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VERMONT – NEW HAMPSHIRE – MASSACHUSETTS

January 8, 2015

Friends of the West River Trail – Lower Section
138 Elliot Street
Brattleboro, VT 05301

Re: Right to use the West River Trail

Dear Friends of the West River Trail,

Here is a summary of pertinent plans and deeds relative to the rights of the Friends of the West River Trail, Inc. in the vicinity of Tax Map Parcel 744, land of Melvin L. Mayo, along the old railroad right-of-way in Dummerston, Vermont, and the extent of the rights of Melvin L. Mayo as they pertain to the use of the West River Trail.

Plans:

1. “Property of Leroy Wilder in Dummerston, VT, surveyed by S.L. Dutton, Dummerston, VT., Sept. 1886.: containing 460 acres.”, recorded in Book 17 Page 485 at the Dummerston Land Records. Comments: Shows location of the railroad and appears to show the location of the “switch track” referred to in the description of the land of Melvin L. Mayo in Book 114 Pages 127 and 539.
2. “Right-of-Way and Track Map, West River Railroad Company, Operated by the Central Vermont RY. CO., Station 211+20 to Station 264+00”, dated June 30, 1917. Comments: Shows the 50 ft. wide railroad right-of-way centered on the railroad track; appears to show the location of the “switch track” mentioned above; appears to show that “Martin & Holden” owned the land between the railroad right-of-way and the West River in 1917, which was after the 1912 conveyance to G.G. Hall (see deed 2 below).
3. “Lands Belonging to John C. David and James R. David Estate, Dummerston, Vermont”, dated 9/11/96, prepared by James C. Ferguson, recorded in Slide 61 at the Dummerston Land Records. Comments: Shows the boundary between Tax Map Parcel 744, land of Melvin L. Mayo, and Tax Map Parcel 697, land of the David Estate; and shows the “point of ledge” on the easterly side of the old railroad bed referred to in the description of the land of Melvin L. Mayo in Book 114 Pages 127 and 539.
4. Town of Dummerston Tax Map 7. Comments: Shows Tax Map Parcel 744, land of Melvin L. Mayo, as containing the land between Rice Farm Road and the West River, and land northerly of the above mentioned “switch track”; shows Tax Map

Parcel 744 as containing 4.8 acres rather than containing “2 acres, more or less” per the description of the land of Melvin L. Mayo in Book 114 Pages 127 and 539.

5. “Central Vermont Public Service Corp., North Brattleboro to West Dummerston 44 KV Transmission Line, Mile 4”, dated 6-16-70, revised through 6/11/97, “traced from original dated 1939”. Comments: Shows the 100 ft. wide easement of Twin State Gas & Electric Company (now Green Mountain Power) in the vicinity of Tax Map Parcel 744, land of Melvin L. Mayo, along the old railroad right-of-way in Dummerston, Vermont.

Deeds:

1. Wilma Page to Melvin L. Mayo, Book 114 Page 539, dated March 12, 2013 (recorded July 25, 2014) and Audrey Moses to Melvin L. Mayo, Book 114 Page 127, dated May 7, 2013 (recorded April 17, 2014). Comments: These are the current deeds for Tax Map Parcel 744, land of Melvin L. Mayo. These deeds reference Tax Map Parcel 744 as containing 4.80 acres, but also state that this is the same property conveyed from S.S. Washer & Ella Washer to George A. & Abbie M. Little recorded in Book 25 Page 229, dated September 14, 1927, which specifically describes a parcel of land containing 2 acres, more or less, easterly of the line of the railroad and westerly of Rice Farm Road; this description also reserves and excepts “all the rights of the Brattleboro & Whitehall RR in & on said premises”.
2. Lyman E. Holden and James L. Martin to G.G. Hall, Book 21 Page 73, dated August 5, 1912. Comments: This is the origin of Tax Map Parcel 744 described as a parcel of land containing 2 acres, more or less; this description also states “...meaning to convey just to the line of the West River (Rail) Road”; this description reserves and excepts “all the rights the Brattleboro & Whitehall Rail Road have through said premises”.
3. Byron Corporation to Friends of the West River Trail, Inc., Book 107 Page 268, dated August 18, 2011. Comments: The chain of title goes back to the Brattleboro & Whitehall Rail Road Company and this conveyance appears to convey a strip of land 50 feet wide (taken from Leroy Wilder in 1879, Book 16 Page 429) and described in a deed to Byron Corporation from the H.E. Salzberg Co. Inc., Book 106 Page 557, dated May 16, 2011, as “all the lands, roadbeds, all bridges, rights of way, ...and other structures now on the right of way”, with reference to the Right-of-Way and Track Map (Plan 2) mentioned above.
4. Abbie M. Little and Frank W. Little, heirs of George A. Little, to Twin State Gas & Electric Co., Book 26 Page 399, dated October 13, 1939. Comments: This deed conveys the 100 ft. wide easement to Twin State Gas & Electric Company (now Green Mountain Power) in the vicinity of Tax Map Parcel 744, land of Melvin L. Mayo, along the old railroad right-of-way in Dummerston, Vermont as shown on Plan 5 above. This easement is not mentioned in the current deeds of Melvin L. Mayo referred to above.

It appears that the depiction of Tax Map Parcel 744 on the Town of Dummerston Tax Map 7 is not correct. Based on the descriptions in the current deeds of Melvin L. Mayo and all deeds in the chain of title back to the origin of the parcel, Tax Map Parcel 744 contains 2 acres, more or less, easterly of the line of the old railroad right-of-way.

Therefore, it is my professional opinion that the deeded rights of Melvin L. Mayo do not extend beyond the easterly limits of the old railroad right-of-way, a line approximately 25 feet easterly of and parallel to the center of the existing trail, and that the Friends of the West River Trail, Inc., Green Mountain Power and others do have rights to use the existing trail.

Please let me know if you have any questions, comments or need any additional information.

Sincerely,



Eric M. Morse, LS

