



STATE OF NEW HAMPSHIRE
DEPARTMENT of NATURAL and CULTURAL RESOURCES
OFFICE OF THE COMMISSIONER

172 Pembroke Road, Concord, New Hampshire 03301
Phone: 271-2411 Fax: 271-2629
TDD ACCESS: Relay NH 1-800-735-2964

April 15, 2024

Blake Stansell, President
Aurora Sustainable Lands, LLC
55 Vilcom Center Drive
Boyd Hall, Suite 240
Chapel Hill, NC 27514

Dear Mr. Stansell:

Thank you for providing the proposed 2023-2032 Connecticut Lakes Realty Trust (Connecticut Lakes Headwaters Forest) Updated Stewardship Plan (“the Proposed Plan”) for review. The Proposed Plan was received on January 19, 2024, and underwent a review by New Hampshire Department of Justice, the New Hampshire Department of Natural and Cultural Resources, and the New Hampshire Fish and Game Department. Based on the multi-agency review, the Proposed Plan is not approved at this time.

The overarching concern shared by all State agencies involved in this review is the Proposed Plan’s clear intent to significantly reduce timber harvest and forest management activities which is inconsistent with the terms, purpose, and intent of the Connecticut Lakes Realty Trust Conservation Easement (“Easement”). The decision to reduce the timber harvest is clearly based on an economic decision to increase carbon stocks rather than the ecological needs of the Connecticut Lakes Headwaters Forest. Furthermore, this decision directly conflicts with the Connecticut Lakes Steering Committee’s vision for the property as referenced in the Easement.¹ This vision for the Property states:

We see the [Property’s lands] continuing to provide the many economic, recreation and natural resource benefits they have provided New Hampshire citizens and visitors for generations. **These lands will remain as a large block of largely undeveloped productive/working forest** while continuing their substantial contribution to the **local and regional culture and economy**. Public access for recreation will be assured as will the conservation of ecologically sensitive resources and places. (Easement p. 2-3, emphasis added.)

¹ The Steering Committee was appointed by Governor Jeanne Shaheen and United States Senator Judd Gregg and composed of legislators; representatives of conservation, tourism, forestry and other interests; and local citizens.

Furthermore, the Legislative finding set forth in the 2002 New Hampshire Laws Chapter 148 (“Laws Ch. 148”), which made funds available in 2002 for the purchase of the Easement states, in pertinent part:

[I]t is in the public interest to acquire fee ownership and conservation easement interests in these lands **to ensure that they remain as a largely undeveloped, productive, working forest**, which also provides public access for recreation and conserves ecologically sensitive areas. (Easement, p. 3, emphasis added.)

At its core, the Proposed Plan, if approved, would cut the timber harvest volume by approximately 30% to 60%, which violates not only the Easement’s express terms, but also the vision and intent of the Easement. Therefore, in compliance with Section 2.E.(x)(c) of the Easement, the State of New Hampshire, through the Department of Natural and Cultural Resources (“DNCR”), does not approve the Updated Stewardship Plan for the specific reasons that follow.

I. The Proposed Plan’s Ten-Year Harvest Plan Violates The Terms of the Easement Where It Fails To Economically Sustain A Productive Working Forest.

The Proposed Plan states, “Given the desire to grow carbon stocks at a much higher annual rate than in the recent past, harvest plans will be adjusted to between 10,000 and 20,000 cords annually over the next 10 years.” (Proposed Plan, p. 133.) This is a significant reduction in harvest levels from previous periods covered by prior Stewardship Plans. The 10-year average annual timber harvest in the currently approved 2021-2031 Stewardship Plan (“Current Plan”) is an estimated 35,000 gross cords per year. (Current Plan, p. 144). The Proposed Plan is in violation of Section 2.E of the Easement where it does not outline forest management practices “in a manner that is consistent with” the Easement as outlined below. (Easement, p. 8.) Rather, the Proposed Plan will significantly negatively impact local economies and the Property by failing to produce a productive working forest. The proposed severe reduction in timber harvest violates the following Purposes and Stewardship Goals identified in the Easement:

1. Purposes

1.A.(i) “To conserve open spaces, natural resources and scenic values, **particularly the conservation of ... the productive forest on the Property**, for the enjoyment, education, and benefit of the general public.” (Easement, p. 3, emphasis added.)

1.A.(ii) “**To sustain traditional forest uses including Forest Management Activities** (as defined in Section 2.B) and Permitted Recreational Activities (as defined in Section 5.A).” (Easement, p. 3, emphasis added.)²

² It is important to note that the harvesting of carbon credits is not expressly included in Section 2.B of the Easement.

1.A.(vi) **“To retain the Property as an economically viable and sustainable tract of land, conducive to ownership by a private timberland owner or timberland investor, for the production of timber, pulpwood, and other forest products.”** (Easement, p. 4, emphasis added.)

1.C. In the legislative findings of Laws Ch. 148, the Legislature found that “it is in the public interest to acquire ... conservation easement interests in [the Property] **to ensure that they remain as a largely undeveloped, productive, working forest** which also provides public access for recreation and conserves ecologically sensitive areas.” (Easement, p. 4, emphasis added.)

2. Stewardship Goals - “The Fee Owner’s activities shall achieve or progress toward achieving the Stewardship Goals listed in (i) through (xii).” (Easement, p. 6.)

2.C.(i) “Maintenance of a sustainable source of timber, pulpwood, and other commodity and non-commodity forest products.” (Easement, p. 6.)

2.C.(ii) “Maintenance or improvement of the overall quality of forest resources through management that promotes the production of high quality forest resources such as sawlogs and veneer.” (Easement, p. 6.)

The Proposed Plan’s severe reduction in the projected 10-year annual timber harvest does not align with the express and implied terms of the Purpose and Stewardship Goals in the Easement. The Easement expressly requires a productive working forest, sustenance of traditional forest uses, and an economically viable tract of land conducive to ownership by a private timberland owner. While there is no specific minimum level of timber harvest required by the Easement, the traditional forest uses and forest management activities contemplated in the Easement must be measured by the historical forest management activities. Prior to 2013—when the Property was initially enrolled in the carbon credit program—the 10-year annual timber harvest average was approximately 40,000 cords. (Proposed Plan at p. 26.) This level of harvest sustained a robust timber and timber products industry and provided substantial employment opportunities that were “a major component of the region’s economy for more than 100 years,” (Easement Preamble, p. 2) and fulfilled the Purposes and Stewardship Goals in the Easement.

From the time the property was enrolled in a carbon credit program, in 2013, until approximately 2022 when it was purchased by Aurora³, the approximate average annual timber harvest was 30,000 cords. (Proposed Plan, p. 26.) While this level of timber harvest caused a decrease in the timber and timber products industry, it still supported viable logging businesses, regional sawmills, and many other factions of the local economy. As previously noted, when the Current Stewardship Plan was approved by the parties in 2022—prior to Aurora becoming fee owner of the Property—the projected estimated annual harvest was significantly higher—35,000 cords per year—than the amount suggested in the Proposed Plan that was submitted only 18 months later. The Proposed Plan’s projected decrease in timber harvest of between 30% to 60% would not only result in critical negative consequences for the local and regional forest products

³ The State is aware that BlueSource Sustainable Forests Company (“BlueSource”) obtained Fee Ownership of the Property in 2022 when it merged with The Forestland Group, and subsequently rebranded the company Aurora Sustainable Lands (“Aurora”). For consistency and brevity, this letter refers to “Aurora” throughout.

industry, but also the local municipalities deriving much needed income from the forest products economy and timber taxes.

Simply put, the projected 10-year Harvest Plan of 10,000-20,000 cords is inconsistent with historical use, not economically viable, nor representative of a sustainable tract of land for the production of timber, pulpwood, and other forest products. (*See Easement*, p. 4.) “Sustainable” and “economically viable” refer not only to the interests of the Property Fee Owner and the investors, but also to the local communities and regional economy that have been—and need to continue to be—supported by an optimal amount of timber harvesting and wood products production from the Property. The State cannot agree to a Stewardship Plan that clearly places Aurora’s desire to “grow carbon stocks” above the stated Purpose and Stewardship Goals of the Easement and the clear requirement that the Property continue to be a “productive, working forest that also provides public access for recreation and conserves ecologically sensitive areas.” (*Easement*, p. 3.)

II. The Proposed Plan’s Annual Allowable Cut (AAC) Is Based Upon Questionable And Unproven Data.

The Proposed Plan’s average annual growth rate significantly diverges from past growth rates. Where much of the Proposed Plan is based upon this data, the State must be assured that it is accurate. The Proposed Plan estimates an average annual growth rate of 0.6 cords/acre/year. (*Proposed Plan*, p. 132.) This estimate is based upon data from the January 1, 2021 property-wide timber cruise with adjustments made for harvested volume, which was then run in the Forest Vegetation Simulator (FVS) using the Northeast Variant for New Hampshire. The results of applying this model showed the Property growing an average of 73,693 cords per year.

Aurora’s proposed new growth rate and AAC is appreciably higher than the growth rate and AAC contained in the Current Plan, which has a growth rate of 0.46 cords/acre/year and a resulting AAC of 44,435 cords per year. Aurora’s new growth rate in the Proposed Plan is 30% higher than the growth rate in the Current Plan, resulting in a new AAC in the Proposed Plan that is 65% higher than the AAC in the Current Plan and both are derived from the same cruise data. The 0.6 cords/acre/year growth rate estimate also exceeds what is reported by the United States Forest Service—Forest Inventory and Analysis Program for Northern New Hampshire, which is 0.35 cords/acre/year.

These calculations factor into the amount of projected timber harvest and subsequent management decisions contained in the Proposed Plan. The discrepancy between the Proposed Plan’s growth rate, the Current Plan’s growth rate, and the United States Forest Service’s growth rate is significant, and there is no reliable data upon which the State can rely to verify the information provided. Until the State is provided with a detailed methodology regarding how the new growth rate was calculated and is able to obtain subsequent field verification by its own forestry experts, it can only conclude that the Proposed Plan likely contains seriously flawed and inaccurate information. Without further verification, there is insufficient data to demonstrate that Aurora has complied with the following Stewardship Goals and Requirements:

2C. Stewardship Goals

2.C.(iii) “Regeneration of forest stands through silvicultural practices that promote forest types suited to site capability.” (Easement at p. 6.)

2E. Stewardship Plan

2.E.(ix)(d)(1-6) “Description and Discussion of the Fee Owner’s Goals and Objectives for Management of the Property.” (Easement at p. 10-11.)

2.E.(ix)(e)(1) “Description and Discussion of the Fee Owner’s Planned Activities on and Management of the Property” as it pertains to “Forest Management Activities for the time period covered under the Stewardship Plan.” (Easement at p. 11.)

Because there is such a large discrepancy between the Proposed Plan’s growth rate, the Current Plan’s growth rate, and the United States Forest Service’s growth rate, and because this calculation impacts the accuracy and reliability of the Proposed Plan, verification of both the growth rate and the AAC is necessary for a complete and accurate review of the Proposed Plan.

III. The Proposed Plan Contains Concerning Implications For Ecological Impacts On the Property.

A. Inconsistencies in Composition and Structure of the Forest and the Related Goals

The Proposed Plan identifies the following forest structure goals relative to tree size: 1) 20% Seedling/Sapling; 2) 25% Pole-timber; and 3) 55% Sawtimber. (Proposed Plan, p. 86.) The New Hampshire Fish and Game Department (“NHFG”) reviewed the Proposed Plan and concluded that the aforementioned goals are balanced, considering the size of the Forest and its location in the New Hampshire North Country. (Attachment A, p. 1.) NHFG also noted that this forest structure goal “would likely support the full breadth of wildlife species native to the region.” *Id.* However, the NHFG also concluded that “[i]t is clear that the landowner intends to focus solely on moving the excess of pole-timber to the saw timber class with no focus on working towards the seedling/sapling goal.” *Id.*

The Proposed Plan identifies the distribution of forested acres by size class in Figure 9. (Proposed Plan, p. 84.) Figure 9 identifies that there are approximately 10,000 acres of the Property in the seedling/sapling class, which only represents 7.5% and is well below the Proposed Plan’s stated goal. *Id.* For Aurora to meet the goal, approximately 26,800 acres would have to be in the seedling/sapling size class. Similarly, the Sawtimber class is well below goal at only approximately 15%. While the obvious objective would be to increase the percentage of both size classes, the NHFG concluded that the Proposed Plan was not working toward this goal. (Attachment A, p. 1.)

Specifically, NHFG noted, “It is clear from [the Proposed Plan] that regeneration harvests that would help to meet the seedling/sapling goal will be few, if any are implemented at all. Instead, the focus will be on singletree selection, group selection, improvement thinning, and 1st and 2nd stage shelterwoods.” (Attachment A, p. 2.) The NHFG also noted that the Proposed

Plan's 10-year harvest plan states that between 500 and 2,500 acres of the Property will be treated annually to reach the projected 10,000-20,000 cord timber harvest goal. NHFG reached the following conclusion: "The seedling/sapling goal could only be realized if the high end of this range was harvested and focused solely on regeneration harvests, which will not be the case. Thus, it is clear that there will be little work towards the seedling/sapling goal." *Id.*

In addition to violating the previously identified Purposes, Stewardship Goals and Stewardship Plan requirements identified in Sections I and II, and which are incorporated into this section, the Projected Plan's failure to identify and implement actions to meet the stated Forest Structure Goals violates the following additional provisions of the Projected Plan:

1.A. Purposes

1.A.(iii) "[T]o conserve biological diversity, fish and wildlife habitats, rare plants and animals." (Easement, p. 3.)

2.C Stewardship Goals

2.C.(iii) "Regeneration of forest stands through silvicultural practices that promote forest types suited to site capability." (Easement, p. 6.)

2.C.(vi) "**Maintenance and protection of biological diversity and integrity through the promotion of a forest that reflects a diversity of stand ages** and naturally occurring forest types in a majority of the forest, the conservation of rare and exemplary natural communities and the conservation and **enhancement of native plant and animal species and their habitats, including establishment and retention of a range of sizes and types of downed woody debris, snag trees, cavity trees, occasional very large/old trees, and early successional habitats.**" (Easement, p. 7, emphasis added.)

The Proposed Plan's lack of appropriate actions to reach and/or maintain the seedling/sapling and sawtimber goals has significant implications for wildlife on the Property. According to the NHFG, "**to maintain ideal habitat for all area wildlife, [Aurora] would have to strive to meet the seedling/sapling goal in addition to the sawtimber goal.**" (Attachment A, p. 2, emphasis added.) While the Proposed Plan contains some language relative to the current wildlife species profiles—such as "balanced age class distribution ... will benefit the species," or "the mosaic of age classes resulting from structural goals will benefit the species," or "the current proportion of moose habitat in young forest producing moose forage ... is within the range considered ideal"—this at best reflects the current situation and does not address the actions Aurora would need to take to avoid the negative impact on wildlife during the upcoming 10-year period. (See Attachment A, p. 2, referencing Proposed Plan, beginning on p. 94 & 97.) Given that the Proposed Plan does not support reaching the projected goals in these two size classes, the NHFG concludes that it will result in fewer numbers of some of the species referenced in these sections of the Proposed Plan over time, and it specifically identifies grouse, woodcock, moose, and possibly Canada warbler as being negatively affected. (Attachment A, p. 2.)

B. Aspen/Birch Stands on the Property

The Proposed Plan “anticipate[s] slowing the pace of overstory removals, shelterwood harvesting prescriptions and clearcuts” which raises concerns, particularly regarding the aspen/birch component of the forest on the Property. (Proposed Plan, p. 83.) According to NHFG, despite being some of the most widely distributed forest types in North America, aspen and birch are relatively uncommon in New Hampshire, covering approximately 2% of the State’s forest area. (Attachment A, p. 2.) Aspen and birch provide unique food, cover, and shelter that is becoming increasingly rare yet extremely important to wildlife living on the Property. “Aspen and birch stands are the preferred habitat for ruffed grouse, woodcock, Nashville warbler, beaver and other wildlife.” (Attachment A, p. 2.) Once these stands are gone they are very difficult to get back. *Id.*

According to NHFG, “[f]ew or no clearcuts on the [P]roperty during the life of [the Proposed Plan] will substantially reduce the availability of this habitat, as there are stands that are currently on the brink of aging out.” This would negatively impact the wildlife currently on the Property. According to NHFG, “[p]revious iterations of these [Stewardship] plans outlined the intention of not only maintaining, however, increasing the presence of aspen and birch, which would be preferable from a wildlife standpoint.” (Attachment A, p. 2.)

The Proposed Plan’s failure to include forest management activities to address the decrease in aspen and birch stands on the Property negatively impacts wildlife habitats and violates important Purposes and Stewardship Goals of the Easement that have all been previously identified in Sections I, II, and III of this letter and are incorporated by reference into this section.

C. Inaccurate Wildlife Population Estimates

According to NHFG, the Proposed Plan relies on a simplified methods of calculating wildlife population estimates on the Property to justify the reduced Harvest Plan. These estimates are based largely on home range sizes and density estimates in the literature and “will likely result in very inaccurate results.” (Attachment A, p. 2.) The NHFG points out that “[t]here are many factors other than habitat availability that affect population size, such as parasites, weather patterns, development patterns and habitat quality and connectivity, among others.” *Id.* NHFG concludes that the wildlife population estimates in the Proposed Plan are not particularly informative or relevant. *Id.*

To the extent Aurora relies on wildlife population estimates to support the Proposed Plan as protective of all varieties of wildlife and wildlife habitats on the Property, Aurora must provide accurate and reliable data regarding the variety of wildlife living on the Property and the type and locations of wildlife habitats. The Proposed Plan’s failure to support its conclusions with accurate data based upon the many factors that exist on the Property is a violation of the Purposes and Stewardship Goals of the Easement that were previously identified in Sections I, II, III and IV of this letter, and are incorporated into this section by reference.

IV. The Proposed Plan Improperly Includes Wind as a Non-Timber Resource.

The Proposed Plan identifies wind energy as a possible non-timber resource that has value and “can add to the bottom line.” (Proposed Plan, p. 91.) This is inconsistent with the Easement which provides:

2.I. Structures. **No structure or improvement, including, but not limited to**, a dwelling, any portion of a septic system, tennis court, swimming pool, dock, aircraft landing strip, **tower**, or mobile home, shall be constructed, placed, or introduced onto the Property, except as provided in Section 3 and in Section 5. (Easement §2.I, p. 15, emphasis added.)

Neither Section 3 nor Section 5 of the Easement addresses wind towers as an acceptable structure. In addition, the Proposed Plan does not contain any specific information regarding what Aurora’s intent may be regarding installing a wind tower. It fails to identify any particular location and it contains no information regarding the possible effects that a wind tower may have on the forest, wildlife, or wildlife habitats on the Property. According to NHFG, wind energy development certainly has consequences for wildlife. Therefore, given that a wind tower is inconsistent with the Easement and has negative ramifications on wildlife and wildlife habitats, its inclusion in the Proposed Plan is a violation of the Easement and the Purposes and Stewardship Goals contained therein. In addition to violating Section 2.I. of the Easement, it violates the Purposes and Stewardship Goals previously identified in Sections I through VI of this letter, and which are incorporated by reference into this Section.

V. Suggested Plan of Action

The State, through the Department of Natural and Cultural Resources, advises that Aurora implement the following approaches to address the issues identified:

1. Aurora, in consultation with the State, the affected communities, and key forest stakeholders, must reassess the 10-year Harvest Plan in the Proposed Plan, and find an optimal harvest volume that meets the requirements of the Purpose and Stewardship Goals contained in the Easement, supports a sustainable and viable forestry and forest products industry, and addresses the social and economic concerns of the local communities and municipalities.

2. Aurora must provide the State with detailed information regarding the methodology it relied upon when calculating the new growth rate in the Proposed Plan. Additional time will be needed for the State to independently calculate an accurate growth rate and AAC. Once this process is complete, representatives from Aurora and the State should compare the results and make any necessary changes to the Proposed Plan.

3. Aurora, in consultation with the appropriate State agencies, must reassess its Proposed Plan to better reflect how it intends to adjust its management of the Property, including increasing the annual timber harvest, to meet the Structure and Composition Goals related to Seedling/Sapling and Sawtimber classes and avoid any negative impact to wildlife on the Property, thereby bringing the Proposed Plan into compliance with the Purposes and Stewardship Goals of the Easement.

4. Aurora, in consultation with the appropriate State agencies, must reassess its Proposed Plan and specifically include forest management activities and goals to protect and increase the number of aspen and birch stands on the Property, thereby protecting important wildlife habitats.

5. Aurora, in consultation with NHFG and DNCR, would benefit from identifying a more accurate and relevant method of calculating wildlife population estimates and, if necessary, adjust the estimates in the Proposed Plan. This would ensure that the information contained in any revised plan would be based upon the most accurate and relevant information pertaining to wildlife populations and habitats that exist on the Property, and provide an opportunity for any needed adjustments to the proposed forest management plan to protect the wildlife and wildlife habitats over the next ten (10) years.

6. Any reference to harvesting wind energy from the Property should be removed from the Proposed Plan unless and until further vetted and discussed with DNCR.

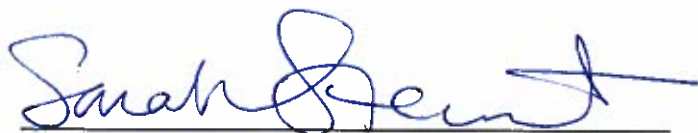
VI. Conclusion

The Proposed Plan specifically states, “Given the desire to grow carbon stocks at a much higher rate annually than in recent past, harvest plans will be adjusted to between 10,000-20,000 cords annually over the next 10 years.” (Proposed Plan, p. 133.) This change in focus and desire will maximize profits from the Property for the fee owner, Aurora, and Aurora alone. This has severe and far-reaching consequences for the forests, wildlife, and wildlife habitats, as well as the New Hampshire citizens and municipalities who depend on the revenue created by an active working forest, timber industry, and timber by-products industry. Furthermore, the Proposed Plan is in direct violation of the Purposes and Stewardship Goals that were put in place when the Easement was initially created in 2002. While the Proposed Plan likely maximizes profits for Aurora, the severe reduction in timber harvests results in the Property ceasing to be “an economically viable and sustainable tract of land ... for the production of timber, pulpwood and other forest products.” (Easement §1.A(vi).)

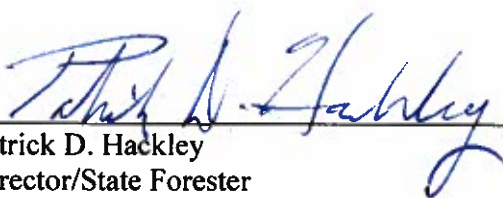
The State is open to negotiation regarding the necessary adjustments to the Proposed Plan that would allow the Property to remain both an economically viable and sustainable working forest that allows Aurora to capitalize on carbon credit revenue while also providing economic stability to the local citizens and regional partners relying on timber harvested from the Property. To that end, the State looks forward to working with Aurora to reach this goal.

However, at this time, the State cannot approve the Proposed Plan as provided by Aurora on January 19, 2024, for the multiple reasons cited in this letter. We look forward to your response as outlined in Section 2.E.(x)(d) of the Easement. In the meantime, please do not hesitate to reach out with any questions or concerns.

Regards,

A handwritten signature in blue ink, appearing to read "Sarah Stewart", written over a horizontal line.

Sarah L. Stewart
Commissioner
New Hampshire Department of Natural and Cultural Resources

A handwritten signature in blue ink, appearing to read "Patrick D. Hackley", written over a horizontal line.

Patrick D. Hackley
Director/State Forester
Division of Forest and Lands
New Hampshire Department of Natural and Cultural Resources