are created or intended to be created or

granted by this Easement in or to any other person or entity, any person or entity that was once a "Grantor" but is no longer an owner of the Property, the public generally, or any governmental authority except to the limited extent necessary to undertake an action under **Section 11** or as required by statute (and only to the extent such statute cannot be waived by agreement of Grantee and Grantor).

7. **Access.** No right of access by the general public to any portion of the Property is conveyed by this Easement, other than as may be specifically set forth herein.

8. **Costs, Liabilities, Taxes, Environmental Compliance.**

8.1 **Costs, Legal Requirements, and Liabilities.** Grantor retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep, and maintenance of the Property, including the maintenance of policies of adequate, in Grantee's reasonable discretion, liability insurance coverage, and Grantor shall cause Grantee to be named as an additional insured on all such policies. Grantor shall provide to Grantee, at least annually, certificates evidencing such insurance. Grantor remains solely responsible for obtaining any applicable governmental permits and approvals for any construction or other activity or use permitted by this Easement, and all such construction or other activity or use shall be undertaken in accordance with all applicable federal, state, and local laws, regulations, ordinances, and requirements. Grantor shall keep the Property free of any liens arising out of any work performed for, materials furnished to, or obligations incurred by, Grantor.

8.2 **Taxes.** Each owner of any portion of the fee interest Property shall pay all taxes and assessments lawfully assessed against such portion of the Property owned by such owner, and shall provide to Grantee receipted tax bills or other evidence satisfactory to Grantee within fifteen (15) days of any written request therefor. Grantee shall have the right to pay any lawful taxes and assessments in order to prevent a "delinquent tax sale" or other lien foreclosure of the Property or any portion thereof, and the entire amount paid by Grantee, together with all costs and expenses, fines, interest, and penalties, including attorney fees, shall be immediately due and payable to Grantor by Grantee, and shall bear interest at the highest rate permitted by law until fully paid. In the event the Property, or any portion thereof, is sold at a delinquent tax sale, Grantee shall have all redemption rights provided in the Tennessee Code Annotated to a fee simple owner of the Property, as if Grantee was fee simple owner of the Property.

8.3 **Availability or Amount of Tax Benefits.** Neither Grantee nor any of Grantee's officers, directors, employees, agents, or counsel makes any warranty, representation, claim, or other assurance, or provides any advice

regarding the availability, amount, or effect of any deduction, credit, or other benefit to Grantor or any other person or entity to be derived from the donation of this Easement or other transaction associated with the donation of this Easement under United States or any state, local, or other tax law. This donation is not conditioned on the availability or amount of any such deduction, credit, or other benefit. Neither Grantee nor any of Grantee's officers, directors, employees, agents, or counsel makes any warranty, representation, or other assurance, or provides any advice regarding the value of this Easement or of the Property. As to all of the foregoing, Grantor acknowledges that Grantor is relying on Grantor's own legal counsel, accountant, financial advisor, appraiser, tax, or other consultant not on Grantee or any legal counsel, accountant, financial advisor, appraiser, or other consultant, employee, or agent of Grantee. In the event of any audit or other inquiry of a governmental authority into the effect of this donation on the taxation or financial affairs involving Grantor or Grantor's successors or assigns or any other similar matter, then Grantee shall be reimbursed and indemnified for any cost or expense of any kind or nature whatsoever, including attorney fees, incurred by Grantee in responding or replying thereto, or participating therein.

8.4 Representations and Warranties of Grantor; Environmental Compliance. Grantor certifies, represents, and warrants that, after reasonable investigation and to the best of its knowledge:

- (a) No substance defined, listed, or otherwise classified pursuant to any federal, state, or local law, regulation, or requirement as hazardous, toxic, polluting, or otherwise contaminating to the air, water, or soil, or in any way harmful or threatening to human health or the environment, exists or has been released, generated, treated, stored, used, disposed of, deposited, abandoned, or transported in, on, from, or across the Property;
- (b) There are no underground storage tanks located on the Property, whether presently in service or closed, abandoned, or decommissioned, and no underground storage tanks have been removed from the Property other than in full compliance with applicable federal, state, and local laws, regulations, and requirements;
- (c) Grantor and the Property are in compliance with all federal, state, and local laws, regulations, and requirements applicable to the Property and its use;
- (d) There is no pending or threatened litigation in any way affecting, involving, or relating to the Property;

- (e) No civil or criminal proceedings or investigations have been instigated at any time or are now pending, and no notices, claims, demands, or orders have been received, arising out of any violation or alleged violation of, or failure to comply with, any federal, state, or local law, regulation, or requirement applicable to the Property or its use, and Grantor is not aware of any facts or circumstances that Grantor might reasonably expect to form the basis for any such proceedings, investigations, notices, claims, demands, or orders; and
- (f) The Baseline Documentation includes, among other things:
- Owner Acknowledgment of Condition.
 - Purpose and Summary of Easement Conditions.
 - Natural Features of the Property.
 - Environmental Conditions of the Property.
 - Narrative description of the significant ecological and other Conservation Values and characteristics of the Property.
 - Topographic map of the Property.
 - Photographs of current site conditions on the Property.

The Baseline Documentation is an accurate representation of the condition of the Property at the time of the execution, delivery, and recordation of this Easement.

8.5 Environmental Compliance; Remediation. If, at any time, there occurs, or has occurred, a release by Grantor in, on, or about the Property of any substance now or hereafter defined, listed, or otherwise classified pursuant to any federal, state, or local law, regulation, or requirement as hazardous, toxic, polluting, or otherwise contaminating to the air, water, or soil, or in any way harmful or threatening to human health or the environment, Grantor agrees to, promptly and with all due haste, take all steps necessary to assure its containment and remediation, including any cleanup that may be required.

8.6 Environmental Compliance; No Grantee Control. Nothing in this Easement shall be construed as giving rise, in the absence of a judicial decree, to any right or ability in Grantee to exercise physical or managerial control over the day-to-day operations of the Property, or any of Grantor's activities on the Property, or otherwise to become an "operator" with respect to the Property within the meaning of The Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), and Tennessee Code Annotated Section 68-212-101 et seq., or any other state or federal law regarding liability for hazardous wastes, toxic substances, pollution, or other, similar matters.

- 8.7 Indemnity and Hold Harmless.** If Grantee is required by a court of competent jurisdiction to pay damages resulting from personal injury, property damage, hazardous waste contamination, or hazardous materials usage that occurs on the Property, Grantor shall promptly indemnify and reimburse Grantee for these payments, as well as for reasonable attorney fees and other expenses incurred by Grantee in connection therewith, unless Grantee or its agents or contractors are grossly negligent or have committed a deliberate act that is determined by a court of competent jurisdiction to be a cause of the injury or damage.
- 8.8 Indemnification.** Grantor covenants and agrees to indemnify, defend, reimburse, and hold Grantee, its directors, officers, agents, contractors, counsel, and employees harmless from, for, and against any Loss (defined below) to the extent such Loss arose from an Indemnified Cause (defined below). A "Loss" shall mean any loss, cost, liability, penalty, fine, or damage of any kind or nature whatsoever which Grantee or any of its directors, officers, contractors, agents, counsel, or employees may reasonably be concluded to have suffered, paid, or incurred, or for which demand for payment has been made. The term "cost" shall include, but shall not be limited to, reasonable attorney fees, witness and court fees, and expert fees, whether as witnesses or consultants. An "Indemnified Cause" shall mean any of the following: the violation or alleged violation of any law in, on or involving the Property, by Grantor or anyone acting by, for, through, or under the direction of Grantor, including but not limited to any tenant, contractor, agent, licensee, or invitee of Grantor; any breach of covenants and restrictions in this Easement by Grantor or anyone acting by, for, through, or under the direction of Grantor, including but not limited to any tenant, contractor, agent, licensee, or invitee of Grantor; any tax or assessment on the Property or on this Easement or the rights it represents or that it grants to Grantee; any death or injury to any person occurring on or about the Property; any lien or attempts to enforce a lien asserted against the Property; the costs of performing any work on the Property; any loss or damage to any property on or about the Property; any dispute involving Grantor and Grantee regarding the interpretation or enforcement of this Easement as to which the interpretation or enforcement of Grantee is upheld; or any lawsuit (regardless of whether initiated by Grantor or Grantee) or governmental administrative or law enforcement action which is commenced or threatened against Grantee or any of its directors, officers, agents, counsel, or employees or to which any of the foregoing are made a party or called as a witness; but the term "Indemnified Cause" shall not include any cause which results from Grantee's own acts which are finally determined by a court of competent jurisdiction to have been the result of bad faith or willful misconduct of Grantee. It is further agreed that no person shall have an indemnification obligation or liability under this **Section 8.8** as to any Indemnified Cause which arises entirely and solely

from events which occurred after such person is no longer the legal or equitable owner of the Property or any part thereof and is no longer in possession of the Property or any part thereof, it being agreed and understood that all subsequent owners of the Property shall have and assume such indemnification, defense, reimbursement, and hold harmless obligations by the act of taking title to the Property.

9. Extinguishment and Condemnation.

- 9.1 Extinguishment.** If circumstances arise in the future that render the Purpose of this Easement impossible or impractical to accomplish, this Easement can be terminated or extinguished, whether in whole or in part, only by judicial proceedings in a court of competent jurisdiction, and Grantee shall be entitled to a portion of the proceeds from any sale, exchange, or involuntary conversion of all or any portion of the Property subsequent to such termination or extinguishment ("Conversion Proceeds") at least equal to the proportionate value of the perpetual conservation restriction as set forth in **Section 9.2**, below, multiplied by the total amount of the Conversion Proceeds, unless Tennessee law provides that Grantor is entitled to the full amount of the Conversion Proceeds without regard to the terms of this Easement. Grantee shall use all such proceeds in a manner consistent with the Purposes of this Easement.
- 9.2 Proceeds.** This Easement constitutes a real property interest ("Interest") immediately vested in Grantee. For the purposes of this paragraph, and pursuant to Treasury Regulation § 1.170A-14(g)(6)(ii), Grantor and Grantee stipulate that this Interest shall have a fair market value that is equal to the proportionate value that the Easement at the time of this grant, bears to the value of the Property as a whole at the time of this grant. For the purposes of this paragraph, the ratio of the value of the Easement to the value of the Property as a whole shall remain constant. It is intended that this paragraph be interpreted to adhere to and be consistent with Treasury Regulation § 1.170A-14(g)(6)(ii).
- 9.3 Condemnation.** If the Easement is taken, in whole or in part, by exercise of the power of eminent domain, the amount of the proceeds to which Grantee shall be entitled shall be determined by multiplying the total amount recovered as a result of the condemnation by the ratio set forth in **Section 9.2**, above, unless Tennessee law provides that Grantor is entitled to the full amount of the proceeds resulting from the condemnation without regard to the terms of this Easement.
- 9.4 Application of Proceeds.** Grantee shall use any proceeds received under the circumstances described in this **Section 9** in a manner consistent with the Conservation Purposes of this Easement.

10. Assignment. This Easement is transferable, but Grantee may assign its rights and obligations under this Easement only to an organization that is a qualified organization at the time of transfer under Section 170(h) of the Internal Revenue Code and 26 C.F.R. Section 1.170A-14 (or any successor provision then applicable), and authorized to acquire and hold conservation easements under the Tennessee Conservation Easement Act of 1981, Tennessee Code Annotated Section 66-9-301 et seq., or any successor provision then applicable or the laws of the United States. As a condition of such transfer, Grantee shall require that the Conservation Purposes that this grant is intended to advance continue to be carried out, and the transferee has a commitment to protect the Conservation Purposes and the resources to enforce this Easement. Grantee agrees to give written notice to Grantor of any assignment at least one hundred and twenty (120) days prior to the date of such assignment.

11. Successor Grantee. If, at any time, Grantee shall be unwilling or unable to continue as grantee hereunder, including, but not limited to, if Grantee ceases to exist or to be a qualified organization under Section 170(h) of the Internal Revenue Code and 26 C.F.R. Section 1.170A-14, or to be authorized to acquire and hold conservation easements under the Tennessee Conservation Easement Act of 1981, Tennessee Code Annotated Section 66-9-301 et seq., then Grantor and Grantee shall mutually agree on a qualified successor Grantee, and if Grantor and Grantee cannot agree on a qualified successor Grantee, the rights and obligations under this Easement shall vest in such organization as a court of competent jurisdiction shall direct pursuant to applicable Tennessee law and consistent with the requirements for an assignment pursuant to **Section 10**.

12. Subsequent Transfers.

12.1 Incorporation of Easement. Grantor agrees to incorporate the terms of this Easement by reference in any deed or other legal instrument by which it divests itself of any interest in all or a portion of the Property, including, without limitation, a leasehold interest.

12.2 Notice; Subordination of Subsequent Encumbrances. Grantor agrees to give written notice to Grantee of the transfer of any interest in the Property at least thirty (30) calendar days prior to the date of such transfer. Any mortgagee must subordinate its rights in the Property to Grantee to enforce the Conservation Purposes of this Easement.

12.3 Successors Bound. Any and all successors to Grantor's interest in the Property shall be bound by the provisions of this Easement.

12.4 Transfer Fee. In consideration of the perpetual obligations assumed by Grantee in this Easement, the costs and expenses of which are unpredictable, including, but not limited to, the obligation to travel to and inspect the Property at least annually for compliance with the terms of this Easement, communicate with present and future owners, respond to questions and

other matters, and maintain financial resources for the enforcement of compliance when necessary in fulfillment of Grantee's obligation to be a Qualified Organization under 26 CAR §1.170A-14(c)(1), and in consideration of Grantor's desire to support Grantee in its charitable mission with respect to the Property and other properties in which Grantee may have accepted conservation easement restrictions, Grantor agrees for itself, its heirs, successors, and assigns, that there shall be paid to Grantee the Transfer Payment (defined below) at the time of each Qualifying Transfer (defined below) in the manner set forth in this **Section 12.4**.

- (a) The "Transfer Payment" amount shall be a sum equal to one percent (1.0%) of the Purchase Price (defined below) of the Property, or part thereof; the improvements on the Property; and all other land, improvements, and other property included in the Qualifying Transfer;
- (b) "Qualifying Transfer" shall mean the conveyance of legal title to the Property, or any part thereof; the improvements on the Property; and any other land, improvements, and other property conveyed by the same deed of conveyance and/or any other instrument of transfer by which the Property, or part thereof, is conveyed; provided, however, a Qualifying Transfer shall not include the first transfer following the recordation of this Easement;
- (c) The "Purchase Price" shall be the sum of all of the following given as consideration for a Qualifying Transfer: (a) payment of money, (b) transfer of real or personal property or other tangible consideration, (c) purchase money indebtedness, and (d) the assumption of indebtedness. Grantor shall be obligated to provide to Grantee a true and correct copy of the agreement of sale pertaining to the Qualifying Transfer, the Settlement Statement or Closing Statement, and/or other documents verifying the Purchase Price to the reasonable satisfaction of Grantee;
- (d) In the event of a Qualifying Transfer in which all or part of the consideration is in the form of real or personal property rather than the payment of money, purchase money indebtedness, or assumption of indebtedness, the Purchase Price shall include an amount equal to the fair market value of such real or personal property given in consideration or as partial consideration for the Qualifying Transfer as determined by a qualified appraiser approved by Grantee in its reasonable discretion. Appraisals used in the valuation of real or personal property as a component of the Purchase Price shall be based on the guidelines and ethical standards of the Appraisal Institute, as then in effect, for the type of property involved. Grantor and Grantee

may, however, if they so elect in their discretion, without obligation to do so, accept an alternate method of establishing the value of such real or personal property, including by contemporaneous agreement;

- (e) The amount of the Purchase Price shall not include that portion of a Qualifying Transfer that is a gift, devise, bequest, or other transfer not involving consideration by the payment of money, transfer of real or personal property, purchase money indebtedness, or assumption of indebtedness;
- (f) The Transfer Payment shall not be applicable to a Qualifying Transfer into a corporation, limited liability company, or general or limited partnership in which Grantor receives all of the shares or interests of the transferee entity as consideration and receives no other consideration;
- (g) The obligation for payment of the Transfer Fee shall be binding on Grantor in the Qualifying Transfer and on the purchaser or grantee that is the transferee in the Qualifying Transfer, all of whom shall be jointly and severally liable for the payment of the Transfer Fee, and also shall be binding on their respective heirs, successors, and assigns, and shall run with the land and constitute a lien on the Property until paid;
- (h) The Transfer Payment shall be paid to Grantee at or before the time of transfer of legal title. The amount of any Transfer Payment not paid by the time required herein shall (a) accrue interest payable to Grantee at the highest rate permitted by law until fully paid, and (b) constitute, together with accrued interest, to the extent permitted by law, a lien on the Property in favor of Grantee until fully paid, provided that such lien shall not be superior to any purchase money mortgage or deed of trust that was executed, recorded, and otherwise validly established against the Property prior to the date of the Qualifying Transfer;
- (i) Grantor shall be liable, and Grantee agrees to reimburse Grantor for, all reasonable attorney fees and other costs and expenses of collection incurred by Grantee in the enforcement of the provisions of this **Section 12.4**. This obligation is binding on Grantee, its heirs, successors, and assigns;
- (j) Notwithstanding any other provision of this Easement, neither the validity of this **Section 12.4** nor compliance with or enforcement of this **Section 12.4** shall have any bearing or effect whatsoever on the

validity and/or enforceability of any other provision of this Easement;
and

- (k) Notwithstanding any other provision of this Easement, in the event Grantee or any entity related to or affiliated with Grantee ever holds fee simple title to the Property, the provisions of this **Section 12.4** shall not apply to any transfer by Grantee or any entity related to or affiliated with Grantee.

- 13. **Estoppel Certificates.** On request by Grantor, Grantee shall, within twenty (20) calendar days, execute and deliver to Grantor, or to any party designated by Grantor, any document, including an estoppel certificate, which certifies, to the best of Grantee's knowledge with no duty of inquiry beyond what is set forth in this **Section 13**, Grantor's compliance with any obligation of Grantor contained in this Easement or otherwise evidences the status of this Easement. Such certification shall be limited to such compliance as of Grantee's most recent complete inspection. Grantor and Grantee acknowledge that the size, shape, and configuration of the Property boundaries, together with the topography of not only the areas of the Property boundaries but of the entire Property are such that Grantee's acknowledgment of Grantor's compliance with the provisions of this Easement at a time other than as of Grantee's most recent complete inspection will necessitate a significant expenditure of time and money. If Grantor requests more current documentation, Grantee shall conduct an inspection, at Grantor's cost and expense, and so deliver such certification document within a reasonable period of time following Grantee's receipt of Grantor's written request therefor, and Grantor shall promptly reimburse Grantee for Grantee's costs, fees, and expenses incurred in connection with such inspection and generation of the certification document.
- 14. **Notices.** Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other shall be in writing and be either served personally; sent by first class mail, postage prepaid, certified, return receipt requested; or by nationally recognized overnight courier (such as FedEx or UPS) with fees paid for "next business day delivery" addressed as follows:

To Grantor: Tom's Mountain Creek, LLC
22 Shorter Avenue
Rome, Georgia 30165
Attn: Michael W. Mathis

To Grantee: Foothills Land Conservancy
373 Ellis Avenue
Maryville, Tennessee 37804
Attn: Executive Director

or to such other address as either party from time to time shall designate by written notice to the other as may be designated, in writing, by any successor-in-interest to Grantor. Notice shall be effective, whether actually received or not (a) if personally delivered, on the date of personal delivery; (b) if by mail, on the earlier of (i) the date the return receipt is signed or (ii) that date which is three (3) business days following the date of mailing, which must be evidenced by obtaining a mailing receipt obtained from the United States Postal Service at the time of mailing; or (c) if by overnight courier, on the earlier of (i) that date which is two (2) business days following timely deposit with the overnight courier, or (ii) the date the on which the notice is signed by the recipient on delivery.

15. Recordation. Grantee shall record this instrument in timely fashion in the official records of Perry County, Tennessee, and may re-record it at any time as may be required to preserve Grantee's rights in this Easement.

16. General Provisions.

16.1 Controlling Law; Forum and Venue of Disputes. The interpretation and performance of this Easement shall be governed by the laws of the State of Tennessee without regard to its choice of law provisions. Notwithstanding the physical location of the real property described on Exhibit A, and notwithstanding the citizenship, residence, domicile, or situs of Grantor, Grantor agrees that the sole and exclusive forum for the resolution of any dispute arising under or in any way related to this Easement, and the only court of "competent jurisdiction" for purposes of this Easement, shall be the Chancery Court for the State of Tennessee sitting in Blount County, Tennessee, or, if all other jurisdictional requirements are satisfied, the United States District Court for the Eastern District of Tennessee, Northern Division, sitting in Knoxville, Tennessee. By signing below, the parties, for themselves and for their heirs, executors, successors, and assigns, (a) submit to the personal jurisdiction of such courts for the purpose of any action arising under or in any way related to this Easement, (b) agree that they will not challenge such grant of Personal Jurisdiction, nor challenge the venue established by this **Section 16.1**, and (c) agree that in the event any action is brought or commenced in any court or forum other than that which is set forth in this **Section 16.1**, the tender of (i) a true and correct copy of this instrument or (ii) a certified copy of the recorded Easement to such court shall be a full and complete defense to such action.

16.2 Liberal Construction. Notwithstanding the general rules of construction of documents, this Easement shall be liberally construed in favor of the grant to effect the purpose of this Easement and the policy and purpose of Tennessee Conservation Easement Act of 1981, Tennessee Code Annotated Section 66-9-301 et seq. (the "Tennessee Act"), and to qualify as a qualified conservation contribution under 26 C.F.R. Section 1.170A-14 (the "U.S. Act"). The

Tennessee Act and the U.S. Act are sometimes referred to herein collectively as the "Act." If any provision of this instrument is found to be ambiguous, it shall be interpreted in such a manner as to protect the Conservation Values of the Property and the Conservation Purposes of this Easement. Further, if any provision in this instrument is found to be ambiguous, an interpretation consistent with the purposes of this Easement that would render the provision valid shall be favored over any interpretation that would render it invalid. Neither party shall be deemed to have drafted this Easement for purposes of the general rules of construction of documents. This Easement is made pursuant to the Act, but the invalidity of such Act or any part thereof shall not affect the validity and enforceability of this Easement according to its terms, it being the intent of the parties to agree and to bind themselves, their heirs, executors, successors, and their assigns in perpetuity to each term of this instrument whether this instrument be enforceable by reason of any statute, common law, or private agreement in existence either now or hereafter.

- 16.3 Severability.** If any provision of this Easement, or the application thereof to any person or circumstance, is found to be invalid, the remaining provisions of this Easement, or the application of such provisions to persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected thereby.
- 16.4 No Authorized Violation of Law.** Nothing contained in this Easement shall be interpreted to authorize or permit Grantor to violate any ordinance or regulation relating to building materials, construction methods, or use. In the event of any conflict between any such ordinance or regulation and the terms of this instrument, Grantor promptly shall notify Grantee of such conflict and shall cooperate with Grantee and the applicable governmental entity to accommodate the purposes of both this Easement and such ordinance or regulation.
- 16.5 Possible Grantee Default.** To the extent that any action taken by Grantee pursuant to this Easement gives rise to a claim of breach of contract, Grantor and Grantee agree that the sole remedy on the part of Grantor shall be reimbursement of actual direct out-of-pocket expenses (including reasonable attorney fees) reasonably incurred by Grantor as a result of such breach and that Grantor shall not have any right to indirect, consequential, or monetary damages in excess of such actual, direct, and reasonable out-of-pocket expenses (including reasonable attorney fees).
- 16.6 Entire Agreement.** This instrument sets forth the entire agreement of the parties with respect to the Easement and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Easement, all of which are merged herein.

- 16.7 No Forfeiture.** Nothing contained herein will result in a forfeiture or reversion of Grantor's title in any respect.
- 16.8 Successors.** The covenants, terms, conditions, and restrictions of this Easement shall be binding on, and inure to the benefit of, the parties hereto and their respective personal representatives, heirs, successors, and assigns and shall continue as a servitude running with the Property in perpetuity. The terms "Grantor" and "Grantee," wherever used herein, and any pronouns used in place thereof, shall include, respectively, the above-named Grantor and its heirs, successors, and assigns, and the above named Grantee and its successors and assigns.
- 16.9 Termination of Rights and Obligations.** A party's rights and obligations under this Easement terminate on the transfer of the party's interest in the Easement or Property; provided, however, liability for any acts or omissions occurring prior to any transfer shall survive such transfer.
- 16.10 Captions.** The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect on construction or interpretation.
- 16.11 Counterparts.** The parties may execute this instrument in two or more counterparts, which shall, in the aggregate, be signed by both parties; each counterpart shall be deemed an original instrument as against any party who has signed it. In the event of any disparity between the counterparts produced, the recorded counterpart shall be controlling.
- 16.12 Merger.** In the event that Grantee becomes the holder of the underlying fee interest in the Property, no merger of the fee and this Easement shall take place, it being the specific intent of the parties hereto that, notwithstanding the operation of Tennessee common law, but pursuant to the provisions of Tennessee Code Annotated Section 66-9-304(a), as it exists on the date this Easement is recorded, this Easement remain an encumbrance on the Property regardless of the commonality of ownership of the fee and this Easement unless this Easement is conveyed by specific written instrument to the holder of the fee.
- 16.13 Changes in the Law.** Because this Easement is intended to continue in perpetuity, and because the law, whether federal, state, or local, whether a statute, common law, regulation, rule, or ordinance, is dynamic and is constantly changing, it is appropriate to assert that it is the intent of Grantor and Grantee to comply with all federal, state, and local laws, regulations, rules, and ordinances, including common law, as the same may change from time to time, in the establishment and continuation of this Easement, and to further assert that it is Grantor's over-riding desire that the Property remain

subject to constraints set forth in this Easement regardless of any change in the law.

16.14 Recitals Incorporated. The recitals set forth above are incorporated in, and form a part of, this Easement.

16.15 Contemporaneous Written Acknowledgment. By Grantee's signature below, this Section constitutes that Contemporaneous Written Acknowledgment of the contribution by the donee organization, in this case, Grantee, required by 26 USC § 170(f)(8) with respect to the property interest conveyed to Grantee by this Easement. The property interest conveyed is the Easement described in, and evidenced by, this document, and a proper legal description of the property encumbered by this Easement is attached hereto as an exhibit. No goods or services were provided by Grantee as consideration, in whole or in part, for the grant of this Easement by Grantor.

TO HAVE AND TO HOLD unto Grantee, its successors and assigns forever.

IN WITNESS WHEREOF Grantor and Grantee have entered into this instrument as of the day and year first above written.

[Signature Pages Follow]

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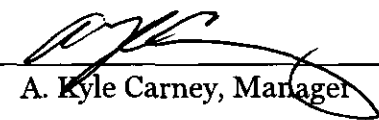
Grantor Signature Page

GRANTOR:

Tom's Mountain Creek, LLC

By: Southern Land Protectors, LLC
Its: Manager

Southern Land Protectors, LLC

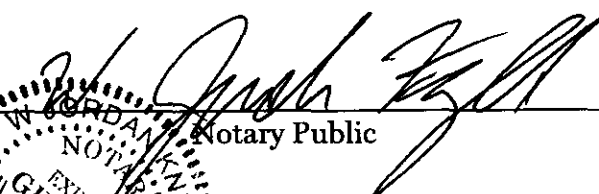
By: 
A. Kyle Carney, Manager



STATE OF Georgia
COUNTY OF Floyd

Before me, the undersigned, a notary public of the state and county aforesaid, personally appeared **A. Kyle Carney**, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, swore to and acknowledged himself to be the Manager/Authorized Signatory of **Southern Land Protectors, LLC**, a Georgia limited liability company, the Manager of **Tom's Mountain Creek, LLC**, a Georgia limited liability company, the within named bargainer, and that he as such Authorized Signatory executed the foregoing instrument for the purposes therein contained, by signing the name of the company by himself as Authorized Signatory.

WITNESS my hand at office this 26th day of December, 2016.


Notary Public

My commission expires: 7/16/18



Grantee Signature Page

GRANTEE:

Foothills Land Conservancy

By: William C. Clabough
William C. Clabough
Executive Director

STATE OF TENNESSEE

COUNTY OF Blount

Before me, the undersigned, a notary public of the state and county aforesaid, personally appeared **William C. Clabough**, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, swore to and acknowledged himself to be the Executive Director of **Foothills Land Conservancy**, a Tennessee non-profit corporation, the within named bargainer, and that he as such Executive Director executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself as Executive Director.

WITNESS my hand at office this 2 day of December, 2016.

Joanna Elise Eustace
Notary Public

My Commission Expires: 11/12/18

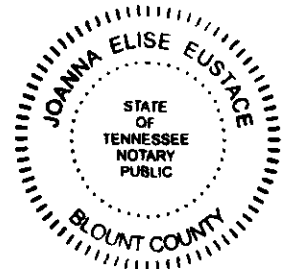


EXHIBIT A-1

Tom's Mountain Creek, LLC Property Description

SITUATE in the Second (2nd) Civil District of Perry County, Tennessee, shown on Perry County CLT Map 35 as Parcel 18, located on Highway 438 West, and being more particularly described as follows:

Beginning at a concrete monument in the southern right-of-way of Highway 438 West being the northeastern corner of this described parcel as well as being located S 80°06'48" E 95.90 feet from the intersection of a gravel driveway and Highway 438 West and furthermore being located N 78°53'59" W 211.72 feet from a concrete monument; thence leaving the road and going with the Heartwood Forestland Fund III Limited Partnership property S 08°16'14" E 69.37 feet to a concrete monument; thence N 81°58'29" E 10.50 feet to a 1/2" pipe (set); thence S 06°43'00" W 3297.41 feet to a 1/2" pipe (set); thence S 82°52'58" E 3345.79 feet to a 12" double black oak; thence leaving Heartwood and going with the Steve Ozment property S 85°58'25" E 285.30 feet to a 1/2" rebar (found); thence leaving Ozment and going with the Heartwood Forestland Fund III Limited Partnership property S 02°31'06" W 2826.31 feet to a 1/2" rebar (found); thence leaving Heartwood and going with the Jacki Byrd and Brenda Byrd property N 86°49'00" W 792.89 feet to a 20" white oak; thence S 05°12'15" W 1696.31 feet to a 5" elm; thence S 89°04'40" W 380.62 feet to a 10" chestnut oak; thence S 01°06'34" W 310.88 feet to a 18" poplar; thence leaving Byrd and going with the Tristan Lazzari property N 87°26'00" W 351.94 feet to a 18" gum; thence S 81°21'09" W 407.96 feet to a 15" oak; thence S 70°16'59" W 333.50 feet to a 16" oak; thence S 57°26'36" W 278.95 feet to a 24" oak; thence S 55°22'28" W 190.10 feet to a 16" oak; thence S 73°37'18" W 217.11 feet to a 16" oak; thence S 60°15'15" W 222.00 feet to a 18" oak; thence S 71°36'06" W 543.74 feet to a 20" oak; thence N 80°00'53" W 739.33 feet to a point in the center of an old haul road; thence continuing with Lazzari and generally following the center of the old haul road N 24°47'37" W 75.62 feet; thence N 12°11'45" E 78.86 feet; thence N 22°03'24" E 289.48 feet; thence N 11°24'56" E 141.96 feet; thence N 33°48'02" E 116.56 feet; thence N 37°47'48" E 124.85 feet; thence N 17°05'05" E 80.62 feet; thence N 03°25'33" W 90.70 feet; thence N 24°40'00" W 76.39 feet; thence N 29°44'37" W 140.67 feet; thence N 10°52'25" W 92.07 feet; thence N 01°33'25" E 112.76 feet; thence N 04°13'11" W 102.37 feet; thence N 00°08'35" E 169.06 feet; thence N 08°52'15" E 65.99 feet; thence N 22°46'52" E 49.90 feet; thence N 35°44'23" E 128.56 feet; thence N 46°36'22" E 90.63 feet; thence N 37°20'39" E 58.50 feet; thence N 21°01'05" E 69.02 feet; thence N 12°31'21" E 150.29 feet; thence N 06°49'28" E 243.23 feet; thence N 08°48'55" W 80.21 feet; thence N 23°40'58" W 59.44 feet; thence N 40°50'00" W 44.78 feet; thence N 50°45'12" W 58.94 feet; thence N 51°28'56" W 194.35 feet; thence N 42°31'08" W 82.08 feet;

thence N 35°11'31" W 85.34 feet; thence N 22°00'58" W 366.38 feet; thence N 10°15'40" W 90.88 feet; thence N 04°05'09" E 126.67 feet; thence N 16°45'47" W 73.32 feet; thence N 53°48'07" W 57.05 feet; thence N 71°53'22" W 83.99 feet; thence N 77°47'30" W 106.01 feet; thence N 72°54'42" W 64.55 feet; thence N 67°33'51" W 65.58 feet; thence N 67°21'54" W 107.69 feet; thence N 58°49'01" W 52.14 feet; thence N 34°48'31" W 43.62 feet; thence N 17°04'03" W 105.45 feet; thence N 23°27'16" W 55.17 feet; thence N 37°26'05" W 61.07 feet; thence N 46°59'48" W 127.44 feet; thence N 43°09'55" W 57.16 feet; thence N 41°44'34" W 85.78 feet; thence N 51°44'17" W 39.29 feet; thence N 65°19'34" W 53.51 feet; thence N 73°01'37" W 347.69 feet; thence N 72°17'24" W 129.82 feet; thence N 78°49'20" W 108.57 feet; thence N 75°00'46" W 117.33 feet; thence N 56°55'25" W 47.39 feet; thence N 36°12'22" W 41.74 feet; thence N 25°20'13" W 145.22 feet; thence N 19°22'24" W 144.04 feet; thence N 21°43'12" W 119.87 feet; thence N 29°56'28" W 50.39 feet; thence N 48°10'49" W 38.43 feet; thence N 66°15'27" W 45.30 feet; thence N 76°23'00" W 75.05 feet; thence leaving the haul road and continuing with Lazzari S 84°22'00" W 935.94 feet to a 1/2" rebar (found); thence S 83°34'37" W 306.70 feet to a 1/2" rebar (found); thence N 54°03'11" W 853.70 feet to a 1/2" rebar (found); thence N 82°50'38" W 1676.91 feet to a point; thence N 82°55'58" W 161.87 feet to a 1/2" rebar (found); thence leaving Lazzari and going with the Laguna Properties Inc. property and the George Culp and Matthew Culp property respectively N 06°07'12" E 1153.32 feet to a 3/8" rebar (found); thence continuing with Culp and the Edward Cairo and Jean Cairo property S 84°37'19" E 1955.79 feet to a 18" white oak; thence continuing with Cairo N 05°43'07" E 2092.72 feet to a point in a creek being located S 21°10'54" W 15.58 feet from the end of a culvert; thence leaving Cairo and going with the southern right-of-way of Highway 438 West along a curve having an arc length of 527.03 feet, with a radius of 4804.48 feet, and a chord of N 57°20'56" E 526.77 feet; thence N 54°41'34" E 945.45 feet; thence along a curve having an arc length of 691.16 feet, with a radius of 1062.19 feet, and a chord of N 70°23'59" E 679.03 feet; thence along a curve having an arc length of 421.16 feet, with a radius of 1016.79 feet, and a chord of S 78°28'42" E 418.16 feet; thence S 68°58'40" E 489.06 feet; thence along a curve having an arc length of 1356.79 feet, with a radius of 2861.64 feet, and a chord of S 81°15'52" E 1344.12 feet; thence N 83°47'47" E 228.74 feet to a concrete monument; thence S 08°38'40" E 9.12 feet to a concrete monument; thence N 81°45'50" E 198.22 feet to a concrete monument; thence N 04°15'22" E 8.66 feet to a concrete monument; thence N 81°50'27" E 349.65 feet to the **beginning** being 1031.80 acres as surveyed by Christopher M. Vick Tennessee RLS No. 2164 on 17 August 2016.

BEING the same property conveyed to the Grantor by instrument of record in Book D-21, Page 146, in the Register of Deeds Office for Perry County, Tennessee.

THE PREPARER OF THIS INSTRUMENT MAKES NO REPRESENTATION REGARDING THE ACCURACY OF THE PROPERTY DESCRIPTIONS SET FORTH ABOVE, NOR DOES THE PREPARER OF THIS INSTRUMENT MAKE ANY

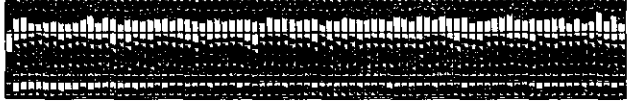
Exhibit A -1 Page 2 of 3

REPRESENTATION REGARDING THE STATE OF TITLE TO THE PROPERTY, THE DESCRIPTION HAVING BEEN PREPARED BY OTHERS, AND NO TITLE WORK HAVING BEEN PERFORMED BY SUCH PREPARER.

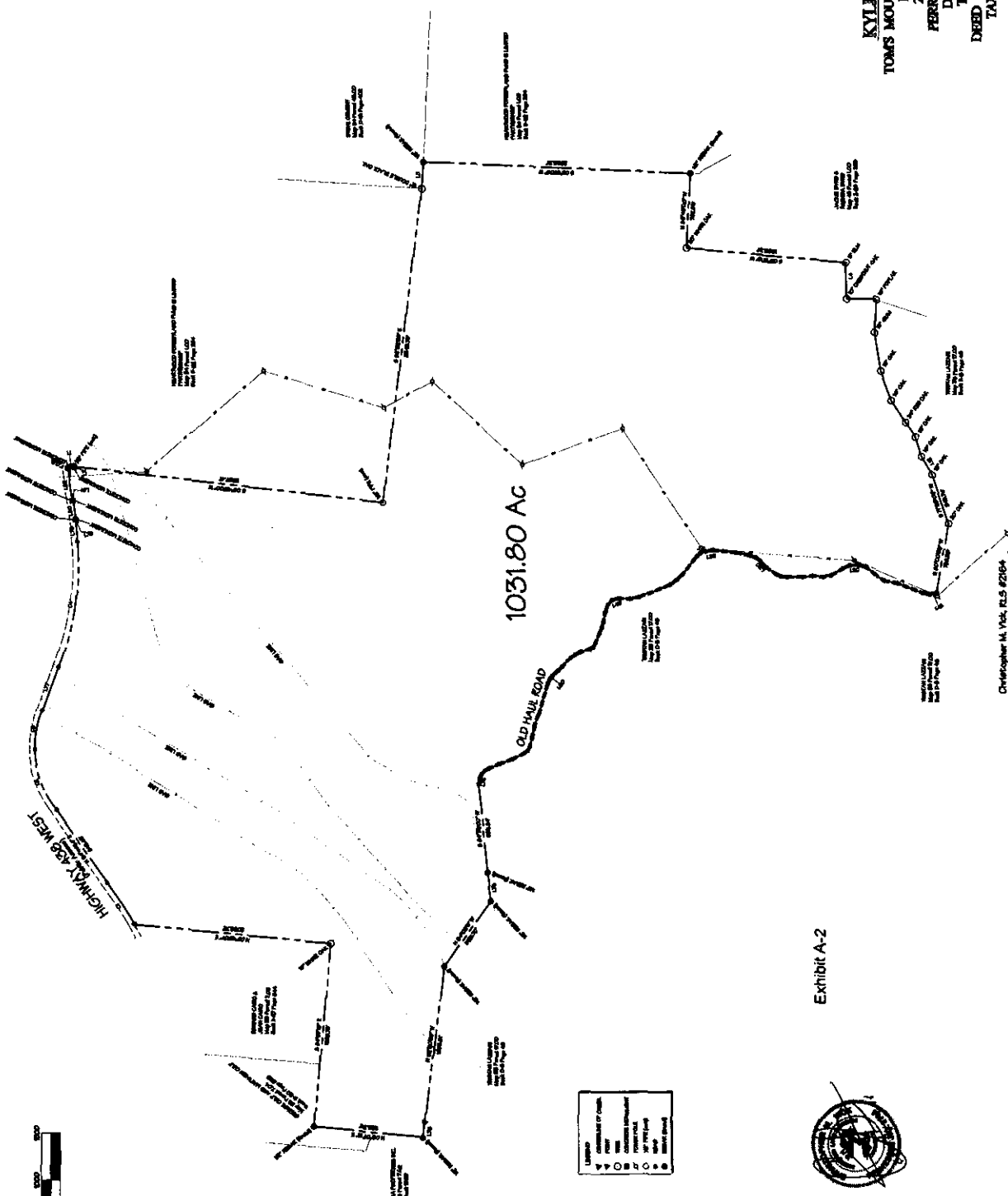
EXHIBIT A-2

**Tom's Mountain Creek, LLC
Drawing of the Property**

(Drawing is attached immediately behind this page)



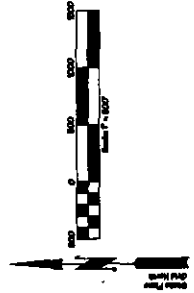
KYLE CARNEY SURVEY
 TOM'S MOUNTAIN CREEK, LLC PROPERTY
 HIGHWAY 438 WEST
 2ND CIVIL DISTRICT
 FERRY COUNTY, TENNESSEE
 DATE: 17 AUGUST 2016
 TOTAL ACRES: 161.80
 DEED REF: BOOK D-21 PAGE 146
 TAX MAP: 3 PARCEL 21.00



Christopher M. York, R.L.S. #2264
 YORK SURVEYING, LLC
 2772 Hadden Court Road, Cookeville, TN 38506-5722-2546

LEGEND
 Contour of Creek
 Survey Boundary
 Property Line
 Right-of-Way
 Easement
 Survey Point

Exhibit A-2



These plat maps are prepared in accordance with the provisions of the Tennessee Surveying Act, Chapter 116, Tennessee Code Annotated, and the Surveying and Mapping Act, Chapter 116, Tennessee Code Annotated. The surveying and mapping profession is regulated by the Tennessee Board of Surveying and Mapping, which is a part of the Tennessee Department of Transportation. The board is composed of seven members, including the Surveying and Mapping Commissioner, who is appointed by the Governor of Tennessee. The board's duties include regulating the profession, promoting the public interest, and ensuring the accuracy and reliability of surveying and mapping work. The surveying and mapping profession is essential to the development and management of land resources. It provides the data and information needed for the construction of roads, bridges, and other infrastructure. It also plays a vital role in the protection of natural resources and the environment. The surveying and mapping profession is a highly skilled and demanding one. It requires a combination of technical expertise, practical experience, and a strong sense of ethics. The Tennessee Board of Surveying and Mapping is committed to maintaining the highest standards of professional conduct and performance. We are proud to serve the people of Tennessee and to contribute to the state's economic and social well-being.

EXHIBIT B

Tom's Mountain Creek, LLC Baseline Documentation Excerpt

Below is the table of contents of the Baseline Documentation Report of this Easement which report is incorporated herein by reference. A copy of the report is on file in Grantee's offices.

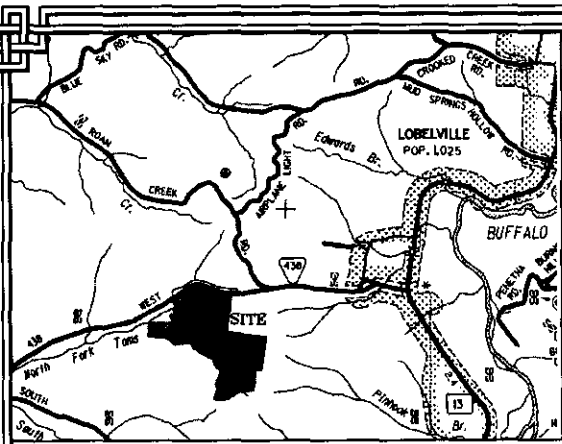
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- Flora and Fauna Reports
 - Tennessee Natural Heritage Database Report on Listed Species
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- Maps

Aerial Photograph with Boundaries
State Map
County Map
USGS Quadrangle Map
Wetlands, Streams, and Watersheds Map
Soils Map with Descriptions and Prime Agricultural Soils
Sub-surface Geology and Legend
Land Use Map
Sketch of Deed
House Site Drawing
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Tennessee State Wildlife Action Plan Map
Climate Resilience Map
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Directions to Property, with Map
References
Preparers' Qualifications
Exhibits
 A. Conservation Easement

EXHIBIT C

Tom's MountainCreek, LLC
Drawing Depicting Homesites
(Drawing is attached immediately behind this page)

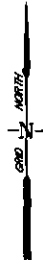


LEGEND

○ 2 ACRE HOUSE SITE

NOTES:

1. BEARINGS SHOWN HEREON ARE BASED ON GRID NORTH.
2. BOUNDARY & DISTANCES ARE APPROXIMATE
3. LAT / LONG ARE IN DEGREES-MINUTES-SECONDS NAD83
4. LAT LONG WERE DETERMINED WITH HANDHELD GPS AND ARE APPROXIMATE



TOM'S CREEK 2

LAT: 35°44'05.360208"
LON: 87°50'32.290249"

N- 515295.12
E- 1421765.71

1002.8'

HWY 438 WEST

2552.5'

4363.8'

TOM'S CREEK 1

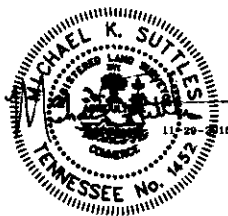
LAT: 35°44'05.375784"
LON: 87°50'24.316474"

N- 515284.33
E- 1422422.98

2467.2'

TAX MAP 35, PARCEL 18.00
±989.19 Acres

Exhibit C



Michael Suttles

LAND SURVEYING SERVICES

3208 TEASTER LANE
PIGEON FORGE, TN 37863
PHONE: (865) 804-4500

COPYRIGHT 2016

HOUSE SITE EXHIBIT LOCATION

TOM'S CREEK EASEMENT

PROPERTY

**HIGHWAY 438 WEST
LINDEN, TENNESSEE
DISTRICT 2 OF PERRY COUNTY, TENNESSEE**

TAX MAP 35, PARCEL 018.00

SCALE 1" = 1500' DATE: 29 NOVEMBER 2016

GRAPHIC SCALE



EXHIBIT D

Tom's Mountain Creek, LLC Location of Homesites

Homesite 1:

TO FIND THE POINT OF BEGINNING, start at the centerpoint of a circular tract, such centerpoint having coordinates of Latitude $35^{\circ}44'05.375784''$ North and Longitude $87^{\circ}50'24.316474$ West, Tennessee State Plane Coordinates N-515284.33 and E-1422422.98, thence Due North for a distance of 166.53' to a calculated point in the circumference of said circular tract, the **POINT OF BEGINNING**, thence from said POB with the edge of said circle, in a clockwise direction, a circle having a circumference of 1046.34' to the said **Point of Beginning**, said circular tract having an area of approximately 2.0 acres.

Homesite 2:

TO FIND THE POINT OF BEGINNING, start at the centerpoint of a circular tract, such centerpoint having coordinates of Latitude $35^{\circ}44'05.360208''$ North and Longitude $87^{\circ}50'32.290249$ West, Tennessee State Plane Coordinates N-515295.12 and E-1421765.71, thence Due North for a distance of 166.53' to a calculated point in the circumference of said circular tract, the **POINT OF BEGINNING**, thence from said POB with the edge of said circle, in a clockwise direction, a circle having a circumference of 1046.34' to the said **Point of Beginning**, said circular tract having an area of approximately 2.0 acres.

**CONSERVATION EASEMENT
BASELINE DOCUMENTATION REPORT
TOM'S MOUNTAIN CREEK, LLC
PERRY COUNTY, TENNESSEE
December 21, 2016**

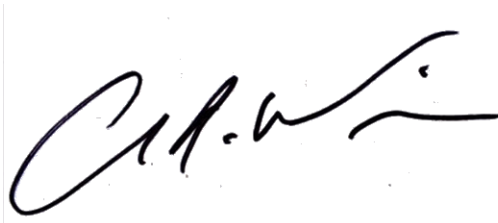


Prepared by:
Lead Author
Christopher R. Wilson, *Consulting Biologist*
Conservation Ecology LLC, Hendersonville, NC

BASELINE DOCUMENTATION REPORT
TOM'S MOUNTAIN CREEK, LLCLLC
CONSERVATION EASEMENT

Baseline data for Conservation Easement granted by TOM'S MOUNTAIN CREEK, LLC in Perry County, Tennessee, to Foothills Land Conservancy.

Prepared by:



Christopher R. Wilson, Owner/ Principal
Conservation Ecology LLC, Hendersonville, NC

Contributing Authors

Meredith Clebsch, Foothills Land Conservancy – supervised development of document

Lloyd Raleigh, Helia Environmental LLC, Asheville, NC – Conducted botanical and natural community inventory, created photo-documentation, and contributed associated reporting and spatial data for mapping

(See Preparer Qualifications below)

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• Anthropogenic Features Map	

- Protected Areas & Ecoregional Portfolio Areas Map
- TN State Wildlife Action Plan Map
- Climate Resilience Map
- Natural Communities Map

Directions to Property, with map

References

Preparers' Qualifications and Contributions

Exhibits

A. Conservation Easement

PROJECT BRIEF

CONSERVATION VALUES

Size: Approximately 1,031.80 acres

Location: Perry County, TN

Elevation: ~600' – 800' above mean sea level

Watersheds: Tom's Creek – Tennessee River, Terrapin Creek – Buffalo River, and Brush Creek – Buffalo River

The Conservation Area consist of approximately 1,031.80 acres of forested natural communities, including many high quality examples of Interior Low Plateau Chestnut Oak-Mixed Oak Forest and Southern Mesic Beech-Tuliptree Slopes.

The Conservation Area contains at least 155 species of vascular plants including indicators of barrens habitats such as little bluestem, Virginia tephrosia, southern prairie aster, and post oak.

The Conservation Area contains suitable habitat for over 10 Greatest Conservation Need species identified in the 2015 Tennessee State Wildlife Action Plan, including Wood Thrush, Louisiana Waterthrush, Yellow-breasted Chat, Prairie Warbler, Timber Rattlesnake, and Eastern Box Turtle.

The Conservation Area lies in close proximity to a 450 acre conservation easement property held by The Land Trust for Tennessee.

The Tennessee State Wildlife Action Plan (2015) ranks the majority of the Conservation Area as a medium priority for the conservation of terrestrial, downstream aquatic, and nearby karst habitats.

The conservation area contains approximately 0.8 miles of North Fork Tom's Creek, a perennial stream, and over 1 mile of intermittent streams serving as tributaries to North Fork Tom's Creek, Pinhook Branch, and King Branch, according to the USGS National Hydrography Dataset.

The Nature Conservancy's *Resilient Sites for Terrestrial Conservation in the Southeast Region Assessment* (2014) ranked the entire property as "Slightly Above Average" and "Above Average" for its resilience to climate change, based on the diversity of microhabitats and climatic gradients available on the property, and habitat connectivity in the landscape, indicating the Conservation Area is a strategic priority for biodiversity conservation in the face of climate change.

BACKGROUND INFORMATION

OWNER ACKNOWLEDGEMENT OF CONDITION

This inventory is an accurate representation of the Protected Property at the time of the conveyance of the easement.

12/21/2016
Date

For the Grantors:

TOM'S MOUNTAIN CREEK, LLC

By: Southern Land Protectors, LLC

Its: Manager

Southern Land Protectors, LLC

By: 
A. Kyle Carney, Manager

For the Grantee:


William C. Clabough, Sr.
Foothills Land Conservancy

OWNER INFORMATION

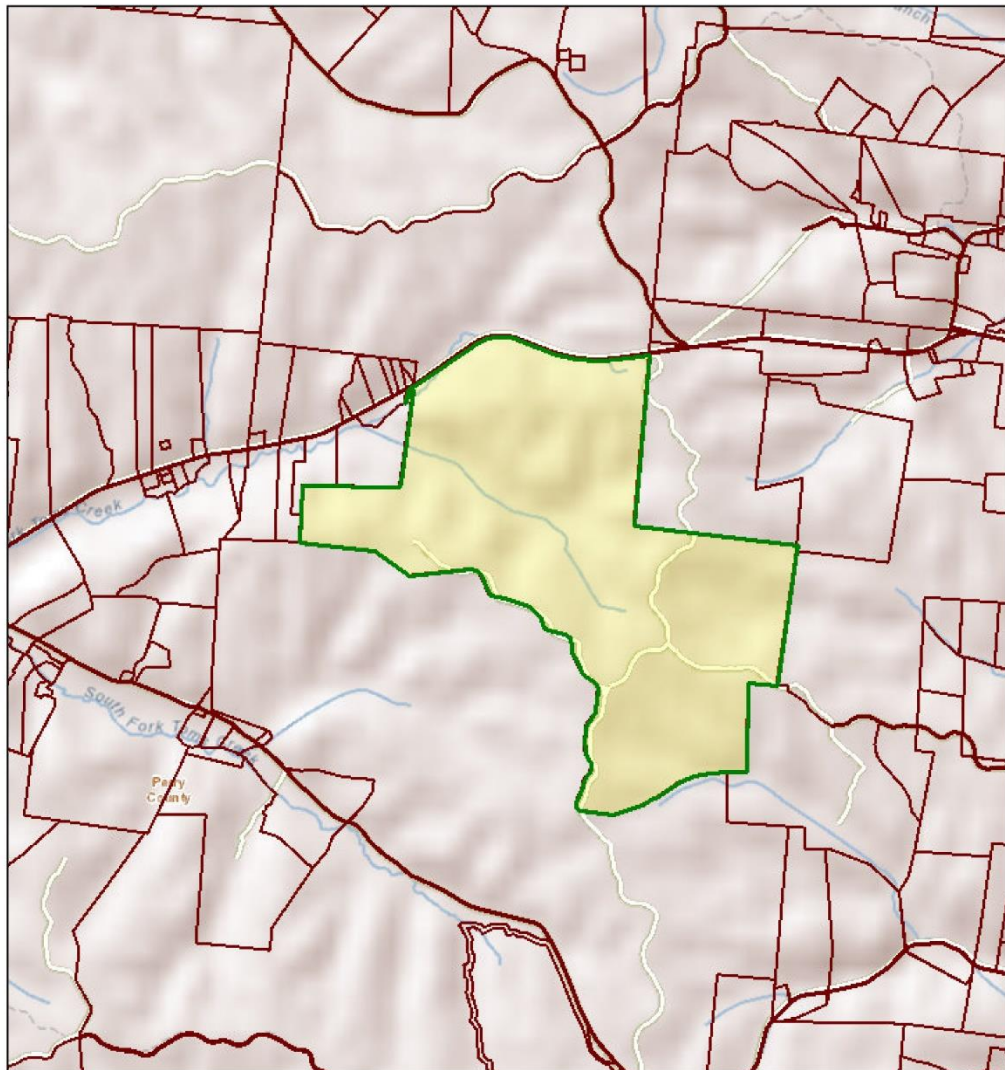
Attn: Attn: Michael W. Mathis
Tom's Mountain Creek, LLC
22 Shorter Avenue
Rome, Georgia 30165

PROPERTY DESCRIPTION

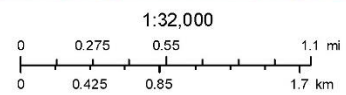
(See Exhibit A Below)

Parcel Map and Property Data

Perry County - Parcel: 035 018.00



October 16, 2016



OIR-GIS Services

State of Tennessee  Comptroller of the Treasury
Real Estate Assessment Data

Home About New Search Return to List

County Number: 068

County Name: PERRY

Tax Year: 2016

Property Owner and Mailing Address

Jan 1 Owner:
 TOM'S MOUNTAIN CREEK LLC
 15 PROFESSIONAL COURT
 ROME, GA 30165

Property Location

Address: HWY 438 WEST

Map: 035 Grp: Ctrl Map: 035 Parcel: 018.00 PI: S/I: 000

Value Information

Reappraisal Year: 2015

Land Mkt Value:	\$797,100	Land Use Value:	\$300,100
Improvement Value:	\$0	Improvement Value:	\$0
Total Market Appraisal:	\$797,100	Total Use Appraisal:	\$300,100
		Assessment %:	25
		Assessment:	\$75,025

General Information

Class:	12 - FOREST		
City #:	000	City:	
SSD1:	000	SSD2:	000
District:	02	Mkt Area:	Z01
# Bldgs:	0	# Mobile Homes:	0
Utilities - Water / Sewer:	12 - NONE / NONE	Utilities - Electricity:	00 - NONE
Utilities - Gas / Gas Type:	00 - NONE	Zoning:	

Subdivision Data

Subdivision:

Plat Bk: Plat Pg: Block: Lot:

Additional Description

Building Information

Extra Features

Sale Information

Sale Date	Price	Book	Page	Vac/Imp	Type Instrument	Qualification
12/23/2015	\$801,235	D21	146	VACANT	WD	A
01/25/2013	\$0	D15	267			
06/30/2004	\$0	X27	463			

PURPOSE AND SUMMARY OF CONSERVATION EASEMENT PROVISIONS

It is the purpose of this Easement to assure that the Property will be retained forever in its current natural, scenic, forested, and/or open land condition and to prevent any use of the Property that will impair or interfere with the Conservation Values of the Property, subject only to the terms and provisions set forth herein. Grantor intends that this Easement will allow the use of the Property for such activities that are not inconsistent with the purposes of this Easement, including, without limitation, those involving agricultural and forest management, fire management and control, wildlife habitat improvement, hiking, and other private recreational uses that are not inconsistent with the purposes of this Easement.

Sections 3 and 4 of the Conservation Easement (CE) document contain the major provisions. The CE is attached herein as Exhibit A.

SIGNIFICANCE OF THE PROPERTY

The Foothills Land Conservancy Corporate Mission

The Foothills Land Conservancy is a tax-exempt, non-profit land conservation organization. Article V, Section 1 of the Foothills Land Conservancy Charter of Incorporation states that its purpose and objectives are to “work with public agencies, preservation and conservation-oriented organizations, property owners, and the interested public to encourage the preservation of natural and productive lands which contribute to the unique character and heritage of the foothills of the Great Smoky Mountains. The corporation will work to protect, preserve or enhance the land, water, geological, biological, historical, architectural, archeological, cultural or scenic resources of the foothills area and productive values of such lands in a manner consistent with its purpose and the purposes reflected in Tennessee Code Annotated, Section 64-9-301 et seq. and in conformance with Section 501c(3) of the Internal Revenue Code.” Section 3 further states the Conservancy is “to acquire, through gift, sale or other lawful means, interests in real property as necessary and convenient to protect such characteristics, which may include but are not limited to agricultural productivity, ecological integrity, historic characters, or managed public access.” This easement meets the purpose of the organization by conserving land, watershed, forestry, ecological and historical values.

Tennessee Agricultural, Forestry and Open Space Resource Preservation

Tennessee Code Annotated 67-5-1002 states, “The general assembly finds that: (1) The existence of much agricultural, open space and forest lands is threatened by pressure from urbanization, scattered residential and commercial development, and the system of property taxation (2) The preservation of open space in or near urban areas contributes to: (A) The use, enjoyment and economic value of surrounding residential, commercial, industrial or public lands; (B) The conservation of natural resources, water, air, and wildlife; (C) The planning and preservation of and open condition for the general welfare; (D) A relief from the monotony of continued urban sprawls; and (E) An opportunity for the study and enjoyment of natural areas by urban and suburban resident.” This conservation easement serves the open space, habitat protection, watershed protection, and offset of development pressure needs of the state of Tennessee.

Tennessee Conservation Easement Act of 1981

Tennessee Code Annotated 66-0-302 states, “It is the finding of the general assembly that the protection of the state’s land, water, geological, biological, historical, architectural, archaeological, cultural, and scenic resources is desirable for the purposes of maintaining and preserving the state’s natural and cultural heritage, and for assuring the maintenance of the state’s natural and social diversity and health, and for encouraging the wise management of productive farm and forest land.” This conservation easement is pursuant to that act.

**FOOTHILLS LAND CONSERVANCY BOARD OF DIRECTOR'S
RESOLUTION ACCEPTING CONSERVATION EASEMENT**

Date: ____ 10/13/2016 ____

The Board of Directors of the Foothills Land Conservancy, a private non-profit corporation, hereby authorizes the acceptance of a conservation easement if offered from Toms Mountain Creek, LLC, Perry County, Tennessee.



Madge Cleveland, President



Mark Jendrek, Secretary

**MINUTES OF BOARD MEETING AT WHICH THE EASEMENT WAS
ACCEPTED**

(excerpted)

Foothills Land Conservancy (FLC)

**Minutes of the Meeting of the Board of Directors of the Foothills Land
Conservancy**

October 13, 2016, at the offices of FLC, 373 Ellis Ave., Maryville, TN 37804

Notice of the October 13, 2016 meeting, agenda, and the September 2016 minutes were distributed a week prior to the meeting. The financials were sent on October 10, 2016. The following members were in attendance at the October 13, 2016 meeting: Dan Barnett, Madge Cleveland, Wes James, Craig Jarvis, Mark King, David Long, Stan Malone, Billy Minser, Mike Parish, John Proffitt, Steve Polte, Sara Rose and David Zandstra. Non-voting Recording Secretary, Mark Jendrek was in attendance. Not in attendance were Jenny Hines, Dan Lawson, Ken Rueter, and Susanna Sutherland. The members in attendance during the meeting's discussion and voting constituted a quorum. FLC staff members, Bill Clabough, Meredith Clebsch, and Elise Eustace were present.

Call to Order

President, Madge Cleveland, called the meeting to order at 6:02pm.

Approval of the Minutes

Minutes from the September 2016 Board meeting were sent out to FLC Board Members a week prior to the September 2016 meeting. Mark King made a motion to approve the September 2016 minutes and David Zandstra seconded the motion. The vote for approval of the minutes was unanimous.

Committee Reports

Land Protection Committee

Meredith Clebsch reported that the Land Protection Committee met prior to the Board Meeting and discussed the revision of FLC's forestry management practices. Meredith explained that during Land Protection there was some discussion regarding the 100 foot Stream Management Zone buffer but that was the distance settled on by the committee. Clebsch said most of the language, shown on the slide, was already included in the guidelines from last summer but there were a few small changes along with adding in 'only trees native to the SE'. The Land Protection Committee made the motion to approve the following guidelines for inclusion in FLC's Forestry Management Guidelines and it was seconded by Craig Jarvis. The motion carried unanimously.

Meredith Clebsch also explained that there was an issue at FLC CE, Harper Branch. This CE is located in Van Buren County, TN. The landowner called Bill Clabough and said he had a beetle infestation on the property and wanted to cut the trees out that had been compromised and also a buffer around the area. The forest management plan provided to FLC this past Spring said that they were not going to do any forestry in that area before 2017. Meredith went to the property area in question the day prior to the Board Meeting and did not see any evidence of beetles. Stan Malone said it could be turpentine beetles, which don't spread like the southern pine bark beetles. Meredith said that the consensus in Land Protection Committee is that if the landowner can prove there is a beetle infestation then more information will be requested and a plan to address the issue will occur. Otherwise, FLC will proceed with the usual forestry and the landowner will provide Foothills with a plan.

Meredith Clebsch reviewed a PowerPoint of 13 potential conservation easements for both the Land Protection Committee and the Board's pre-approval during the Board Meeting. Clebsch also provided information about the following projects for pre-approval via email to the Board prior to the meeting.

Mike Parish made the motion for pre-approval of the 13 properties and it was seconded by Stan Malone. David Long recused himself from voting. The motion passed unanimously.

Meredith Clebsch then reviewed a PowerPoint of 11 potential conservation easements for both the Land Protection Committee and the Board's final approval, if offered by the donor, during the Board Meeting. Clebsch also provided information about the following projects for final approval via email to the Board prior to the meeting. These projects include:

(excerpted)

FINAL	Tom's Mtn. Creek	1,035	Perry	TN	2, 2ac	X	X	X	X
-------	------------------	-------	-------	----	--------	---	---	---	---

Mike Parish made the motion for final approval, if offered by the donor, of the 11 properties and it was seconded by Billy Minser. David Long recused himself from voting. The motion passed unanimously.

RECITALS
from TOM'S MOUNTAIN CREEK, LLC
CONSERVATION EASEMENT

(any reference to "Exhibits" in this section refers to the CE document)

(from Tom's Mountain CE 12-20-16)

WHEREAS, Grantor is the owner in fee simple of approximately One Thousand Thirty-one and 80/100 (1,031.80) acres of real property in Perry County, Tennessee, which is more particularly described on **Exhibit A-1**, and shown on the drawing attached as **Exhibit A-2**, both of which are attached hereto and incorporated by this reference ("Property"); and

WHEREAS, Grantor certifies that the Property possesses certain ecological, natural, scenic, open space, and wildlife habitat values, more specifically set forth below (collectively, "Conservation Values") of great importance to Grantor, the citizens and resident of, and visitors to, Perry County, Tennessee, and the people of, and visitors to, the State of Tennessee, including visitors to the Nathan Bedford Forrest State Park, Johnsonville State Historical Park, Dry Branch State Class II Natural-Scientific State Natural Area, Mousetail Landing State Park, Natchez Trace State Park, the Land Between the Lakes, and the other parks and natural areas in and around Perry County, Tennessee, and which further local, state, and national goals to conserve scenery and wildlife for the enjoyment of future generations; and

WHEREAS, the Property remains substantially undeveloped and is ecologically well-balanced, and includes a variety of mature trees, creeks, and streams, all of which provide habitat for a number of species of wildlife; therefore, preservation of the Property is desirable for conservation and ecological reasons as well as for aesthetic reasons; and

WHEREAS, the Property consist of approximately 1,031.8 acres of forested natural communities, including many high quality examples of Interior Low Plateau Chestnut Oak-Mixed Oak Forest and Southern Mesic Beech-Tuliptree Slopes; and

WHEREAS, the Property contains at least 155 species of vascular plants, including indicators of barrens habitats such as little bluestem, Virginia tephrosia, southern prairie aster, and post oak; and

WHEREAS, the Property contains suitable habitat for over 10 Greatest Conservation Need species identified in the 2015 Tennessee State Wildlife Action Plan, including Wood Thrush, Louisiana Waterthrush, Yellow-breasted Chat, Prairie Warbler, Timber Rattlesnake, and Eastern Box Turtle; and

WHEREAS, the Property lies in close proximity to a 450-acre conservation easement property held by The Land Trust for Tennessee; and

WHEREAS, the Tennessee State Wildlife Action Plan (2015) ranks the majority of the Property as a medium priority for the conservation of terrestrial, downstream aquatic, and nearby karst habitats; and

WHEREAS, the Property contains approximately 0.8 miles of North Fork Tom's Creek, a perennial stream, and over 1 mile of intermittent streams serving as tributaries to North Fork Tom's Creek, Pinhook Branch, and King Branch according to the USGS National Hydrography Dataset; and

WHEREAS, the Nature Conservancy's *Resilient Sites for Terrestrial Conservation in the Southeast Region Assessment* (2014) ranked the entire property as "Slightly Above Average" and "Above Average" for its resilience to climate change, based on the diversity of microhabitats and climatic gradients available on the property, and habitat connectivity in the landscape, indicating the Property is a strategic priority for biodiversity conservation in the face of climate change; and

WHEREAS, the specific Conservation Values of the Property are further documented in an inventory of relevant features of the Property, which is on file at the offices of Grantee, a partial listing of which is attached hereto as **Exhibit B** and incorporated by this reference ("Baseline Documentation"), which consists of reports, maps, photographs, and other documentation that, Grantor certifies and the parties agree, provide, collectively, an accurate representation of the Property at the time of this grant, and which is intended to serve as an objective, though non-exclusive, information baseline for monitoring compliance with the terms of this grant; and

WHEREAS, Grantor intends that the Conservation Values of the Property be preserved and maintained by prohibiting those land uses on the Property that impair, interfere, or are inconsistent with those Conservation Values; and

WHEREAS, Grantor further intends, as the owner of the Property, to convey to Grantee the right to preserve and protect the Conservation Values of the Property in perpetuity; and

WHEREAS, Grantee is a publicly supported, tax-exempt nonprofit organization and is a qualified organization under Sections 501(c)(3), 170(b)(1)(A)(vi) and 170(h), respectively, of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder ("Internal Revenue Code"), whose primary purpose is to preserve land, water, air, wildlife, scenic qualities, and open space by implementing programs for, without limitation, protecting unique or rare natural areas, water front, stream corridors, and watersheds; and

WHEREAS, Grantee has a commitment to protect the Conservation Values of the Property and has the resources to enforce conservation restrictions; and

WHEREAS, preservation of the Property shall serve the following purposes ("Conservation Purposes"):

(a) Preservation of the viewshed for the scenic enjoyment of the general public, which will yield a significant public benefit;

(b) Protection of a relatively natural habitat for fish, wildlife, plants, and the ecosystems in which they function;

(c) Preservation of open space for the scenic enjoyment of the general public, pursuant to a clearly delineated government conservation policy which provides significant public benefit from both open space (including farm land and forest land) and agricultural use;
and

WHEREAS, Grantor and Grantee desire to perpetually conserve the natural, scientific, educational, open space, and scenic resources of the Property to accomplish the Conservation Purposes; and

WHEREAS, Grantor intends to grant the easement and impose the restrictive covenants on the Property as set forth in this Easement to accomplish the Conservation Purposes;

LEGAL CONDITION

DEED OF CONSERVATION EASEMENT WITH PROPERTY DESCRIPTION

(See Exhibit A)

(Copies will reside in the files of the Donor, the Donee, and the Perry County, Tennessee Register of Deeds)

CONSERVATION VALUES

The conservation values that make the TOM'S MOUNTAIN CREEK, LLC property unique are described below and are detailed in the recitals (the "Whereas" statements) in the Conservation Easement.

Field data was gathered during site visits by Christopher Wilson on August 23, 2016, and by Lloyd Raleigh on August 25, 2016.

NATURAL HABITAT

Conservation Context – Adjacency and proximity to other conservation properties enhances the conservation value of a site by minimizing fragmentation and the influence of negative edge-effects, increasing the effective size of contiguous protected habitat, and promoting ecological connectivity.

- According to the USGS-Protected Areas Database, the property lies in close proximity to a 450 acre conservation easement property held by The Land Trust for Tennessee.

Resilient Sites for Terrestrial Conservation in the Southeast Region Assessment - The Nature Conservancy - Climate change is altering species distributions in unpredictable ways, and conservationists require a way to prioritize strategic land conservation that will conserve the maximum amount of biological diversity despite changing distribution patterns. The Resilient Sites for Terrestrial Conservation GIS data layer identifies key areas for conservation based on land characteristics that increase diversity and resilience. The term "site resilience" refers to the capacity of a site to adapt to climate change while still maintaining diversity and ecological function. For more information, see: Anderson, M.G., A. Barnett, M. Clark, C. Ferree, A. Olivero Sheldon, and J. Prince. 2014. *Resilient Sites for Terrestrial Conservation in the Southeast Region*. The Nature Conservancy, Eastern Conservation Science, 127 pp.

The Resilient Sites for Terrestrial Conservation GIS data layer was used to assess site resilience of the Property. This layer contains site resilience scores for 30m x 30m grid-cells across the Southeast that are based on three primary characteristics: geophysical representation (underlying geology, soils, and elevation), landscape complexity (local diversity of landforms), and landscape permeability (local connectivity). Site resilience scores are classified on a scale between "Far below average" to "Far above average".

- The entire property is ranked as "Slightly Above Average" and "Above Average" for its resilience to climate change, based on the diversity of microhabitats and climatic gradients available on the property, and habitat connectivity in the landscape, indicating the Conservation Area is a strategic priority for biodiversity conservation in the face of climate change.

TN State Wildlife Action Plan- TN Wildlife Resources Agency - In order to receive funds through the Wildlife Conservation and Restoration Program and the State Wildlife Grants Program, Congress charged each state and territory with developing a wildlife action plan. These proactive plans, known technically as “comprehensive wildlife conservation strategies,” assess the health of each state’s wildlife and habitats, identify the problems they face, and outline the actions that are needed to conserve them over the long term. State Wildlife Action Plans outline the steps that are needed to conserve wildlife and habitat before they become too rare or costly to restore. The TN SWAP identifies a list of species of Greatest Conservation Need (GCN) that serve as targets for conservation actions, as well as a GIS database illustrating priority areas for conservation that will ultimately contribute to the conservation of a variety of GCN species.

- Based on field surveys by Chris Wilson, the property contains suitable habitat for over 10 Greatest Conservation Need species identified in the 2015 Tennessee State Wildlife Action Plan, including Wood Thrush, Yellow-breasted Chat, Prairie Warbler, Allegheny Woodrat, Timber Rattlesnake, and Eastern Box Turtle.
- The Tennessee State Wildlife Action Plan (2015) GIS database ranks the majority of the property as a medium priority for the conservation of terrestrial, downstream aquatic, and nearby karst habitats.

Potential TN State Wildlife Action Plan - Species of Greatest Conservation Need on the property based on habitat observations by Chris Wilson

Taxa Group	Scientific Name	Common Name	Global Rank	State Rank	Federal	State Status
Bat	<i>Myotis sodalis</i>	Indiana Bat	G2	S1	LE	E
Bat	<i>Myotis septentrionalis</i>	Northern Myotis	G4	S4	LT	
Bat	<i>Perimysotis subflavus</i>	Tri-colored Bat	G5	S5		
Bird	<i>Vermivora cyanoptera</i>	Blue-winged Warbler	G5	S4		
Bird	<i>Chaetura pelagica</i>	Chimney Swift	G5	S5		
Bird	<i>Caprimulgus carolinensis</i>	Chuck-will's-widow	G5	S3S4		
Bird	<i>Geothlypis formosa</i>	Kentucky Warbler	G5	S4		
Bird	<i>Parkesia motacilla</i>	Louisiana Waterthrush	G5	S4		
Bird	<i>Colinus virginianus</i>	Northern Bobwhite	G5	S2S3	(PS)	
Bird	<i>Setophaga discolor</i>	Prairie Warbler	G5	S3S4		
Bird	<i>Caprimulgus vociferus</i>	Whip-poor-will	G5	S3S4		
Bird	<i>Hylocichla mustelina</i>	Wood Thrush	G5	S4		
Bird	<i>Icteria virens</i>	Yellow-breasted Chat	G5	S4		
Bird	<i>Setophaga dominica</i>	Yellow-throated Warbler	G5	S4		
Mammal	<i>Neotoma magister</i>	Allegheny Woodrat	G3G4	S3		D
Reptile	<i>Terrapene carolina</i>	Eastern Box Turtle	G5	S4		
Reptile	<i>Crotalus horridus</i>	Timber Rattlesnake	G4	S4		

TN Natural Heritage Program Database – TN Department of Environment & Conservation - The Natural Heritage Inventory Program maintains a Geographic Information Systems (GIS) database which contains information on the distribution and ecology of rare plants, animals, and ecological communities across Tennessee. The Natural Heritage database was queried for records on the property. Rare species and natural communities occurring near the property have potential to occur on the property itself, can be used for targets during field surveys, and may benefit from the protection of the property. Thus, the database was also queried for rare species and natural communities with 4 miles of the property boundary, and within the county.

- There are no records on the property.
- 8 rare species occur within 4 miles of the property.
- 1 rare natural community and 39 rare species occur within Perry County.

See Flora and Fauna Reports (below) table of Natural Heritage Database results.

Aquatic Features - USGS National Hydrography Dataset – The USGS maintains a GIS database of the nation’s aquatic features including wetlands, streams, lakes, and ponds. The database was queried to determine if aquatic features occur on the property.

- The conservation area contains approximately 0.8 miles of North Fork Tom’s Creek, a perennial stream, and over 1 mile of intermittent streams serving as tributaries to North Fork Tom’s Creek, Pinhook Branch, and King Branch according to the USGS National Hydrography Dataset.
- The protection of forested riparian buffers on these streams will contribute to improved water quality on the property and downstream.

On-site Botanical & Natural Community Inventories – were conducted by Lloyd Raleigh on August 25, 2016. His primary findings were:

- The property contains examples of two natural communities—Interior Low Plateau Chestnut Oak-Mixed Oak Forest and Southern Mesic Beech-Tuliptree Slopes.
- At least 7 good quality (B-rank) natural community occurrences are on the tract
- The property contains at least 155 species of vascular plants including indicators of barrens habitats such as little bluestem, Virginia tephrosia, southern prairie aster, and post oak.
- Shortleaf pine was observed in one location on the Tract. This species has significantly declined within the ecoregion due to logging, fire suppression, and other factors.
- Invasive species are significantly low.

One transmission line and four gas lines bisect the property north to south.

Plantations total over 20 percent of the tract. Many of these were established a decade ago following clear-cutting, with subsequent planting of loblolly. Other areas are more mature, have been thinned, and contain successional hardwoods within them.

Almost 20 percent of the tract is late successional hardwoods, These areas occur throughout the tract, comprise what will become mature natural communities of various types, and are typically approaching 10 inches in diameter in many places. This significant amount of average condition (C-rank) forests is important for protection and will soon transform into mature natural communities.

Over 50 percent of the tract is early- to mid-successional hardwood forests. These areas typically have leave trees, were cut in 2007, and have a distinctive two-age woodland quality about them.

Much of this site has been extensively logged and active logging was occurring onsite at the time of the survey.

Natural Communities Observed:

Interior Low Plateau Chestnut Oak-Mixed Oak Forest

Quercus montana - *Quercus spp.* / *Vaccinium arboreum* - (*Styrax grandifolius*) Forest (CEGL007700)

Condition Rank: B (Good)

Successional Stage: Mature

This forest occurs on a ridgetop. Chert geology underlain by shale provides a well-drained landscape, with basic tending species found within this community.

Chestnut oak is the dominant canopy tree, with post oak, white oak, and pignut hickory as other canopy trees. The average tree diameter is 12 inches. Post oaks up to 14 inches in diameter occur at the site, though chestnut oak dominates the area.

The shrub and small tree layer includes winged elm, eastern red cedar, and hillside blueberry. Common round-leaved greenbrier and muscadine grape are the primary vines within this natural community.

Herbs are sparse, as they are shaded by the shrubs and trees and muscadine grape in this example covers much of the forest floor, but include common dittany.

Southern Mesic Beech-Tuliptree Slopes (G4)

Fagus grandifolia - *Liriodendron tulipifera* / *Euonymus americanus* / *Athyrium filix-femina ssp. asplenioides* Forest (CEGL007201)

Condition Rank: B (Good)

Successional Stage: Mature

This natural community occurs in a moderately-well drained floodplain setting at Cold Branch. Unlike the stream bottom forest, this mesic community type is

less disturbance driven and late successional. One example of this community type occurs on the site and includes a spring used for drinking water. The spring occurs where the upslope geology meets the floodplain.

Canopy species include yellow poplar, American beech, and red maple, with sycamore and black birch also occurring. American beech, however, is the dominant species, occurring especially in the slopes adjacent to the stream. The canopy is mature, with trees up to 90 feet tall and diameters to 24 inches.

Due to the dense shade of the beech trees and seedling black birches, herbs are sparse and include beechdrops, wood betony, self-heal, curly dock, Christmas fern, Virginia water horehound, and longleaf woodoats. The shrub layer is virtually absent.

See Flora and Fauna Reports for a complete plant species list.

Conservation Management Areas - Special management zones were established on the property and are subject to different restrictions under the conservation easement. Refer to the language within the conservation easement document for the specific restrictions and reserved rights within these zones. In general, Conservation Management Area “A” refers to the least restricted areas. Conservation Management Area “B” refers to buffer areas surrounding and including specific special features (such as streams, special habitat areas, rock outcrops, cliffs, or rare species locations), which are defined by a specific distance from the feature, and where uses are more restricted (for example, a 100’ buffer on streams). Conservation Management Area “C” refers to additional special areas that are delineated based on groupings special features (such as those features mentioned above, as well as rare or high quality natural communities, critical watersheds, groupings of such features, and additional areas to buffer or provide connectivity between features), that will also benefit from enhanced protections under the easement. These areas are identified on the Conservation Management Areas Map and in GIS shapefiles on file with the Conservancy.

- Conservation Management Area “B” consists of a 100’ buffers along certain stream drainages.
- Conservation Management Area “C” includes several blocks containing multiple special features. One area on the eastern boundary of the property contains shortleaf pine with potential to restore an Interior Low Plateau Shortleaf Pine-Oak Forest. Another large area in northern and central portion of the property will provide special protection to mesic and xeric slopes and ridges with good quality forests, as well as stream buffers. A smaller area on the western boundary will protect good quality Interior Low Plateau Chestnut Oak-Mixed Oak Forest and late successional forest.

OPEN SPACE

- Scenic - The property lies adjacent to approximately 1 mile of HWY 438 West, and provides undeveloped forested views to drivers.
- Working Forest - The easement restricts development of the property and conversion of its forests, while protecting operable stands of forests for timber harvest according to a Trust approved Forest Management Plan.
- Agriculture - The easement allows agricultural uses within workable areas of the property, subject to Trust approval.

GEOLOGY

According to the USGS Mineral Resources Program, the underlying geology of the property is Chert underlain by Shale.

SOILS

According to the USDS-NRCS SSURGO database, the following soil types occur on the Property:

MUSYM	MU Name	Farmland Soils
BbC	Biffle gravelly silt loam, 5 to 15 percent slopes	Not prime farmland
BbD	Biffle gravelly silt loam, 15 to 30 percent slopes	Not prime farmland
BbF	Biffle gravelly silt loam, 30 to 60 percent slopes	Not prime farmland
Le	Lee silt loam, frequently flooded	Not prime farmland
Rb	Riverby gravelly sandy loam, frequently flooded	Not prime farmland
TmC2	Tarklin-Minvale complex, 5 to 12 percent slopes, eroded	Not prime farmland

LAND USE INFORMATION & ANTHROPOGENIC FEATURES

The property is primarily used for forestry and hunting. There is a system of forest roads and trails, as well as old log landings, throughout the property. No permanent structures were observed, but there were temporary hunting stands (see photos). The road system might also be used by recreational vehicles. There is a series of four gas pipeline right-of-ways traversing the property in a NE-SW direction, located in the northern half of the property. The associated clearing of each gas pipeline ROW is approximately 50 feet wide. There is also a large powerline right-of-way traversing the southern half of the property, in a NE-SW direction. The clearing associated with the powerline ROW is 100 feet wide.

FLORA AND FAUNA REPORTS

TN NATURAL HERITAGE DATABASE REPORT ON LISTED SPECIES

TN Natural Heritage Program GIS Database Records within 4 miles of the Property

Common Name	Scientific Name
Acuminate Snaketail	<i>Ophiogomphus acuminatu</i>
Coppercheek Darter	<i>Etheostoma aquali</i>
Geniculate River Snail	<i>Lithasia geniculata fuliginosa</i>
Helmet Rocksnail	<i>Lithasia duttoniana</i>
Rabbitsfoot	<i>Quadrula cylindrica cylindrica</i>
Saddled Madtom	<i>Noturus fasciatus</i>
Slabside Pearlymussel	<i>Pleuroaia dolabelloides</i>
Sweet-scented Indian-plantain	<i>Hasteola suaveolens</i>

TN Natural Heritage Program GIS Database Records within Perry County

Category	Scientific Name	Common Name	Global Rank	State Rank	Fed. Status	State Status
Annelid	<i>Cambarincola leptadenus</i>	A Cave Obligate Worm	G1G2	S1	--	Rare, Not State Listed
Bird	<i>Dendroica cerulea</i>	Cerulean Warbler	G4	S3B	--	D
Bird	<i>Haliaeetus leucocephalus</i>	Bald Eagle	G5	S3	--	D
Fish	<i>Etheostoma aquali</i>	Coppercheek Darter	G2G3	S2S3	--	T
Fish	<i>Etheostoma denoncourti</i>	Golden Darter	G2	S2	--	Rare, Not State Listed
Fish	<i>Noturus fasciatus</i>	Saddled Madtom	G2	S2	--	T
Fish	<i>Percina burtoni</i>	Blotchside Logperch	G2G3	S2	--	D
Fish	<i>Typhlichthys subterraneus</i>	Southern Cavefish	G4	S3	--	D
Flowering Plant	<i>Acalypha deamii</i>	Deam's Copperleaf	G4?	S1	--	S
Flowering Plant	<i>Arabis hirsuta</i>	Western Hairy Rockcress	G5	S1	--	T
Flowering Plant	<i>Asclepias purpurascens</i>	Purple Milkweed	G5?	S1	--	S
Flowering Plant	<i>Desmodium ochroleucum</i>	Creamflower Tick-trefoil	G1G2	S1	--	E
Flowering Plant	<i>Draba cuneifolia</i>	Wedge-leaved Whitlow-grass	G5	S1S2	--	S
Flowering Plant	<i>Eleocharis lanceolata</i>	Lance-like Spike-rush	G4G5	S1	--	S
Flowering Plant	<i>Erythronium rostratum</i>	Beaked Trout-lily	G5	S2	--	S
Flowering Plant	<i>Hasteola suaveolens</i>	Sweet-scented Indian-plantain	G4	S2	--	S
Flowering Plant	<i>Onosmodium molle ssp. occidentale</i>	Western False Gromwell	G4G5T4?	S1S2	--	T
Flowering Plant	<i>Prenanthes aspera</i>	Rough Rattlesnake-root	G4?	S1	--	T
Flowering Plant	<i>Prenanthes barbata</i>	Bearded Rattlesnake-root	G3	S2	--	S
Flowering Plant	<i>Salvia azurea var. grandiflora</i>	Blue Sage	G4G5T4?	S3	--	S

Insect	<i>Ophiogomphus acuminatus</i>	Acuminate Snaketail	G3	S2	--	Rare, Not State Listed
Insect	<i>Pseudanophthalmus hesperus</i>	A Cave Obligate Beetle	G1	S1	--	Rare, Not State Listed
Mammal	<i>Myotis grisescens</i>	Gray Myotis	G3	S2	LE	E
Mammal	<i>Myotis sodalis</i>	Indiana Myotis	G2	S1	LE	E
Mammal	<i>Neotoma magister</i>	Allegheny Woodrat	G3G4	S3	--	D
Mammal	<i>Sorex hoyi</i>	American Pygmy Shrew	G5	S2	--	Rare, Not State Listed
Mammal	<i>Sorex longirostris</i>	Southeastern Shrew	G5	S4	--	D
Mammal	<i>Zapus hudsonius</i>	Meadow Jumping Mouse	G5	S4	No Status	D
Mollusc	<i>Cumberlandia monodonta</i>	Spectaclecase	G3	S2S3	LE	Rare, Not State Listed
Mollusc	<i>Lithasia duttoniana</i>	Helmet Rocksnail	G2Q	S2	--	Rare, Not State Listed
Mollusc	<i>Lithasia geniculata fuliginosa</i>	Geniculate River Snail	G3T3Q	S2	--	Rare, Not State Listed
Mollusc	<i>Lithasia salebrosa</i>	Muddy Rocksnail	G2G3Q	S2	--	Rare, Not State Listed
Mollusc	<i>Obovaria retusa</i>	Ring Pink	G1	S1	LE,XN	E
Mollusc	<i>Plethobasus cicatricosus</i>	White Wartback	G1	S1	LE, XN	E
Mollusc	<i>Plethobasus cooperianus</i>	Orangefoot Pimpleback	G1	S1	LE, XN	E
Mollusc	<i>Pleuronaia dolabelloides</i>	Slabside Pearlymussel	G2	S2	LE	Rare, Not State Listed
Mollusc	<i>Quadrula cylindrica cylindrica</i>	Rabbitsfoot	G3G4T3	S3	LT	Rare, Not State Listed
Mollusc	<i>Vertigo teskeyae</i>	Swamp Vertigo	G5	S1	--	Rare, Not State Listed
Plant Community	<i>Juniperus virginiana / Schizachyrium scoparium - (Andropogon gerardii, Sorghastrum nutans) - Silphium (trifoliatum, terebinthinaceum) Wooded Herbaceous Vegetation</i>	Western Tennessee Valley Limestone Hill Barrens	G2	SNR	--	Rare, Not State Listed
Reptile	<i>Pituophis melanoleucus melanoleucus</i>	Northern Pinesnake	G4T4	S3	--	T

OBSERVED SPECIES LISTS

Plant species observed by Lloyd Raleigh during field visit to the property

Common Name	Genus	Species
Atlantic goldenrod	<i>Solidago</i>	<i>arguta</i>
Alabama Azalea	<i>Rhododendron</i>	<i>alabamense</i>
Allegheny Blackberry	<i>Rubus</i>	<i>allegheniensis</i>
American Beautyberry, French Mulberry	<i>Callicarpa</i>	<i>americana</i>
American Beech	<i>Fagus</i>	<i>grandifolia</i>
American Chestnut	<i>Castanea</i>	<i>dentata</i>
American Hog Peanut	<i>Amphicarpaea</i>	<i>bracteata</i>
Anise-Scented, Fragrant, or Sweet Goldenrod	<i>Solidago</i>	<i>odora</i>
Annual Ragweed	<i>Ambrosia</i>	<i>artemisiifolia</i>
Beaked Hazelnut	<i>Corylus</i>	<i>cornuta</i>
Beaked Panic-Grass	<i>Panicum</i>	<i>anceps</i>
Bigleaf Snowbell	<i>Styrax</i>	<i>grandifolius</i>

Black Cherry	<i>Prunus</i>	<i>serotina</i>
Black Gum	<i>Nyssa</i>	<i>sylvatica</i>
Black Locust	<i>Robinia</i>	<i>pseudoacacia</i>
Black Oak	<i>Quercus</i>	<i>velutina</i>
Blackjack Oak	<i>Quercus</i>	<i>marilandica</i>
Bracken Fern	<i>Pteridium</i>	<i>aquilinum</i>
Bristly Lady's-Thumb	<i>Persicaria</i>	<i>longiseta</i>
Broadleaf Woodoats	<i>Chasmanthium</i>	<i>latifolium</i>
Brown-Eyed Susan	<i>Rudbeckia</i>	<i>triloba</i>
Bushy Aster	<i>Symphiotrichum</i>	<i>dumosum</i>
Canada Horse-Balm	<i>Collinsonia</i>	<i>canadensis</i>
Canadian Clearweed	<i>Pilea</i>	<i>pumila</i>
Canadian Horseweed	<i>Conyza</i>	<i>canadensis</i>
Canadian Lousewort, Wood Betony	<i>Pedicularis</i>	<i>canadensis</i>
Carolina Buckthorn	<i>Rhamnus</i>	<i>caroliniana</i>
Carolina Elephant's Foot	<i>Elephantopus</i>	<i>carolinianus</i>
Cat Greenbrier, Sawbrier	<i>Smilax</i>	<i>glauca</i>
Chestnut or Mountain Oak	<i>Quercus</i>	<i>montana</i>
Chinese Privet	<i>Ligustrum</i>	<i>sinense</i>
Cinnamon Fern	<i>Osmunda</i>	<i>cinnamomea</i>
Combleaf Yellow False Foxglove	<i>Aureolaria</i>	<i>pectinata</i>
Common Boneset	<i>Eupatorium</i>	<i>perfoliatum</i>
Common Christmas Fern	<i>Polystichum</i>	<i>acrostichoides</i>
Common Cinquefoil	<i>Potentilla</i>	<i>simplex</i>
Common Dittany	<i>Cunila</i>	<i>origanoides</i>
Common Elderberry	<i>Sambucus</i>	<i>canadensis</i>
Common Round-Leaved Greenbrier	<i>Smilax</i>	<i>rotundifolia</i>
Common Rush	<i>Juncus</i>	<i>effusus</i>
Common Serviceberry	<i>Amelanchier</i>	<i>arborea</i>
Common White Snakeroot	<i>Ageratina</i>	<i>altissima</i>
Common Yellow Wood-Sorrel	<i>Oxalis</i>	<i>stricta</i>
Coralberry	<i>Symphoricarpos</i>	<i>orbiculatus</i>
Deer-Tongue Panic-Grass	<i>Dichanthelium</i>	<i>clandestinum</i>
Devil's Grandmother	<i>Elephantopus</i>	<i>tomentosus</i>
Devil's Walking Stick	<i>Aralia</i>	<i>spinosa</i>
Dogfennel	<i>Eupatorium</i>	<i>capillifolium</i>
Dwarf Crested Iris	<i>Iris</i>	<i>cristata</i>
Eastern Red Cedar	<i>Juniperus</i>	<i>virginiana</i>
Eastern Redbud	<i>Cercis</i>	<i>canadensis</i>
False Solomon's Seal	<i>Maianthemum</i>	<i>racemosum</i>
Farkleberry, Sparkleberry	<i>Vaccinium</i>	<i>arboresum</i>
Field Paspalum	<i>Paspalum</i>	<i>laeve</i>
Field Thistle	<i>Cirsium</i>	<i>discolor</i>
Flowering Dogwood	<i>Cornus</i>	<i>florida</i>
Flowering Spurge	<i>Euphorbia</i>	<i>corollata</i>
Forked Bluecurls	<i>Trichostema</i>	<i>dichotomum</i>
Fragrant Sumac	<i>Rhus</i>	<i>aromatica</i>
Giant Ironweed	<i>Vernonia</i>	<i>gigantea</i>
Gray, Gray-Stemmed, or Old-Field Goldenrod	<i>Solidago</i>	<i>nemoralis</i>
Great Blue Lobelia	<i>Lobelia</i>	<i>siphilitica</i>
Greater Tickseed	<i>Coreopsis</i>	<i>major</i>
Hairy Lespedeza	<i>Lespedeza</i>	<i>hirta</i>
Hairy Skullcap	<i>Scutellaria</i>	<i>elliptica</i>
Highbush Blueberry	<i>Vaccinium</i>	<i>corymbosum</i>
Hoary Skullcap	<i>Scutellaria</i>	<i>incana</i>
Hoary Tick-Trefoil	<i>Desmodium</i>	<i>canescens</i>
Hophornbeam, Ironwood	<i>Ostrya</i>	<i>virginiana</i>
Japanese Clover	<i>Kummerowia</i>	<i>striata</i>
Japanese Honeysuckle	<i>Lonicera</i>	<i>japonica</i>
Jewelweed	<i>Impatiens</i>	<i>capensis</i>
Johnson-Grass	<i>Sorghum</i>	<i>halepense</i>
Lesser Canadian St. Johnswort	<i>Hypericum</i>	<i>canadense</i>
Licorice Bedstraw	<i>Galium</i>	<i>circaezans</i>
Little Bluestem	<i>Schizachyrium</i>	<i>scoparium</i>
Little Ladies'-Tresses	<i>Spiranthes</i>	<i>tuberosa</i>

Loblolly Pine	<i>Pinus</i>	<i>taeda</i>
Longleaf Woodoats	<i>Chasmanthium</i>	<i>sessiliflorum</i>
Lowbush or Hillside Blueberry	<i>Vaccinium</i>	<i>pallidum</i>
Lowland or Southern Bladder Fern	<i>Cystopteris</i>	<i>protrusa</i>
Lyreleaf Sage	<i>Salvia</i>	<i>lyrata</i>
Marsh Gayfeather, Dense Blazing Star	<i>Liatris</i>	<i>spicata</i>
Maryland Goldenaster	<i>Chrysopsis</i>	<i>mariana</i>
Mockernut Hickory	<i>Carya</i>	<i>tomentosa</i>
Muscadine Grape	<i>Vitis</i>	<i>rotundifolia</i>
Narrow-Leaved White-Topped Aster	<i>Sericocarpus</i>	<i>linifolius</i>
Nepalese Browntop	<i>Microstegium</i>	<i>vimineum</i>
Northern Dewberry	<i>Rubus</i>	<i>flagellaris</i>
Northern Hackberry	<i>Celtis</i>	<i>occidentalis</i>
Northern Red Oak	<i>Quercus</i>	<i>rubra</i>
Orangegrass	<i>Hypericum</i>	<i>gentianoides</i>
Panicled Tick-Trefoil	<i>Desmodium</i>	<i>paniculatum</i>
Partridge Pea	<i>Chamaecrista</i>	<i>fasciculata</i>
Partridge Pea	<i>Chamaecrista</i>	<i>nicitans</i>
Persimmon	<i>Diospyros</i>	<i>virginiana</i>
Pignut Hickory	<i>Carya</i>	<i>glabra</i>
Poison Ivy	<i>Toxicodendron</i>	<i>radicans</i>
Poorjoe	<i>Diodia</i>	<i>teres</i>
Post Oak	<i>Quercus</i>	<i>stellata</i>
Prostrate Tick-Trefoil	<i>Desmodium</i>	<i>rotundifolium</i>
Rattlesnake Fern	<i>Botrypus</i>	<i>virginianus</i>
Red Maple	<i>Acer</i>	<i>rubrum</i>
Rose Pink	<i>Sabatia</i>	<i>angularis</i>
Rough Boneset	<i>Eupatorium</i>	<i>pilosum</i>
Roundleaf Thoroughwort	<i>Eupatorium</i>	<i>rotundifolium</i>
Royal Fern	<i>Osmunda</i>	<i>regalis</i>
Rusty Black Haw	<i>Viburnum</i>	<i>rufidulum</i>
Saw Greenbrier	<i>Smilax</i>	<i>bona-nox</i>
Scarlet Oak	<i>Quercus</i>	<i>coccinea</i>
Sea-Myrtle	<i>Baccharis</i>	<i>halimifolia</i>
Sessile-Leaved Bellwort	<i>Uvularia</i>	<i>sessilifolia</i>
Short's Aster	<i>Symphotrichum</i>	<i>shortii</i>
Shortleaf Pine	<i>Pinus</i>	<i>echinata</i>
Sidebeak Pencil-Flower	<i>Stylosanthes</i>	<i>biflora</i>
Slender Lespedeza	<i>Lespedeza</i>	<i>virginica</i>
Small's Ragwort	<i>Packera</i>	<i>anonyma</i>
Smooth Yellow False Foxglove	<i>Aureolaria</i>	<i>flava</i>
Sourwood	<i>Oxydendrum</i>	<i>arboreum</i>
Southern Lady Fern	<i>Athyrium</i>	<i>filix-femina</i>
Southern Prairie Aster	<i>Eurybia</i>	<i>hemispherica</i>
Southern Red Oak	<i>Quercus</i>	<i>falcata</i>
Southern Shorthusk	<i>Brachyelytrum</i>	<i>erectum</i>
Sparselobe Grapefern	<i>Sceptridium</i>	<i>bitematum</i>
St. Andrew's Cross	<i>Hypericum</i>	<i>stragulum</i>
Staghorn Sumac	<i>Rhus</i>	<i>typhina</i>
Stiff Yellow Flax	<i>Linum</i>	<i>medium</i>
Strawberry Bush	<i>Euonymus</i>	<i>americanus</i>
Sugarcane Plume-Grass	<i>Saccharum</i>	<i>giganteum</i>
Sweet Birch	<i>Betula</i>	<i>lenta</i>
Sweetgum	<i>Liquidambar</i>	<i>styraciflua</i>
Sycamore	<i>Platanus</i>	<i>occidentalis</i>
Tall Tickseed	<i>Coreopsis</i>	<i>tripteris</i>
Tapered-Leaved Panic-Grass	<i>Dichantherium</i>	<i>acuminatum</i>
Trailing Lespedeza	<i>Lespedeza</i>	<i>procumbens</i>
Tulip-Tree, Yellow Poplar	<i>Liriodendron</i>	<i>tulipifera</i>
Upland Boneset	<i>Eupatorium</i>	<i>sessilifolium</i>
Upland Swamp Privet	<i>Forestiera</i>	<i>ligustrina</i>
Venus' Pride	<i>Houstonia</i>	<i>purpurea</i>
Virginia Creeper	<i>Parthenocissus</i>	<i>quinquefolia</i>
Virginia Tephrosia	<i>Tephrosia</i>	<i>virginiana</i>

White Oak	<i>Quercus</i>	<i>alba</i>
White or American Ash	<i>Fraxinus</i>	<i>americana</i>
White Vervain	<i>Verbena</i>	<i>urticifolia</i>
Whole-Leaved Rosinweed	<i>Silphium</i>	<i>integrifolium</i>
Wild Comfrey	<i>Cynoglossum</i>	<i>virginianum</i>
Wild Hydrangea	<i>Hydrangea</i>	<i>arborescens</i>
Wild Yam	<i>Dioscorea</i>	<i>villosa</i>
Winged Elm	<i>Ulmus</i>	<i>alata</i>
Winged Sumac	<i>Rhus</i>	<i>copallinum</i>
Wingstem	<i>Verbesina</i>	<i>alternifolia</i>
Winter Bent-Grass	<i>Agrostis</i>	<i>hyemalis</i>
Woodland Blue Lettuce	<i>Lactuca</i>	<i>floridana</i>
Woodland Sunflower	<i>Helianthus</i>	<i>microcephalus</i>
Wool-Grass	<i>Scirpus</i>	<i>cyperinus</i>

Wildlife species observed by Chris Wilson during field visit to the property

Taxonomic Group	Common Name	Scientific Name
Bird	American Crow	<i>Corvus brachyrhynchos</i>
Bird	American Goldfinch	<i>Spinus tristis</i>
Bird	American Robin	<i>Turdus migratorius</i>
Bird	Blue Jay	<i>Cyanocitta cristata</i>
Bird	Blue-gray Gnatcatcher	<i>Poliopitila caerulea</i>
Bird	Broad-winged Hawk	<i>Buteo platypterus</i>
Bird	Carolina Chickadee	<i>Poecile carolinensis</i>
Bird	Carolina Wren	<i>Thryothorus ludovicianus</i>
Bird	Downy Woodpecker	<i>Picoides pubescens</i>
Bird	Eastern Wood-Pewee	<i>Contopus virens</i>
Bird	Hairy Woodpecker	<i>Picoides villosus</i>
Bird	Mourning Dove	<i>Zenaidura macroura</i>
Bird	Northern Cardinal	<i>Cardinalis cardinalis</i>
Bird	Pileated Woodpecker	<i>Dryocopus pileatus</i>
Bird	Red-bellied Woodpecker	<i>Melanerpes carolinus</i>
Bird	Red-tailed Hawk	<i>Buteo jamaicensis</i>
Bird	Song Sparrow	<i>Melospiza melodia</i>
Bird	Summer Tanager	<i>Piranga rubra</i>
Bird	Tufted Titmouse	<i>Baeolophus bicolor</i>
Bird	White-breasted Nuthatch	<i>Sitta carolinensis</i>
Bird	White-eyed Vireo	<i>Vireo griseus</i>
Bird	Yellow-billed Cuckoo	<i>Coccyzus americanus</i>
Mammal	Coyote	<i>Canis latrans</i>
Mammal	White-tailed Deer	<i>Odocoileus virginianus</i>

ARCHAEOLOGICAL REPORT

TN DIVISION OF ARCHAEOLOGY LETTER ON ARCHAEOLOGY DATABASE

- According to an October 18, 2016 email to Chris Wilson from Mark Norton, *State Programs Archaeologist*, there are no recorded archaeology sites within the Tom's Mountain Creek LLC conservation easement property

11/7/2016

Conservation Ecology LLC Mail - RE: Archaeology Reports



Christopher Wilson <chris@conservationecologyllc.com>

RE: Archaeology Reports

Mark Norton <Mark.Norton@tn.gov>
To: Christopher Wilson <chris@conservationecologyllc.com>

Tue, Oct 18, 2016 at 10:16 AM

Mr. Wilson,

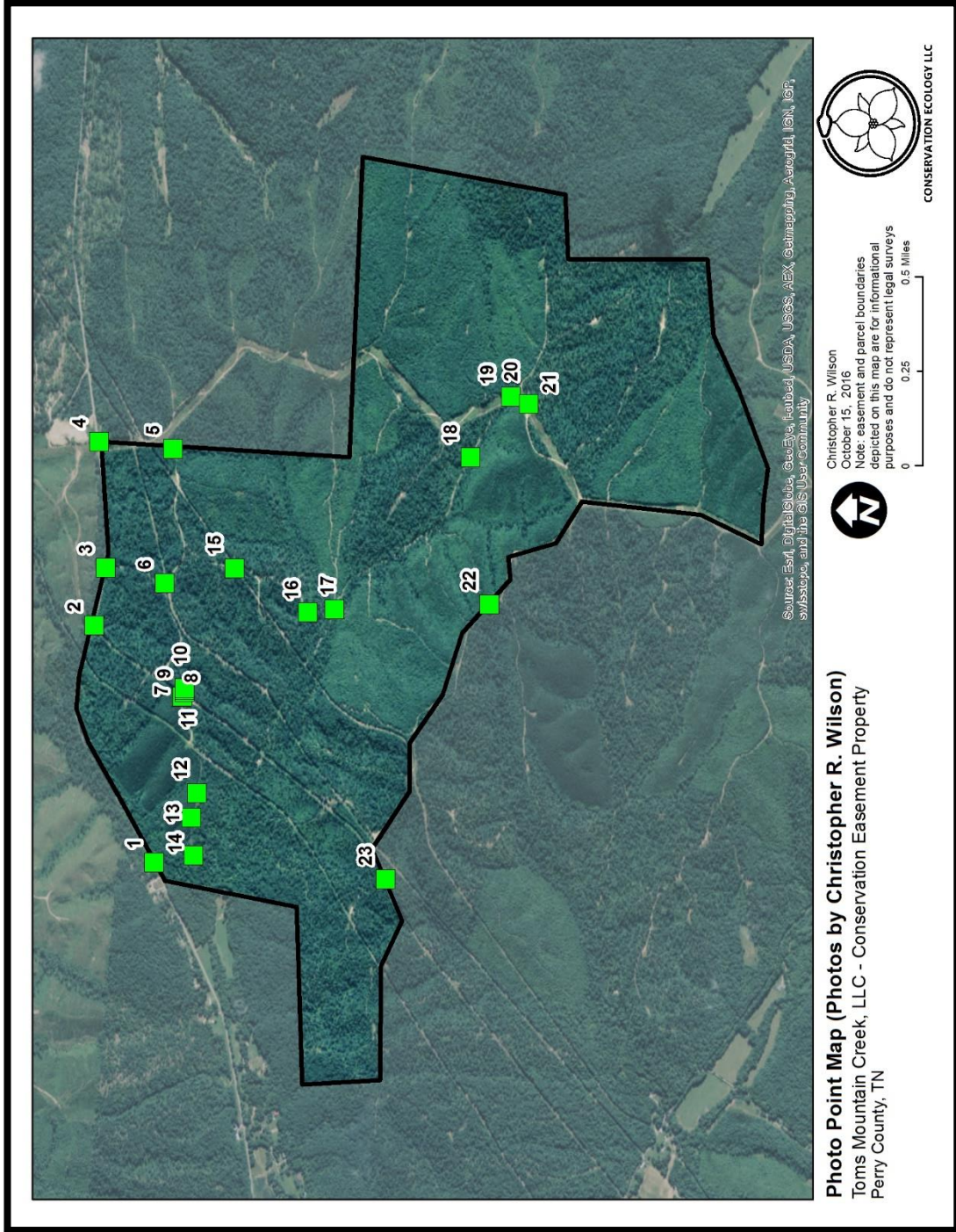
I checked the 10 properties you submitted for technical assistance and only found 2 sites recorded within the boundaries. Sites 40HS126 and 40HS299 (see attached) –in the Brushy Hollow and Duck River properties. Thank you, Mark



Mark Norton
State Programs Archaeologist
1216 Foster Avenue
Cole Building #3
Nashville, TN 37243
Mark.norton@tn.gov
P 615-741-1588, ext.113
F 615-741-7329

PHOTOGRAPHS OF CURRENT SITE CONDITIONS (Set 1 of 2)
Christopher R. Wilson, August 23, 2016

PHOTO POINT MAP



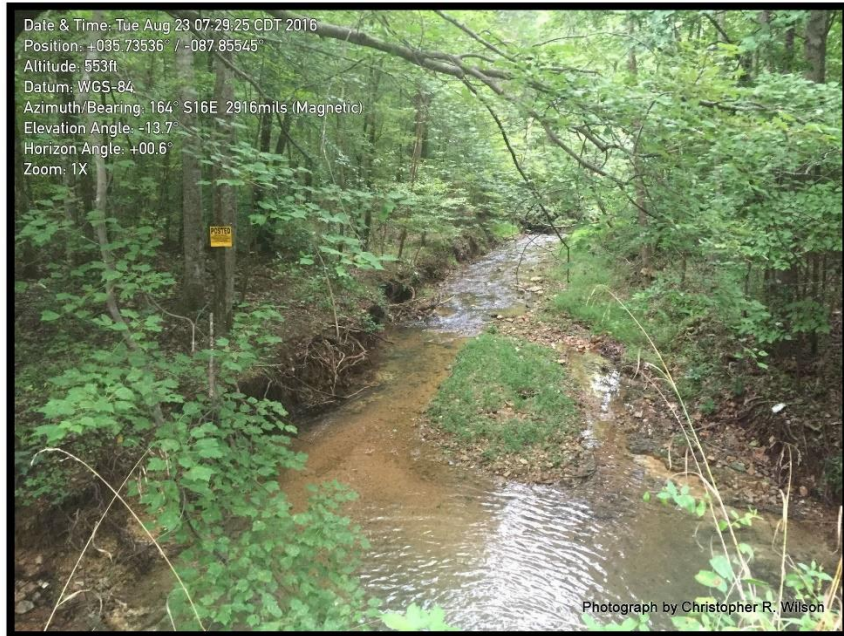
PHOTOGRAPHS

TOM'S MOUNTAIN CREEK, LLC Conservation Property

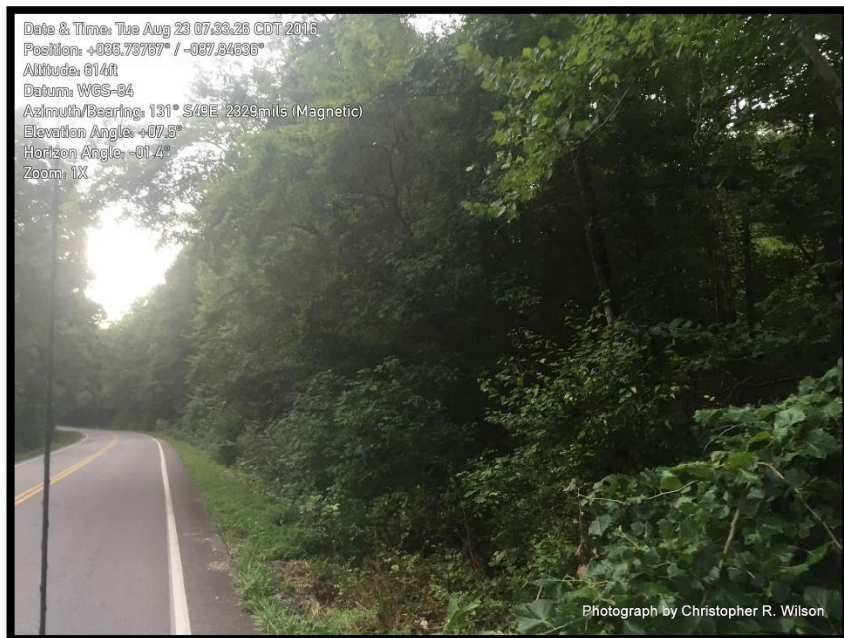
Taken by

Christopher R. Wilson

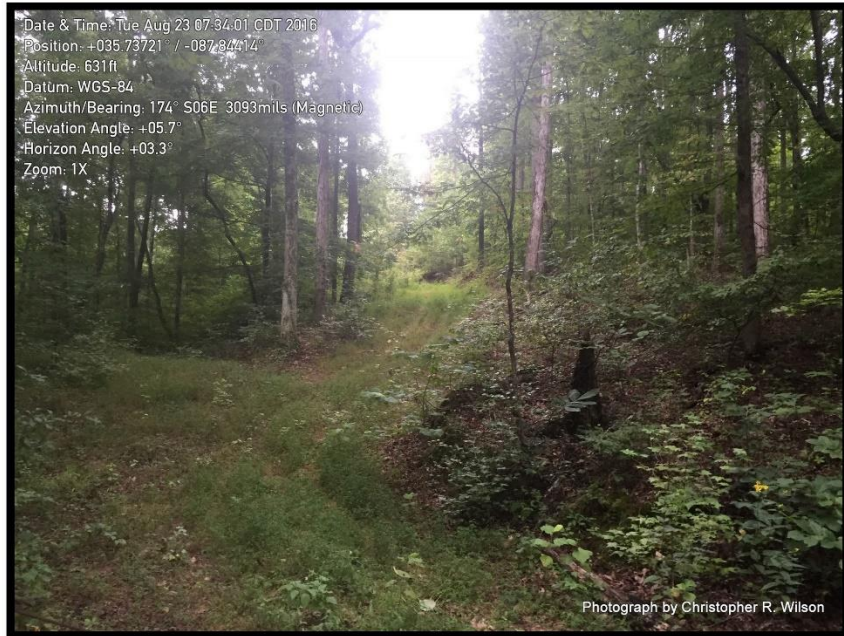
August 23, 2016



1 - Stream



2 - View of road frontage



3 - Access trail



4 - Entrance gate



5 - Forest road through mixed forest



6 - Opening in mixed forest



7 - Gas pipeline ROW



8 - Gas pipeline ROW



9 - Mixed forest



10 - Mixed forest



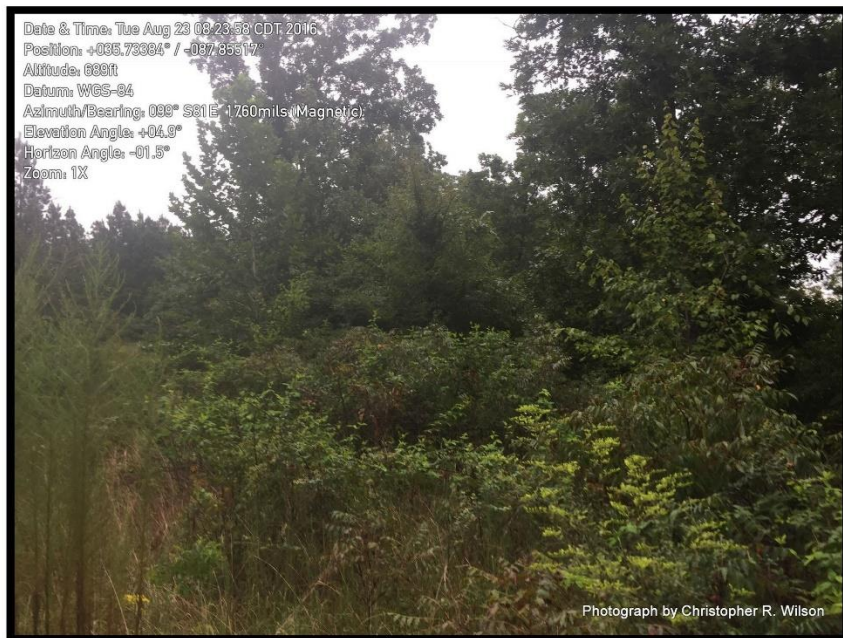
11 - Planted pine



12 - Planted pine



13 - Planted pine



14 - Mixed forest



15 - Mixed forest



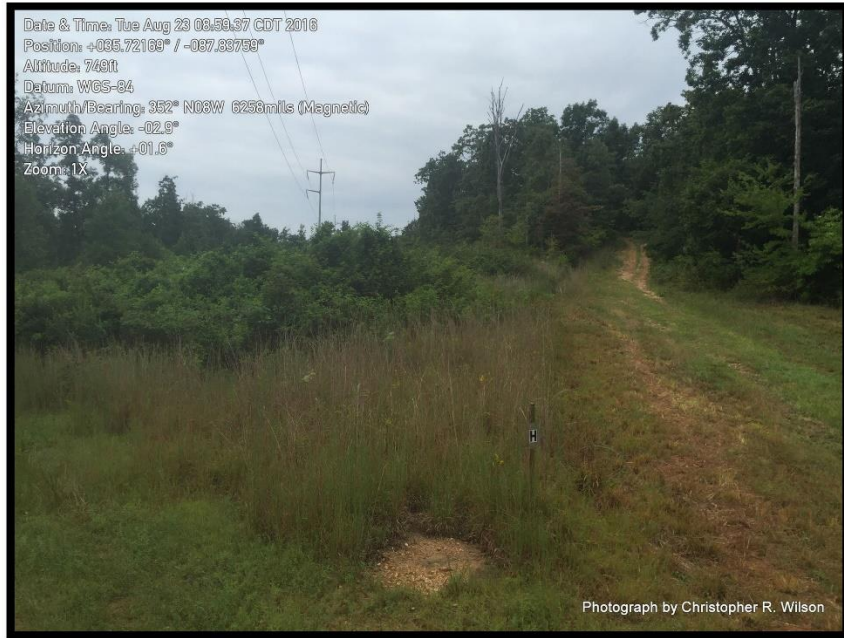
16 - Mixed forest



17 - Young forest opening



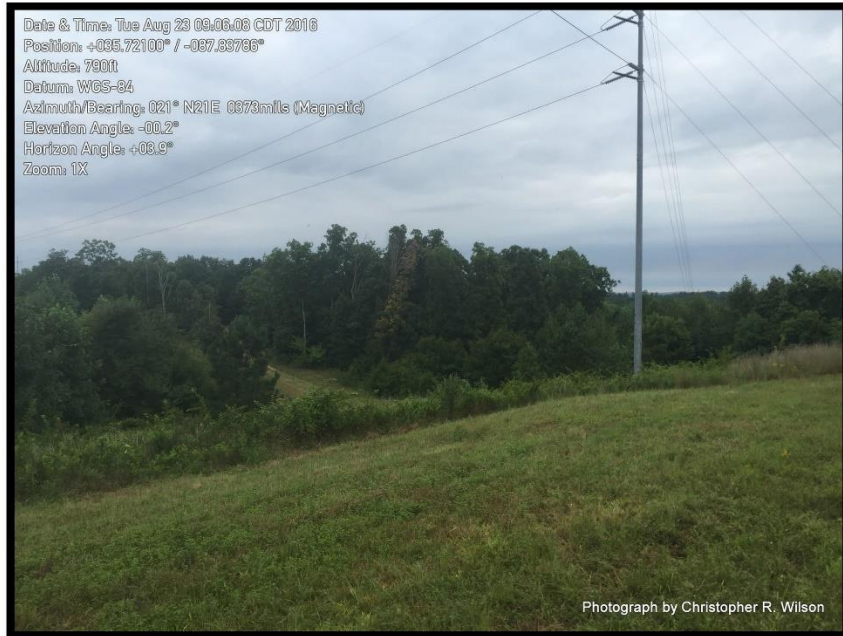
18 - Forest trail



19 - Powerline ROW and forest road



20 - Powerline ROW



21 - Powerline ROW



22 - Forest road

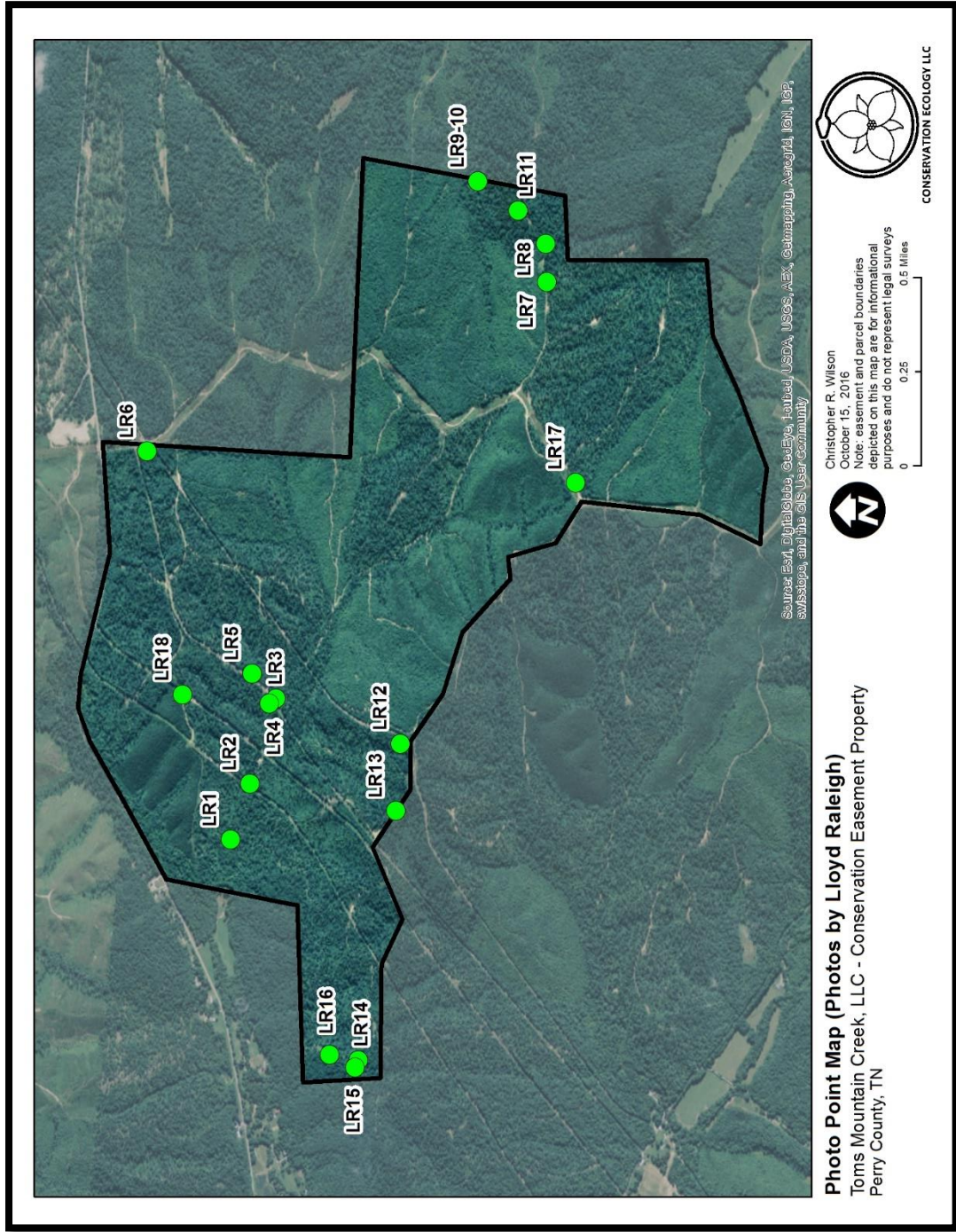


23 - Gas line ROW

PHOTOGRAPHS OF CURRENT SITE CONDITIONS (Set 2 of 2)

Lloyd Raleigh, August 25, 2016

PHOTO POINT MAP



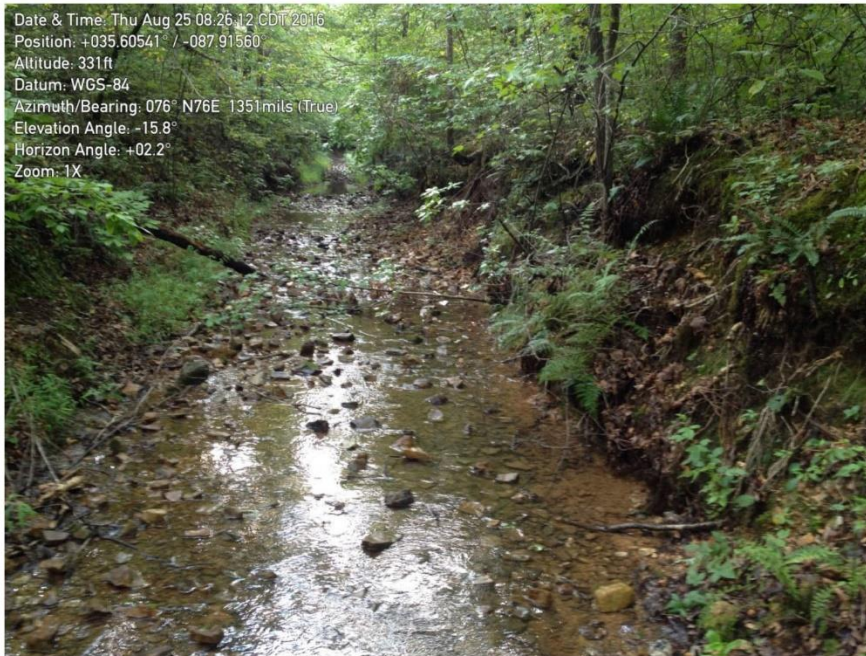
PHOTOGRAPHS

TOM'S MOUNTAIN CREEK, LLC Conservation Property

Taken by

Lloyd Raleigh

August 25, 2016



1 – Tom’s Creek, chert stream bed, successional forest. Photograph by Lloyd Raleigh



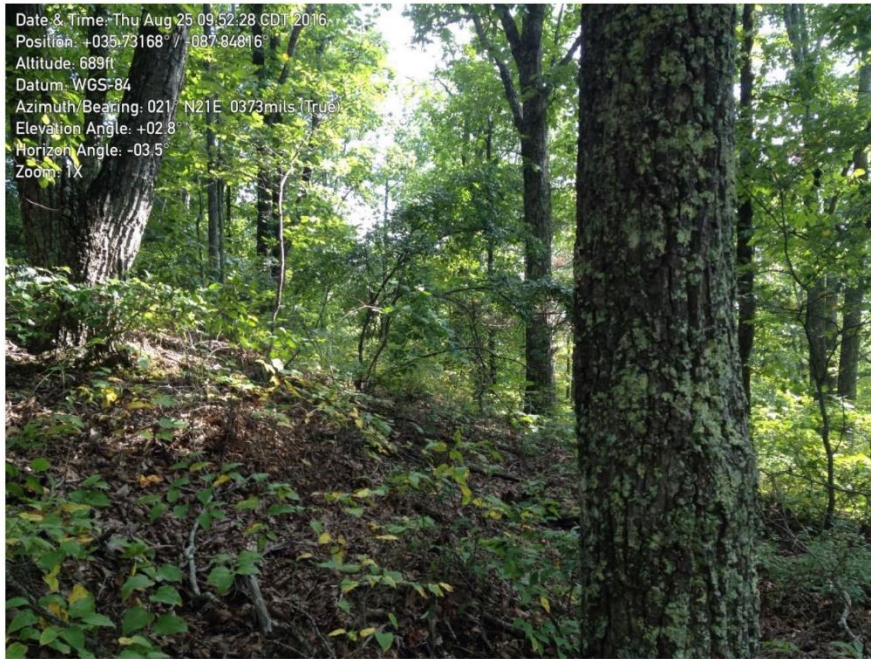
2 – Gas ROW, successional forest, hunting stand. Photograph by Lloyd Raleigh



3 – Chestnut Oak-Mixed Oak Forest. Photograph by Lloyd Raleigh



4 – Chestnut Oak-Mixed Oak Forest. Photograph by Lloyd Raleigh



5 – Chestnut Oak-Mixed Oak Forest. Photograph by Lloyd Raleigh



6 – Chestnut Oak-Mixed Oak Forest. Photograph by Lloyd Raleigh



7 – Early successional forest. Photograph by Lloyd Raleigh



8 – Hunting blind in successional forest. Photograph by Lloyd Raleigh



9 – Southern Mesic Beech-Tuliptree Slopes. Photograph by Lloyd Raleigh



10 – Tributary to Pinhook Creek. Photograph by Lloyd Raleigh



11 – Shortleaf pine only one observed. Photograph by Lloyd Raleigh



12 – Chestnut Oak-Mixed Oak Forest. Photograph by Lloyd Raleigh



13 – Successional with older leaf trees. Photograph by Lloyd Raleigh



14 – Small covered structure. Photograph by Lloyd Raleigh



15 – Old hunting blind. Photograph by Lloyd Raleigh



16 – Chestnut Oak-Mixed Oak Forest. Photograph by Lloyd Raleigh



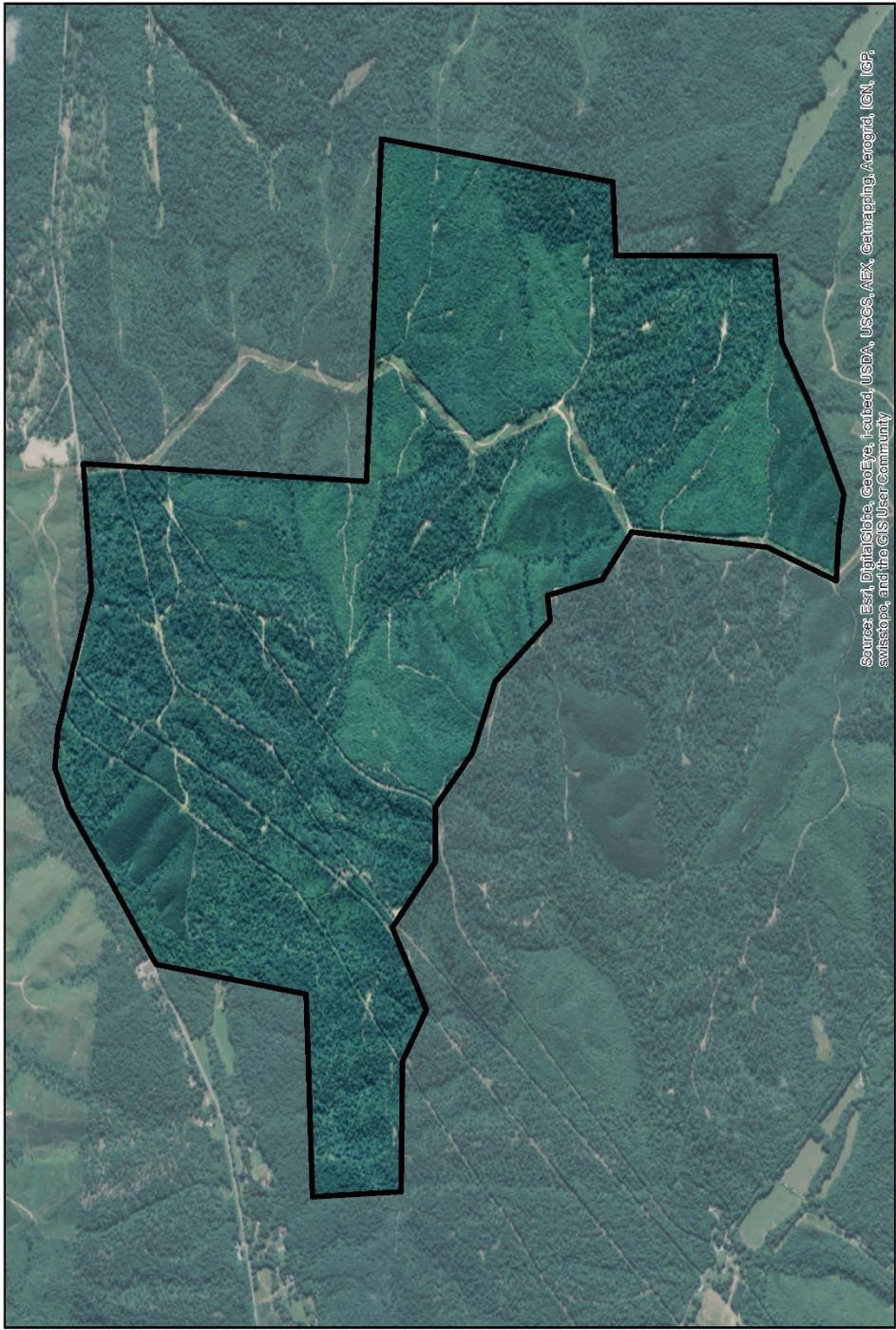
17 – Transmission Line ROW and successional forest. Photograph by Lloyd Raleigh



18 – Bluestem grassland in ROW, blazing star. Photograph by Lloyd Raleigh

MAPS

- Aerial Photograph with Boundaries
- State Map
- County Map
- USGS Quadrangle Map
- Wetlands, Streams, & Watersheds Map
- Soils Map with Descriptions & Prime Agricultural Soils
- Sub-surface Geology and Legend
- Land Use Map
- Survey Map
- House Site Survey
- Conservation Management Areas Map
- Anthropogenic Features Map
- Protected Areas & Ecoregional Portfolio Areas Map
- TN State Wildlife Action Plan Map
- Climate Resilience Map
- Natural Communities Map



Sources: Esri, DigitalGlobe, GeoEye, Earthstar (USA), USGS, AeroGRID, IGN, SITA, Imagery, and the GIS User Community

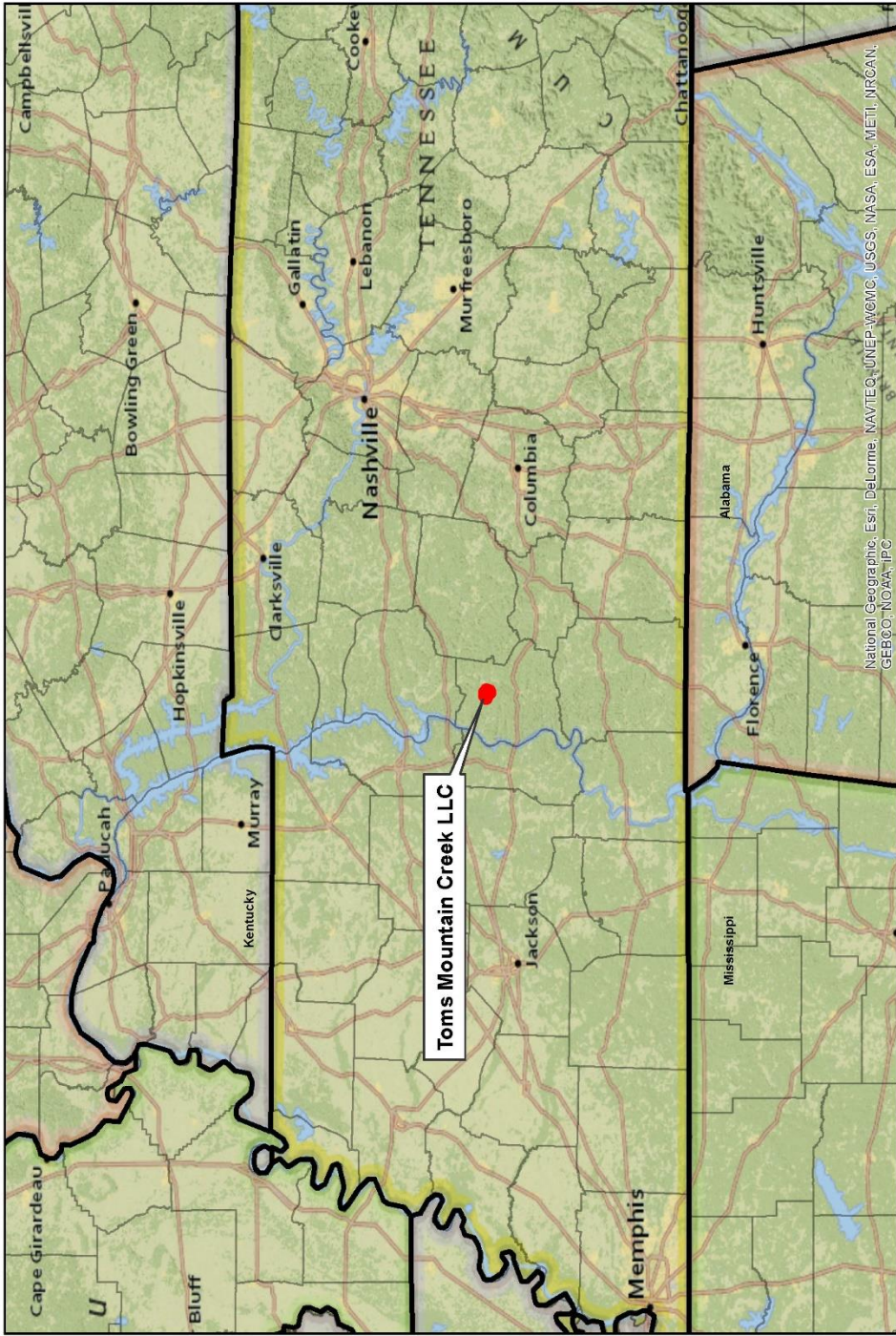
Christopher R. Wilson
October 15, 2016

Note: easement and parcel boundaries depicted on this map are for informational purposes and do not represent legal surveys



CONSERVATION ECOLOGY LLC

Aerial Photograph With Boundaries
Toms Mountain Creek, LLC - Conservation Easement Property
Perry County, TN

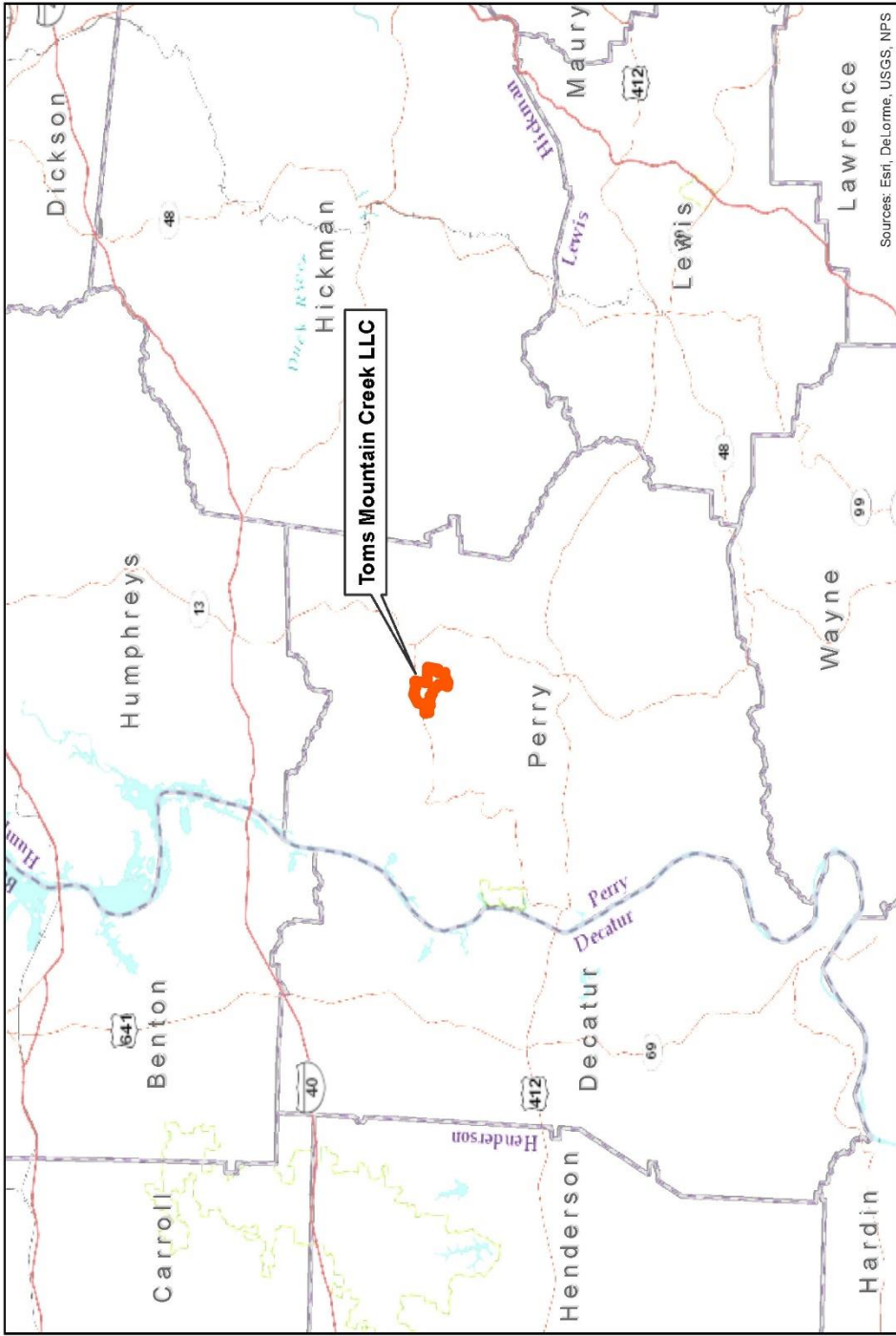


CONSERVATION ECOLOGY LLC

Christopher R. Wilson
 October 15, 2016
 Note: easement and parcel boundaries
 depicted on this map are for informational
 purposes and do not represent legal surveys



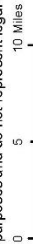
State Map
 Toms Mountain Creek, LLC - Conservation Easement Property
 Perry County, TN



Sources: Esri, DeLorme, USGS, NPS

Christopher R. Wilson
October 15, 2016

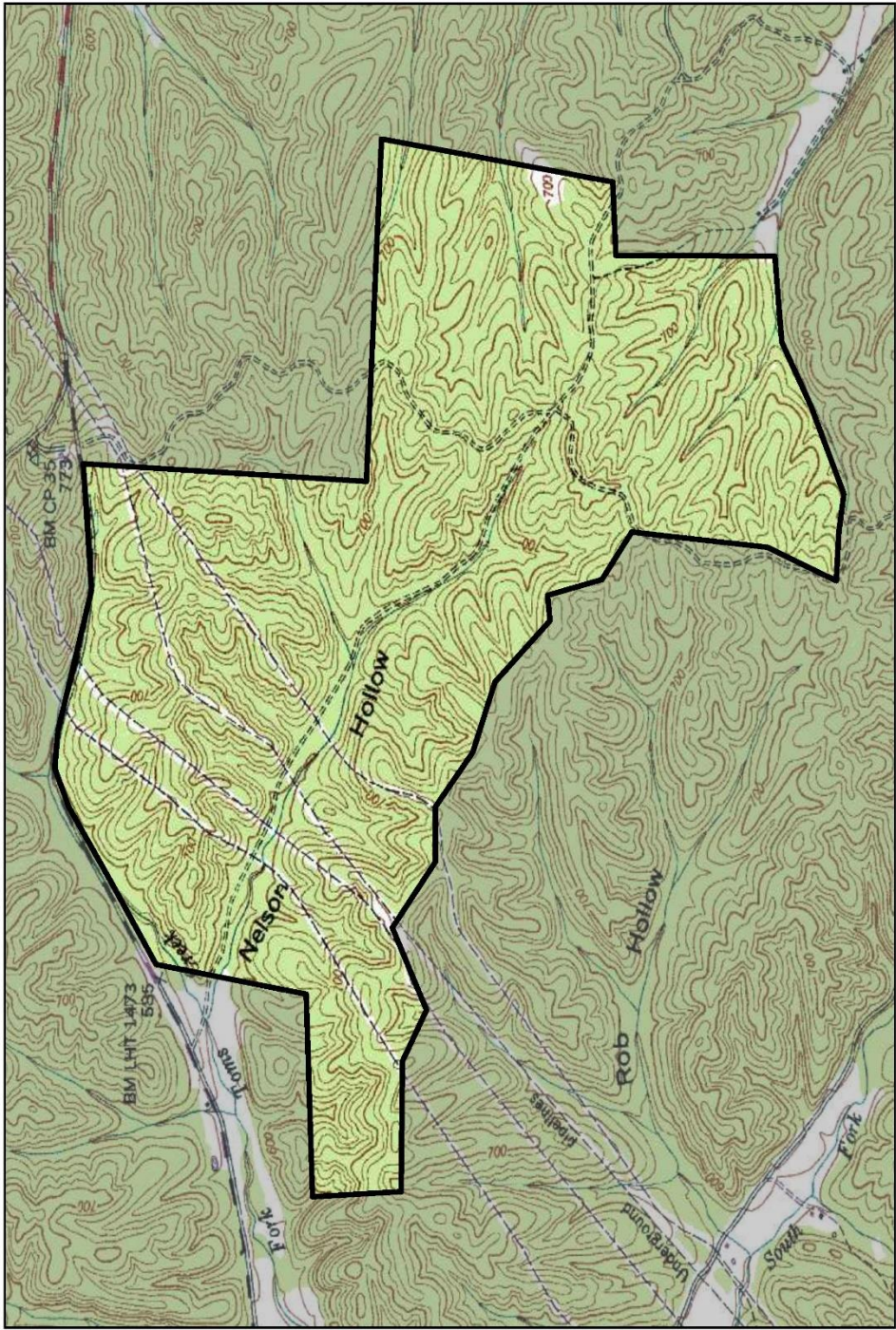
Note: easement and parcel boundaries depicted on this map are for informational purposes and do not represent legal surveys



CONSERVATION ECOLOGY LLC



County Map
Toms Mountain Creek, LLC - Conservation Easement Property
Perry County, TN

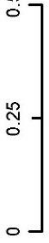


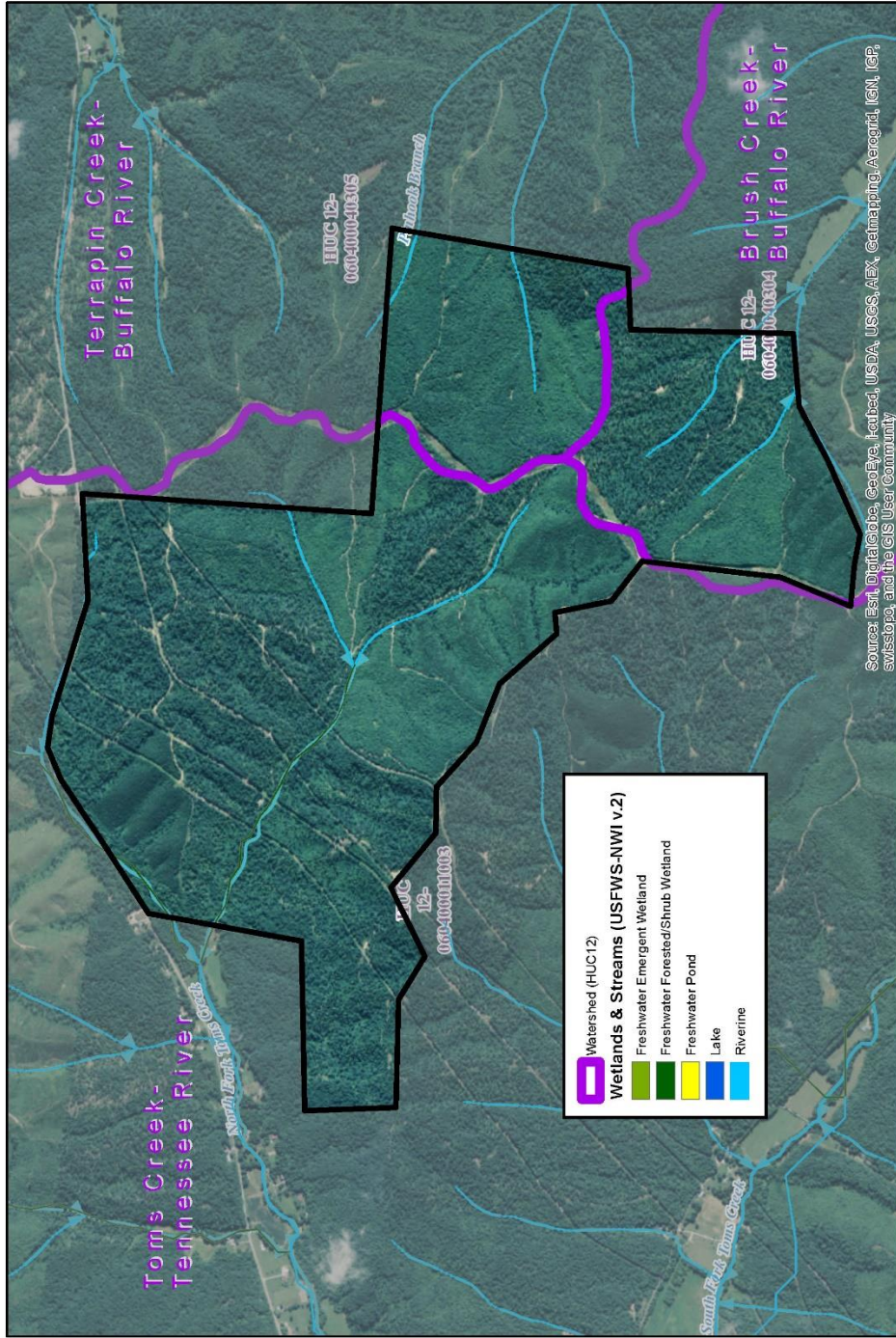
CONSERVATION ECOLOGY LLC

Christopher R. Wilson
 October 15, 2016
 Note: easement and parcel boundaries
 depicted on this map are for informational
 purposes and do not represent legal surveys



USGS Quadrangle Map
 Toms Mountain Creek, LLC - Conservation Easement Property
 Perry County, TN





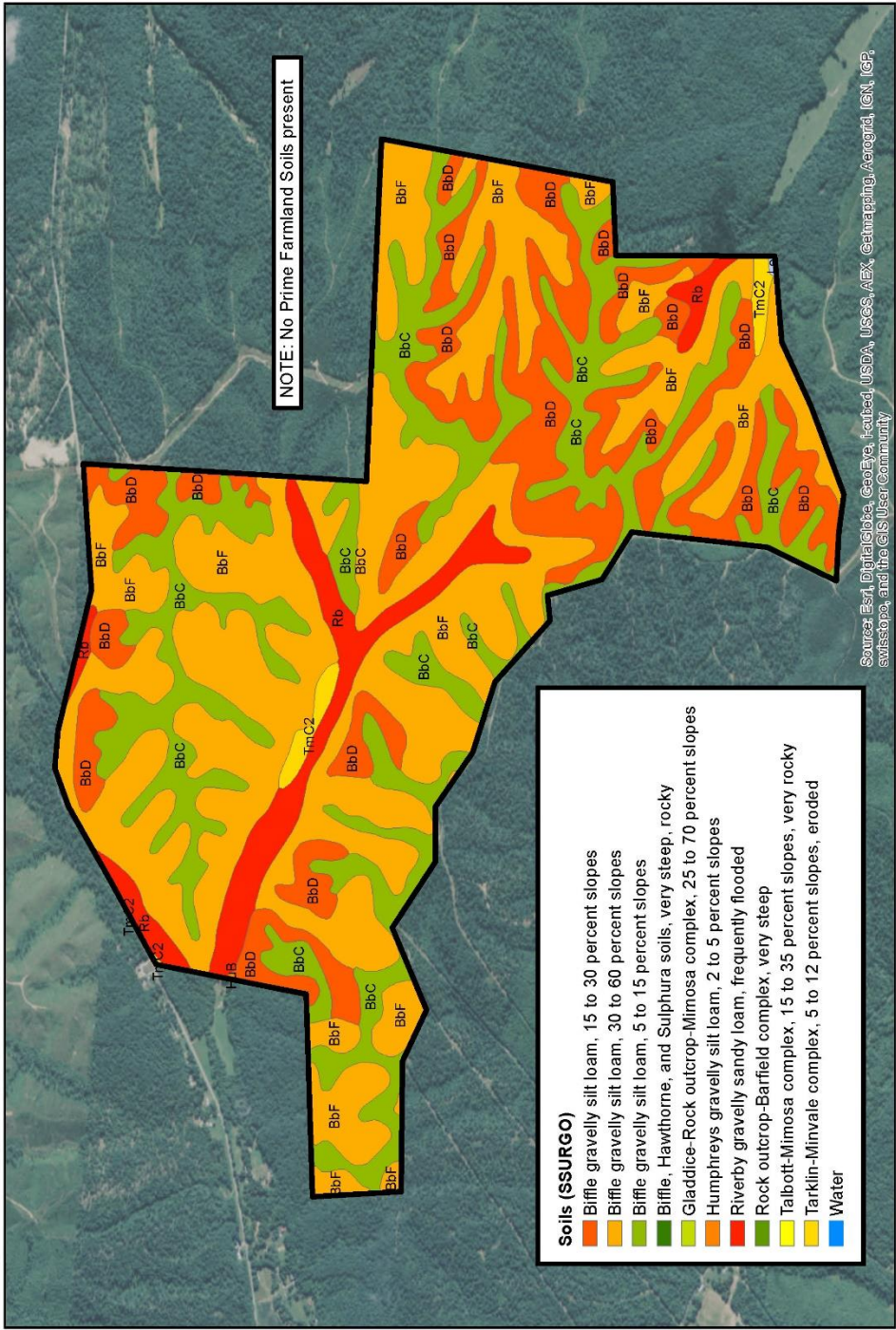
Christopher R. Wilson
 October 15, 2016
 Note: easement and parcel boundaries depicted on this map are for informational purposes and do not represent legal surveys



Wetlands, Streams, & Watersheds Map (USFWS-NWI v.2)

Toms Mountain Creek, LLC - Conservation Easement Property
 Perry County, TN

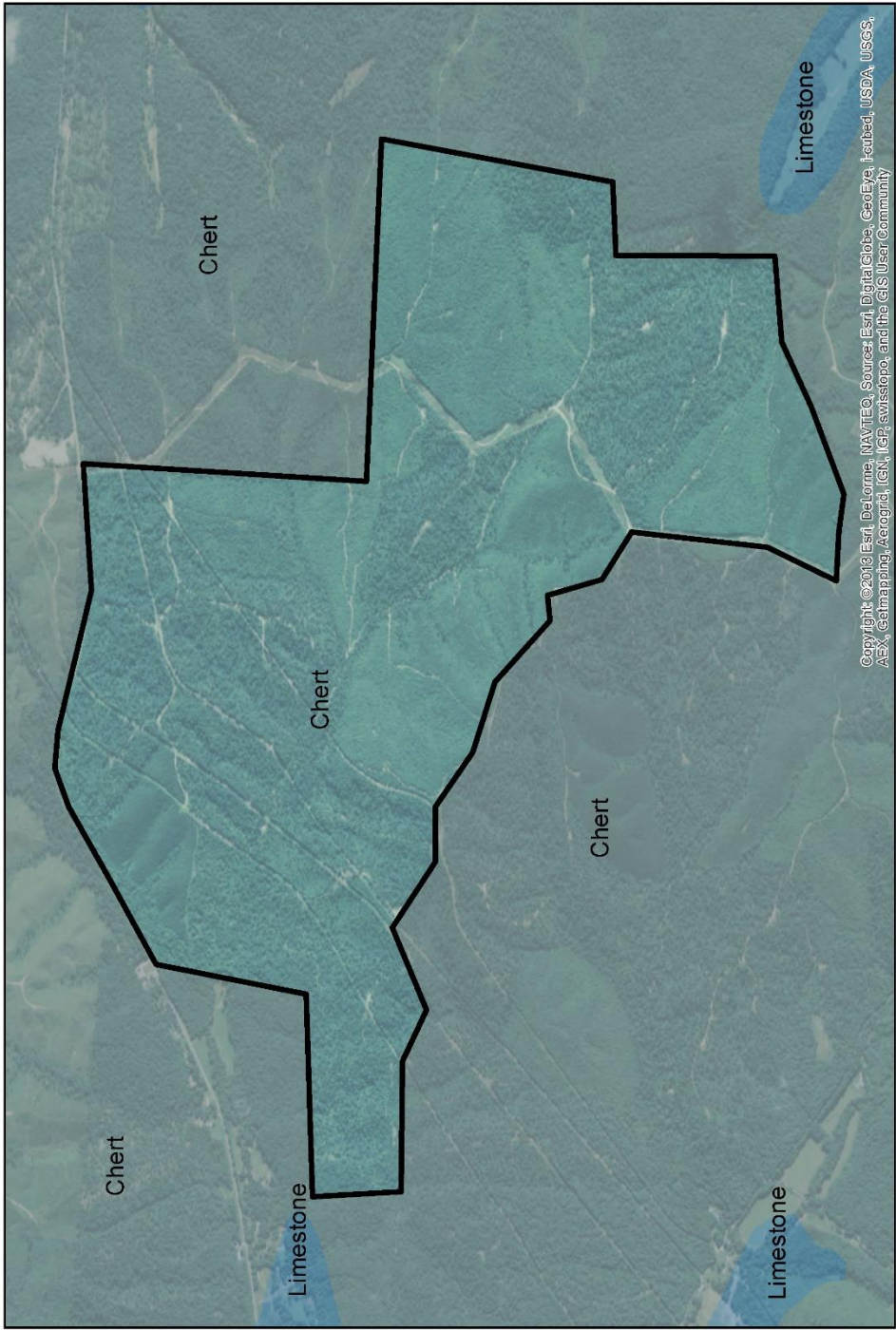
CONSERVATION ECOLOGY LLC



Soils Map With Descriptions & Prime Agricultural Soils

Toms Mountain Creek, LLC - Conservation Easement Property
Perry County, TN

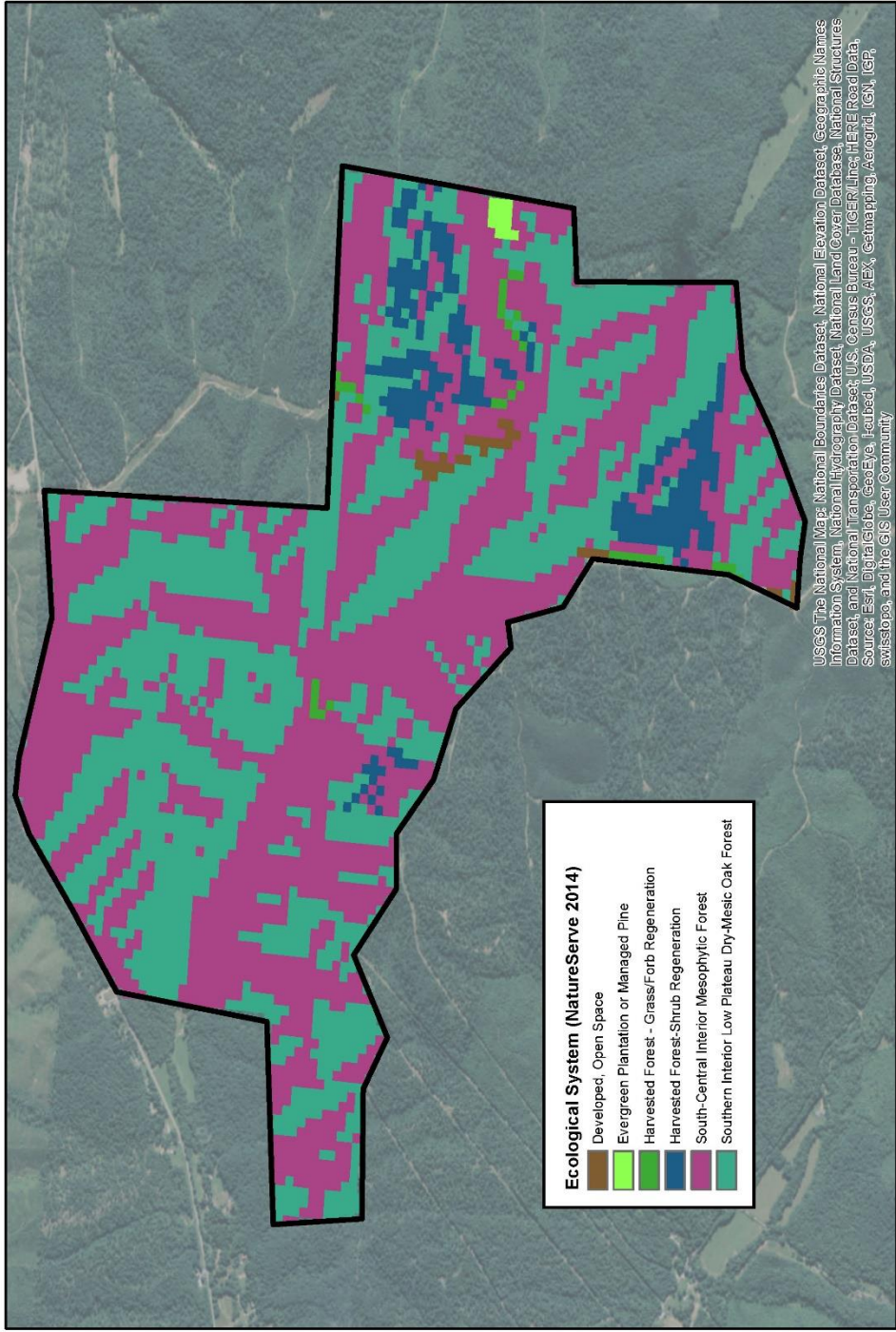
USDS-NRCS - Soil Survey Geographic Database (SSURGO)



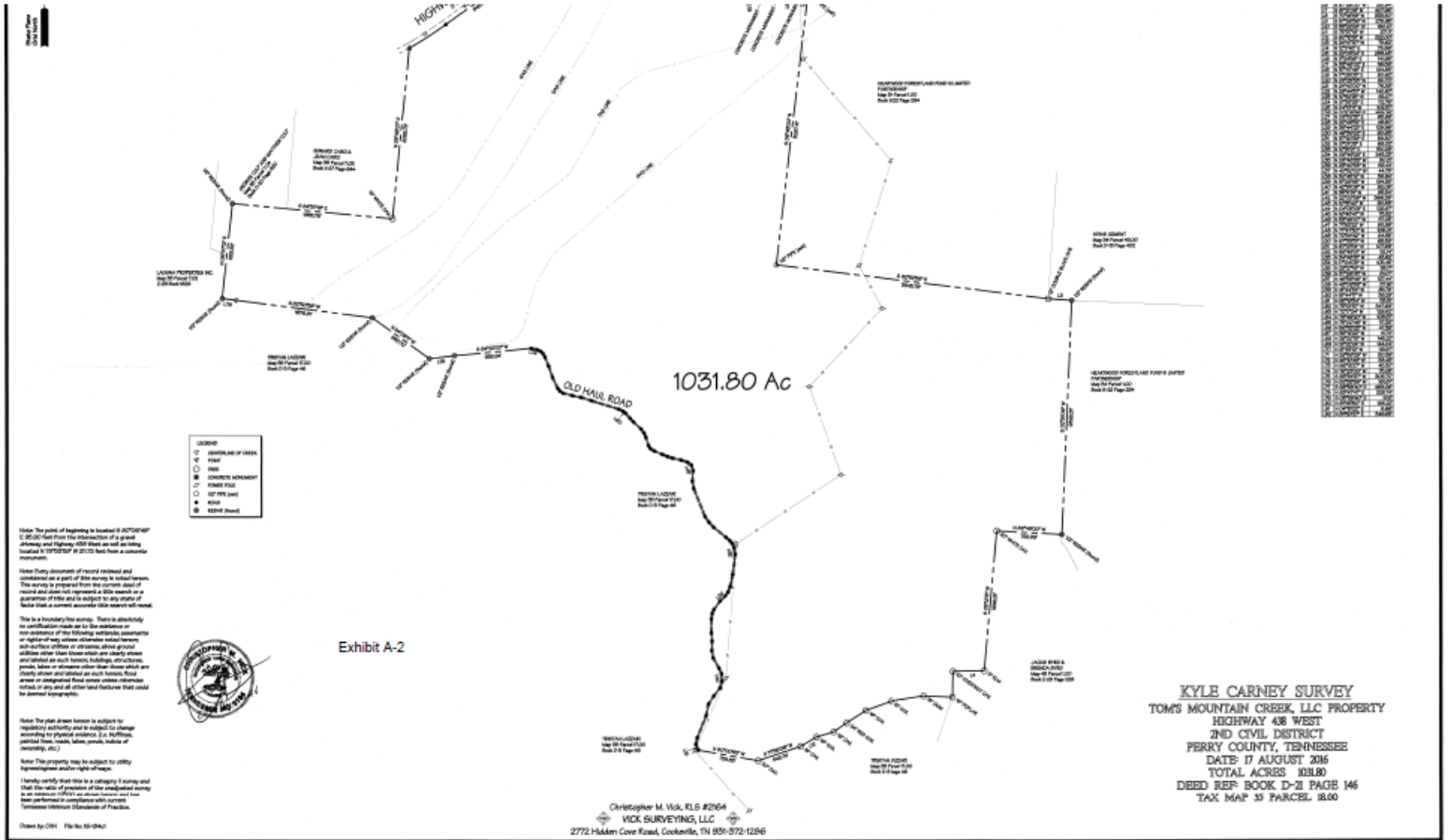
Christopher R. Wilson
 October 15, 2016
 Note: easement and parcel boundaries
 depicted on this map are for informational
 purposes and do not represent legal surveys
 0 0.25 0.5 Miles



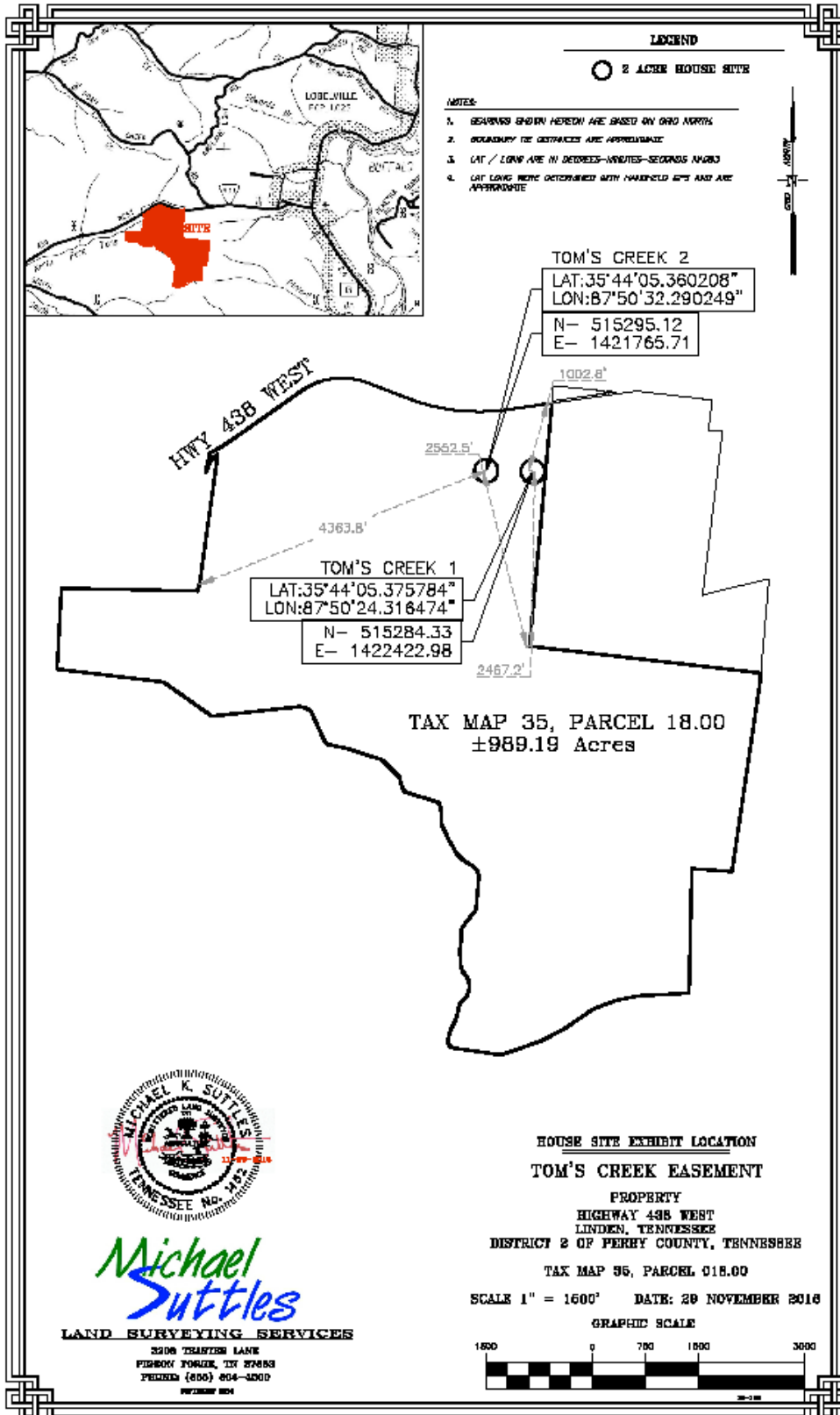
Sub-surface Geology and Legend (USGS)
 Toms Mountain Creek, LLC - Conservation Easement Property
 Perry County, TN
 USGS Mineral Resources Program

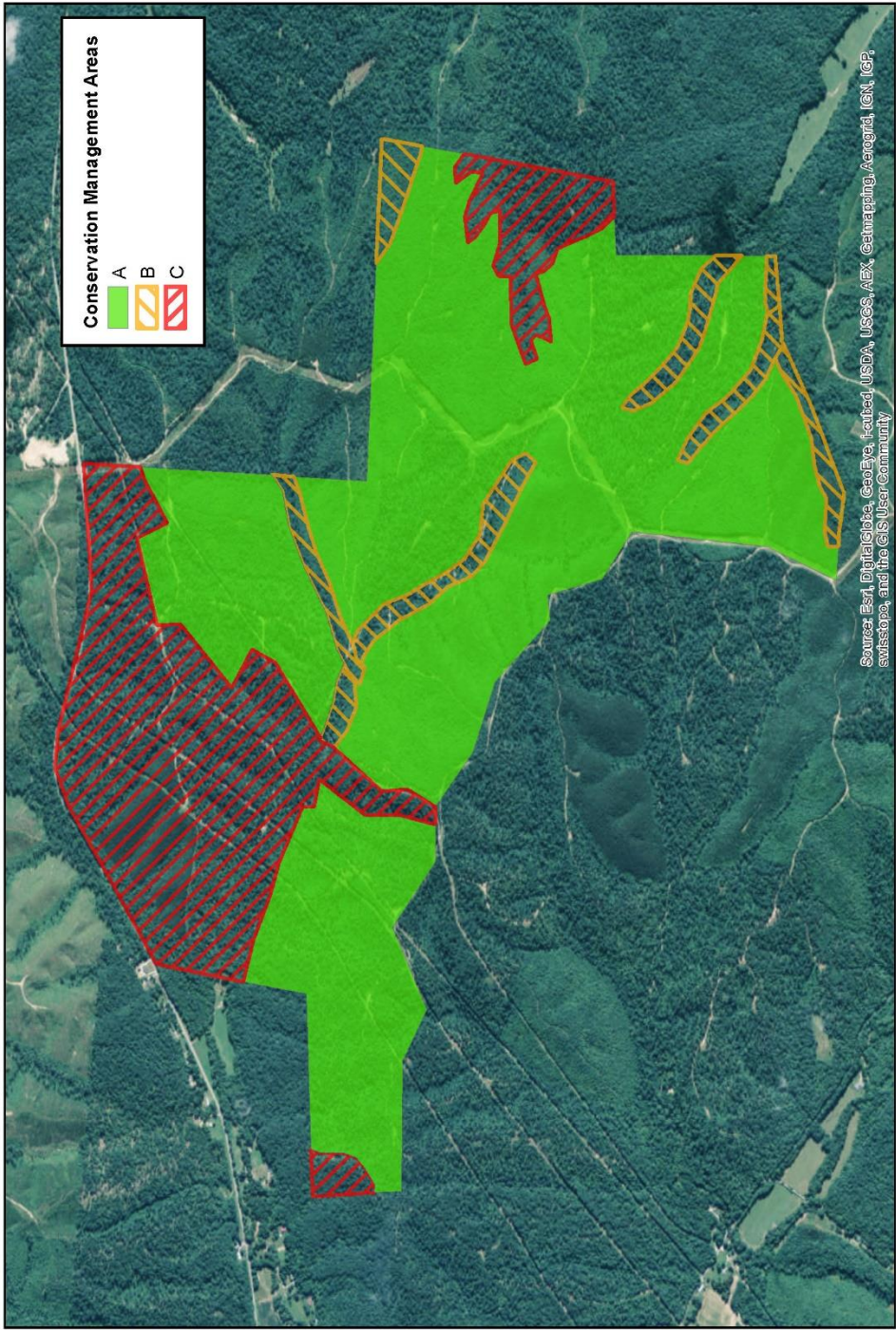


SURVEY MAP



HOUSE SITE SURVEY

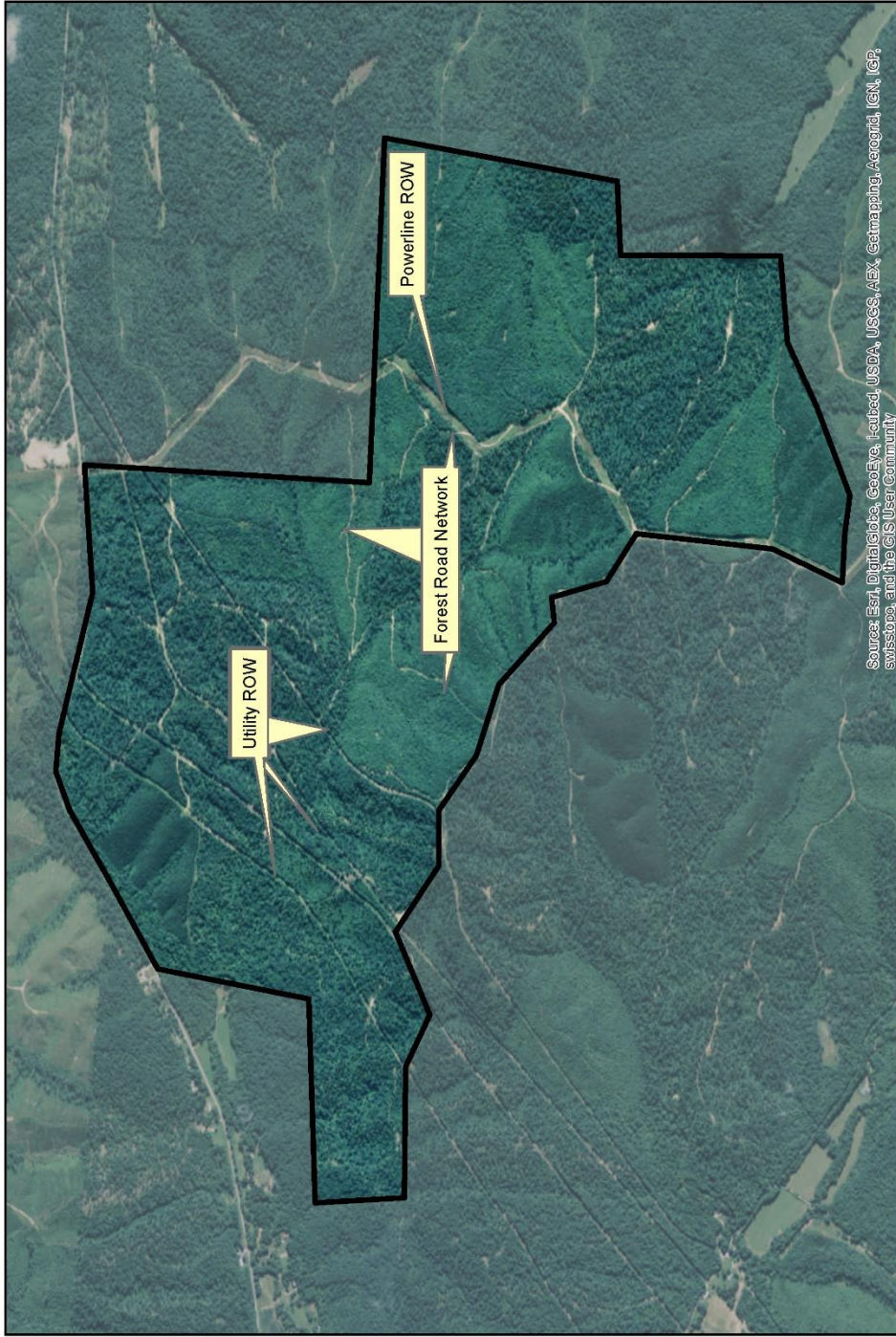




Conservation Management Areas Map
 Toms Mountain Creek, LLC - Conservation Easement Property
 Perry County, TN

Christopher R. Wilson
 November 28, 2016
 Note: easement and parcel boundaries
 depicted on this map are for informational
 purposes and do not represent legal surveys

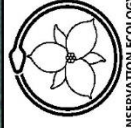




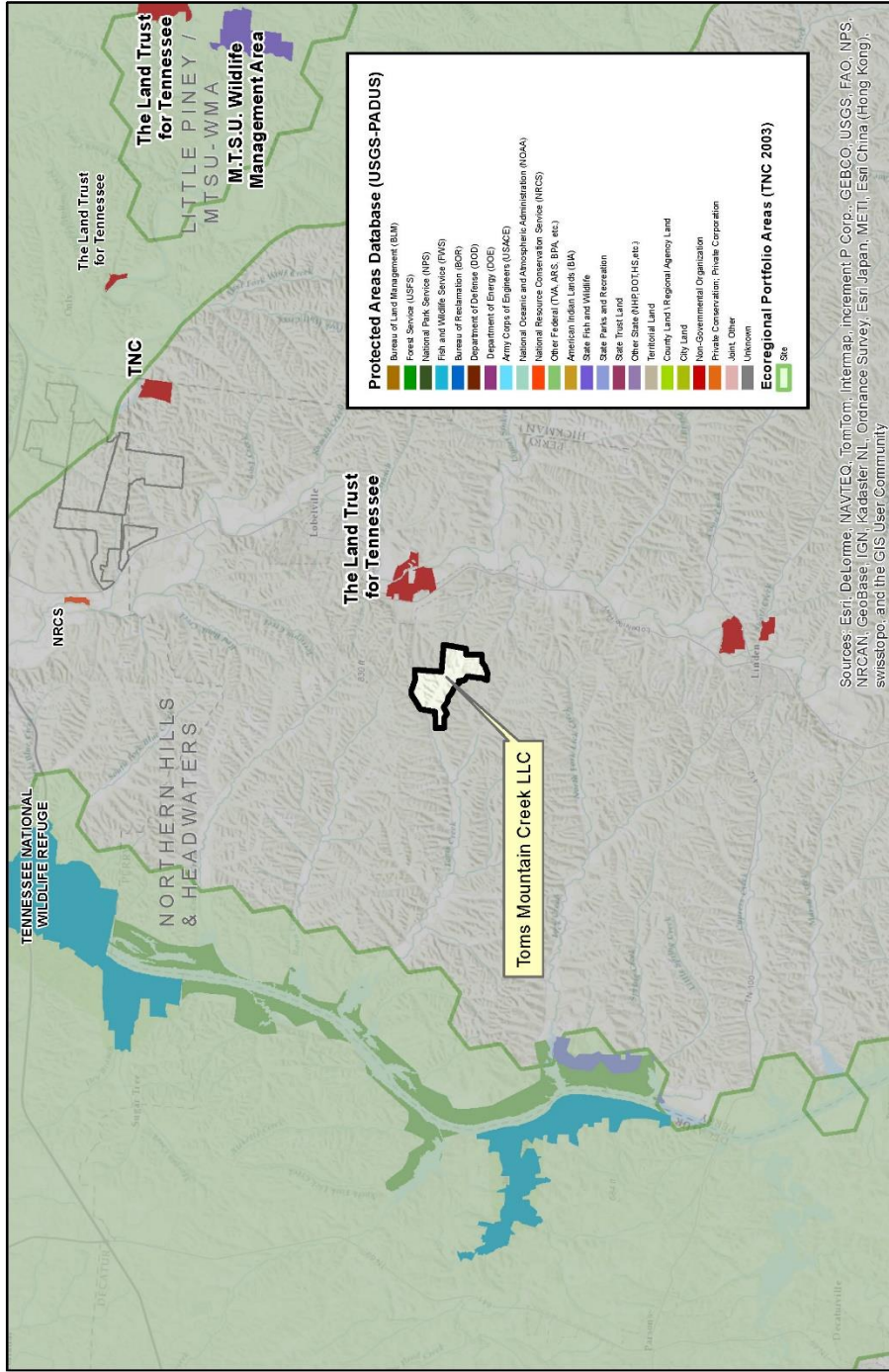
Anthropogenic Features Map
 Toms Mountain Creek, LLC - Conservation Easement Property
 Perry County, TN

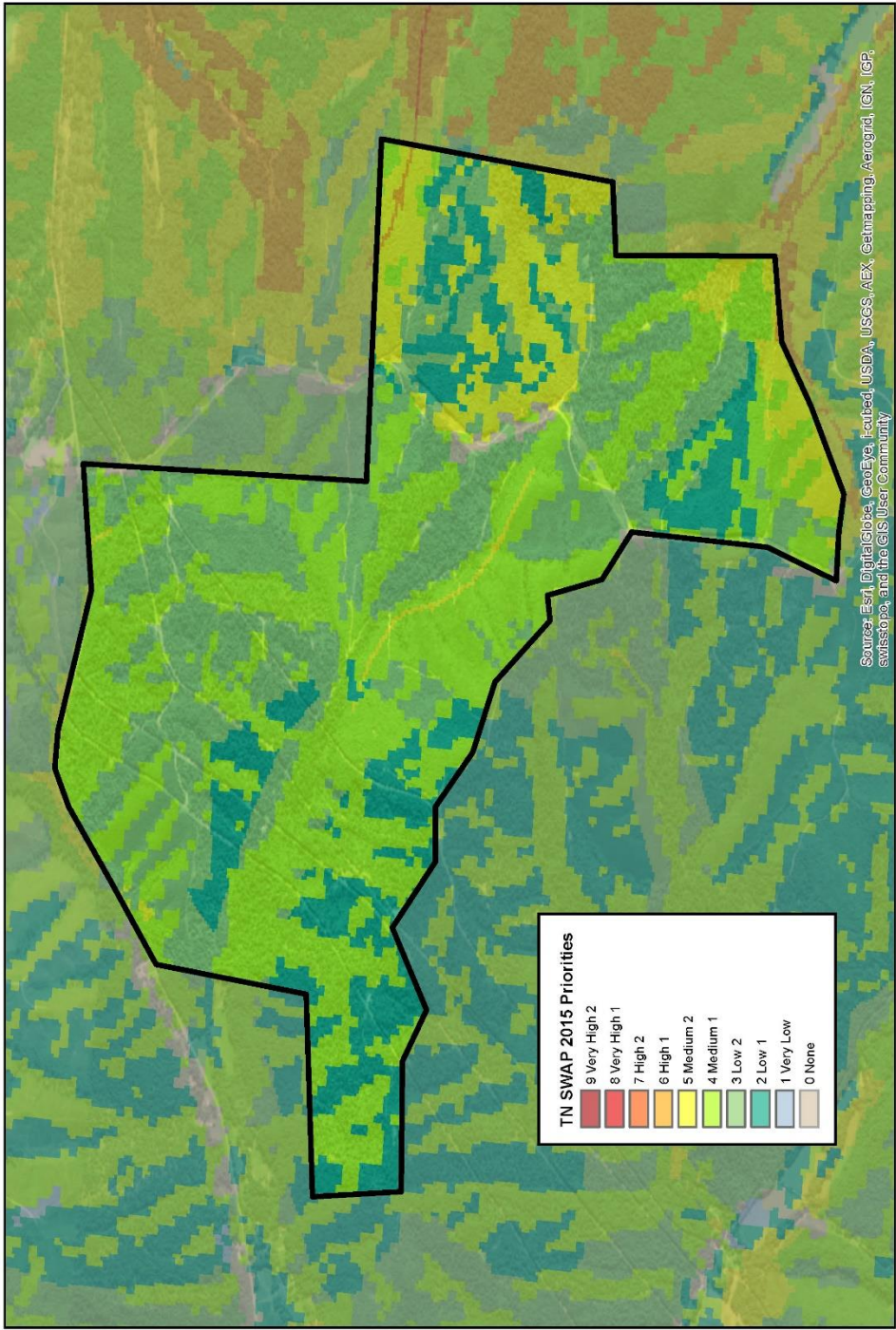


Christopher R. Wilson
 October 15, 2016
 Note: easement and parcel boundaries
 depicted on this map are for informational
 purposes and do not represent legal surveys



CONSERVATION ECOLOGY LLC





TN State Wildlife Action Plan Map (2015)
 Toms Mountain Creek, LLC - Conservation Easement Property
 Perry County, TN

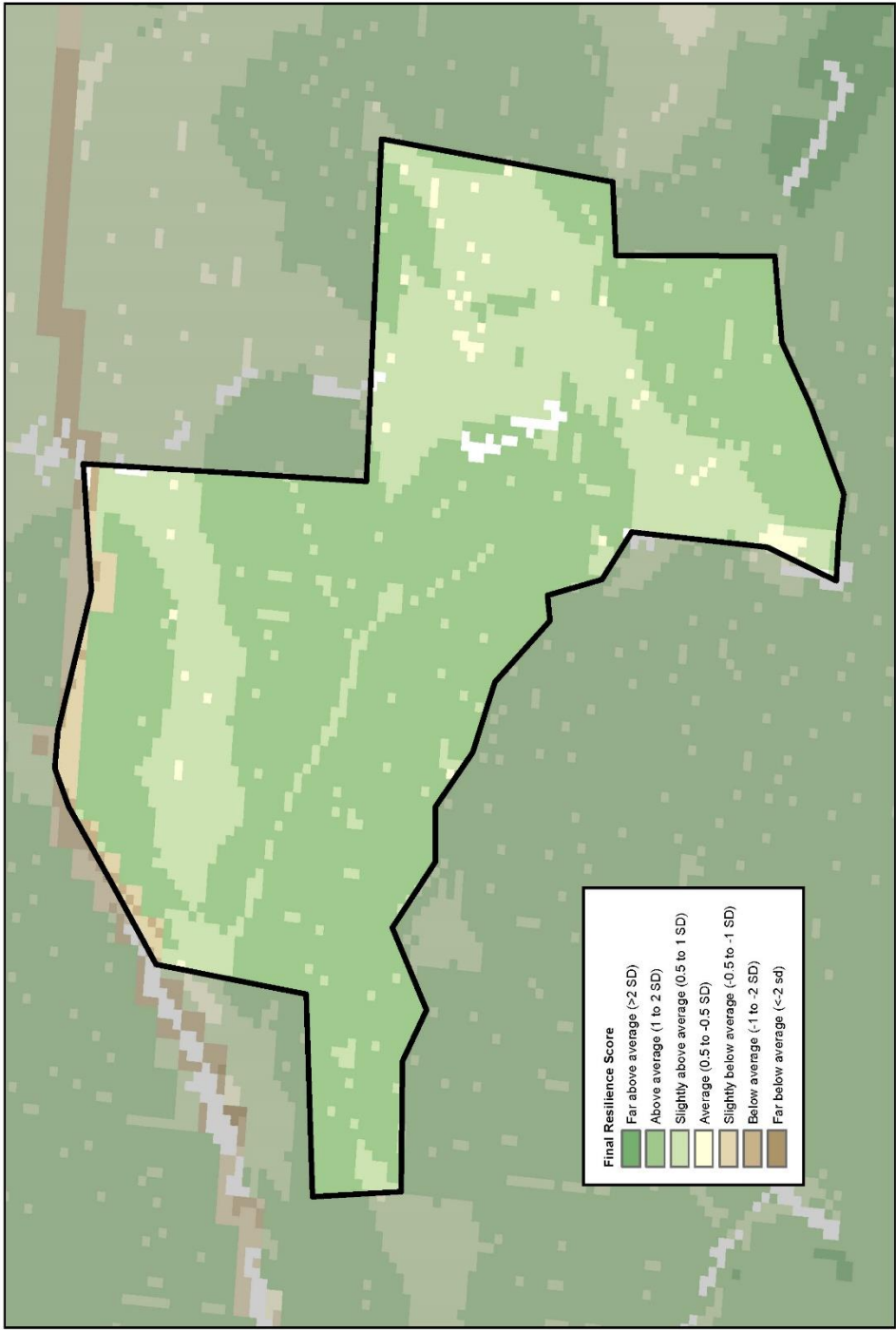
TN SWAP 2015 Combined Conservation Priorities
 for Terrestrial, Downstream Aquatic, and Nearby Karst Habitats



Christopher R. Wilson
 October 15, 2016
 Note: easement and parcel boundaries
 depicted on this map are for informational
 purposes and do not represent legal surveys



CONSERVATION ECOLOGY LLC

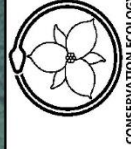
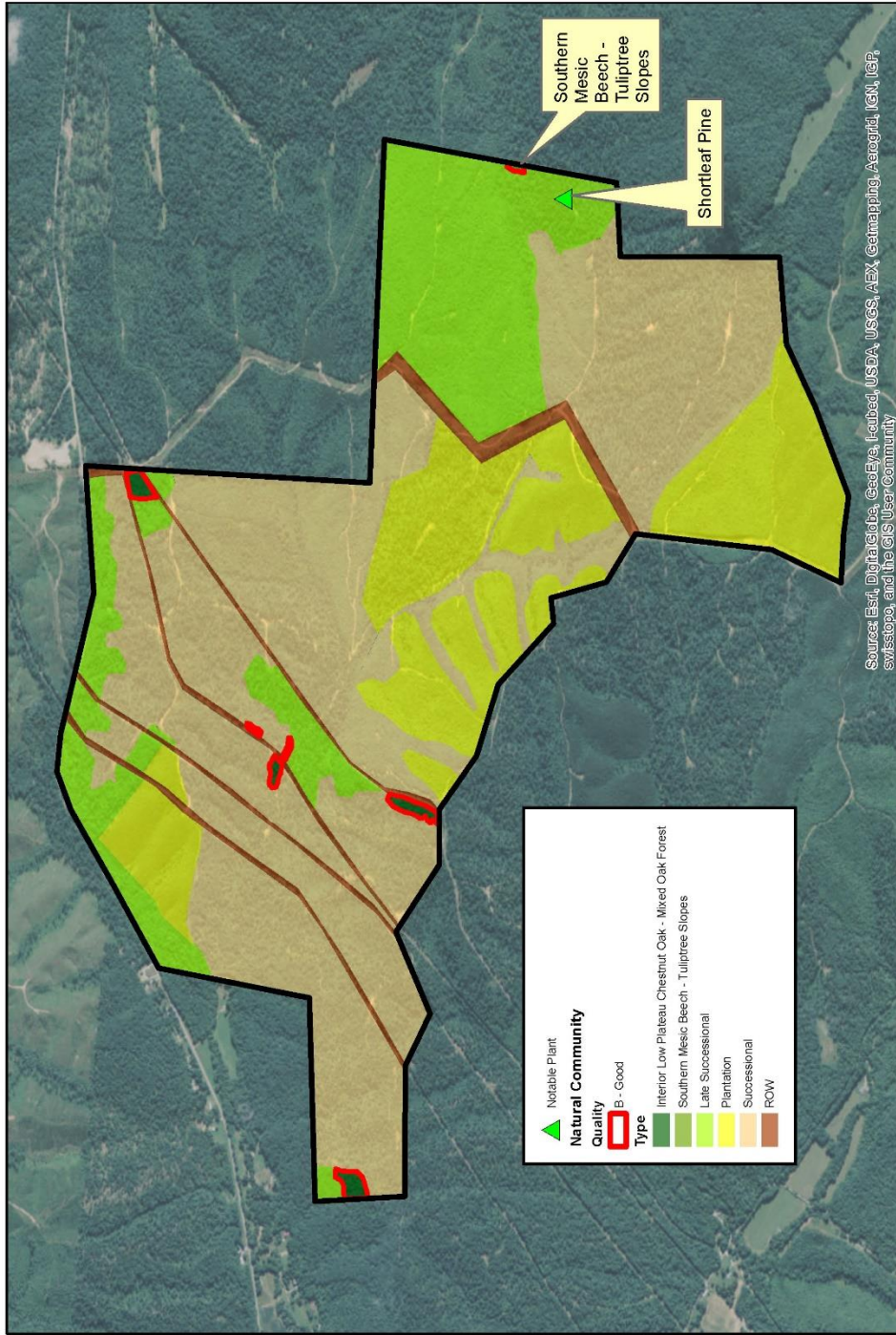


Climate Resilience Map (TNC 2014)
 Toms Mountain Creek, LLC - Conservation Easement Property
 Perry County, TN
 Anderson, M.G. et al. 2014. Resilient Sites for Terrestrial Conservation in the Southeast Region. The Nature Conservancy Eastern Conservation Science. 127 pp.

Christopher R. Wilson
 October 15, 2016
 Note: easement and parcel boundaries depicted on this map are for informational purposes and do not represent legal surveys

0 0.25 0.5 Miles





CONSERVATION ECOLOGY LLC



Natural Communities Map - Type & Quality
Toms Mountain Creek, LLC - Conservation Easement Property
Perry County, TN
Natural communities identified and mapped in the field
by Lloyd Ralleggh - August 2016

DIRECTIONS TO PROPERTY, WITH MAP

Coordinates for entry point: 35.737323, -87.83959

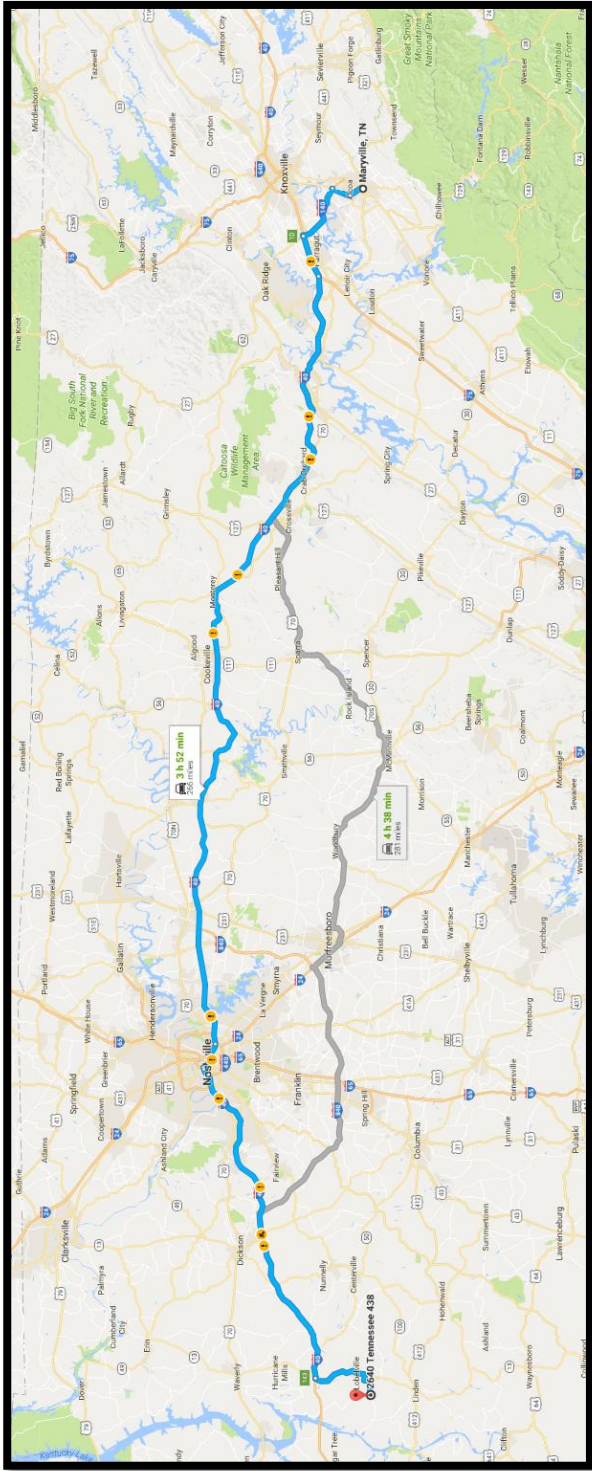
From Maryville, TN to

2640 Tennessee 438

Linden, TN 37096

3 h 52 min (266 miles) via I-40 W, 3 h 51 min without traffic

- Get on I-140 W in Alcoa from S Hall Rd and US-129 N, 10 min (6.5 mi)
- Follow I-40 W to TN-13 S in Humphreys County. Take exit 143 from I-40 W, 3 h 31 min (244 mi)
- Continue on TN-13 S. Drive to TN-438 W in Perry County, 18 min (14.9 mi)



REFERENCES

All references accessed September – November 2016

- Anderson, M.G., A. Barnett, M. Clark, C. Ferree, A. Olivero Sheldon, and J. Prince. 2014. Resilient Sites for Terrestrial Conservation in the Southeast Region. The Nature Conservancy, Eastern Conservation Science. 127 pp.
<https://www.conservationgateway.org/ConservationByGeography/NorthAmerica/UnitedStates/edc/reportsdata/terrestrial/resilience/se/Pages/default.aspx>
- Ecoregional Assessments - The Nature Conservancy.
<https://www.conservationgateway.org/ConservationPlanning/SettingPriorities/EcoregionalReports/Pages/EastData.aspx>
- FEMA - National Flood Hazard Layer (NFHL) Database.
<https://www.fema.gov/national-flood-hazard-layer-nfhl>
- NatureServe. 2006. International Ecological Classification Standard: Terrestrial Ecological Classifications. NatureServe Central Databases. Arlington, VA, U.S.A. Data current as of 18 July 2006. Descriptions of Ecological Systems for Modeling of LANDFIRE Biophysical Settings Ecological Systems of location US State TN ; Excluding Aggregates 18 July 2006. Descriptions provided to TNC and LANDFIRE by NatureServe. <http://www.natureserve.org/conservation-tools/terrestrial-ecological-systems-united-states>
- The Nature Conservancy's 2003 Ecoregional Assessment for the Upper East Gulf Coastal Plain.
<https://www.conservationgateway.org/ConservationPlanning/SettingPriorities/EcoregionalReports/Documents/Upper%20East%20Gulf%20Coastal%20Plain%20Ecoregional%20Assessment.pdf>
- TN Natural Heritage Program Database – TN Department of Environment & Conservation. <https://www.tn.gov/environment/article/na-natural-heritage-inventory-program>
- TN State Wildlife Action Plan- TN Wildlife Resources Agency.
<http://www.tnswap.com/>
- USGS Mineral Resources Program. <http://minerals.usgs.gov/>
- USDS-NRCS SSURGO. Soil Survey Staff, Natural Resources Conservation Service, United States Department of Agriculture. Web Soil Survey. Available online at <http://websoilsurvey.nrcs.usda.gov/>.
- USGS-Protected Areas Database. <http://gapanalysis.usgs.gov/padus/>

PREPARER QUALIFICATIONS AND CONTRIBUTIONS

Christopher R. Wilson

Contribution: Chris coordinated fieldwork and reporting and assembled the final BDR report according to a document template provided by the Trust. He inspected the property, assessed wildlife habitat conditions, took photographs and produced a photographic document, gathered research as directed by the BDR template, and created the maps (unless otherwise noted) using a GIS shapefile of the property boundary provided by the Trust.

Qualifications: Chris is owner/ principal of the company Conservation Ecology LLC, based in Hendersonville, NC. He holds a BS&A in Wildlife Ecology and Conservation Biology from the Evergreen State College in Olympia, WA, and an MSc in Biology from Appalachian State University in Boone, NC. He is a conservation scientist and wildlife ecologist and has held science and stewardship positions with Sweet Water Trust, Santa Lucia Conservancy, and North American Land Trust. He is author of the book *Documenting and Protecting Biodiversity on Land Trust Projects* published by the Land Trust Alliance.

Meredith Clebsch

Contribution: Meredith provided oversight of document development.

Qualifications: Meredith's formal education includes a BS degree in Animal Science from Clemson University with minors in Horticulture and Wildlife Biology. She also completed a number of graduate and undergraduate level courses at the University of TN in botany, ecology, horticulture and wildlife biology. For 25 years she owned and operated a successful native plant nursery, which included consultation and design services involving considerable field work in plant identification and landscapes interpretation. She has attended many field botany and ecology study classes and assisted in gathering and interpreting data for a number of projects associated with plant ecology.

Much of Meredith's recreational time is spent in outdoor recreation and pursuing nature study. She has worked for Foothills Land Conservancy since 2007, and has been Land Director since 2010, preparing and overseeing development of baseline documentation reports, drafting conservation easements, and monitoring easement properties. At present this includes approximately 200 properties in 7 states totaling nearly 100,000 acres. She has attended the Land Trust Alliance national meeting and training sessions in 2007, 2008, 2013, 2014 and also annual regional land trust meetings.

Lloyd Raleigh

Contribution: Lloyd inspected the property, conducted a botanical and natural community inventory, took photographs and created a photographic document, and produced related reporting and spatial data.

Qualifications: Lloyd is owner of the company Helia Environmental LLC, based in Asheville, NC. In 1996, Lloyd received his master's degree in Forest Science (MFS) from the Yale School of Forestry and Environmental Studies with a focus in management planning and ecosystem management. He graduated in 1994 from the University of South Carolina, where he received a BA and a BS in interdisciplinary studies combining physical and biological sciences with writing and socioeconomics. He is a botanist, natural community ecologist, and forester (NC Registered Forester #1711).

BDR EXHIBITS

(Electronic versions saved as independent files)

A. Conservation Easement

BDR EXHIBIT A
CONSERVATION EASEMENT

Tennessee Property Assessment Data - Parcel Details Report - <https://assessment.cot.tn.gov/>

Perry (068)	Jan 1 Owner	Current Owner	HWY 438 WEST				
Tax Year 2024 Reappraisal 2021	TOM'S MOUNTAIN CREEK LLC	15 PROFESSIONAL COURT	Ctrl Map:	Group:	Parcel:	PI:	SI:
	15 PROFESSIONAL COURT	ROME GA 30165	035		018.00		000
	ROME GA 30165						

Value Information

Land Market Value:	\$890,900	Land Use Value:	\$355,400
Improvement Value:	\$0	Improvement Value:	\$0
Total Market Appraisal:	\$890,900	Total Use Appraisal:	\$355,400
		Assessment Percentage:	25%
		Assessment:	\$88,850

Additional Information

FOOTHILLS LAND CONSERVANCY

General Information

Class: 12 - Forest	City:
City #:	Special Service District 2: 000
Special Service District 1: 000	Neighborhood: Z01
District: 02	Number of Mobile Homes: 0
Number of Buildings: 0	Utilities - Electricity: 00 - NONE
Utilities - Water/Sewer: 12 - NONE / NONE	Zoning:
Utilities - Gas/Gas Type: 00 - NONE	

Outbuildings & Yard Items

Building #	Type	Description	Units
------------	------	-------------	-------

Sale Information

Long Sale Information list on subsequent pages

Land Information

Deed Acres: 0 **Calculated Acres:** 937.8 **Total Land Units:** 937.8

Land Code	Soil Class	Units
62 - WOODLAND 2	P	937.80

Sale Information

Sale Date	Price	Book	Page	Vacant/Improved	Type Instrument	Qualification
12/28/2016	\$0	D23	885		-	-
12/23/2015	\$801,235	D21	146	V - VACANT	WD - WARRANTY DEED	A - ACCEPTED
1/25/2013	\$0	D15	267		-	-
6/30/2004	\$0	X27	463		-	-

This Instrument Prepared By:
Mark Jendrek
P.O. Box 549
Knoxville, Tennessee 37901
865-824-1900

**Notice of Conveyance
Required. See Section 12.2**

**Transfer Fee Required at
Conveyance. See Section 12.4**

**DEED OF CONSERVATION EASEMENT
AND DECLARATION OF RESTRICTIVE COVENANTS**

THIS CONSERVATION EASEMENT (“Easement”) is made as of the _____ day of _____, 2016, by **Tom’s Mountain Creek, LLC**, a Georgia limited liability company (“Grantor”), in favor of **Foothills Land Conservancy**, a Tennessee non-profit corporation (“Grantee”).

WITNESSETH:

WHEREAS, Grantor is the owner in fee simple of approximately One Thousand Thirty-one and 80/100 (1,031.80) acres of real property in Perry County, Tennessee, which is more particularly described on **Exhibit A-1**, and shown on the drawing attached as **Exhibit A-2**, both of which are attached hereto and incorporated by this reference (“Property”); and

WHEREAS, Grantor certifies that the Property possesses certain ecological, natural, scenic, open space, and wildlife habitat values, more specifically set forth below (collectively, “Conservation Values”) of great importance to Grantor, the citizens and residents of, and visitors to, Perry County, Tennessee, and the people of, and visitors to, the State of Tennessee, including visitors to the Nathan Bedford Forrest State Park, Johnsonville State Historical Park, Dry Branch State Class II Natural-Scientific State Natural Area, Mousetail Landing State Park, Natchez Trace State Park, the Land Between the Lakes, and the other parks and natural areas in and around Perry County, Tennessee, and which further local, state, and national goals to conserve scenery and wildlife for the enjoyment of future generations; and

WHEREAS, the Property remains substantially undeveloped and is ecologically well-balanced, and includes a variety of mature trees, creeks, and streams, all of which

WHEREAS, Grantor intends that the Conservation Values of the Property be preserved and maintained by prohibiting those land uses on the Property that impair, interfere, or are inconsistent with those Conservation Values; and

WHEREAS, Grantor further intends, as the owner of the Property, to convey to Grantee the right to preserve and protect the Conservation Values of the Property in perpetuity; and

WHEREAS, Grantee is a publicly supported, tax-exempt nonprofit organization and is a qualified organization under Sections 501(c)(3), 170(b)(1)(A)(vi) and 170(h), respectively, of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder ("Internal Revenue Code"), whose primary purpose is to preserve land, water, air, wildlife, scenic qualities, and open space by implementing programs for, without limitation, protecting unique or rare natural areas, water front, stream corridors, and watersheds; and

WHEREAS, Grantee has a commitment to protect the Conservation Values of the Property and has the resources to enforce conservation restrictions; and

WHEREAS, preservation of the Property shall serve the following purposes ("Conservation Purposes"):

- (a) Preservation of the viewshed for the scenic enjoyment of the general public, which will yield a significant public benefit;
- (b) Protection of a relatively natural habitat for fish, wildlife, plants, and the ecosystems in which they function;
- (c) Preservation of open space for the scenic enjoyment of the general public, pursuant to a clearly delineated government conservation policy which provides significant public benefit from both open space (including farm land and forest land) and agricultural use; and

WHEREAS, Grantor and Grantee desire to perpetually conserve the natural, scientific, educational, open space, and scenic resources of the Property to accomplish the Conservation Purposes; and

WHEREAS, Grantor intends to grant the easement and impose the restrictive covenants on the Property as set forth in this Easement to accomplish the Conservation Purposes;

NOW, THEREFORE, as an absolute charitable gift with no monetary consideration, but in consideration of the above and the mutual covenants, terms, conditions, and restrictions contained herein, the sufficiency of which is hereby

- (d) To use whatever technology or technological devices might be available from time to time to monitor and accomplish the purposes of this Easement, including, without limitation, still photography; audio and video recording and monitoring; aerial imaging, including, without limitation, still, audio, and video recording, archived, and real-time; and any other aid in monitoring which may yet be invented, discovered, or made available, all of which are intended to be used for the purpose of assuring compliance by Grantor with the provisions of this Easement;
- (e) To require the implementation of varying management practices for different areas of the Property to the extent necessary or reasonable, in Grantee's sole discretion, for the preservation of the Conservation Values of the Property, and for the enforcement of the Conservation Purposes of this Easement; and
- (f) To engage consultants, agents, and other third parties to assist Grantee in carrying out the rights of Grantee provided in this Easement.

3. Prohibited Uses. Any activity on or use of the Property inconsistent with the purpose of this Easement is prohibited. Without limiting the generality of the foregoing, the following activities and uses are expressly prohibited, subject to those reserved rights set forth in **Section 4** or elsewhere herein:

- 3.1 Subdivision.** The Property may not be divided, partitioned, or subdivided. The terms "Subdivided" and "Subdivision" shall include a long-term lease or other use of the Property that creates the characteristics of a subdivision of the Property as determined in the sole discretion of Grantee;
- 3.2 Commercial Development.** Any commercial or industrial use other than those relating to agriculture, silviculture, education, scientific research, de minimis recreational activity, or other customary rural enterprise, is prohibited;
- 3.3 Topography.** The filling, excavating, dredging, surface mining, drilling, or any removal of topsoil, sand, gravel, shale, rock, peat, minerals, or other materials, on or from the Property. To the extent Grantor owns the mineral rights with respect to the Property, also prohibited is the exploration for, or development and extraction of, minerals and hydrocarbons by any mining method or any other method that, in the reasonable discretion of Grantee, would significantly impair or interfere with the Conservation Values of the Property or the Conservation Purposes of this Easement; provided, however, minimal filling, excavating, and dredging shall be permitted as may be necessary for creekfront and waterfront stabilization, wildlife habitat rehabilitation, grading and/or rerouting roads and travelways to the extent doing so enhances and/or further protects the Conservation Values

Register of Historic Places, or as may be required by the pre-existing uses of the property;

- 3.10 Introduced Species.** The intentional introduction of any exotic or invasive plant species on the Property;
- 3.11 Surface Water; Ground Water.** The pollution, contamination, or alteration of surface water, natural water courses, lakes, ponds, marshes, ground or subsurface water, or any water on or near the Property, except such alteration as may be described below in **Section 4**, or as may be legally permitted for irrigation or for use in ponds. No ground or surface water from the Property shall be removed, collected, impounded, stored, transported, diverted, or otherwise used for any purpose or use outside the boundaries of the Property without the express written consent of Grantee, which consent may be granted or withheld in Grantee's sole discretion;
- 3.12 Timber.** The cutting of any trees other than pursuant to a forest management plan approved by Grantee, and in accordance with both the Grantee Guidelines (as defined below) and the Best Management Practices as published by the Tennessee Division of Forestry, all as more particularly described in **Section 4** of this Easement; provided, however, the cutting down or removal of dead, diseased, or storm-damaged trees that may pose a threat to life or property on the Property, trees to be removed for wildfire control purposes as determined by the Tennessee Division of Forestry, or that may be required in order to maintain views, or for use as personal firewood, shall be permitted; provided further, however, the provisions of this **Section 3.12** shall not be used or allowed for the purpose of avoiding compliance with the Forest Management provisions set forth in **Section 4** of this Easement; the allowances in this **Section 3.12** are intended to be minimal in scope;
- 3.13 Management Areas.** While the entire Property is subject to management for the preservation of the Conservation Values of the Property, there are variations of management techniques for different areas of the Property. Notwithstanding any other provision of this Easement, there shall be no timber cutting, timber harvesting, clearing or removal of vegetation, clearing or removal of leaf litter or other natural detritus, or any other activity that may have an adverse effect on the Conservation Values of the Property or the Conservation Purposes of this Easement in any area identified and designated by Grantee, either at the time of the conveyance of this Easement, or any time in the future, as a "Management Area B." Such areas include, but are not limited to, areas with significant Conservation Values with respect to relatively natural habitat for fish, wildlife, or plants or similar ecosystems and include, with or without specific designation by Grantee, any area within 100 feet, or such other

4. **Reserved Rights.** Grantor reserves to itself and to its successors and assigns, all rights accruing from Grantor's ownership of the Property, including the right to engage in, or permit or invite others to engage in, all uses of the Property that are not expressly prohibited herein and that are not inconsistent with the purposes of this Easement. Without limiting the generality of the foregoing, and specifically subject to all other provisions of this Easement, the following rights are expressly reserved:

4.1 **Reside.** The right to reside on the Property in perpetuity within the areas described in **Section 4** of this Easement;

4.2 **Convey and Pledge.** The right to sell, donate, mortgage, lease, bequeath, or otherwise convey the Property, provided such conveyance is subject to the terms of this Conservation Easement, written notice is provided to Grantee, and the Transfer Fee is paid to Grantee, all in accordance with the provisions of **Section 12** of this Easement;

4.3 **Public Park.** The right to designate the Property, or specific portions thereof, as a public nature park or refuge for low impact activities such as hiking and nature study subject to the prior, written approval of Grantee, and further subject to a written agreement with an agency of the State of Tennessee, so long as the provisions of such agreement do not compromise the Conservation Values of the Property or the Conservation Purposes of this Easement in the sole discretion of Grantee;

4.4 **Dwelling Structures.** The right to construct, remodel, renovate, or replace one (1) residential dwelling on the Property in each of the two (2) 2-acre home sites ("Homesite"), the approximate location of, and access to which is shown on the attached **Exhibit C** and the coordinates for the centerpoint of which, and the legal description of which, is shown on the attached **Exhibit D**. The size, design, and construction of such residential dwellings shall be subject to the express, written consent of Grantee, and must not have an adverse effect on the Conservation Values of the Property or the Conservation Purposes of this Easement; provided that such dwellings shall not exceed 10,000 square feet of heated living area nor be greater than two (2) stories above ground in height, and further subject to the following:

(a) There shall be no construction nor removal of any trees on the Property for the foregoing purposes until each of the following conditions is satisfied:

(i) The location and dimensions of any new road, travelway, or driveway to serve the Homesite shall be reviewed and must be approved by Grantee, there being a strong preference in favor of the use of roads, travelways, or driveways already existing

- (c) Grantor shall have the right to drill a water well within the Homesite area for the purpose of providing potable water to the dwelling located on that Homesite. Grantor shall give Grantee at least ten (10) business days' advance written notice of the intent to drill such a well and the approximate location of the intended well. Within five (5) calendar days of the completion of the well drilling, Grantor shall provide to Grantee the specific location of such well for purposes of updating and maintaining the Baseline Documentation Report;

Notwithstanding the establishment of any or all of the Homesite areas, those Homesite areas shall remain subject to all of the provisions of this Easement;

- 4.5 Agricultural Structures.** The right to construct one or more accessory structures, such as a barn, shed, or garage, within any of the Homesite areas described in **Section 4.4**; provided, however, no such accessory structure shall be used as a living or dwelling site. No such structure shall have a septic system or other wastewater disposal system. The specific location and size of all such structures, which is subject to the prior express, written approval of Grantee, shall not adversely affect the Conservation Values of the Property nor the Conservation Purposes of this Easement, in the sole discretion of Grantee;
- 4.6 Utilities.** The right to provide utilities to the residential dwelling described herein and any other permitted structure; provided, however, that while such utilities need not be underground, Grantee shall use its best efforts to locate any aboveground utilities in the least obtrusive location, at a minimum, staying as close as possible to roads, driveways, or other access or maintenance travelways;
- 4.7 Additional Agricultural Use.** Any low-impact agricultural use shall be allowed on the Property with prior notification to, and the written approval of, Grantee provided no existing Conservation Values of the Property are compromised, and further provided the Conservation Purposes of this Easement are not violated or compromised;
- 4.8 Forest Management.** Grantor retains the right to conduct forest management activities by tried and proven forestry methods designed to enhance the quality of the forest. Forest management activities must be conducted in accordance with:
 - (i) a Forest Management Plan ("Plan");
 - (ii) a Timber Sale Contract ("Contract");

Neither Grantee's right to provide comments, nor its actual comments, shall constitute a waiver of the terms of this Easement.

(a) **Forest Management Plan.** Grantor must submit the Plan to Grantee for review at least ninety (90) days prior to the commencement of any forest management activities. The Plan must consider and be consistent with the Requirements and with the terms of this Easement, and shall be prepared as follows:

(i) **Plan Preparation.** The Plan must be prepared or approved and acknowledged by (a) the Tennessee Division of Forestry, (b) a forester who has received a degree from an accredited school of forestry located in the United States, (c) a student or students currently enrolled in an accredited school of forestry located in the United States who are working under the direct supervision of a qualified faculty member of such school, or (d) such other qualified person approved in advance and in writing by Grantee. Said Plan shall have been prepared and/or reviewed and updated not more than three (3) years prior to the date it is presented to Grantee for review, or shall have been reviewed and updated as required by such a forester or other qualified person at least thirty (30) days prior to said date. Otherwise, periodic amendments and updates to the Plan are encouraged but not required.

(ii) **Content of Plan.** The Plan shall include, at a minimum, the following information, together with maps and charts to support and illustrate the required documentation:

(a) Grantor's long-term management goals and objectives;

(b) Descriptions, mapped locations, and management considerations for:

- Forest stands (community type, species, age, size, history, condition);
- Soils;
- Known unique plant or animal communities and any ecologically sensitive and/or important areas;

- (vi) A provision regarding damage to any property of Grantor, and specifically prohibiting any logging or timber harvesting outside the areas described in the Marking and Cutting Limitations section; and
 - (vii) An expiration date for the Timber Sale Contract by which (a) harvesting will be complete or, whether complete or not, will terminate under the current Timber Sale Contract, (b) all equipment will be removed from the Property, (c) all roads will have been recovered and/or rehabilitated, and (d) that all timber standing on any area within the Marking and Cutting Limitations areas will again become the property of Grantor.
- (c) **Forest Roads.** Grantor shall have the right to construct new forest management roads and associated improvements such as bridges, culverts, and other related improvements in aid of forest management activities, in consultation with Grantee, all of which must be approved by Grantee prior to the commencement of any forest management activities on the Property ("Road Plan"). The proposed Road Plan shall be provided to Grantee for review no less than thirty (30) days prior to any forest management activities, subject to the following:
- (i) Grantor and/or Grantor's consulting forester, must contact Grantee prior to developing the Road Plan;
 - (ii) Grantor retains the right to maintain and repair existing forest management roads and associated bridges and culverts (collectively, "Existing Roads") so long as such maintenance and repair, and the Existing Roads themselves, do not have an adverse effect on the Conservation Values of the Property or the Conservation Purposes of this Easement. In the event Grantee determines that the Existing Roads do have such an adverse effect, Grantee shall have the right to prohibit the use of some or all of the Existing Roads;
 - (iii) Grantor shall have the further right to improve existing forest management roads and associated structures and to construct new forest management roads and associated improvements, in active consultation with Grantee, provided that said improvements, new roads, and associated improvements satisfy the Requirements, and that

- (iv) Forestry activities shall be conducted within the constraints of the Plan, the Contract, the Road Plan, and the Notice under a written contract with a professional logger, which contract must include a non-refundable performance bond naming Grantor and Grantee as co-payees in an amount mutually agreed by Grantor and Grantee, and shall be expressly subject to the terms, conditions, and provisions of this Easement; and
- (v) Grantee shall have the right to object to any portion or provision of the Notice and shall promptly notify Grantor of any objectionable provisions. In the event Grantee does object to any portion or provision of the Notice, Grantor shall not commence any forest management activities unless and until Grantee provides written approval of the Notice or withdraws Grantee's objection or objections to the Notice.

On completion of said harvest activities, Grantor shall close and water-bar all landings and skid roads, and provide a timely notice of completion to Grantee.

Notwithstanding any other provision of this Easement, there shall be no timber cutting or other forestry activities in any area identified and designated by Grantee, either at the time of the conveyance of this Easement or any time in the future, as a Management Area B. Such areas include, but are not limited to, areas with significant Conservation Values with respect to relatively natural habitat for fish, wildlife, or plants or similar ecosystems and include, with or without designation by Grantee, any area within 100 feet, or such other distance as may be required by (a) the Grantee Guidelines or (b) the specific terrain, of any cave, cave opening, or cave entrance; wetlands; any area evidencing aquatic or wetland-based plant species; creeks; streams; and blue-line streams. The same constraints apply to any area designated by Grantee as a "Management Area C" with the exception of the 100-foot buffer area, which will not apply to any area designated by Grantee as a Management Area C. Notwithstanding the above, in the event Grantee makes a determination that certain forest management activities within a Management Area B or a Management Area C would enhance the Conservation Values of the Property or would further protect the Conservation Purposes of this Easement, subject to any and all Grantee requirements, such forest management activities, as outlined in writing by Grantee, shall be permitted within a Management Area B and/or within a Management Area C.

compliance with all local, state, and federal water quality and other laws, rules, and regulations;

- 4.14 Hunting.** Hunting shall be permitted on the Property only with the express, written consent of Grantor. This, in no way, is intended to permit a commercial hunting operation or "game preserve" on the Property;
- 4.15 Feed Plots; Wildlife Observation.** The right to establish one or more additional feed plots on the Property in accordance with a Wildlife Management Plan devised in conjunction with and approved by the Tennessee Wildlife Resource Agency, or any other similar state or federal agency, the number and total acreage of which is subject to the express, written consent of Grantee, and the right to construct wildlife observation structures, in number and location subject to the express, written consent of Grantee, all of which must not adversely affect the Conservation Values of the Property or the Conservation Purposes of this Easement;
- 4.16 Leases and Other Interests.** The right to lease or to grant others less than fee-simple interests in the Property for any use permitted Grantor, subject to Grantee's prior written approval, provided that such lease or other interest in the Property is subject to and consistent with the provisions of this Easement, and does not constitute an impermissible subdivision of the Property, and further provided the use contemplated by such lease or other interest in the Property does not adversely affect the Conservation Values of the Property or the Conservation Purposes of this Easement; and
- 4.17 Other Uses.** Grantor may, or may permit others to, engage in or perform any other actions or activities that are not expressly prohibited herein, and which do not compromise the Conservation Values of the Property or adversely affect the Conservation Purposes of this Easement.

In connection with any reserved right of Grantor to install and maintain roads, travelways, and/or driveways for vehicular access to the areas of the Property on which the existing, if any, and additional structures and related ancillary improvements are and/or may be constructed pursuant and subject to the terms and conditions of this Easement, with such roadways, travelways, and/or driveways to provide for ingress and egress across the Property to such locations and to the adjacent properties, such right shall be subject to the following requirements and conditions: (i) such roadways, travelways, and/or driveways shall be located, to the extent possible, in the path of forestry roads or other travelways existing on the date of this Easement; (ii) the width of the area cleared for such roadways, travelways, and/or driveways shall not exceed that which is necessary for two lanes of vehicular traffic and the installation of underground utilities; (iii) all newly constructed roadways, travelways, and/or driveways, or any roadways, travelways, and/or

5. Notice and Approval.

5.1 Notice of Intention to Undertake Certain Permitted Action Pursuant to Section 4. The purpose of requiring Grantor to notify Grantee prior to undertaking any of the activities described in **Section 4**, is to afford Grantee an adequate opportunity to monitor the activities in question to ensure that they are designed and carried out in a manner that is not inconsistent with the purpose of this Easement. Whenever Grantor intends to exercise any right reserved in **Section 4**, Grantor shall notify Grantee in writing not less than thirty (30) days prior to the date Grantor intends to undertake the activity in question. The notice shall describe the nature, scope, design, location, timetable, and any other material aspects of the proposed activity in sufficient detail to permit Grantee to make an informed judgment as to its consistency with the purposes of this Easement.

5.2 Grantee's Approval. Grantee shall grant or withhold its approval in writing within thirty (30) days of actual receipt of Grantor's written request therefor. Grantee's approval may be withheld only on a reasonable determination by Grantee that the action as proposed would be inconsistent with the purposes of this Easement, would be inconsistent with the restrictions set forth in this Easement, would adversely affect the Conservation Values of the Property, or would adversely affect the Conservation Purposes of this Easement. In the event Grantee has not replied in writing to Grantor's request within such thirty (30) day period, Grantor's request will be deemed denied.

6. Grantee's Remedies.

6.1 Notice of Violation; Corrective Action. If Grantee determines that a violation of the terms of this Easement has occurred or is threatened, Grantee shall give written notice of such violation to Grantor and demand corrective action sufficient to cure the violation and, where the violation involves injury to the Property resulting from any use or activity inconsistent with the purpose of this Easement, to restore the portion of the Property so injured to its prior condition in accordance with a plan to which Grantor and Grantee have agreed in writing. In the event Grantor and Grantee, both operating in good faith, cannot agree to such plan, another organization that is qualified under Section 179(h) of the Internal Revenue Code and 26 C.F.R. Section 1.170A-14 to acquire and hold conservation easements, which organization holds at least 20 conservation easements in the same general area as Grantee, shall prepare the plan of restoration.

6.2 Injunctive Relief. If Grantor fails to cure the violation within sixty (60) calendar days after receipt of notice thereof from Grantee or, under circumstances where the violation cannot reasonably be cured within a sixty (60) day period, if Grantor fails to begin curing such violation within the

- 6.5 Scope of Relief.** Grantee's rights under this **Section 6** apply equally in the event of either actual or threatened violations of the terms of this Easement. Grantor agrees that Grantee's remedies at law for any violation of the terms of this Easement are, or may be, inadequate and that Grantee shall be entitled to the injunctive relief described in **Section 6.2**, both prohibitive and mandatory, in addition to such other relief to which Grantee may be entitled, including specific performance of the terms of this Easement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. Grantee's remedies described in this **Section 6** shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.
- 6.6 Costs of Enforcement.** All reasonable, actual costs incurred by Grantee in enforcing the terms of this Easement against Grantor, including, without limitation, actual costs and expenses of suit, actual, reasonable attorney fees (with or without suit), and any costs of restoration necessitated by Grantor's violation of the terms of this Easement shall be borne by Grantor; provided, however, that if Grantor ultimately prevails in a judicial enforcement action, each party shall bear its own costs, fees, and expenses. In no event shall Grantee be liable to Grantor for any costs, fees, or expenses brought in the course of an enforcement action unless it is conclusively determined that Grantee acted with actual malice in bringing such enforcement action, in which case Grantee shall be liable to Grantor only for Grantor's costs, fees, and expenses, including reasonable attorney fees, actually incurred in defending such a suit.
- 6.7 Forbearance.** Forbearance by Grantee to exercise any of its rights under this Easement in the event of any violation of this Easement by Grantor shall not be deemed or construed to be a waiver by Grantee of such provision or of any subsequent breach of the same or any other provision of this Easement or of any of Grantee's rights under this Easement. No delay or omission by Grantee in the exercise of any right or remedy on the occurrence of any breach by Grantor shall impair such right or remedy or be construed as a waiver.
- 6.8 Waiver of Certain Defenses.** Grantor hereby waives any defenses of laches, estoppel, prescription, statute of limitations, or any period of limitations of actions.
- 6.9 Acts Beyond Grantor's Control.** Nothing contained in this Easement shall be construed to entitle Grantee to bring any action against Grantor for any injury to or change in the Property resulting from causes beyond Grantor's control, including, without limitation, vandalism or illegal acts, fire, flood, storm, natural earth movement, or acts of God, or from any prudent action

undertaken in accordance with all applicable federal, state, and local laws, regulations, ordinances, and requirements. Grantor shall keep the Property free of any liens arising out of any work performed for, materials furnished to, or obligations incurred by, Grantor.

8.2 Taxes. Each owner of any portion of the fee interest Property shall pay all taxes and assessments lawfully assessed against such portion of the Property owned by such owner, and shall provide to Grantee receipted tax bills or other evidence satisfactory to Grantee within fifteen (15) days of any written request therefor. Grantee shall have the right to pay any lawful taxes and assessments in order to prevent a "delinquent tax sale" or other lien foreclosure of the Property or any portion thereof, and the entire amount paid by Grantee, together with all costs and expenses, fines, interest, and penalties, including attorney fees, shall be immediately due and payable to Grantor by Grantee, and shall bear interest at the highest rate permitted by law until fully paid. In the event the Property, or any portion thereof, is sold at a delinquent tax sale, Grantee shall have all redemption rights provided in the Tennessee Code Annotated to a fee simple owner of the Property, as if Grantee was fee simple owner of the Property.

8.3 Availability or Amount of Tax Benefits. Neither Grantee nor any of Grantee's officers, directors, employees, agents, or counsel makes any warranty, representation, claim, or other assurance, or provides any advice regarding the availability, amount, or effect of any deduction, credit, or other benefit to Grantor or any other person or entity to be derived from the donation of this Easement or other transaction associated with the donation of this Easement under United States or any state, local, or other tax law. This donation is not conditioned on the availability or amount of any such deduction, credit, or other benefit. Neither Grantee nor any of Grantee's officers, directors, employees, agents, or counsel makes any warranty, representation, or other assurance, or provides any advice regarding the value of this Easement or of the Property. As to all of the foregoing, Grantor acknowledges that Grantor is relying on Grantor's own legal counsel, accountant, financial advisor, appraiser, tax, or other consultant not on Grantee or any legal counsel, accountant, financial advisor, appraiser, or other consultant, employee, or agent of Grantee. In the event of any audit or other inquiry of a governmental authority into the effect of this donation on the taxation or financial affairs involving Grantor or Grantor's successors or assigns or any other similar matter, then Grantee shall be reimbursed and indemnified for any cost or expense of any kind or nature whatsoever, including attorney fees, incurred by Grantee in responding or replying thereto, or participating therein.

The Baseline Documentation is an accurate representation of the condition of the Property at the time of the execution, delivery, and recordation of this Easement.

- 8.5 Environmental Compliance; Remediation.** If, at any time, there occurs, or has occurred, a release by Grantor in, on, or about the Property of any substance now or hereafter defined, listed, or otherwise classified pursuant to any federal, state, or local law, regulation, or requirement as hazardous, toxic, polluting, or otherwise contaminating to the air, water, or soil, or in any way harmful or threatening to human health or the environment, Grantor agrees to, promptly and with all due haste, take all steps necessary to assure its containment and remediation, including any cleanup that may be required.
- 8.6 Environmental Compliance; No Grantee Control.** Nothing in this Easement shall be construed as giving rise, in the absence of a judicial decree, to any right or ability in Grantee to exercise physical or managerial control over the day-to-day operations of the Property, or any of Grantor's activities on the Property, or otherwise to become an "operator" with respect to the Property within the meaning of The Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), and Tennessee Code Annotated Section 68-212-101 et seq., or any other state or federal law regarding liability for hazardous wastes, toxic substances, pollution, or other, similar matters.
- 8.7 Indemnity and Hold Harmless.** If Grantee is required by a court of competent jurisdiction to pay damages resulting from personal injury, property damage, hazardous waste contamination, or hazardous materials usage that occurs on the Property, Grantor shall promptly indemnify and reimburse Grantee for these payments, as well as for reasonable attorney fees and other expenses incurred by Grantee in connection therewith, unless Grantee or its agents or contractors are grossly negligent or have committed a deliberate act that is determined by a court of competent jurisdiction to be a cause of the injury or damage.
- 8.8 Indemnification.** Grantor covenants and agrees to indemnify, defend, reimburse, and hold Grantee, its directors, officers, agents, contractors, counsel, and employees harmless from, for, and against any Loss (defined below) to the extent such Loss arose from an Indemnified Cause (defined below). A "Loss" shall mean any loss, cost, liability, penalty, fine, or damage of any kind or nature whatsoever which Grantee or any of its directors, officers, contractors, agents, counsel, or employees may reasonably be concluded to have suffered, paid, or incurred, or for which demand for payment has been made. The term "cost" shall include, but shall not be limited to, reasonable attorney fees, witness and court fees, and expert fees, whether as witnesses or consultants. An "Indemnified Cause" shall mean any

Easement. Grantee shall use all such proceeds in a manner consistent with the Purposes of this Easement.

- 9.2 Proceeds.** This Easement constitutes a real property interest (“Interest”) immediately vested in Grantee. For the purposes of this paragraph, and pursuant to Treasury Regulation § 1.170A-14(g)(6)(ii), Grantor and Grantee stipulate that this Interest shall have a fair market value that is equal to the proportionate value that the Easement at the time of this grant, bears to the value of the Property as a whole at the time of this grant. For the purposes of this paragraph, the ratio of the value of the Easement to the value of the Property as a whole shall remain constant. It is intended that this paragraph be interpreted to adhere to and be consistent with Treasury Regulation § 1.170A-14(g)(6)(ii).
- 9.3 Condemnation.** If the Easement is taken, in whole or in part, by exercise of the power of eminent domain, the amount of the proceeds to which Grantee shall be entitled shall be determined by multiplying the total amount recovered as a result of the condemnation by the ratio set forth in **Section 9.2**, above, unless Tennessee law provides that Grantor is entitled to the full amount of the proceeds resulting from the condemnation without regard to the terms of this Easement.
- 9.4 Application of Proceeds.** Grantee shall use any proceeds received under the circumstances described in this **Section 9** in a manner consistent with the Conservation Purposes of this Easement.

10. Assignment. This Easement is transferable, but Grantee may assign its rights and obligations under this Easement only to an organization that is a qualified organization at the time of transfer under Section 170(h) of the Internal Revenue Code and 26 C.F.R. Section 1.170A-14 (or any successor provision then applicable), and authorized to acquire and hold conservation easements under the Tennessee Conservation Easement Act of 1981, Tennessee Code Annotated Section 66-9-301 et seq., or any successor provision then applicable or the laws of the United States. As a condition of such transfer, Grantee shall require that the Conservation Purposes that this grant is intended to advance continue to be carried out, and the transferee has a commitment to protect the Conservation Purposes and the resources to enforce this Easement. Grantee agrees to give written notice to Grantor of any assignment at least one hundred and twenty (120) days prior to the date of such assignment.

11. Successor Grantee. If, at any time, Grantee shall be unwilling or unable to continue as grantee hereunder, including, but not limited to, if Grantee ceases to exist or to be a qualified organization under Section 170(h) of the Internal Revenue Code and 26 C.F.R. Section 1.170A-14, or to be authorized to acquire and hold conservation easements under the Tennessee Conservation Easement Act of 1981, Tennessee Code Annotated Section 66-9-301 et seq., then Grantor and Grantee shall mutually agree on a qualified

same deed of conveyance and/or any other instrument of transfer by which the Property, or part thereof, is conveyed; provided, however, a Qualifying Transfer shall not include the first transfer following the recordation of this Easement;

- (c) The "Purchase Price" shall be the sum of all of the following given as consideration for a Qualifying Transfer: (a) payment of money, (b) transfer of real or personal property or other tangible consideration, (c) purchase money indebtedness, and (d) the assumption of indebtedness. Grantor shall be obligated to provide to Grantee a true and correct copy of the agreement of sale pertaining to the Qualifying Transfer, the Settlement Statement or Closing Statement, and/or other documents verifying the Purchase Price to the reasonable satisfaction of Grantee;
- (d) In the event of a Qualifying Transfer in which all or part of the consideration is in the form of real or personal property rather than the payment of money, purchase money indebtedness, or assumption of indebtedness, the Purchase Price shall include an amount equal to the fair market value of such real or personal property given in consideration or as partial consideration for the Qualifying Transfer as determined by a qualified appraiser approved by Grantee in its reasonable discretion. Appraisals used in the valuation of real or personal property as a component of the Purchase Price shall be based on the guidelines and ethical standards of the Appraisal Institute, as then in effect, for the type of property involved. Grantor and Grantee may, however, if they so elect in their discretion, without obligation to do so, accept an alternate method of establishing the value of such real or personal property, including by contemporaneous agreement;
- (e) The amount of the Purchase Price shall not include that portion of a Qualifying Transfer that is a gift, devise, bequest, or other transfer not involving consideration by the payment of money, transfer of real or personal property, purchase money indebtedness, or assumption of indebtedness;
- (f) The Transfer Payment shall not be applicable to a Qualifying Transfer into a corporation, limited liability company, or general or limited partnership in which Grantor receives all of the shares or interests of the transferee entity as consideration and receives no other consideration;
- (g) The obligation for payment of the Transfer Fee shall be binding on Grantor in the Qualifying Transfer and on the purchaser or grantee that is the transferee in the Qualifying Transfer, all of whom shall be

time other than as of Grantee's most recent complete inspection will necessitate a significant expenditure of time and money. If Grantor requests more current documentation, Grantee shall conduct an inspection, at Grantor's cost and expense, and so deliver such certification document within a reasonable period of time following Grantee's receipt of Grantor's written request therefor, and Grantor shall promptly reimburse Grantee for Grantee's costs, fees, and expenses incurred in connection with such inspection and generation of the certification document.

- 14. Notices.** Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other shall be in writing and be either served personally; sent by first class mail, postage prepaid, certified, return receipt requested; or by nationally recognized overnight courier (such as FedEx or UPS) with fees paid for "next business day delivery" addressed as follows:

To Grantor: Toms Mountain Creek, LLC
 22 Shorter Avenue
 Rome, Georgia 30165
 Attn: A. Kyle Carney

To Grantee: Foothills Land Conservancy
 373 Ellis Avenue
 Maryville, Tennessee 37804
 Attn: Executive Director

or to such other address as either party from time to time shall designate by written notice to the other as may be designated, in writing, by any successor-in-interest to Grantor. Notice shall be effective, whether actually received or not (a) if personally delivered, on the date of personal delivery; (b) if by mail, on the earlier of (i) the date the return receipt is signed or (ii) that date which is three (3) business days following the date of mailing, which must be evidenced by obtaining a mailing receipt obtained from the United States Postal Service at the time of mailing; or (c) if by overnight courier, on the earlier of (i) that date which is two (2) business days following timely deposit with the overnight courier, or (ii) the date the on which the notice is signed by the recipient on delivery.

- 15. Recordation.** Grantee shall record this instrument in timely fashion in the official records of Perry County, Tennessee, and may re-record it at any time as may be required to preserve Grantee's rights in this Easement.

16. General Provisions.

16.1 Controlling Law; Forum and Venue of Disputes. The interpretation and performance of this Easement shall be governed by the laws of the State of Tennessee without regard to its choice of law provisions. Notwithstanding the physical location of the real property described on **Exhibit A**, and

circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected thereby.

- 16.4 No Authorized Violation of Law.** Nothing contained in this Easement shall be interpreted to authorize or permit Grantor to violate any ordinance or regulation relating to building materials, construction methods, or use. In the event of any conflict between any such ordinance or regulation and the terms of this instrument, Grantor promptly shall notify Grantee of such conflict and shall cooperate with Grantee and the applicable governmental entity to accommodate the purposes of both this Easement and such ordinance or regulation.
- 16.5 Possible Grantee Default.** To the extent that any action taken by Grantee pursuant to this Easement gives rise to a claim of breach of contract, Grantor and Grantee agree that the sole remedy on the part of Grantor shall be reimbursement of actual direct out-of-pocket expenses (including reasonable attorney fees) reasonably incurred by Grantor as a result of such breach and that Grantor shall not have any right to indirect, consequential, or monetary damages in excess of such actual, direct, and reasonable out-of-pocket expenses (including reasonable attorney fees).
- 16.6 Entire Agreement.** This instrument sets forth the entire agreement of the parties with respect to the Easement and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Easement, all of which are merged herein. No alteration or variation of this instrument shall be valid or binding.
- 16.7 No Forfeiture.** Nothing contained herein will result in a forfeiture or reversion of Grantor's title in any respect.
- 16.8 Successors.** The covenants, terms, conditions, and restrictions of this Easement shall be binding on, and inure to the benefit of, the parties hereto and their respective personal representatives, heirs, successors, and assigns and shall continue as a servitude running with the Property in perpetuity. The terms "Grantor" and "Grantee," wherever used herein, and any pronouns used in place thereof, shall include, respectively, the above-named Grantor and its heirs, successors, and assigns, and the above named Grantee and its successors and assigns.
- 16.9 Termination of Rights and Obligations.** A party's rights and obligations under this Easement terminate on the transfer of the party's interest in the Easement or Property; provided, however, liability for any acts or omissions occurring prior to any transfer shall survive such transfer.

TO HAVE AND TO HOLD unto Grantee, its successors and assigns forever.

IN WITNESS WHEREOF Grantor and Grantee have entered into this instrument as of the day and year first above written.

[Signature Pages Follow]

The remainder of this page is intentionally left blank.

Grantee Signature Page

GRANTEE:

Foothills Land Conservancy

By: _____
William C. Clabough
Executive Director

STATE OF TENNESSEE

COUNTY OF _____

Before me, the undersigned, a notary public of the state and county aforesaid, personally appeared **William C. Clabough**, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, swore to and acknowledged himself to be the Executive Director of **Foothills Land Conservancy**, a Tennessee non-profit corporation, the within named bargainer, and that he as such Executive Director executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself as Executive Director.

WITNESS my hand at office this _____ day of _____, 2016.

Notary Public

My Commission Expires: _____

thence N 35°11'31" W 85.34 feet; thence N 22°00'58" W 366.38 feet; thence N 10°15'40" W 90.88 feet; thence N 04°05'09" E 126.67 feet; thence N 16°45'47" W 73.32 feet; thence N 53°48'07" W 57.05 feet; thence N 71°53'22" W 83.99 feet; thence N 77°47'30" W 106.01 feet; thence N 72°54'42" W 64.55 feet; thence N 67°33'51" W 65.58 feet; thence N 67°21'54" W 107.69 feet; thence N 58°49'01" W 52.14 feet; thence N 34°48'31" W 43.62 feet; thence N 17°04'03" W 105.45 feet; thence N 23°27'16" W 55.17 feet; thence N 37°26'05" W 61.07 feet; thence N 46°59'48" W 127.44 feet; thence N 43°09'55" W 57.16 feet; thence N 41°44'34" W 85.78 feet; thence N 51°44'17" W 39.29 feet; thence N 65°19'34" W 53.51 feet; thence N 73°01'37" W 347.69 feet; thence N 72°17'24" W 129.82 feet; thence N 78°49'20" W 108.57 feet; thence N 75°00'46" W 117.33 feet; thence N 56°55'25" W 47.39 feet; thence N 36°12'22" W 41.74 feet; thence N 25°20'13" W 145.22 feet; thence N 19°22'24" W 144.04 feet; thence N 21°43'12" W 119.87 feet; thence N 29°56'28" W 50.39 feet; thence N 48°10'49" W 38.43 feet; thence N 66°15'27" W 45.30 feet; thence N 76°23'00" W 75.05 feet; thence leaving the haul road and continuing with Lazzari S 84°22'00" W 935.94 feet to a 1/2" rebar (found); thence S 83°34'37" W 306.70 feet to a 1/2" rebar (found); thence N 54°03'11" W 853.70 feet to a 1/2" rebar (found); thence N 82°50'38" W 1676.91 feet to a point; thence N 82°55'58" W 161.87 feet to a 1/2" rebar (found); thence leaving Lazzari and going with the Laguna Properties Inc. property and the George Culp and Matthew Culp property respectively N 06°07'12" E 1153.32 feet to a 3/8" rebar (found); thence continuing with Culp and the Edward Cairo and Jean Cairo property S 84°37'19" E 1955.79 feet to a 18" white oak; thence continuing with Cairo N 05°43'07" E 2092.72 feet to a point in a creek being located S 21°10'54" W 15.58 feet from the end of a culvert; thence leaving Cairo and going with the southern right-of-way of Highway 438 West along a curve having an arc length of 527.03 feet, with a radius of 4804.48 feet, and a chord of N 57°20'56" E 526.77 feet; thence N 54°41'34" E 945.45 feet; thence along a curve having an arc length of 691.16 feet, with a radius of 1062.19 feet, and a chord of N 70°23'59" E 679.03 feet; thence along a curve having an arc length of 421.16 feet, with a radius of 1016.79 feet, and a chord of S 78°28'42" E 418.16 feet; thence S 68°58'40" E 489.06 feet; thence along a curve having an arc length of 1356.79 feet, with a radius of 2861.64 feet, and a chord of S 81°15'52" E 1344.12 feet; thence N 83°47'47" E 228.74 feet to a concrete monument; thence S 08°38'40" E 9.12 feet to a concrete monument; thence N 81°45'50" E 198.22 feet to a concrete monument; thence N 04°15'22" E 8.66 feet to a concrete monument; thence N 81°50'27" E 349.65 feet to the **beginning** being 1031.80 acres as surveyed by Christopher M. Vick Tennessee RLS No. 2164 on 17 August 2016.

BEING the same property conveyed to the Grantor by instrument of record in Book D-21, Page 146, in the Register of Deeds Office for Perry County, Tennessee.

THE PREPARER OF THIS INSTRUMENT MAKES NO REPRESENTATION REGARDING THE ACCURACY OF THE PROPERTY DESCRIPTIONS SET FORTH ABOVE, NOR DOES THE PREPARER OF THIS INSTRUMENT MAKE ANY

EXHIBIT A-2

**Toms Mountain Creek, LLC
Drawing of the Property**

(Drawing is attached immediately behind this page)

Aerial Photograph with Boundaries
State Map
County Map
USGS Quadrangle Map
Wetlands, Streams, and Watersheds Map
Soils Map with Descriptions and Prime Agricultural Soils
Sub-surface Geology and Legend
Land Use Map
Sketch of Deed
House Site Drawing
Conservation Management Areas Map
Anthropogenic Features Map
Protected Areas & Ecoregional Portfolio Areas Map
Tennessee State Wildlife Action Plan Map
Climate Resilience Map
Natural Communities Map
Directions to Property, with Map
References
Preparers' Qualifications
Exhibits
 A. Conservation Easement

EXHIBIT D

Toms Mountain Creek, LLC Location of Homesites

Homesite 1:

TO FIND THE POINT OF BEGINNING, start at the centerpoint of a circular tract, such centerpoint having coordinates of Latitude $35^{\circ}44'05.375784''$ North and Longitude $87^{\circ}50'24.316474$ West, Tennessee State Plane Coordinates N-515284.33 and E-1422422.98, thence Due North for a distance of 166.53' to a calculated point in the circumference of said circular tract, the **POINT OF BEGINNING**, thence from said POB with the edge of said circle, in a clockwise direction, a circle having a circumference of 1046.34' to the said **Point of Beginning**, said circular tract having an area of approximately 2.0 acres.

Homesite 1:

TO FIND THE POINT OF BEGINNING, start at the centerpoint of a circular tract, such centerpoint having coordinates of Latitude $35^{\circ}44'05.360208''$ North and Longitude $87^{\circ}50'32.290249$ West, Tennessee State Plane Coordinates N-515295.12 and E-1421765.71, thence Due North for a distance of 166.53' to a calculated point in the circumference of said circular tract, the **POINT OF BEGINNING**, thence from said POB with the edge of said circle, in a clockwise direction, a circle having a circumference of 1046.34' to the said **Point of Beginning**, said circular tract having an area of approximately 2.0 acres.

ROSS & BARLOW

Attorneys at Law

500 Main Street
SAVANNAH, TN 38372

JOHN J. ROSS
NAN BARLOW

VOICE (731) 925-3974
FAX (731) 925-4472
E-Mail: jnojross@bellsouth.net

September 8, 2016

W. Jordan Knight
McRae, Stegall, Peek, Harman, Smith & Monroe, LLP
100 E. 2nd Avenue
Rome, Georgia 30161
Office: (706)291-6223
Direct: (706)314-1084

RE: Tom's Mountain Creek LLC property, 937.80 acres, Tax Map 035, Parcel 018.00, Perry County, Tennessee

Dear Mr. Knight:

Upon examination of the public records of Perry County, Tennessee, from the date and time of the First American Title Insurance Company owners policy number FA-5011400-1292678e, December 23, 2015 at 3:30 pm as to the property described in the policy, as of September 8, 2016, at 11:23:02 a.m., I am of the opinion that record title to the property is vested in **Tom's Mountain Creek, LLC**, a Georgia limited liability company, by deed from Michael D. Martin, Trustee of the MICHAEL D. MARTIN REVOCABLE LIVING TRUST, created by declaration of trust dated January 16, 2013, of record in Book D21, Page 146, Register's Office for Perry County, Tennessee, subject to:

1. 2016 County taxes, \$1,838.11, which will be due and payable on October 1, 2016. Map-Parcel No.: 35-18. Taxes listed in the name of: Tom's Mountain Creek, LLC.

If improvements are completed after January 1 of any year, the law requires supplemental assessment for the year in which improvements are completed as defined by statute. We assume no liability for taxes assessed by correction pursuant to the provisions of Section 67-5-603, *et seq.*, Tenn. Code Ann.

2. Deed of trust executed by Tom's Mountain Creek, LLC, to John J. Ross, Trustee, of record in Book 117, Page 949, Register's Office for said County, to secure to Michael D. Martin, Trustee of the MICHAEL D. MARTIN REVOCABLE LIVING TRUST, an indebtedness in the amount of SEVEN HUNDRED, TWENTY-ONE THOUSAND, ONE HUNDRED, TWELVE, AND 50/100THS (\$721,111.50), bearing interest from date at Two and 61/100ths Percent (2.61%) per annum, with interest and principal due on December 31, 2016., and any other sums which may be and become payable under the terms thereof, including but not limited to principal, interest and service fees. (See instrument for complete terms and conditions as well as possible rights and options of the mortgagee or holder thereof, including rights respecting assumption of the debt secured thereby).

3. All of the restrictive covenants, easements, exclusions, etc. as set forth in the title insurance policy referenced above.

4. Liens for labor performed and materials furnished within statutory period.

5. All questions of boundary lines and location of improvements and area contained in the subject property dependent upon a correct survey for determination.

6. Your attention is called to the fact that we were not furnished with a survey and, therefore, make no representation and accept no liability for matters which relate to the survey and property description.

8. Rights of parties in possession of all or any part of the subject property.

9. Application for enrollment in the Green Belt Program recorded in GBA3, page 42, Register's Office of Perry County. Removal of the property from this program could result in assessment of additional property tax for a period of 3 years under the provisions of Tenn. Code Ann. § 67-5-1008 (2016).


10. From a search of the records of the Secretary of State of Tennessee it does not appear that Tom's Mountain Creek LLC has registered or been authorized to do business in Tennessee. Registration in Tennessee is not required simply to own property in the state, but could affect the ability of the company to enforce its rights to the property or engage in other activity thereon and may be required by purchasers or lenders for sale or mortgage of the property.

11. I do not express an opinion as to any defect or encumbrance prior to the date and time of the First American Title Insurance Company owners policy number FA-5011400-1292678e, December 23, 2015 at 3:30 pm.

This title opinion is for your exclusive benefit and may not be relied upon by any other party.

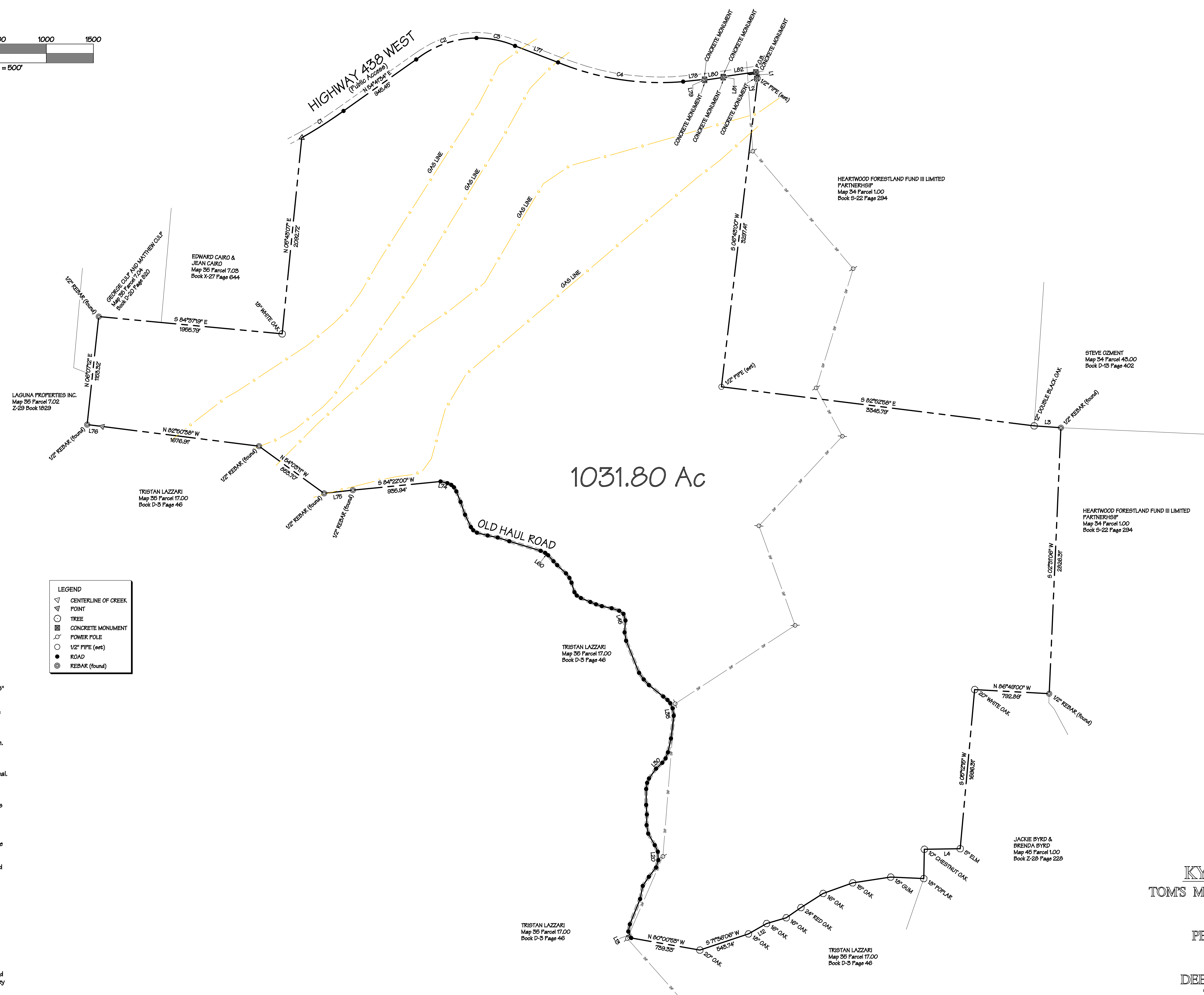
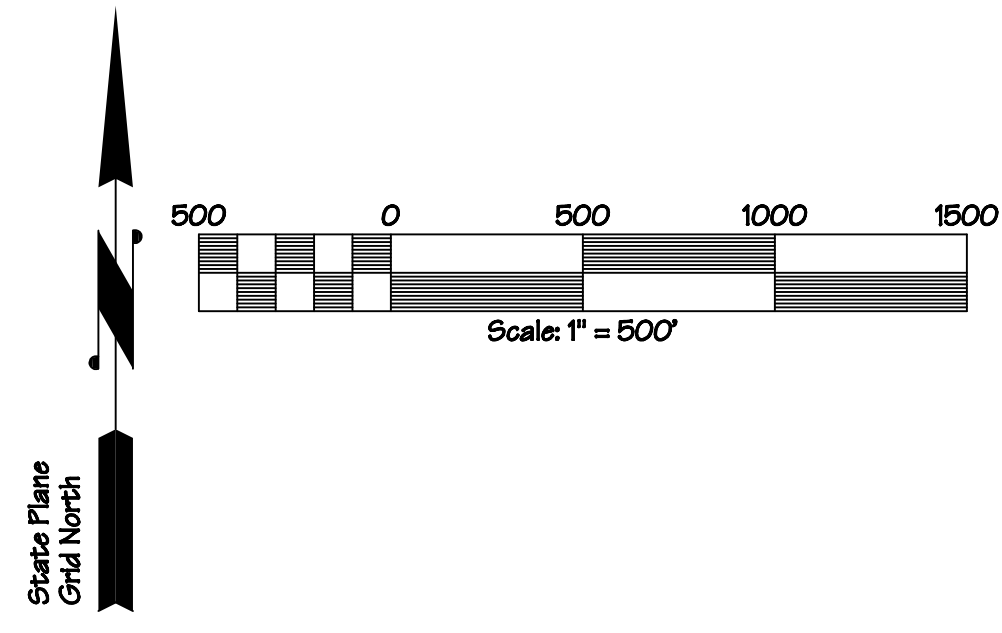
This title opinion does not make any representation with regard to (a) any parties in possession; (b) deficiencies in quantities of land; (c) boundary line disputes and location of improvements; (d) roadways; (e) any unrecorded easements; (f) any unrecorded liens, including liens for labor performed and materials furnished within the statutory period; (g) accuracy of the index books of the Register's Office for Perry County, Tennessee; (h) any matter not of record in the Register's Office for Perry County, Tennessee, which would be disclosed by an accurate survey or inspection of the property; (i) any undisclosed heirs; (j) any fraud or forgery in connection with any of the instruments in the chain of title; (k) mental incompetence; (l) confusion with regard to the name or proper identity of parties; (m) improprieties with regard to delivery of deeds; (n) marital rights (spouse or former spouse of past owner not revealed in the instruments); (o) any instrument executed by a minor; (p) lack of requisite capacity or approval of any corporation, partnership, trust or other entity; (q) lack of authority of any person executing an instrument on behalf of a corporation, partnership, trust or other entity or as an attorney-in-fact or representative for another person; (r) governmental building and zoning laws and regulations; (s) any threatened or pending lawsuits or other actions, unless notice thereof has been recorded in the Register's Office for Perry County, Tennessee; (t) any environmental law or protection matters or problems, unless notice thereof has been recorded in the Register's Office for Perry County, Tennessee; or (u) any matter or claim arising by reason of the operation of any bankruptcy, insolvency, receivership, or similar creditors' rights laws. These are matters which would not be revealed by an examination of the records in the Register's Office Perry County, Tennessee, and are therefore matters which we have not examined and about which we make no representation.

Yours very truly,



John J. Ross

CURVE	RADIUS	ARC LENGTH	CHORD BEARING	CHORD LENGTH
C1	4804.48'	527.09'	N 87°20'56" E	526.77'
C2	1062.19'	691.16'	N 70°23'59" E	678.29'
C3	1016.79'	421.16'	S 78°28'42" E	418.18'
C4	2261.64'	1956.79'	S 81°15'52" E	1944.12'



LINE	BEARING	DISTANCE
L1	S 09°16'14" E	69.97'
L2	N 81°58'29" E	10.50'
L3	S 89°19'29" E	286.50'
L4	S 88°04'40" W	380.82'
L5	S 01°08'34" W	310.88'
L6	N 87°20'00" W	361.94'
L7	S 81°21'09" W	407.96'
L8	S 70°18'58" W	305.50'
L9	S 57°28'36" W	270.36'
L10	S 55°22'22" W	190.10'
L11	S 78°27'18" W	217.11'
L12	S 60°19'58" W	222.30'
L13	N 24°47'37" W	75.62'
L14	N 12°11'45" E	78.86'
L15	N 22°03'24" E	289.48'
L16	N 11°24'56" E	141.98'
L17	N 35°48'02" E	116.56'
L18	N 37°47'48" E	124.86'
L19	N 17°03'08" E	80.62'
L20	N 05°22'33" W	90.70'
L21	N 24°40'00" W	76.59'
L22	N 29°44'57" W	140.67'
L23	N 10°52'25" W	92.07'
L24	N 01°33'29" E	112.76'
L25	N 04°10'11" W	102.57'
L26	N 00°19'39" E	169.08'
L27	N 08°52'15" E	66.98'
L28	N 22°46'52" E	49.90'
L29	N 35°44'23" E	128.56'
L30	N 46°36'22" E	90.69'
L31	N 37°20'39" E	68.50'
L32	N 21°07'08" E	69.02'
L33	N 12°31'21" E	100.28'
L34	N 06°49'28" E	243.29'
L35	N 08°48'56" W	80.21'
L36	N 22°40'38" W	59.44'
L37	N 40°50'00" W	44.78'
L38	N 50°48'12" W	58.94'
L39	N 61°23'56" W	134.36'
L40	N 42°31'08" W	82.08'
L41	N 36°11'09" W	85.54'
L42	N 22°00'58" W	366.38'
L43	N 10°18'40" W	90.88'
L44	N 04°09'08" E	126.67'
L45	N 16°45'47" W	73.52'
L46	N 33°48'07" W	97.08'
L47	N 71°32'22" W	85.98'
L48	N 77°47'30" W	106.01'
L49	N 72°44'02" W	64.96'
L50	N 67°33'31" W	66.68'
L51	N 67°21'54" W	107.68'
L52	N 68°49'01" W	52.14'
L53	N 54°48'31" W	43.62'
L54	N 17°04'03" W	105.48'
L55	N 23°27'06" W	55.17'
L56	N 37°26'05" W	61.07'
L57	N 46°58'48" W	127.44'
L58	N 43°03'58" W	57.16'
L59	N 41°42'41" W	95.78'
L60	N 51°44'17" W	39.29'
L61	N 68°19'54" W	53.51'
L62	N 78°03'37" W	347.69'
L63	N 72°17'24" W	128.82'
L64	N 78°49'20" W	106.57'
L65	N 78°00'46" W	117.33'
L66	N 66°55'25" W	47.59'
L67	N 36°12'22" W	41.74'
L68	N 28°20'18" W	148.22'
L69	N 18°22'24" W	144.04'
L70	N 21°43'12" W	119.87'
L71	N 29°56'28" W	90.59'
L72	N 48°10'49" W	38.43'
L73	N 66°15'27" W	45.30'
L74	N 76°22'00" W	76.06'
L75	S 83°54'37" W	306.70'
L76	N 82°55'58" W	161.87'
L77	S 68°58'40" E	489.06'
L78	N 83°47'47" E	228.74'
L79	S 08°36'40" E	9.12'
L80	N 81°45'50" E	188.22'
L81	N 04°18'22" E	8.66'
L82	N 81°50'27" E	348.65'

LEGEND

- ▽ CENTERLINE OF CREEK
- ▲ POINT
- TREE
- CONCRETE MONUMENT
- ⊙ POWER POLE
- 1/2" PIPE (set)
- ROAD
- ⊙ REBAR (found)

Note: The point of beginning is located S 80°06'48" E 95.80 feet from the intersection of a gravel driveway and Highway 438 West as well as being located N 78°53'59" W 211.72 feet from a concrete monument.

Note: Every document of record reviewed and considered as a part of this survey is noted hereon. This survey is prepared from the current deed of record and does not represent a title search or a guarantee of title and is subject to any estate of facts that a current accurate title search will reveal.

This is a boundary line survey. There is absolutely no certification made as to the existence or non-existence of the following: wetlands; easements or rights-of-way unless otherwise noted hereon; sub-surface utilities or streams; above ground utilities other than those which are clearly shown and labeled as such hereon; buildings, structures, ponds, lakes or streams other than those which are clearly shown and labeled as such hereon; flood areas or designated flood zones unless otherwise noted; or any and all other land features that could be deemed topographic.

Note: The plat drawn hereon is subject to regulatory authority and is subject to change according to physical evidence, (i.e., bluffs, painted lines, roads, lakes, ponds, indicia of ownership, etc.)

Note: This property may be subject to utility ingress/egress and/or right-of-ways.

I hereby certify that this is a category II survey and that the ratio of precision of the unadjusted survey is at minimum 1:7500 as shown hereon and has been performed in compliance with current Tennessee Minimum Standards of Practice.

KYLE CARNEY SURVEY
 TOM'S MOUNTAIN CREEK, LLC PROPERTY
 HIGHWAY 438 WEST
 2ND CIVIL DISTRICT
 PERRY COUNTY, TENNESSEE
 DATE: 17 AUGUST 2016
 TOTAL ACRES 1031.80
 DEED REF: BOOK D-21 PAGE 146
 TAX MAP 35 PARCEL 18.00