STATE OF MICHIGAN
MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY
WATER RESOURCES DIVISION

BDN Group, LLC
P.O. Box 25
Waters, Michigan 49797 **File Number: 13-17-0005-V**

CONSENT AGREEMENT

This Consent Agreement (Agreement) is entered into by and between BDN Group, LLC (BDN Group) and the Michigan Department of Environmental Quality (Department), Water Resources Division (WRD), and shall become effective on the date this Agreement is signed by BDN Group and the WRD (Effective Date). All times for performance of activities under this Agreement shall be calculated from the Effective Date.

RECITALS

By correspondence dated July 3, 2013, the WRD issued a Notice of Violation alleging that BDN Group violated Part 303, Wetlands Protection, of the Natural Resources and Environmental Protection Act (NREPA), 1994 PA 451, as amended, MCL 324.30301 *et seq*. The WRD issued a second Notice of Violation on January 15, 2014, alleging that BDN Group violated Part 301, Inland Lakes and Streams, of the NREPA, MCL 324.30101 *et seq* (Part 301); Part 303, Wetlands Protection, of the NREPA (Part 303); Part 31, Water Resources Protection, of the NREPA, MCL 324.3101 *et seq* (Part 31), and Part 91, Soil Erosion and Sedimentation Control, of the NREPA, MCL 324.9101 *et seq* (Part 91), and the administrative rules for Part 301, Part 303, Part 31, and Part 91. More specifically, the WRD alleged in the Notices of Violation that BDN Group constructed roadways using ditch and side-casting methods, dredged regulated wetlands and placed unauthorized fill into regulated wetlands, conducted multi-acre earth change activities without soil and sedimentation control methods in place, created ditches and discharged sediment into a regulated stream, placed fill material on bottomlands of a regulated stream, and placed fill in a regulated floodplain to construct roadways (Alleged Unauthorized Activities). The WRD further alleged that BDN Group authorized/and or performed the Alleged Unauthorized Activities without permits under Part 301, Part 303, Part 31, and Part 91.

The Alleged Unauthorized Activities occurred on property that BDN Group owns located within T46N, R7W, Section 13, 14, 15, 22, 23, and 24 of Hulbert Township, Chippewa County (Property). BDN Group operates the Property for wildlife management, forestry management and as a hunting camp. The Property includes dirt roads named US-2, M-28, M-77, M-94, and M-123. The Property also includes but, is not limited to a base camp and fields named Mackinaw Field, Middle Delta, and Iron Field. A map depicting the Property is attached as Exhibit A.

In the Notices of Violation, the WRD requested that BDN Group cease and desist the Alleged Unauthorized Activities on the Property and restore the area affected by the Alleged Unauthorized Activities.

BDN Group owns 2,595.45 acres of property in eleven parcels located within T46N, R7W, Section 13, 14, 15, 22, 23, 24, and 25 of Hulbert Township, Chippewa County. BDN Group and the WRD acknowledge that prior to construction and development activities occurring on the Property, which included the dredge and placement of fill material, there existed wetlands regulated by the State of Michigan under Part 303 (Regulated Wetland); regulated natural streams under Part 301, including the Tahquamenon River, Creek Number Fourteen, Riley Creek, and certain constructed watercourses meeting the definition of a "stream" under Part 301; and a 100-year floodplain area associated with the Tahquamenon River regulated under Part 31.

The WRD and BDN Group desire to resolve the alleged violations without the necessity of additional administrative and/or judicial proceedings.

This Agreement identifies the necessary actions to be taken by BDN Group and the WRD, and imposes certain conditions upon performance of these actions. Successful completion of the terms of this Agreement will, in the opinion of the WRD, meet the statutory provisions of Part 301, Part 303, Part 31, and Part 91, and thereby resolve the allegations set forth in the Notices of Violation dated July 3, 2013, and January 15, 2014.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties agree as follows:

COMPLIANCE AND IMPLEMENTATION SCHEDULE

SITE REQUIREMENTS

1. By September ~~1~~ 15th, 2015, BDN Group, shall submit to the WRD, at the address indicated in Paragraph 8 of this Agreement, construction plans to complete the following activities outlined in this section. All construction plans shall include a site plan with existing and proposed ground surface elevations, a vegetation seeding plan, and a work schedule. BDN Group, shall not initiate construction activities until the WRD has provided final approval or modification of the construction plans.

   MACKINAW FIELD

   Construction of two shallow-water wildlife areas approximately 2.5 acres in total size and in the current footprint of Mackinaw Field. One of the shallow-water wildlife areas shall be constructed in the northwest quadrant of Mackinaw Field and the other shall be constructed in the southwest area of Mackinaw Field. Construction plans for the shallow-water wildlife areas shall include all of the following criteria:

   - At least 50 percent of the surface area of the excavated shallow-water wildlife areas shall have a water depth of no more than 18 inches and no more than 10 percent of the surface area of the excavated shallow-water wildlife areas shall have a water depth deeper than 36 inches.
   - The excavated areas shall not be constructed within or physically touching a natural inland lake or stream.
   - The placement or existence of approximately six (6) inches of native soil throughout the bottom of the shallow water wildlife areas. The soil shall originate

from the Mackinaw Field area, from the A horizon of an organic or loamy surface texture soil.

- The shallow-water wildlife area to be constructed in the northwest quadrant of the Mackinaw Field may contain an island not to exceed 1,000 square feet in size and with an average elevation not to exceed the current Mackinaw field elevation. The ground may be scoured or plowed to develop microtopography and habitat characteristics preferred by migratory birds and nesting birds.
- Any additional excavated area within wetlands in the southern shallow-water wildlife area shall not exceed 0.05 acres. This is expected to occur along the east boundary of the southern shallow-water wildlife area.
- The excavated area shall not go beyond the outside slope of the ditch around the Mackinaw Field.
- The work schedule for constructing the shallow-water wildlife areas shall address initiation of construction, grading, seeding, introduction of hydrology, and completion of construction.
- Widen and flatten the base of the ditch that runs north to south along the west side of the field that will connect the shallow-water wildlife areas, to allow for the free-flow of surface water and the establishment of a vegetated channel.
- The construction plan may include dams or berms for maintaining water levels in the shallow-water wildlife areas. The dams or berms, if utilized, are expected to be placed at the south end of each shallow water wildlife area on the west side of the Mackinaw Field. The dams or berms may have outlet control structures using a riser and barrel design that outlet to the natural vegetated area west of Mackinaw Field for the purpose of draining and management of the shallow-water wildlife area. Seasonal water overflow may be discharged to the ditch running along the west side of the Mackinaw Field.
- Ditch plugs shall be installed in the ditches running from the southeast and southwest corner of the Mackinac Field.
- At the completion of excavation, when approved design grades have been satisfactorily established, all exposed earth will be seeded with a heavy cover crop consisting of selected non-persistent annual, biennial or short-term perennial wetland species. Seeds of more persistent native wetland species consisting primarily of rushes, sedges, bulrushes, and related plant types may be added to the mix, but long-term, the intent is to allow both proposed shallow water wildlife areas to vegetate naturally with plant types characteristic of emergent wetland communities.

All excavated spoils from creation of the Mackinac Field shallow-water wildlife areas, including organic and inorganic soils, vegetation, and debris, shall either be (1) used for ditch plugs or (2) placed at a WRD-approved upland site in such a manner as not to erode into any waterbody or wetland. Upland sites may include:

- M-28, located east of the M-77 intersection to Base Camp.
- US-2 from Base Camp to the Chippewa Field.
- The solar field located at Base Camp.
- The Keweenaw field
- The Upper Delta Field
- Other approved site

ROADWAYS

The construction and site plans for the Roadways shall provide for the following:

- BDN Group shall remove the road referred to as M-28 west of the road referred to as M-94 at an identified turn-around, located in upland, approximately 500 feet from the ordinary high water mark of the Tahquamenon River and approximately 900 feet from the convergence of M-28 and M-94. "Identified", as used above, refers to the location agreed to by BDN Group representatives and WRD District Staff on August 7, 2014.
- The roadside ditches that run along this western portion of M-28 shall be effectively plugged directly west of the identified turnaround and the side-casted roadbed material shall be returned to the roadside ditches from this new turnaround to the current ditch end near the Tahquamenon River.
- The ditches and restored roadbed shall be returned to original ground elevation, vegetated with suitable seed, and mulched with straw to prevent erosion.

RIP-RAP

The construction and site plans for the installation of rock rip-rap shall provide for the following:

- Rock rip-rap check dams shall be installed to control sediment in the three small ditches constructed in the Middle Delta during 2011.
- The three rock rip-rap check dams shall be designed to slow the movement of water in the ditches and allow for the ditches to become vegetated to stabilize ongoing erosion.

  Furthermore, BDN Group may conduct a review of their entire property with respect to whether or not additional rock rip-rap check dam locations are necessary, within their existing historic ditch system, for general on-site sedimentation control purposes.

SEDIMENT RETENTION BASINS

BDN Group shall engage an engineering firm to design and supervise construction of permanent sediment retention basins at two locations on the Property for the purpose of preventing sediment discharge to the Tahquamenon River.

- The sediment retention basins shall be located on the road referred to as US-2 approximately 500 feet west of the Iron Field and at the intersection of US-2 and M-94 but locations may be modified based upon the recommendations made during engineering and design.
- The discharge point into the Tahquamenon River, located on US-2 between the road referred to as M-77 and M-94, shall be plugged, vegetated, and abandoned.

2. By October 31, 2015, the WRD shall provide to BDN Group, written approval and/or revisions to the construction plans BDN Group submits pursuant to Paragraph 1.

3. BDN Group shall complete all construction and restoration work identified in the construction plans required in paragraph 1 by September 15, 2017. Within 30 days of completion of the activities identified in the construction plans, BDN Group, shall provide to the WRD, at the address provided in Paragraph 8 of this Agreement, written notification of construction completion.

4. BDN Group, shall be responsible for monitoring the Mackinac Field shallow water wildlife areas and the restored portion of M-28 west of M-94 annually for vegetative communities as designed, for a period of up to five (5) years following completion of construction and site stabilization. An experienced wetland consultant shall conduct the monitoring in accordance with Exhibit B. An assessment of the construction site's development shall be provided to the WRD with annual reports no later than December 31 of each year.

CONSERVATION EASEMENT

5. BDN Group, shall, within 180 days of the Effective Date of this Agreement, provide to the WRD a conservation easement, in favor of the Department, upon a 369.45 acre wetland located on the Property (Conservation Easement Map: Exhibit D). BDN Group, shall provide as part of the conservation easement a legal description for the parcel of land to be included within the conservation easement. The conservation easement shall be conveyed to the Department and provided to the WRD on a form provided as Exhibit C of this Agreement.

SOIL EROSION AND SEDIMENTATION CONTROL

6. BDN Group, shall obtain permit under Part 91, Soil Erosion and Sedimentation Control, of the NREPA, from Chippewa County for all earth change activities within 500 feet of the ordinary high water mark of a stream of lake, or earth change activities one acre or greater. The permit application shall be submitted to:

   Chippewa County SESC Agent
   Chippewa, Luce, Mackinac Conservation District
   2847 Ashmun Street
   Sault Ste. Marie, Michigan 49783
   906-635-1278

REPORTING REQUIREMENTS

7. Should the shallow-water wildlife areas and/or the restored portion of M-28 fail to become established as a vegetative community as designed after two (2) complete growing seasons or fail to demonstrate satisfactory progress towards a self-sustaining wetland system as designed, BDN Group, shall:

   A Assess the problem(s) and identify the probable causes;

B. Develop reasonable and necessary corrective measures as a revision to the original plan;

C. Reasonable and necessary corrective measures may include, but are not limited to, regrading soils to improve hydrology, reseeding, and/or replanting of wetland plants;

D. Submit a copy of the proposed corrective measures to the WRD for review; and

E. Upon WRD approval, immediately implement the corrective measures.

8. All construction plans, notices, applications, reports, and other submittals required to be provided by BDN Group to the WRD pursuant to this Agreement shall be addressed, unless otherwise indicated, to:

Kristi Wilson
Michigan Department of Environmental Quality
Water Resources Division
1504 West Washington Street
Marquette, Michigan 49855

GENERAL PROVISIONS

9. **PROPERTY ACCESS**: WRD staff shall have access to the Property to inspect and determine compliance with this Agreement. The WRD shall provide a minimum of a 24-hour advance notice to BDN Group prior to inspection of the Property.

10. **STIPULATED PENALTIES**: BDN Group, shall pay stipulated penalties of one hundred dollars ($100.00) per day for failure to comply with the provisions of Paragraphs 1 through 9 of this Agreement. BDN Group, upon receipt of a notice of any violation governed by this provision, shall have a ten (10)-day right to cure the violation before the imposition of any penalty under this provision.

11. **STIPULATED PENALTY PAYMENT**: To insure timely payments of any stipulated penalties provided in Paragraph 10 of this Agreement, BDN Group shall pay an interest penalty to the State of Michigan for failure to make a timely payment. This interest penalty shall be based upon a rate of 12 percent per year compounded annually, using the full increment of amount due as principal, and calculated from the due date for the payment until the delinquent payment is finally paid in full. All payments associated with this Paragraph 10 shall be paid in the form of a cashier's check payable to the "State of Michigan", and sent to:

Michigan Department of Environmental Quality
Cashiers Office - WRD
P.O. Box 30657
Lansing, Michigan 48909-8157

12. **PENALTY PAYMENT DISPUTE**: BDN Group, agrees not to contest the legal basis for any stipulated fines assessed pursuant to Paragraph 11 of this Agreement, but reserves the right to dispute in a court of competent jurisdiction the factual basis upon which a demand by the WRD of stipulated fines is made. BDN Group and the WRD agree this does not preclude the possibility of informal resolution of disputed issues directly between BDN Group and the WRD.

13. **RESOLUTION OF WRD NOTICES OF VIOLATION**: After BDN Group satisfies the terms of this Agreement, the WRD shall deem resolved the July 3, 2013, and January 15, 2014, Notices of Violation and close WRD complaint number 13-17-0005-V.

14. **OTHER PERMIT REQUIREMENTS**: With respect to the Property, BDN Group, shall not conduct any activity within regulated wetlands, streams, or floodplains over which the WRD has jurisdiction except as provided by this Agreement, or as authorized by separate permit issued by the WRD. This Agreement does not obviate the need to acquire additional state, local, or federal permits as may be required by law.

15. **FORCE MAJEURE**: BDN Group shall perform the requirements of this Agreement within the time limits established herein, unless performance is prevented or delayed by events, which constitute a "Force Majeure" event. For the purpose of this Agreement, "Force Majeure" means an occurrence or nonoccurrence arising from causes not foreseeable, beyond the control of, and without the fault of, BDN Group, such as an "Act of God," untimely review of permit applications or submissions by the WRD or other applicable authority; and acts or omissions of third parties that could not have been avoided or overcome by BDN Group's due diligence, and that delay the performance of an obligation under this Agreement. "Force Majeure" does not include, among other things, unanticipated or increased costs, failure to secure funding, change in financial circumstances, or failure to obtain a permit or license as a result of BDN Group's actions or omissions.

16. **FORCE MAJEURE NOTICE**: BDN Group shall notify the WRD by telephone within 48 hours of discovering any event which causes delay in their compliance with any provision of this Agreement. Verbal notice shall be followed by written notice within ten (10) calendar days, and shall describe in detail the anticipated length of delay, the precise cause of the delay, the measures taken by BDN Group to prevent or minimize the delay, and the timetable by which those measures shall be implemented. Failure of BDN Group to comply with the notice requirements above shall render the "Force Majeure" exemption void and of no effect as to the particular incident involved.

17. **ASSIGNMENT OF RIGHTS**: This Agreement shall be binding on the parties, their officers, servants, and employees. In the event that BDN Group sells or transfers any interest in this Property, BDN Group, shall retain the obligation to perform any uncompleted work required by this Agreement and shall retain a sufficient interest in the Property necessary for BDN Group to complete the work required by this Agreement and the work to be allowed by permit.

18. **AGREEMENT AMENDMENTS**: This Agreement may be amended or revoked at any time by a written agreement executed by all parties to this Agreement. No change or

modification to the Agreement shall be valid unless in writing and signed by all parties to this Agreement.

19. **DISPUTE RESOLUTION**: BDN Group and the WRD agree to diligently and in good faith pursue informal negotiations to resolve any disputes arising out of this Agreement prior to resorting to judicial enforcement. Such negotiations shall proceed in a timely manner.

20. **DENIAL OF LIABILITY**: Nothing contained in this Agreement shall be construed as an admission of liability or wrong doing by BDN Group. The WRD and BDN Group agree that the signing of this Agreement is for settlement purposes only.

21. **AGREEMENT PROVISIONS**: The invalidity or unenforceability of any particular portion of this Agreement shall not affect the other provisions hereof, and this Agreement shall be construed in all respects as if invalid or unenforceable provisions were omitted.

22. **GOVERNING LAW**: This Agreement shall be executed and delivered in the State of Michigan and shall be governed by and construed and enforced in accordance with the laws of the State of Michigan.

23. **TERMINATION OF AGREEMENT**: This Agreement shall remain in full force for a period of at least five (5) complete growing seasons following completion of the construction and restoration work described in the construction plans required in Paragraphs 1 and 3 and monitoring required in paragraph 4 of this Agreement. This Agreement may remain in full force for an unspecified time period contingent upon successful completion of all requirements of this Agreement. This Agreement shall terminate only upon written notice of termination issued by the WRD chief. Prior to issuance of a written notice of termination, BDN Group shall submit a request consisting of a written certification that BDN Group has fully complied with all requirements of this Agreement and has made all payments including stipulated penalties required by this Agreement.

24. **ENTIRE AGREEMENT**: This Agreement constitutes the entire Agreement among the parties hereto and contains all of the agreements among said parties with respect to the subject matter hereof.

IN WITNESS WHEREOF, the parties hereto make and execute this Agreement on the date first above written. The undersigned certify they are fully authorized by the party they represent, to enter into this Agreement and to legally bind that party to this Agreement.

BDN Group, LLC,

By: _____ Date: 6/18/15
(Name of person signing)
Edgar L. Doss

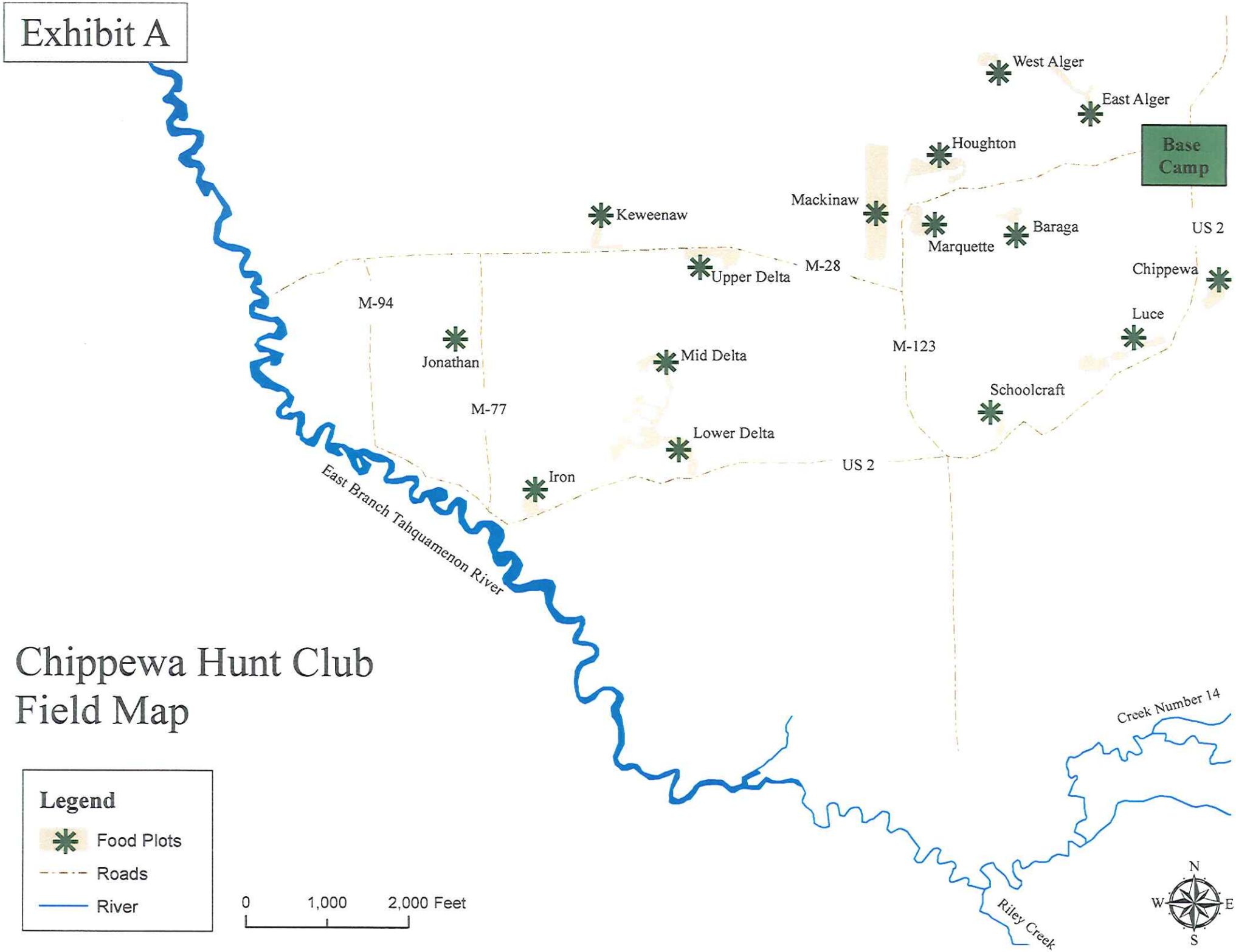
MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY
WATER RESOURCES DIVISION

By: _____ Date: 7/15/2015
William Creel, Chief
Water Resources Division

Approved as to form:

By: _____ Date: 7/9/15
Neil P. Gordon
Assistant Attorney General
Environment, Natural Resources and
Agriculture Division
Department of Attorney General

Exhibit A



Chippewa Hunt Club Field Map

EXHIBIT B

INVASIVES MONITORING AND CONTROL PLAN

The BDN Group shall monitor the wetland restoration for a minimum of five years. A monitoring report, which compiles and summarizes all data collected during the monitoring period, shall be submitted annually by BDN Group, shall conduct the following activities and provide the information collected in the monitoring reports:

a. The mean percent cover of invasive species including, but not limited to, Phragmites australis (Common Reed), Lythrum salicaria (Purple Loosestrife), and Phalaris arundinacea (Reed Canary Grass) shall in combination be limited to no more than ten (10) percent within each wetland type. Invasive species shall not dominate the vegetation in any extensive area of the restored wetland.

   If the mean percent cover of invasive species is more than ten (10) percent within any wetland type or if there are extensive areas of the constructed or restored area in which an invasive species is one of the dominant plant species, the BDN Group shall submit an evaluation of the problem to the Michigan Department of Environmental Quality (MDEQ). If the BDN Group determines that it is infeasible to reduce the cover of invasive species to meet the above performance standard, the BDN Group must submit an assessment of the problem, a control plan, and the projected percent cover that can be achieved for review by the MDEQ. Based on this information, the MDEQ may approve an alternative invasive species standard. Any alternative invasive species standard must be approved in writing by the MDEQ.

   If the shallow water wildlife area and restored portion of M-28 does not satisfactorily meet these standards by the end of the monitoring period, or is not satisfactorily progressing during the monitoring period, the BDN Group will be required to take corrective actions

b. Delineate any extensive (greater than 0.01 acre in size) bare soil areas, areas dominated by invasive species, and areas without a predominance of wetland vegetation, and provide their location on a plan view.

c. Inspect the site, during all monitoring visits and inspections, for oil, grease, man-made debris, and all other contaminants and report the findings. Rate (e.g., poor, fair, good, or excellent) and describe the water clarity in the shallow water wildlife area.

d. Provide annual photographic documentation of the development of the wetland during vegetation sampling from permanent photo stations located within the shallow water wildlife area and restored portion of M-28. Photos must be labeled with the location, date photographed, and direction.

e. Provide one-time photographic documentation during construction of the top six inches of soils present in the excavation area.

f. Provide a written summary of data from previous monitoring periods and a discussion of changes or trends based on all monitoring results. This summary shall include a calculation of the acres of each wetland type established, a plan view drawing depicting each ecological type, and identification of all performance standards and whether each standard has been met.

g. Provide a written summary of all the problem areas that have been identified and potential corrective measures to address them.

A qualified individual able to identify vegetation to genus and species must conduct the wetland monitoring. The Department reserves the right to reject reports with substandard monitoring data.

The WRD will determine if the performance standards have been met in accordance with the objectives outlines in Paragraph 1, Site Requirements. If the performance standards have not been met, the WRD may require subsequent annual monitoring until final approval from the WRD can be granted.

EXHIBIT C

CONSERVATION EASEMENT

AGREEMENT FOR
CONSERVATION EASEMENT

(This instrument is exempt from County and State transfer taxes
pursuant to MCL 207.505(a) and MCL 207.526(a), respectively)

This CONSERVATION EASEMENT is created on _____, 20____, by and between

_____ (name) married/single individual(s) (*circle one*), or corporation, partnership, municipality, or limited liability company (*circle one*), whose address

is_____ (Grantor) and the Michigan Department of Environmental Quality (MDEQ), whose address is, P.O. Box 30458, Lansing, Michigan 48909-7958 or Constitution Hall, 2nd Floor South, 525 West Allegan Street, Lansing, Michigan 48933 (Grantee).

The Grantor is the fee simple title holder of real property located in (*circle one*) the Township/City of

_____, _____ County, and State of Michigan, legally described in Exhibit A.

The MDEQ is the agency charged with administering Part 303, Wetlands Protection, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), and

Pursuant to the Consent Agreement between _____and the MDEQ, MDEQ file number ACO-13-17-0005-V (Consent Agreement ____/___/20__), Grantor has agreed to grant the MDEQ a Conservation Easement that protects the wetland mitigation site and/or the remaining wetlands on the property and restricts further development to the area legally described in Exhibit B. The Conservation Easement (the Easement Premises) consists of approximately _____acre(s). A survey map depicting the Easement Premises is attached as Exhibit C. The MDEQ shall record this Agreement with the county register of deeds.

ACCORDINGLY, Grantor hereby conveys unto the Grantee, forever and in perpetuity, this Conservation Easement as set forth in this Agreement pursuant to Subpart 11 of Part 21, Conservation and Historic Preservation Easement, of the NREPA, MCL 324.2140 *et seq.*, on the terms and conditions stated below.

COVENANTS, TERMS, CONDITIONS AND RESTRICTIONS

1. The purpose of this Agreement is to protect the functions and values of existing or established wetlands and its natural resource values on the Easement Premises consistent with the Consent Agreement and the protection of the benefits to the public derived from wetlands and integral habitat, by requiring Grantor to maintain the Easement Premises in its natural and undeveloped condition.

2. Except as authorized under the Consent Agreement issued on ____/____/20___ or as otherwise provided in this Agreement, Grantor shall refrain from and prevent any other person from altering or

developing the Easement Premises in any way. This includes, but is not limited to:

a) Alteration of the surface topography;
b) Creation of paths, trails, or roads;
c) The placement of fill material as defined in Part 303 of the NREPA, MCL 324.30301 *et seq.*, as amended;
d) Dredging, removal, or excavation of any soil or minerals;
e) Drainage of surface or groundwater;
f) Construction or placement of any structure;
g) Plowing, tilling, mowing or cultivating the soils or vegetation;
h) Alteration or removal of vegetation, including the planting of non-native species;
i) Ranching, grazing, farming;
j) Use of chemical herbicides, pesticides, fungicides, fertilizers, spraying with biocides, larvicides or any other agent or chemical treatments, unless as part of an MDEQ-approved management plan;
k) Construction of unauthorized utility or petroleum lines;
l) Storage or disposal of ash, garbage, trash, debris, abandoned equipment or accumulation of machinery, bio-solids or other waste materials, including accumulated vegetative debris, such as grass clippings, leaves, yard waste or other material collected and deposited from areas outside the Easement Premises;
m) Use or storage of automobiles, trucks or off-road vehicles including, but not limited to, snowmobiles, dune buggies, all-terrain vehicles, and motorcycles;
n) Placement of billboards or signs, except as otherwise allowed in the Consent Agreement or this Agreement;
o) Use of the wetland for the dumping of untreated storm water or the directing of treated storm water to the Easement Premises at a volume that adversely impacts the hydrology of the wetland;
p) Actions or uses detrimental or adverse to water conservation and purity, and fish, wildlife or habitat preservation.

3. Cutting down, burning, destroying or otherwise altering or removing trees, tree limbs, shrubs or other vegetation, whether living or dead, is prohibited within the Easement Premises, except with the written permission of Grantee, expressly for the removal of trees or limbs to eliminate danger to health and safety; to reduce a threat of infestation posed by diseased vegetation, invasive non-native plant species that endanger the health of native species or as otherwise provided in the MDEQ-approved Management Plan for the Easement Premises.

4. Grantor is not required to restore the Easement Premises due to alterations resulting from causes beyond the owner's control, including, but not limited to, unauthorized actions by third parties that were not reasonably foreseeable; natural causes or natural disasters, such as unintentional fires, floods, storms or natural earth movement.

5. Grantor, or its authorized agents or representatives, may enter the Easement Premises to perform activities within the Easement Premises consistent with the Consent Agreement or the mitigation requirements. Grantor shall provide 5 days notice to the Grantee of undertaking any mitigation activity, even if the mitigation project has been conceptually approved. Any activities undertaken pursuant to the Consent Agreement, a mitigation project or this Agreement shall be performed in a manner to minimize the adverse impacts to existing wetland or mitigation areas.

6. Grantor warrants that Grantor has good and sufficient title to the Easement Premises described in Exhibit B.

7. Grantor warrants that any other existing interests or encumbrances in the Easement Premises have been disclosed to the MDEQ.

8. Grantor warrants that to the best of Grantor's knowledge no hazardous substances or hazardous or toxic wastes have been generated, treated, stored, used, disposed of, or deposited in or on the property.

9. This Agreement does not grant or convey to Grantee or members of the general public any right to possession or use of the Easement Premises.

10. Grantor shall continue be responsible for the upkeep and maintenance of the Easement Premises to the extent it may be required by law.

11. Grantee and its authorized employees and agents as shown in Exhibit D may enter the Easement Premises at reasonable times to determine whether the Easement Premises are being maintained in compliance with the terms of this Agreement, mitigation or other conditions of the Consent Agreement; and for purposes of taking corrective actions for failure to comply. If Grantee is entering the Easement Premises for purpose of taking corrective actions, Grantor shall be provided with 14 days notice to provide the opportunity to cure the failure to comply.

12. This Agreement shall be binding upon the successors and assigns of the parties and shall run with the land in perpetuity, unless modified or terminated by written agreement of the parties.

13. This Agreement may be modified only in writing through amendment of the Agreement. Any modification shall be consistent with the purpose and intent of the Agreement.

14. In addition to the right of the parties to enforce this Agreement, it is also enforceable by others against the owner of the land in accordance with Part 21, Subpart 11 of the NREPA, MCL 324.2140 *et seq,* as amended.

15. Grantor shall indicate the existence of this Agreement on all future deeds, mortgages, land contracts, plats, and any other legal instrument used to convey an interest in the Easement Premises.

16. A delay in enforcement shall not be construed as a waiver of the Grantee's rights to enforce the conditions of this Agreement.

17. This Agreement shall be liberally construed in favor of maintaining the purpose of the Conservation Easement.

18. If any portion of this Agreement is determined to be invalid by a court of law, the remaining provisions will remain in force.

19. This Agreement will be construed in accordance with Michigan law. All legal action related to this conservation easement must be filed and pursued in Michigan state courts.

20. In addition to the terms of the Consent Agreement, this document sets forth the entire agreement of the parties. It is intended to supersede all prior discussions or understandings.

21. Within 90 days after this Agreement is executed, Grantor shall place and maintain, at Grantor's expense, signs, fences, or other suitable markings along the Easement Premises to clearly demarcate the boundary of the Easement Premises or as otherwise provided in the Consent Agreement.

22. The terms 'Grantor' and 'Grantee' wherever used in this Agreement, and any pronouns used in place thereof, shall include, respectively, the above-named Grantor and their personal representatives, heirs, successors, and assigns, and the above-named Grantee and their successors and assigns.

LIST OF ATTACHED EXHIBITS

Exhibit A: A legal description of the Grantor's property, inclusive of the Easement Premises.

Exhibit B: A legal description of the Easement Premises.

Exhibit C: A survey map depicting the Easement Premises that also includes identifiable landmarks, such as nearby roads, to clearly identify the easement site.

Exhibit D: A legal description that provides a path of legal access to the Easement Premises and a map that indicates this access site that MDEQ staff will use for ingress and egress to and from the Easement Premises; or if the Easement is directly connected to a publicly accessible point, such as a public road, a statement is required that authorizes MDEQ staff ingress and egress to and from the Easement Premises, with a map that clearly indicates the connection of the public access site to the Easement Premises.

Exhibit E: *If applicable*, a Cooperative Stewardship Agreement that includes baseline documentation and any vegetation and/or site management plans.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first above written. In signing this Agreement, the Signatory warrants that he or she has the authority to convey the Conservation Easement on behalf of the Grantor.

GRANTOR:

Signature: _____

_____
Type/Print Grantor's Name exactly as signed

_____
Title (if signing on behalf of an organization

_____
Organization Name (if signing on behalf of an organization)

STATE OF MICHIGAN }
} ss
COUNTY OF _____}

IF SIGNING ON BEHALF OF AN ORGANIZATION, THIS MUST BE COMPLETED:

The foregoing instrument was acknowledged before me this _____ day of _____, 20__

by _____, (name[s]) the _____, (title)

of _____(Organization name) a _____, (state) corporation, partnership, municipality, or limited liability company (circle one), on behalf of the organization.

_____
(Signature of Notary Public)

_____
(Typed or Printed name of Notary Public)

My commission is in: _____ County, Michigan

Acting in: _____ County, Michigan

My Commission Expires: _____

(OR) IF SIGNING AS AN INDIVIDUAL OR MARRIED PERSON, THIS MUST BE COMPLETED:

The foregoing instrument was acknowledged before me this _____ day of _____, 20__

by _____, (name[s]) _____ (marital status).

_____
(Signature of Notary Public)

_____
(Typed or Printed name of Notary Public)

My commission is in: _____ County, Michigan

Acting in: _____ County, Michigan

My Commission Expires: _____

GRANTEE:

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
WATER RESOURCES DIVISION

_____
William Creal, Chief

STATE OF MICHIGAN}
} ss
COUNTY OF INGHAM}

The foregoing instrument was acknowledged before me this _____ day of _____, 20__ by William Creal, Chief, Water Resources Division, State of Michigan, on behalf of the Department of Environmental Quality.

_____
(Signature of Notary Public)

_____
(Typed or Printed name of Notary Public)

Acting in: Ingham County, Michigan

My Commission Expires: _____

Form Drafted By:
The Honorable William Schuette, Attorney General
Department of Attorney General
Environment, Natural Resources, and
Agriculture Division
P.O. Box 30755
Lansing, Michigan 48909

AFTER RECORDING, RETURN TO:

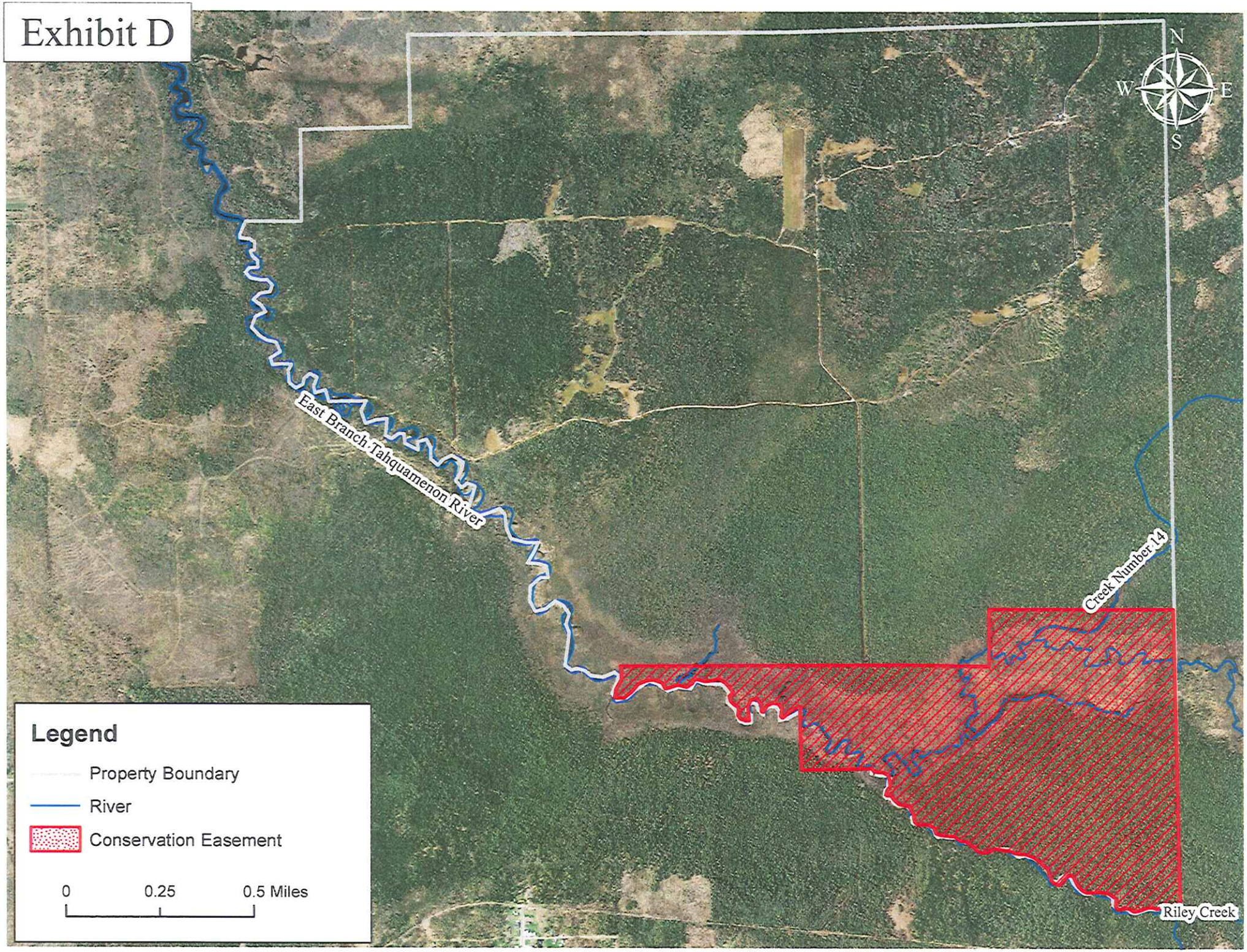
Michigan Department of
Environmental Quality
Water Resources Division
Constitution Hall, 3rd Floor South
P.O. Box 30458
Lansing, Michigan 48909-7958

(March 13, 2011)

EXHIBIT D

CONSERVATION EASEMENT Map

Exhibit D


N
W
E
S
East Branch Tahquamenon River
Creek Number 14
Riley Creek
Legend
Property Boundary
River
Conservation Easement
0
0.25
0.5 Miles