

East Branch Fish Creek North Conservation Easement Modification Terms

The Nature Conservancy's East Branch Fish Creek North (EBFCN) conservation easement modification shall include the following:

1. Net Conservation Benefit

TNC's Lyndaker parcel will become part of the EBFCN CE Page Pond Compartment. All aspects of the existing 2006 EBFCN conservation easement, as it applies to the Page Pond compartment, will apply to the Lyndaker parcel, plus there will be an additional right to construct a public snowmobile trail across the Page Pond and Lyndaker Tracts. TNC's grant of a conservation easement over the entire Lyndaker parcel will serve as the net conservation benefit as required by 6 NYCRR Part 592.

2. Snowmobile rights (Linear Recreation Corridor)

NYS will be granted the right to construct and maintain a public snowmobile trail (Linear Recreation Corridor). The trail will ~~beginning at a gravel road~~ in the Page Pond Compartment ~~which begins~~ at the G&W Road and follow a gravel road in ~~that and~~ runs north and east to the western boundary of the Lyndaker parcel, then ~~running~~ generally easterly across the Lyndaker property to the terminus of the old Toole Road at the boundary of existing Lesser Wilderness State Forest lands. The final location of this route will be determined through consultation with TNC and included in a Recreation Management Plan. Motorized use of the trail by the public shall be limited to snowmobiles only. DEC shall be responsible for gating and signing of the route as well as enforcement against illegal use.

3. Structures

a. Brandy Brook Camp

TNC shall be permitted to allow the Brandy Brook camp and associated five-acre camp envelope to remain at its current location under the following conditions: _

- i. If/when the camp structure needs to be replaced, as determined by TNC in consultation with NYSDEC, it and all accessory structures, must be moved outside of the 200-foot buffer around Page Swamp (Pond) to an upland area or if moved to another part of the eased property, the camp structure will need to comply with the requirements for placement and size in the 2006 EBFCN conservation easement.
- ii. The camp structure cannot be expanded beyond its current building footprint, including porches, decks etc.
- iii. Accessory camp structures that exist outside a 100-foot buffer around Page Swamp may remain, except for the cooler truck box and accompanying accessory structure attached shed, but no more may be constructed.

b. Recreational Lease Structure

TNC shall be permitted to construct one additional recreational lease structure on the Protected Property under the same conditions of #5 in the Reserved Rights Section.

c. Property Administrative Structures

The existing definition of Property Administration Structure, #3 of Reserved Rights, shall be modified to include residential use.

Note: The 2006 CE appears to already provide for a “garage/storage building”. There is a definition of Forestry Use Structure under the definitions on page 4 that accommodates a “garage” and other forestry use structures. Under Terms and Conditions, #13 on page 23 allows the Grantor to construct Forestry Use Structures with Grantee approval. No change to the current CE is required.

4. Buffer Area

With the exception of the Page Pond dam and the area immediately adjacent to dam structure, a 50-foot natural/un-mowed area must be maintained between the Brandy Brook camp and the waters/wetlands of Page Pond.

5. Forest Management

Forest Management Plan will be required. The modification language will give TNC broad abilities to establish and perform forest research activities on the Lyndaker parcel. The forest management plan, or an amendment thereto, would identify those activities which are to be performed.

6. Indemnification Language

Grantor’s Negligence.

The Grantor agrees to indemnify and hold the Grantee harmless against all claims, loss, damage and expense the Grantee may suffer as a result of the Grantor’s negligence in the course of exercising any rights reserved under this Conservation Easement or as the fee owner.

The Grantor’s duty to indemnify and save harmless prescribed by this subsection shall be conditioned upon the delivery to the Grantor by the Grantee of the original or a copy of any summons, complaint, process, notice, demand or pleading within fifteen (15) business days after the Grantee is served with such document.

Grantee’s Negligence.

Subject to the availability of lawful appropriations, Grantee agrees to indemnify and hold Grantor harmless from any amounts finally to be determined by a court of competent jurisdiction, or any settlement of a claim or suit for damages to person or property, where it has been finally determined by said court that such damages have been caused by the negligent acts of Grantee or against loss, damage or any final determination of a judgment or settlement of a claim against Grantor, provided said settlement is approved in writing by Grantee, which Grantor may suffer as a result of Grantee's negligence in the course of exercising any rights granted under this Conservation Easement or as a result of actionable

conduct of Grantee, as permitted by Section 8 of the Court of Claims Act and Section 17 of the Public Officers Law.

Grantee's obligation to indemnify and hold harmless under this provision shall be further conditioned upon the delivery by the Grantor of the original or a copy of any summons, complaint, process, notice, demand, pleading or notice of settlement to the Commissioner of the Department of Environmental Conservation and the Attorney General of the State of New York within five (5) business days after the Grantor is served with such document and the Grantor's continued cooperation in the defense and/or settlement of such claim or claims.

7. Conditions for Closing

Prior to the filing of the EBFCN modification in the Lewis County Clerks Office the following must occur within the Brandy Brook Camp envelope for the camp location to be in compliance with the 2006 EBFCN conservation easement:

- a. Either the existing outhouse must be moved to be at least 100 feet from any wetland, or a concrete containment system must be constructed under the existing structure.
- b. The buried cooler truck box and accompanying accessory structure must be removed from the Protected Property.