

UPDATE REPORT:

Public Comment Analysis & Response on Mount Sunapee MDP/EMP

***** UPDATED REPORT *****

**Department of Resources and Economic Development (DRED)
Final Decision and Recommendations on Mount Sunapee Resort's
Master Development Plan & Environmental Management Plan
and a
Summary Analysis on Public Comments Received on
the Draft Decision of April 16, 2015**

INTRODUCTION. This report is an update to the *"Summary and Response to Written Public Comments received as of 12.31.2014"* report released on April 16, 2015. Major sections of the 2015 report are retained to serve as the organizational foundation for this update and to continue to provide the historical context and basis for the Department of Resources and Economic Development's (DRED) response to the Five Year Master Development Plan and Environmental Management Plan submitted by Mount Sunapee Resort. New information is provided in **shaded boxes** throughout this document.

Public Involvement Process. In June 2014, pursuant to the Lease and Operating Agreement, Mount Sunapee Resort submitted for DRED's review and approval its Five Year Master Development Plan and Environmental Management Plan 2015-2019, dated June 1, 2014 (MDP/EMP 2014). On August 26, 2014, DRED and the Upper Valley Lake Sunapee Regional Planning Commission held a public hearing and solicited public comments on the MDP/EMP 2014.

DRED Commissioner Jeffrey J. Rose issued his draft decision on the MDP/EMP 2014 on April 16, 2015, after carefully considering DRED's statutes, evaluating public comments, considering the history of Mount Sunapee State Park, and having extensive discussions with staff and the operator. DRED's analysis, review, and response to public comment received was reported in the *"Summary and Response to Written Public Comments received as of 12.31.2014,"* released on April 16, 2015. Refer to Appendix A for the full copy of the 2015 Summary Report, including the Introduction and comment analysis.

On May 5, 2015, DRED and the Upper Valley Lake Sunapee Regional Planning Commission held a second public hearing and solicited public comment on the Commissioner's draft decision and conditions for approving an amended MDP/EMP. The most important value of public feedback was not the number of responses for or against an issue, but substantive comments to further refine the major issues for a balanced and responsible approach to the future of Mount Sunapee ski area and Mount Sunapee State Park. A summary of public comment is provided in the table below.

The final decision by Commissioner Rose, with the subsequent revised MDP/EMP and contractual agreements, is a refinement of his draft decision and is based upon his review of public comment and discussion with staff, other agencies, and the operator.

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Public Comment & Analysis, 2016.

Method. DRED solicited public comment beginning April 16, 2015, when Commissioner Rose released his draft decision on the MDP/EMP 2014. DRED continued to receive comments after the published, 50-day public comment closing date. Comments received from April 16 through July 30, 2015 were analyzed. The Public Comment Analysis Spreadsheet is in Appendix B.

Comments were categorized under nine general topical categories, with sub-topics contained within each general category, listed below. The nine categories used for this analysis are not the same categories used in the comment analysis of the April 2015 report because these nine categories are relative to the topics contained in the Commissioner's draft decision. However, updates and new information provided herein are organized using the original April 2015 categories of public interest and concern so as to maintain contextual content and continuity. The nine general categories and sub-topics used in the analysis of this set of public comments are:

1. WB Ownership (general comment, State ownership of West Bowl, and transfer of land by 2028).
2. ENC Impacts (general comment, minimize impacts to Polygon D, 52 acre donation, and research plots).
3. Additional Environmental Protections (general comment, legal protection of East Bowl Polygon 23 & 20, and 208 acre donation per Bald's request).
4. Development of WB & Private Lands (general comment, development will not include private or residential, Goshen zoning, 20-ft ski trail setback from park boundary, and private trails to access WB area is prohibited).
5. Hiking Trails (general comment, current recreational use is to be accommodated, spring clean-up of hiking trails by MSR, and MOA for trail maintenance).
6. Mountain Coaster (general comment, conditional approval of Mtn Coaster, constructed below old timber area in Polygon 32, and design review by NHB).
7. Economics (general comment, updated economic analysis, State revenue, regional & local revenue, lease payment, and employment).
8. Other Conditions (general comment, local & State permitting process, updated traffic analysis required, and other: municipal services and MSAC membership).
9. Lease Success (general comment, increased skier visits, capital improvements at Cannon Mountain, additional 10-year option, and G&C review and approval).

Sub-topics are explained in greater detail in the data table below. Comments associated with a particular topic were recorded with an "x" in the comment analysis spreadsheet. The general tone of the comment and whether the respondent agreed with the West Bowl expansion was recorded under the column titled "WB Expansion" with an "o" to indicate Opposition, an "s" to

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indicate Support of the West Bowl Expansion, and left blank if no clear indication was given by the respondent.

Some respondents sent in multiple correspondence. Their support or opposition to the West Bowl expansion was counted only once, and each new issue raised by the same respondent was counted only once to keep the study statistically valid.

The comments provided at the public hearing held by DRED and the Upper Valley Lake Sunapee Regional Planning Commission on May 5, 2015, were also included and analyzed as part of the Public Comment Analysis Spreadsheet.

Some comments were sent in as part of a petition effort and were analyzed separately. A petition was correspondence received by DRED either individually or as part of a collaboratively signed packet/sheet with a sponsor that contained identical or nearly identical text. Some individual responses included in a petition were found to contain substantive comment and were removed from the petition packet and added to the written public comment analysis spreadsheet. A summary analysis on the petitions is provided in the section entitled, "Summary of Petitions," below.

Number of comments. There were 749 total comments received by DRED, submitted by 676 respondents.

Opposition or Support. Of the 676 respondents, 567 or 76% of public comments explicitly expressed their support or opposition to the WB expansion. Out of all the 576 respondents, 188 (33%) were in opposition of the WB expansion, and 379 (67%) were in support.

Comments by Category. Comments were categorized under nine general topical categories, with sub-topics contained within each general category, in relation to the outline of the Commissioner's draft decision. The individual comments were recorded with an "x" and tallied based on the total number received on the particular general category or the sub-topics within the general category. Categories are tabulated in descending order.

COUNT* (%)	*COUNT: The total number and percentage (%) of public comments received by general category and sub-topic.
567 (76%)	West Bowl Expansion
188 (33%)	<u>Opposition</u> . ("o") Respondents who are in opposition of West Bowl expansion.
379 (67%)	<u>Support</u> . ("s") Respondents who are in support of West Bowl expansion.
451	Economics

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(60%)	
125 (28%)	<u>General Comment.</u> A general comment related to this category was given.
5 (1%)	<u>Updated economic analysis.</u> MSR's updated economic analysis for the West Bowl expansion.
46 (10%)	<u>State revenue.</u> The State would receive financial benefit in the same way it does from all tourism businesses including, but not limited to, rooms and meals tax.
185 (41%)	<u>Regional and local revenue.</u> The Towns of Goshen and Newbury would receive property tax revenue.
9 (2%)	<u>Lease payment.</u> DRED anticipates an increase in lease payment of nearly \$150,000
81 (18%)	<u>Employment.</u> The WB expansion project is anticipated to bring an increase in employment, both in the summer and winter months.
312 (42%)	Additional Environmental Protections
248 (79%)	<u>General Comment.</u> A general comment related to this category was given.
2 (1%)	<u>Legal protection of East Bowl Polygons 23 & 20.</u> Amend the lease whereby MSR agrees not to request any further ski area development within the East Bowl.
62 (20%)	<u>208 acre donation.</u> MSR purchased a 208 acre parcel, which will be donated to the State at the time of West Bowl expansion and will meet former Commissioner Bald's request of 2002.
225 (30%)	Development of West Bowl and Private Lands
124 (55%)	<u>General Comment.</u> A general comment related to this category was given.
33 (15%)	<u>Development will not include private or residential.</u> Private and residential development will not occur on West Bowl land being transferred to State.
52 (23%)	<u>Goshen zoning.</u> Private lands abutting the West Bowl land are within the Town of Goshen's Mount Sunapee Recreation District. If development were to occur, it would be a local decision left to the Town and its residents.
10 (4%)	<u>20-ft ski trail setback</u> from the park boundary.
6 (3%)	<u>Private trails to access the WB is prohibited.</u> The setback will further ensure that abutters to the park are not granted rights or access to the recreation facilities that are not also enjoyed by the general public.
211 (28%)	Lease Success
67 (32%)	<u>General Comment.</u> A general comment related to this category was given.
107 (51%)	<u>Increased skier visitation</u> is one measure that the skier experience has been significantly improved as a result of the Lease.

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29 (14%)	<u>Capital improvements at Cannon Mountain.</u> The proceeds from the Mount Sunapee Lease have enabled extensive capital upgrades at Cannon Mountain.
5 (2%)	<u>Additional 10-yr option.</u> DRED proposes adding an additional 10-year option to the current Lease Agreement with the MSR.
3 (1%)	<u>G&C review and approval.</u> Governor and Council will need to approve the 10-year option, as well as the expansion, land donation, and other changes to the Lease.
116 (15%)	ENC (Exemplary Natural Communities) Impact
51 (44%)	<u>General Comment.</u> A general comment related to this category was given.
39 (34%)	<u>Minimize impacts to Polygon D.</u> Realignment of WB4 and WB6 ski trails, and narrowing the width of Lift M corridor will reduce impacts w/in Polygon D from approx. 4.2 acres to 1.6 acres.
20 (17%)	<u>52 acre donation.</u> Mount Sunapee Resort will donate approx. 52 acres of land to the State for conservation purposes to further mitigate impacts to Polygon D.
6 (5%)	<u>Research plots.</u> Mount Sunapee Resort will fund the installation and annual monitoring of permanent research plot within Polygon D to document and monitor disturbance impacts from the chairlift corridor.
107 (14%)	West Bowl Ownership
64 (60%)	<u>General Comment.</u> A general comment related to this category was given.
24 (22%)	<u>State ownership of West Bowl.</u> MSR proposed both a public and private ownership model common of ski area operations, but Commissioner Rose proposes that all lands directly associated with the recreational facilities constructed in the West Bowl area will be transferred to the State at no cost to the State.
19 (18%)	<u>Transfer of land by 2028.</u> All lands directly associated with the recreational facilities constructed in the West Bowl area will be transferred to the State by the end of the first 10-year option (on or before 2028).
106 (14%)	Summit Hiking Trails
21 (20%)	<u>General Comment.</u> A general comment related to this category was given.
60 (57%)	<u>Current use to be accommodated.</u> Recreational facilities developed in the WB area be done to reasonably accommodate the current recreational use of the land.
13 (12%)	<u>Spring cleanup of hiking trails by MSR.</u> MSR agrees to conduct spring clean-up maintenance of the Summit Hiking Trail and Lake Solitude Trail in support of the Sunapee-Ragged-Kearsarge-Greenway Coalition (SRKGC).
12 (11%)	<u>MOA for trail maintenance.</u> A Memorandum Of Agreement (MOA) will outline the agreement between the parties.
62 (8%)	Other Conditions

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1 (2%)	<u>General Comment.</u> A general comment related to this category was given.
15 (24%)	<u>Local and State permitting process.</u> MSR is required to go through local and state permitting process for the WB expansion, including working with the Department of Environmental Services (DES), New Hampshire Fish and Game (NH F&G), and New Hampshire Department of Transportation (NH DOT).
22 (35%)	<u>Updated traffic analysis required.</u> MSR will need to update its traffic analysis that will be included as addendum to MDP/EMP, and will collaborate with the Towns of Goshen and Newbury, and NH DOT on traffic and roadway issues.
24 (39%)	<u>Other.</u> Other specific comments such as those related to municipal services, the Mount Sunapee Advisory Committee (MSAC) membership, etc.
36 (5%)	Mountain Coaster
7 (19%)	<u>General Comment.</u> A general comment related to this category was given.
26 (72%)	<u>Conditional approval of Mtn. Coaster.</u> Exact details will be reviewed and approved through the Annual Operating Plan (AOP) process. The Mountain Coaster shall be designed to best fit the landscape and natural environment.
3 (8%)	<u>Constructed below old timber area within polygon 32.</u> The Mountain Coaster will be located below the area w/in Polygon 32 where old timber is located.
0 (0%)	<u>Design review by Natural Heritage Bureau (NHB).</u> MSR will need to continue to work with the NHB during the site plan and review stages of the project.

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Summary of Petitions. Some comments were sent in as part of a petition effort and were analyzed separately. A petition was correspondence received by DRED either individually or as part of a collaboratively signed packet/sheet with a sponsor that contained identical or nearly identical text. Some individual responses included in a petition were found to contain substantive comment and were removed from the petition packet and added to the written public comment analysis spreadsheet. A summary analysis on the petitions is provided following this section.

Method. The following table catalogues the total number of respondents that took part in a petition. A sample copy of each petition is in Appendix C.

PUBLIC COMMENTS on COMMISSIONER ROSE’S DRAFT DECISION on the MDP/EMP 2015-2019			
TALLY OF PETITIONS	# Oppose	# Support	
Bob Skinners		431	
NH Sierra Club-FOMS	1584		
“MS Draft Decision”		164	
“Move Sunapee Forward”		24	
“Worth Protecting”	878		
Friends of Mt Sunapee (FOMS)	196		
Mt Sunapee Resort postcard		49	
Oppose postcard	37		
TOTALS	2695	668	3363
	80%	20%	

DRED’s Final Decision on the MDP/EMP. Pursuant to the Lease and Operating Agreement (Lease) *“The Operator shall prepare a Master Development Plan (“MDP”) covering operations, facilities, site improvements and strategic plans for the ski area by June 1, 2000. The Operator’s proposed MDP shall be submitted to DRED and shall be either approved as proposed or revised for resubmission. The MDP shall embody both the Operator’s and the State’s long term goals for the ski area and shall include all major elements of the Operator’s “Proposal for the Operation of the Mount Sunapee Ski Area” submitted on April 1, 1998. The MDP shall include, but not be limited to, plans for expanding the ski trail network, construction of new lifts, construction or renovation of lodges or other facilities, additional water withdrawals from Lake Sunapee to expand snow-making capacity, upgrading or modifying infrastructure, including power, water and sewage disposal systems and stich other improvements or modifications that are appropriate for the recreational use of the Leased Premises. The MDP shall be revised and updated every five (5) years.”*

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The Updated Report. This report provides updated information to the 2014 summary report and new information by incorporating the following primary source documents:

- Revised Five Year Master Development Plan and Environmental Management Plan 2016-2020, dated December 1, 2015 (“RMDP 2016-2020” and “EMP 2016-2020”)
- DRED’s Provisions for Approval of the RMDP/EMP 2016-2020 (“Provisions for Approval”)
- Amendment to Lease and Operating Agreement (“Lease Amendment”)

The primary source documents are the contractual agreements between the State, the lessee, and the operator and serve as the final response to the broad range of comments and issues raised by the public. DRED deeply appreciates the frank and sincere engagement of hundreds of people who helped to improve the final proposal, and Lease Amendment that is to be presented to the Governor and Executive Council for approval.

Report Organization. Major sections of the “*Summary and Response to Written Public Comments received as of 12.31.2014*” report are retained as the organizational foundation for this report update. The topical sections are:

- I. DRED’s guidance, authority and criteria for considering the West Bowl proposal
- II. Ownership issues related to the proposed West Bowl expansion
- III. Recreational development and residential development of the proposed West Bowl expansion
- IV. Natural Heritage findings
- V. Environmental impacts
- VI. Impacts on the rural character
- VII. Economic issues and concerns
- VIII. Economic impact to the State/Region
- IX. Other

All updated and new information (primarily excerpts from the source documents) are called out in shaded boxes throughout this report.

I. DRED’s guidance, authority and criteria for considering the West Bowl proposal.

DRED’s response: DRED’s authority and criteria for considering the proposed West Bowl expansion are set forth in State statutes, the Lease, and the Guiding Principles for Leases adopted by the State Parks System Advisory Council.

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DRED's enabling statutes. *DRED was established pursuant to [RSA 12-A:1](#), which states: “There shall be a department of resources and economic development under the executive direction of a commissioner of resources and economic development, consisting of a division of forests and lands, a division of economic development which shall include but not be limited to subdivisions of development and promotion, a division of travel and tourism development, and a division of parks and recreation. Its purpose shall be to ensure the efficient coordinated function of the 4 divisions, whereby the interests of economic development, protection and responsible management of natural resources, public enjoyment of state parks and forests, and promotion of travel and tourism development are each held to be of integral importance in the overall functioning of the department.”*

Pursuant to [RSA 216-A:3](#): The “Department of Resources and Economic Development; Authority. – With the approval of the governor and council, the department shall have the following authority: I. Acquire, by purchase or gift, real property with recreational or historic value. II. Dispose of real property, by sale or exchange. III. Enter into agreements with other state agencies, the federal government, municipalities or other public and private agencies regarding the acquisition, development or operation of recreational areas or facilities. IV. Apply for and receive, with the approval of the governor and council, grants, donations, and other assistance to assist in the development and operation of the park system.”

Pursuant to [RSA 227-H:3](#), “Acquisition of Reservations. – I. The department is authorized to purchase, receive or exchange, with consent of the governor and council, lands or interests in lands for use as reservations and to make provisions for their management...”

Pursuant to [RSA 216-A:1](#) that sets out the mission of the state park system: “It is the intent of the general court that a comprehensive state park system shall be developed, operated, and maintained to achieve the following purposes in order of the following priority: I. To protect and preserve unusual scenic, scientific, historical, recreational, and natural areas within the state. II. To continually provide such additional park areas and facilities as may be necessary to meet the recreational needs of the citizens of all regions of the state. III. To make these areas accessible to the public for recreational, education, scientific, and other uses consistent with their protection and preservation. IV. To encourage and support tourism and related economic activity within the state.”

DRED's enabling criteria under the Lease. *With regard to the Mount Sunapee ski area, the [Lease and Operating Agreement](#) (Lease) is the contractual agreement between the parties. The Lease preamble states: “WHEREAS, it is the desire of the State and the Operator that the development of summer and winter recreational activities continue at Mount Sunapee for the mutual benefit of the public and the Operator;”*

Section 6 of the Lease states: “The Operator shall prepare a Master Development Plan (“MDP”) covering operations, facilities, site improvements and strategic plans for the ski area by June 1, 2000. The Operator's proposed MDP shall be submitted to DRED and shall be either approved as proposed or revised for resubmission. The MDP shall embody both the Operator's and the State's long term goals for the ski area and shall include all major elements of the Operator's "Proposal for the Operation of the Mount Sunapee Ski Area" submitted on April 1, 1998. The MDP shall include, but not be limited to, plans for expanding the ski trail network, construction of new lifts, construction or renovation of lodges or other facilities, additional water withdrawals from Lake Sunapee to expand snow-making capacity, upgrading or modifying infrastructure, including power, water and sewage disposal systems and such other improvements or modifications that are appropriate for the recreational use of the Leased Premises. The MDP shall be revised and updated every five (5) years.”

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Update: DRED's enabling criteria under lease.

Approval of the West Bowl expansion is conditioned on G&C Approval. Certain conditions and requirements for DRED's approval of the West Bowl proposal requires an amendment to the Lease and Operating Agreement, for which Governor and Executive Council approval is required. The Provisions for Approval letter of the RMDP 2016-2020 (p. 1) states:

"1. The parties acknowledge and agree that the approvals granted in this RMDP Approval Letter, as those approvals relate to the West Bowl Expansion Land and the West Bowl Expansion Improvements, are conditioned on the Governor and Executive Council's approval of a Lease Amendment that is being considered contemporaneously with this RMDP."

and further, the Lease Amendment (p. 1) states:

"THIS AMENDMENT ("Amendment") to the Lease and Operating Agreement is made by and among the State of New Hampshire ("STATE") acting by and through its Department of Resources and Economic Development, with a mailing address of 172 Pembroke Road, Concord, NH 03301 ("DRED"), and CLP Mount Sunapee LLC, with a mailing address of c/o CNL Lifestyle Properties, Inc., CNL Center at City Commons, 450 South Orange Avenue, Orlando, FL 32801 ("CLP").

WHEREAS, STATE and Okemo Mountain, Inc., as Operator ("OKEMO"), entered into a certain Lease and Operating Agreement dated April 30, 1998, and recorded in the Merrimack County Registry of Deeds at Book 1154, Page 458, and in the Sullivan County Registry of Deeds at Book 2103, Page 308, which Lease has been assigned by Assignment of Lease and Operating Agreement by and between OKEMO and The Sunapee Difference, LLC ("TSD") dated December 31, 1998, and recorded in the Merrimack County Registry at Book 2149, Page 1713, and in the Sullivan County Registry of Deeds in Book 1186, Page 181 (collectively, the "Original Lease");"

and further, the Lease Amendment (p. 2-3) states:

"WHEREAS, the following requests related to the possible West Bowl Expansion must be included in this Amendment and be approved by the Governor and Executive Council in accordance with RSA 4:40:

- Acceptance of the West Bowl Expansion Land and the West Bowl Expansion Improvements into the Sunapee State Park if an operating chairlift and one or more trails that are accessed by that lift are constructed on the West Bowl Expansion Land,*
- Permission to build a chairlift and/or skiing and/or other recreational trails from Mount Sunapee State Park's existing ski area and/or Mount Sunapee State Park onto the SLH Lands,*
- Acceptance of the Conservation Lands (as hereinafter defined) into Mount Sunapee State Park,*
- Acceptance of any additional easements, rights-of-way, or agreements to ensure that the State has any and all necessary rights of access and use to the West Bowl Expansion Land and Improvements for future use as a ski area and recreational day use area, including parking lots, infrastructure, and utilities,*
- Extension of certain terms of the Lease to the West Bowl Expansion Land and SLH Lands, and*
- Grant of an additional 10 year option to the Lease;"*

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The Division of Parks and Recreation's guiding principles for leases. The [Guiding Principles for Leases](#), adopted by the [State Parks System Advisory Council](#) on 2/6/2012, provide the following reasons to lease (individually or in combination):

- Provides a greater capacity for stewardship
- Secures capital investment
- Captures third party programmatic capacity, experience and expertise
- [To address the] Lack of programmatic use for facility
- Provides recreational opportunities to the public not otherwise possible
- Provides a net economic benefit to the State Park System

The *Guiding Principles* outlines 12 points to consider as the criteria used when evaluating a lease or lease renewal, see [Guiding Principles for Leases](#).

Mount Sunapee State Park and the proposed West Bowl expansion. Mount Sunapee State Park offers a wide variety of recreational opportunities, of which alpine skiing has historically been a major part. The concept of expanding Mount Sunapee ski area is well established.

From the New Hampshire Legislature approving and funding the construction of a tramway or other lifting device at Mount Sunapee in 1945 that resulted in the construction of the north peak chair to today, Mount Sunapee has evolved as a competitive ski area for the purposes of providing a public recreational resource, improving travel and tourism in New Hampshire and being an economic stimulus for the region.

[Chapter 153, Laws of 1945](#) extended and amended Chapter 190, Laws of 1940, to enable construction of a tramway or other lifting device at Mount Sunapee, thereby enabling the construction of a chairlift to the north peak: "On December 26, 1948 Mt. Sunapee's facilities opened – included were the new 3,200-foot single chairlift, three main ski trails (Chipmunk, Flying Goose, and Hansen-Chase), and two rope tows. There was also a modern building at the base and a lodge at the top of the chairlift." (See [Mt Sunapee Ski Area History](#), Division of Parks and Recreation, date unknown).

In 1960, Governor Wesley Powell advocated for a rejuvenation of New Hampshire tourism including expanding the two state ski areas, Cannon Mountain and Mt Sunapee. [Chapter 263, Laws of 1961](#), provided \$9 million for expansion of the state park system for the purpose of promoting the welfare and improving the economy of the state (see also Declaration of Purpose). The Forestry and Recreation Commission was charged: "In the performance of its duties hereunder the commission shall give equal consideration to the recreational needs of all geographic areas of the state and shall have particular concern for the following objectives: a. the development of present parks and facilities thereon to their optimum capacity for skiing, camping, and other income producing potential. b. development of any other lands and facilities that the state now owns for optimum recreational potential. c. acquisition of new areas and facilities thereon within the state, believed by the commission to have sound potential for development, use and operation as state parks, historic sites or wayside areas."

Of the \$9 million allocated, Mount Sunapee received \$2 million for extensive capital improvements based upon its Master Plan, including conversion of the North Peak chairlift, the J-Bar, Summit chair-gondola, Duckling chairlift, Province chairlift and Province slope construction, land acquisition, the park access road, the summit lodge, ski shop building, and trail construction (see [Mt Sunapee Ski Area History](#), Division of Parks and Recreation, date unknown).

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In 1985, a conceptual plan for alpine facilities improvements was commissioned by what was the Department of Public Works and Highways on behalf of DRED. The report laid out a proposed four-year phasing of improvements, including upgraded lifts, a new lift, expanded and new ski trail networks, snowmaking, and an addition to the base lodge (see report entitled "[Mt Sunapee Ski Area: Conceptual Plan Report](#)" by Ericksen Associates, Inc., dated March 20, 1986.

In 1989, potential expansion in Sun Bowl camping area had been under consideration by the State: "To create options for additional future uses in all seasons, camping facilities are upgraded so skiers can ski to the Sun Bowl after camping out, and improvements are made to the trail system for hiking, cross-country skiing and horseback riding" (see report entitled "[Proposed Improvements for the Mt. Sunapee State Park Base Area](#)" by The Cavendish Partnership, dated December 15, 1989).

In 1996, the New Hampshire legislature passed [RSA 12-A:29-a](#), regarding State Ski Operations. DRED was directed to develop a lease agreement in the event that the State enters into an agreement to lease Cannon Mountain or Mount Sunapee, or both. RSA 12-A:29-a, IV.(b) required DRED to include in the lease terms the "(b) Procedures to follow when the lessee requests a permit to replace major equipment (such as a lift) or expand the ski area, cut new trails, increase snowmaking, or alter master planning requirements."

DRED, in consultation with a Joint Legislative Committee, issued a [Request for Proposals for the Operation of State-owned Ski Area at Mount Sunapee State Park \(RFP\) on January 15, 1998](#). The RFP required respondents to provide their proposal for the development and expansion of the Mount Sunapee ski area: "Each proposal must respond to the requirements of the RFP by offering to provide ski area management and operation services at the ski area by stating information about the operator's financial standing, staff and resources, ski area operation experience, its proposal for the development and expansion of the Mount Sunapee Ski Area, and its payment proposal" (see Section IV. in [Request for Proposals](#)).

Okemo submitted a proposal that complied with the requirements of the RFP. Its RFP detailed plans for immediate improvements to the Mount Sunapee ski area and other improvements within the existing area of lifts and trails, and described its intention to expand the ski area outside of the existing area of lifts and trails.

Okemo stated in its [RFP in Section N. Proposal for Capital Improvements](#): "3. [Future planning and improvements to be made in peripheral areas surrounding the current lifts, trails, and base area facilities](#) As the planning for improvements of the existing lifts, trails and base facilities proceeds, we will explore opportunities for expanding the summer and winter recreational activities outside the existing area of lifts, trails and base facilities. We understand that thorough environmental and land capability analyses will need to be conducted prior to proposing expanded recreation improvements, and we anticipate working closely with the state in determining the scope of such expansion and delineating key resource protection areas. The improvement proposals will be included in the five year master plan."

Okemo's proposal for the operation of Mount Sunapee was incorporated into the Lease, which was approved by the State of New Hampshire in June 1998: "The MDP shall embody both the Operator's and the State's long term goals for the ski area and shall include all major elements of the Operator's "Proposal for the Operation of the Mount Sunapee Ski Area" submitted on April 1, 1998."

Update: Mount Sunapee State Park and the proposed West Bowl expansion

The West Bowl expansion completes Mount Sunapee Resort's expansion plans for the ski area boundary. Refer to DRED's earlier response entitled "Mount Sunapee State Park and the proposed West Bowl expansion," above for the historical context of the expansion of the ski area at Mount Sunapee State Park. The West Bowl expansion completes Mount Sunapee Resort's plans for expansion of the ski area boundary. The RMDP 2016-2020 (p. 9) states:

"In our proposal to the State of New Hampshire and the Department of Resources and Economic Development's RFP in 1998, we were clear about our intention to expand the Mount Sunapee Ski Area and described expansion possibilities in our proposal. More specifically, we described adding a third major chairlift that would serve upper elevation skiing with an additional and significant new ski trail complex. The western side of Mount Sunapee, called the West Bowl Expansion lands area, is the only area on Mount Sunapee on which an expansion of the ski area boundary is planned."

Refer to the Revised Master Development Plan 2016-2020 (RMDP 2016-2020) for an "**Overview of the revised West Bowl ski area expansion proposal**" (p. 32-33).

and further, the Provisions for Approval letter (p. 2) states:

"5. The parties agree that in the proposal to the State of New Hampshire and DRED's RFP in 1998, TSD was clear about its intention to expand the Mount Sunapee State Park ski area and described expansion possibilities in its proposal. More specifically, TSD described adding a major chairlift that would serve upper elevation skiing with an additional and significant new ski trail complex, that expansion area having been referred to as the East Bowl Expansion Area. The western side of Mount Sunapee, called the West Bowl Expansion Land, is the only area on Mount Sunapee on which an expansion of the ski area boundary is planned."

Approval of the RMDP 2016-2020 is subject to certain conditions. DRED approves certain projects in the Revised Master Development Plan 2016-2020 (RMDP 2016-2020), subject to certain conditions and requirements. The Provisions for Approval letter of the RMDP 2016-2020 (p. 1) states:

"The plans for expanding the ski trail network, construction of new lifts, construction or renovation of lodges or other facilities, additional water withdrawals from Lake Sunapee to expand snow-making, upgrading or modifying infrastructure, including power, water and sewage disposal systems and such other improvements or modifications that are appropriate for the recreational use of the Leased Premises as required in the lease, as set forth in the Mount Sunapee 2016-2020 Revised Five Year Master Development Plan (RMDP 2016-2020) and the Environmental Management Plan (EMP), both dated December 1, 2015, are approved for the projects in the RMDP, subject to the conditions below, except for the mountain coaster which is neither approved nor denied at this time.

The conditions set forth below are part of the RMDP Approval Letter between the parties and shall be considered as a further revision and resubmission of the RMDP to DRED. Notwithstanding any

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corresponding language or conditions set forth in the RMDP, if there is any discrepancy or confusion between the language in the RMDP and this Approval Letter, the language in this RMDP Approval Letter shall govern and control.

For the purposes of this RMDP Approval Letter, the Department of Resources and Economic Development (DRED), the CLP Mount Sunapee, LLC (CLP), The Sunapee Difference, LLC (TSD), and Sunapee Land Holdings, LLC (SLH), are the parties.”

and further, the Lease Amendment (p. 7) states:

“Upon approval of this Amendment by the Governor and Executive Council, the State shall be authorized to execute an easement authorizing TSD to build, repair, maintain, replace and operate a chairlift, and any necessary infrastructure, and a ski trail on the Leased Premises to the West Bowl Expansion Land once it moves forward with construction after the Notice to Proceed is issued.”

LWCF and the proposed West Bowl expansion. *The proposed West Bowl expansion area traverses both private property and, at the summit, State-owned property. The area of the proposed West Bowl that is property of the State is designated in perpetuity as an outdoor public recreation property per section 6(f)(3) of the federal Land and Water Conservation Fund (LWCF) Act. Per LWCF program guidelines, the area of the West Bowl lands that is privately owned cannot be designated as “6(f)” because LWCF funds cannot be used for recreational development of private property.*

When the West Bowl is transferred to the State, it becomes part of Mount Sunapee State Park but it will not be automatically included in the “6f” boundary, as LWCF funds will not be used on this addition to the state park.

DRED did consult with NPS in 2004, when the West Bowl expansion proposal was first presented in Mount Sunapee Resort’s MDP/EMP 2005-2009. NPS wrote: “In consultation with our Washington Office we have determined that the proposed addition of a ski lift and ski trails in the West Bowl of Mount Sunapee does not require National Park Service (NPS) action. This determination regarding the proposed ski lift and ski trail expansion is made based on the following: • It will involve no LWCF assistance, • It is consistent with the original purpose of the LWCF grant assistance, • It does not adversely affect outdoor recreation at Mt. Sunapee State Park, i.e. it does not reduce the recreational utility within the LWCF Section 6(f) boundary.” See [letter from Roy Cortez, NPS to Gail Wolek, DRED, dated November 10, 2004](#).

DRED is currently in consultation with the NPS as part of DRED’s review of Mount Sunapee Resort’s MDP/EMP 2015-2019 to confirm that the MDP proposals are consistent with the LWCF program requirements. LWCF review will be one of the conditions of the MDP approval. (See [LWCF Federal Financial Assistance Manual, Vol 69, October 1, 2008](#))

LIST OF LWCF FUNDED PROJECTS AT MOUNT SUNAPEE STATE PARK:

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Project #	Project Name	Project Type	Sponsor	
3300006	MOUNT SUNAPEE STATE PARK	Development	DRED	The development of a 4,000' double chair lift, 30 acres of new ski slopes, and a 6,000' access road. (1965)
3300047	MT SUNAPEE STATE PARK II	Development	DRED	The development of a new beach bathhouse and spray irrigation waste disposal system. (1971)
3300088	PILLSBURY-SUNAPEE CORRIDOR	Acquisition	DRED	The acquisition of 7 parcels of land totaling 2,012+ acres approximately 4 miles long connecting Pillsbury and Mount Sunapee State Parks, in Goshen, Newbury and Washington. (1973)
3300298	MOUNT SUNAPEE STATE PARK III	Development	DRED	The development of a group campground, access road, parking, and water; renovate North Peak chairlift. (1978)
3300377L	STATE PARK ACCESS IMPROVEMENTS	Development	DRED	Work at Bear Brook, Crawford Notch, Franconia Notch, Greenfield, Hampton Beach Bathhouse, Hampton Beach Seashell, Mt Monadnock, Moose Brook, Mt Sunapee, Pawtuckaway, White Lake. (1980)
3300431	NEW HAMPSHIRE DRED SNOWMAKING	Development	DRED	Construct a new snowmaking system with pump house/compressor building and water/air distribution lines and hydrants at Mt. Sunapee; expand existing system at Cannon Mt. (1982)
3300443	STATE PARK ACCESS IMPROVEMENTS II	Development	DRED	Develop ramps to toilet buildings, grab-bars, wide stalls, at Bear Brook (campground toilet bldg), Forest Lake (paved parking, paths, one picnic site, ramp to toilets), Pawtuckaway (ramps to toilet bldg, grab bars, wide stalls), Sunapee (beach bldg mods). (1982)
3300459	NH DRED 1983 JOBS BILL	Development	DRED	At Bear Brook, Coleman, Crawford Notch, Ellacoya, Forest Lake, Franconia Notch, Greenfield, Mt. Monadnock, Mt. Sunapee*, Wellington, Wentworth, White Lake, Winslow. (1983)
<p>* Mt Sunapee: Ski trail renovations, remodel hangar building, construct new storage building, landscape upper North Peak lift area, resurface main and beach parking lots, replace sewage system, accessibility improvements to buildings.</p>				

UPDATE: LWCF and the proposed West Bowl expansion

LWCF and the proposed West Bowl expansion. LWCF concerns are addressed in the Provisions for Approval letter and the Lease Amendment. The Provisions for Approval (p. 3) states:

“16. DRED, CLP, and TSD acknowledge that Mount Sunapee State Park has been developed by the State using federal Land and Water Conservation Funds (LWCF) for public outdoor recreation. The portion of Mount Sunapee State Park currently referred to as the Leased Premises shall operate in accordance with the LWCF grant and associated restrictions on the use of the property.”

and further, the Lease Amendment (p. 5) states:

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“WHEREAS, upon conveyance to the State, the West Bowl Expansion Land and Improvements will not be subject to section 6(f)(3) of the Land and Water Conservation Fund Act. However, the State reserves the right to elect to designate the West Bowl Expansion Land under section 6(f)(3) at a later date through mutual agreement with the National Park Service; and”

Implementation of proposed projects. DRED acknowledges that the implementation and construction of projects are a business and financial decision of the Operator, and are dependent upon many factors, including but not limited to financing, tactical opportunities (such as the availability of used or refurbished equipment), and changes in market trends and guest expectations. DRED’s approval of an MDP/EMP and an AOP does not require Mount Sunapee Resort to implement an approved project, and these approvals carry forward under the terms of the Lease unless the Operator agrees in writing to forgo an approved project.

UPDATE: Implementation of proposed projects

Many factors affect implementation of proposed projects. Implementation of the proposed construction projects are dependent upon many factors. The Lease Amendment (p. 3) states:

“WHEREAS, the implementation and construction of projects like the West Bowl Expansion Improvements are a business and financial decision and are dependent on many factors, including, but not limited to, financing, and changes in market trends and guest expectations;

“WHEREAS, therefore, no assurances can be made at this time that the West Bowl Expansion Permits will be sought or obtained, or that the West Bowl Expansion Improvements will be constructed;

“WHEREAS, TSD intends to pay for the construction of the West Bowl Expansion Improvements by borrowing money from banks, other lending institutions and/or other private sources and to secure those loans with a security interest on the West Bowl Expansion Improvements;”

If the West Bowl expansion improvements are not completed. The Provisions for Approval letter (p. 4) states:

“17. In the event that the West Bowl Expansion Improvements are not completed or that TSD has not constructed an operating chairlift and one or more trails accessed by the lift on the West Bowl Expansion Land by June 30, 2028, then neither TSD nor CLP shall be considered in breach of the Lease, but any and all associated approvals granted in the 2016-2020 RMDP, and future MDPs, related to the West Bowl Expansion Improvements shall be withdrawn and not be effective after June 30, 2028.”

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In the event the West Bowl land is not transferred to the State by June 30, 2028. The Provisions for Approval letter (p. 4) states:

“20. In the event the West Bowl Expansion Land has not been transferred to the State by June 30, 2028, then TSD shall be prohibited from operating the chairlift and/or trails leading from the Leased Premises to the West Bowl Expansion Land.”

II. Ownership issues related to the proposed West Bowl expansion.

DRED’s response: ***Delineation of ownership.*** The MDP/EMP proposed both public and private ownership of the lands in the West Bowl based upon a common model of the operation of ski areas on state and federal lands in Vermont, the White Mountain National Forest in NH, and other public lands in the U.S. In these cases, the ski area operator owns and controls all of the land at the base of the ski area and enters into a lease to allow the lifts and trails to cross onto public land on the upper slopes of the mountain.

While there is a well-established precedence for this type of ownership structure, DRED proposes that the lands directly associated with the recreational facilities constructed in the West Bowl area be transferred to and become property of the State, at no cost to the State, by the end of the first 10 year extension of the current lease in 2028. The boundaries of the land to be transferred (see [map](#)) would incorporate all the facilities necessary to operate the ski area (parking, base lodge functions including ticketing, restrooms, restaurant, retail and rental shop, ski school and all other activities that would be directly associated with the ski area operation) and the agreements would include all additional rights necessary to support access to and the operation of the ski area (such as but not limited to road rights of way, waste water disposal, etc.). The West Bowl recreation area will become public lands and facilities, and there will be no private real estate development within the West Bowl area that is transferred to the State.

Among the rights exchanged between the parties, Mount Sunapee Resort would retain the right to use and cross the parking lot to support abutting private property, however the State would hold the real interest of the parking lot rather than accepting an easement to use a privately held parking lot.

The proposed transfer of West Bowl ski area lands at the end of the first 10 year lease extension, rather than at the time of MDP approval, is to allow Mount Sunapee Resort the opportunity to secure the financing and approvals necessary to go forward with the project, to retain the right to use the property to meet local density requirements, and other permitting and/or mitigation requirements, and to provide for the event that the lands are not transferred to the State if the project does not move forward.

The lease boundary would be expanded to include the West Bowl so the disposition of improvements to the site at the end of the lease and subsequent lease extensions would be treated the same as the improvements within the existing lease boundary, as stated in the current lease: “Site improvements

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built or installed by the Operator shall remain the real or personal property of the Operator during the term of this Lease. Title to all site improvements shall vest in the State upon the termination of this Lease" (see [Lease and Operating Agreement](#), Section 7)

For DRED's response pertaining to CNL, please see Section VII. Economic issues and concerns, below.

Ownership issues related to the proposed West Bowl expansion.

West Bowl improvements will be operated as a public ski area. The RMDP 2016-2020 (p.) states:

"a. Approximately 150 acres of the privately owned land that comprise the West Bowl ski area expansion will become part of the expanded Mount Sunapee ski area leasehold upon transfer to DRED."

and further, the Provisions for Approval letter (p. 2) states:

"7. TSD and SLH agree that the West Bowl Improvements shall not be operated as a private ski area outside of the terms and conditions of the Lease."

and the Lease Amendment (p. 2) states:

"WHEREAS, a portion of the SLH Lands includes a land area of approximately 150 acres in size which is more particularly described on the Plan attached hereto as Exhibit A (said 150 acre parcel being hereinafter referred to as the "West Bowl Expansion Land");

WHEREAS, TSD may construct chairlifts, surface lifts, ski trails, a base lodge, parking areas and other building and infrastructure improvements, which may include, but not be limited to, retail shops, food concessions, equipment rentals, daycare facilities, ticket sales, ski and/or other schools, and other recreational operations infrastructure that will serve the day use skiers and/or other day use recreational users, and which shall be located, with the approval of DRED, on a portion of the West Bowl Expansion Land (collectively, the "West Bowl Expansion Improvements");"

and further, see the Lease Amendment (p. 4-5) states:

"WHEREAS, as noted on Exhibits A and B, the pictorial descriptions of the West Bowl Expansion Land and Conservation Lands shown on Exhibits A and B, respectively, are approximate only but were done using GPS technology; land surveys and the final description will be done when (a) in the case of the West Bowl Expansion Lands, the West Bowl Expansion Land is permitted and constructed and (b) in the case of the Conservation Lands, when the West Bowl Expansion Improvements are permitted and a Notice to Proceed (as such term is defined below) is issued;

WHEREAS, TSD is willing, under certain circumstances and conditions described below, to cause SLH to convey in fee the Conservation Lands to DRED to be added to Mount Sunapee State Park;"

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West Bowl improvements will include skier services. The RMDP (p. 32) states:

“b. The 150 acres (+/-) of land that comprise the ski area expansion will include all of the new skier services including the new ski trails, quad chairlift, moving carpet surface lift, base lodge, ski school, ski rentals, retail and parking lots are located.”

and further, see the Lease Amendment (p. 2) stated above.

Services built on private lands that compete with services of the ski area will be subject to certain payments to the State. The Provisions for Approval letter (p. 2) states:

“8. TSD and SLH agree that all West Bowl Expansion Improvements that will serve the day use skiers and/or other day use recreational users, which improvements may include, but not be limited to, retail shops, food and beverage concessions, equipment rentals, daycare facilities, ticket sales, ski and/or other schools, and other recreational operations infrastructure shall be located within the West Bowl Expansion Land. It is understood that should any of the improvements be built on the Private Land by SLH, its affiliates and/or its assigns and those improvements are competitive with services provided by the ski area, that all revenue generated from these Improvements while any of the facilities at Mount Sunapee State Park ski area are open to the public during the winter ski season will be subject to the three (3%) percent lease payments as long as TSD operates the ski area.

9. SLH agrees that in the event it transfers the Private Land to an affiliated entity, then the obligations SLH has agreed to here and in the Lease Amendment shall apply to the affiliated entity in the same manner.”

West Bowl lands will be transferred to State ownership. The West Bowl lands will be transferred to the State when and if the West Bowl improvements are completed, or when the West Bowl chairlift and one or more ski trails accessible by the new chairlift are completed. The RMDP 2016-2020 (p. 33) states:

“c. These 150 acres (+/-) will be transferred to DRED after all construction permits are finalized, and after the construction of the West Bowl expansion project. The land will be transferred on or before June 30, 2028.”

and further, the Lease Amendment (p. 6-7) states:

“2. Section 1 of the Lease shall be amended to include the following: When and if the West Bowl Expansion Improvements are completed, or when TSD has constructed an operating chairlift and one or more trails that are accessed by the lift, TSD shall cause SLH to convey in fee the West Bowl Expansion Land and the West Bowl Expansion Improvements (together with and subject to the easements referenced in the Recitals above) by June 30, 2028 to DRED and the description of the Leased Premises shall be

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amended in fact to include the West Bowl Expansion Land and the West Bowl Expansion Improvements, which shall be free and clear of all real estate mortgages but subject to the Excess Density Allocation Acreage restriction, the Conservation Restrictions and any security interests in the West Bowl Expansion Improvements. At the time of conveyance of the West Bowl Expansion Land, the description of the Leased Premises shall be amended to add the West Bowl Expansion Land as a part of the Leased Premises by recording in the Merrimack and Sullivan County Registries of Deeds the As-Built Survey of the Leased Premises including the West Bowl Expansion Land as a new Appendix I to the Lease and a revised legal description of the Leased Premises including the West Bowl Expansion Land as a new Appendix II which legal description will define the revised Mount Sunapee Resort leasehold.

Attached to this Amendment as Exhibit A is the planned West Bowl Expansion Land boundary as agreed to by the parties and approved by the Governor and Executive Council in accordance with RSA 4:40, subject to the final boundary to be established in the As-Built Survey to be completed at least 3 months prior to the transfer of the West Bowl Expansion Land to the State. The parties agree that the boundary of the West Bowl Expansion Land, as shown in Exhibit A and then as shown in the final As-Built Survey, shall not change at any point by more than 150 feet, except in the proposed areas of the base lodge and parking lot, as shown on Exhibit A where the boundary may change by more than 150 feet between GPS points N:298.598, E:869.954 and N:297.342, E:870.642.

Upon approval of this Amendment by the Governor and Executive Council, the State shall be authorized to execute an easement authorizing TSD to build, repair, maintain, replace and operate a chairlift, and any necessary infrastructure, and a ski trail on the Leased Premises to the West Bowl Expansion Land once it moves forward with construction after the Notice to Proceed is issued."

and further, transfer of the West Bowl land and improvements will occur if, at a minimum, the West Bowl chairlift and one or more trails accessed by the lift is operating. The Lease Amendment (p. 4) states:

"WHEREAS, in the event that all of the West Bowl Expansion Improvements are not completed by June 30, 2028, but TSD has constructed an operating chairlift and one or more trails accessed by the lift, then in this event TSD shall complete an as-built survey and site plan and shall transfer the West Bowl Expansion Land and the West Bowl Expansion Improvements, and all necessary easements, rights-of-way, and/or agreements for ski area and other recreational day use infrastructure on the Private Land, including an easement for vehicular access for maintenance and construction purposes, to DRED by June 30, 2028;"

All necessary easements, rights-of-way, access to and utilities necessary to operate and manage the West Bowl area will also be granted to the State. The RMDP (p. 34) states:

"4. Mount Sunapee will provide rights, easements and agreements to DRED for road access from Brook Road in Goshen into the West Bowl base area, and for any utilities, such as water and sewer, if those utilities are not located on land that is transferred to DRED. The easements will be recorded with the land transfer deeds."

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and further, the Provisions for Approval letter (p. 2-3) states:

“11. All necessary documents, including, but not limited to, easements, rights-of-way, operating agreements, and maintenance agreements, shall be negotiated and entered into in good faith by DRED, TSD, and SLH and any and all necessary documents to implement these rights and agreements shall be negotiated and executed without undue delay. SLH shall execute all necessary perpetual easements, rights-of-way, and/or other agreements, which may include, but are not limited to, rights to use, maintain, improve, repair, replace, rebuild, transfer, operate and manage the ski and other recreational area operations’ infrastructure, including, without limitation, snowmaking, water lines, sewerage treatment facilities, power lines, and parking areas that may be built on the Private Land. In its deed to the State, TSD shall carve out and reserve, for TSD, its successors and assigns, perpetual necessary easements for parking areas built on the West Bowl Expansion Land and for utilities necessary for the development of the Private Land.”

and further, the Lease Amendment (p. 3) states:

“WHEREAS, as acknowledged in this Amendment, access to and utilities for the West Bowl Expansion Improvements and West Bowl Expansion Land, which may also serve the Private Land, may be located outside of the West Bowl Expansion Land. The parties to this Lease Amendment, including TSD and SLH, agree that all legal rights necessary to operate the ski area and recreational day use area shall be granted to the State and CLP upon the conveyance of the West Bowl Expansion Land and the West Bowl Expansion Improvements;

WHEREAS, TSD shall, under the terms and conditions agreed to in this Amendment cause either itself and/or SLH to convey in fee the West Bowl Expansion Land together with all necessary non-exclusive perpetual easements for road access from any public road or from Brook Road to provide public access to the West Bowl Expansion Land and the West Bowl Expansion Improvements. In addition to access, SLH shall also execute all necessary non-exclusive perpetual easements, rights-of-way, and/or other agreements, which may include, but are not limited to, rights to use, maintain, improve, repair, replace, rebuild, transfer, operate and manage the ski and other recreational area operations’ infrastructure, (including, without limitation, snowmaking, water lines, sewerage treatment facilities, power lines, that may be built on the Private Land. In its deed to the State, TSD shall carve out and reserve for TSD, its successors and assigns, perpetual necessary easements for parking areas, roads and other infrastructure built on the West Bowl Expansion Land and for utilities necessary for the development of the Private Land;”

Prorated usage rates on shared infrastructure. The Provisions for Approval (p. 3) states:

“12. TSD, SLH, and DRED agree that the cost of operation, maintenance, repair, improvement, rebuilding, management, and/or replacement of the ski and/or other recreational area infrastructure that is also shared with any development on the Private Land shall be shared on a prorated basis based on usage rates. Such responsibility to share the prorated costs shall be included in title transfer documents for developments on the Private Land and reserved in the transfer documents for the West Bowl Expansion Land, including all easements on the Private Land and the West Bowl Expansion Land.”

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If the transfer of the West Bowl lands does not occur by 2028. If an operating chairlift and one or more trails accessed by the lift on the West Bowl land is constructed, but The Sunapee Difference (d/b/a Mount Sunapee Resort) fails to have its affiliate Sunapee Land Holdings transfer the West Bowl land and improvements to the State by June 30, 2028, Mount Sunapee Resort will be prohibited from operating the chairlift and related ski trail(s) and the State reserves its rights for legal recourse.

The amended lease, part 5 states:

“5. Section 25 (Default and Termination) of the Lease shall be amended to include the following: If TSD constructs an operating chairlift and one or more trails accessed by the lift on the West Bowl Expansion Land but fails to have SLH convey the West Bowl Expansion Land and Improvements to the State on or before June 30, 2028, TSD shall be prohibited from operating the chairlift and accessing the trails. The State reserves all rights to pursue TSD and SLH for any other legal remedies available to it outside of and not affecting the Lease, this Amendment, the Sublease Agreement, or any of the terms thereunder, or any of CLP’s interest therein. Notwithstanding any breach by TSD and SLH, CLP shall not be considered to be in breach of the Lease or this Amendment if otherwise performing with respect to the terms of the Lease.”

If the West Bowl is not developed. Mount Sunapee Resort is not obligated to construct the West Bowl improvements. In the event that the West Bowl improvements are not completed or the chairlift and one or more trails in the West Bowl area are not constructed, the amended lease becomes null and void with the exception of the exercise of the first option to extend the term of the lease, and the proposal for the West Bowl improvements contained in the revised MDP 2016-2020, and any future MDPs containing the West Bowl improvements are withdrawn as of June 30, 2028.

The conditional approval letter of the Mount Sunapee 2016-2020 Revised Master Development Plan (RMDP) states:

“17. In the event that the West Bowl Expansion Improvements are not completed or that TSD has not constructed an operating chairlift and one or more trails accessed by the lift on the West Bowl Expansion Land by June 30, 2028, then neither TSD nor CLP shall be considered in breach of the Lease, but any and all associated approvals granted in the 2016-2020 RMDP, and future MDPs, related to the West Bowl Expansion Improvements shall be withdrawn and not be effective after June 30, 2028.”

The amended lease, part 4 states:

“4. Section 2 of the Lease shall be amended to add the following: In the event that the West Bowl Expansion Improvements are not completed or TSD has not constructed an operating chairlift and one or more trails accessed by the lift on the West Bowl Expansion Land by June 30, 2028, this Amendment to the Lease shall be null and void in all respects with the exception of paragraph 3 above, which paragraph shall remain in full force and effect. Notwithstanding any provision set forth in the Lease to the contrary, and notwithstanding any and all rights available at law or in equity, the parties hereby acknowledge and

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agree that TSD is not obligated to permit or construct the West Bowl Expansion Improvements. Further, in the event that such West Bowl Expansion Improvements are not completed or TSD has not constructed an operating chairlift and one or more trails accessed by the lift on the West Bowl Expansion Land by June 30, 2028, then neither TSD nor CLP shall be considered in breach of the Lease, but any and all associated approvals granted in the 2016-2020 Revised MDP, and future MDPs, related to the West Bowl Expansion Improvements shall be withdrawn and not be effective as of June 30, 2028."

Delineation of authority, liabilities, and responsibilities. DRED proposes that the West Bowl recreational facilities and lands directly associated with the recreational facilities become part of the Lease, within which the negotiating parties are well established.

DRED proposes that all activities and improvements in the West Bowl acreage to be transferred to the State, regardless of when the lands are transferred, be covered under the same processes that are set forth for activities and improvements within the existing lease boundary and terms as follows:

MDP. "The Operator shall prepare a Master Development Plan ("MDP") covering operations, facilities, site improvements and strategic plans for the ski area by June 1, 2000. The Operator's proposed MDP shall be submitted to DRED and shall be either approved as proposed or revised for resubmission. The MDP shall embody both the Operator's and the State's long term goals for the ski area and shall include all major elements of the Operator's "Proposal for the Operation of the Mount Sunapee Ski Area" submitted on April 1, 1998. The MDP shall include, but not be limited to, plans for expanding the ski trail network, construction of new lifts, construction or renovation of lodges or other facilities, additional water withdrawals from Lake Sunapee to expand snow-making capacity, upgrading or modifying infrastructure, including power, water and sewage disposal systems and such other improvements or modifications that are appropriate for the recreational use of the Leased Premises. The MDP shall be revised and updated every five (5) years" (see Lease, Section 6)

EMP. "The Operator shall develop and submit for approval to DRED an Environmental Management Plan adopting recognized Best Management Practices to preserve and protect the Leased Premises..." (see Lease, Section 15)

AOP. "On or before the 15th day of May during each year of this Agreement, the Operator shall submit to DRED an annual operating plan, including a schedule of the proposed days and hours of operation for the ski area, and a description of the types of recreational activities available to the public. The proposed schedule of operation shall be reviewed by DRED and either approved as proposed, or revised for resubmission. DRED shall notify the Operator in writing of a final schedule of operations no later than June 30th of each year. No changes in the days of operation or the scheduled hours of operation may be made without the prior approval of DRED. The Leased Premises shall not be closed to the public except for emergency or unsafe weather conditions" (see Lease, Section 5)

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The Lease requires that site improvements built or installed by Mount Sunapee Resort remain the real or personal property of Mount Sunapee Resort. The Lease also requires that Mount Sunapee Resort obtain and maintain in force during the term of the Lease comprehensive general liability insurance and fire and extended coverage insurance, in an amount not less than one hundred percent (100%) of the whole replacement value of the Leased Premises. These provisions would extend to the proposed West Bowl expansion facilities.

UPDATE: Delineation of authority, liabilities, and responsibilities

The West Bowl will be subject to the same provisions as all other lands contained within the leased premises. The Provisions for Approval letter (p. 2) states:

“10. DRED’s approval, through the Master Development Plan and other provisions of the Lease, specifically Section 7, is required and shall occur for all West Bowl Expansion Improvements within the Leased Premises and on the West Bowl Expansion Land.”

and further (p. 4) states:

“18. As long as TSD has DRED approval to construct the West Bowl Improvements, the conditions contained in this RMDP Approval Letter, and future MDP approval letters as they relate to the West Bowl Improvements, shall remain in full force and effect.”

and further, the Lease Amendment (p. 4) states:

“WHEREAS, upon the completion of construction of the West Bowl Expansion Improvements, the completion of an as-built survey and site plan, and the commencement of operation thereon, the conveyance of title in fee of the West Bowl Expansion Land and the West Bowl Expansion Improvements shall occur and the West Bowl Expansion Land and the West Bowl Expansion Improvements shall be subject to all the terms and conditions of the Lease and Operating Agreement, as amended, and all Master Development Plans, approved by DRED, in the same manner as all other lands constituting the Leased Premises;”

and further, the Lease Amendment (p. 7) states:

“Upon approval of this Amendment by the Governor and Executive Council, the West Bowl Expansion Land and Improvements shall be subject to Section 5 (Annual Operating Plan), and Section 7 (Site Improvements) of the Lease, as amended, and the applicable provisions of the 2016-2020 Revised Master Development Plan, as approved by DRED, in the same manner as all other lands currently constituting the Leased Premises.

“If and when TSD constructs an operating chairlift and one or more trails that are accessed by the lift, the West Bowl Expansion Land also shall be subject to Section 3 (Rent), Section 12 (Taxes) and Section 15 (Environmental Management) of the Lease, as amended.”

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Development on the West Bowl lands. *Private and residential development will not occur on the West Bowl lands to be transferred to the State and development of the ski area facilities will be subject to State review and approval. Following MDP approval and any other necessary State approvals, those West Bowl lands will be held privately but all ski area development within those West Bowl expansion lands is subject to the approval of the State in the same manner as provided for on the leased land through the AOP process.*

Through the AOP process, DRED would review and approve Mount Sunapee Resort's site plan for the ski facilities and trails, whereby DRED proposes that ski trails are setback 20 feet inside of the state park boundary. Additionally, the lands in the West Bowl and private lands that abut the West Bowl are located in both Newbury and Goshen, and would be subject to local zoning, subdivision, and site plan review regulations and permitting, including local zoning setback requirements.

Additional lands donated to the state outside the West Bowl ski area development would become part of Mount Sunapee State Park as a state reservation and managed accordingly.

Pursuant to the Lease, Mount Sunapee Resort will bear the cost of the proposed West Bowl recreational improvements, therefore, financing of the West Bowl improvements are at the sole risk and responsibility of the operator. Section 7 of the [Lease](#) states: "The Operator shall bear the cost of all renovations and improvements and shall ensure that they are done in a good and workman like manner and in compliance with all applicable laws."

DRED recognizes that Mount Sunapee Resort's construction schedules and timelines are dependent upon many factors, including but not limited to securing financing and the completion of engineering and environmental studies, design and construction plans, State review and permitting, and local site plan review and permitting. Although specific construction schedules and timelines are difficult to project, DRED would expect that fully functioning ski lifts and terrain would be available prior to the end of the first 10 year lease extension, and that the construction of all of the proposed West Bowl recreational facilities would be completed within the lifecycle of lease term, including extensions.

There were a number of comments regarding the appropriateness of providing lodging on West Bowl lands. While there is not intent to build any lodging within the West Bowl Ski areas it is important to note that there are a wide variety of overnight accommodations offered by state park systems nationwide. The Division of Parks and Recreation provides visitors with overnight accommodations through its campground reservation system including primitive campsites, RV campsites, yurts and cabins, and the recently refurbished residential rentals located at Coleman State Park.

UPDATE: Development on the West Bowl lands

DRED will review and approve West Bowl design and construction plans. The Provisions for Approval letter (p. 2) states:

"10. DRED's approval, through the Master Development Plan and other provisions of the Lease, specifically Section 7, is required and shall occur for all West Bowl Expansion Improvements within the Leased Premises and on the West Bowl Expansion Land."

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and further, the Lease Amendment (p. 7) states:

“Upon approval of this Amendment by the Governor and Executive Council, the West Bowl Expansion Land and Improvements shall be subject to Section 5 (Annual Operating Plan), and Section 7 (Site Improvements) of the Lease, as amended, and the applicable provisions of the 2016-2020 Revised Master Development Plan, as approved by DRED, in the same manner as all other lands currently constituting the Leased Premises.”

The West Bowl improvements will require other additional approvals. The RMDP 2016-2020 (p. 33) states:

“f. In addition to DRED’s approval of the West Bowl ski area expansion project, Mount Sunapee will also obtain all other approvals and permits as required, including the Towns of Goshen and Newbury, the NH Department of Environmental Services, NH Department of Transportation, the Army Corp of Engineers and EPA, and at our expense.”

and further, the Lease Amendment (p. 3) states:

“WHEREAS, in addition to the required approvals by DRED through the Master Development Plan and other certain provisions of the Lease, the West Bowl Expansion Improvements will require various land use and environmental approvals from federal, state and local governmental authorities (“West Bowl Expansion Permits”);”

DRED will require a 50-foot ski trail setback. The RMDP (p. 33) states:

“g. Mount Sunapee will provide a fifty foot (50’) setback between the edge of the new West Bowl ski trails and the new property boundary line for the lands being transferred to DRED. The new boundary line for the proposed expanded ski area is shown in Figure III-2 on page 36.”

and further, the Provisions for Approval (p. 3) states:

“14. DRED shall require and TSD agrees that ski slopes shall be set back at least 50 feet inside the West Bowl Expansion Land boundary. In addition, TSD shall be prohibited from developing, maintaining, or operating any trails or paths from the ski slopes on the West Bowl Expansion Land to adjacent private land to provide access for owners and/or visitors in private residences and facilities unless those trails or paths are also accessible for use by the general public and are included in an annual operating plan. The primary access from the adjacent residences and facilities to the ski slopes shall be through access points shared with the general public. Such owners and visitors shall not be granted any rights to use the recreational facilities on public land that are not also enjoyed by the general public.”

Development on privately-held and abutting lands. Additional privately-held lands owned by others that abut the West Bowl area on the upper slopes to the south are protected by conservation easements.

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Private lands held by Mount Sunapee Resort located on the upper slopes in the Town of Newbury and abutting the West Bowl area to the east are lands that would be transferred to DRED. Lands to the east of the West Bowl area are state park lands, and lands to the north of the West Bowl area are owned by Mount Sunapee Resort.

DRED has limited control over land use regulation on private land, as this has been established in Statute as being under the purview of the local communities through the municipal planning and zoning boards, pursuant to [RSA 672:1](#), which states: “Declaration of Purpose. – The general court hereby finds and declares that: I. Planning, zoning and related regulations have been and should continue to be the responsibility of municipal government; II. Zoning, subdivision regulations and related regulations are a legislative tool that enables municipal government to meet more effectively the demands of evolving and growing communities; III. Proper regulations enhance the public health, safety and general welfare and encourage the appropriate and wise use of land...” DRED would have the same standing as other abutters to any development in the permitting and local approval process.

The State, through DES, has responsibility over certain aspects of land use regulation through its permitting process.

All of Mount Sunapee Resort’s privately owned lands in Goshen are within the Town’s Mount Sunapee Recreation District, which does not currently allow commercial or residential real estate development except for specific purposes, see Section III.A.4, Town of Goshen, NH, [Zoning Ordinance and Building Ordinance](#), as amended on March 11, 2014, for a detailed list of permitted uses. A landowner in Goshen’s Mount Sunapee Recreation District would have to apply for a variance to the zoning ordinance from the Town’s Zoning Board of Adjustment or the Town would have to revise its zoning ordinances. If a variance is granted or the zoning laws are changed, then the timeline for private development would be dependent upon the same factors that impact construction schedules and timelines as mentioned above.

If development was permitted on adjacent lower elevation, private lands, Mount Sunapee Resort would have to comply with local building code setbacks from abutting property boundaries, including from the state park boundary. For the Town of Goshen, front and side/rear setbacks are currently 50-ft. and 40-ft., respectively, for residential properties and 75-ft. to 50-ft., respectively, for commercial properties (see Town of Goshen, NH, [Zoning Ordinance and Building Ordinance](#), as amended on March 11, 2014).

The State is not liable for private property owners of private lands.

UPDATE: Development on privately-held and abutting lands

Development of privately-held lands. SLH owns certain lands that abut the West Bowl land and will remain privately held. The Provisions for Approval letter (p. 1) states:

“2. DRED, TSD, and SLH acknowledge and agree that residential and commercial development, except what is specifically authorized under the existing Goshen zoning ordinances, on the Private Land abutting the West Bowl Expansion Land shall require a zoning variance or change in the Town of Goshen’s zoning ordinances.”

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and further, the Lease Amendment (p. 5) states:

“WHEREAS, a portion of the SLH Lands includes approximately 248 acres of land adjacent to the West Bowl Expansion Land that it may privately develop in the future (said 248 acres being referred to as the “Private Land”);

WHEREAS, the acreage contained within the West Bowl Expansion Land (approximately 150 acres) may exceed the acreage required by the Town of Goshen’s lot coverage and density regulations to construct the West Bowl Expansion Improvements (said excess acreage is deemed the “Excess Density Allocation Acreage”);

WHEREAS, to the extent allowed by the Town of Goshen, the parties agree that the Excess Density Allocation Acreage may be used to satisfy, in whole or in part, any lot coverage or density regulations of the Town of Goshen applicable to development of the Private Land as if the Private Land contained an amount of land equal to 248 acres plus the Excess Density Allocation Acreage;”

III. Recreational development and residential development of the proposed West Bowl expansion.

*DRED’s response: **Pricing.** The Lease requires that the Operator’s rates and prices be “competitive with similar privately operated facilities.” DRED recognizes that Mount Sunapee Resort offers competitive pricing and promotions consistent within the ski industry and market conditions. This is consistent with the statutory guidance for State Parks, pursuant to [RSA 216-A:3-g,II](#) which states: “Fees for the use of campgrounds and ski lifts shall be comparable with the fees for use of similar privately owned facilities. The operation of all enterprise functions within the park system, including ski lifts, food service, retail facilities, campgrounds, and other concession activities, shall be as profitable as possible, within the purposes of the park system.”*

Mount Sunapee Resort offers discounts for junior tickets (ages 6-12) and season passes, and for young adult tickets (ages 13-18) and season passes. Similar to many ski areas, including Cannon Mountain, Mount Sunapee Resort offers a variety of promotions and specials on lift tickets and season passes which can be accessed through its [website](#). DRED received many positive comments on the youth- and community-based programming Mount Sunapee Resort has provided, as well as promotional and discounted offerings.

***Exclusive access.** DRED would propose that owners residing and/or visitors lodging in private residences and facilities abutting state park lands are not granted any rights and access to the recreational facilities on public land that are not also enjoyed by the general public. DRED does not prohibit abutters to state park properties from walking onto state park lands provided that they pay any day use fees and comply with other rules associated with the use of the parks. Skiers from abutting land would be permitted to walk onto ski trails, but would be prohibited from constructing trails to access the public ski area.*

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UPDATE: Recreational development and residential development of the proposed West Bowl expansion.

Provisions that inhibit exclusive access. Certain provisions will be in place so that owners residing and/or visitors lodging in private residences and facilities abutting state park lands are not granted any rights and access to the recreational facilities on public land that are not also enjoyed by the general public. Deterrents to exclusive access to West Bowl is addressed in the RMDP 2016-2020 and states:

“g. Mount Sunapee will provide a fifty foot (50’) setback between the edge of the new West Bowl ski trails and the new property boundary line for the lands being transferred to DRED. The new boundary line for the proposed expanded ski area is shown in Figure III-2 on page 36.” (p. 33)

Deterrents to exclusive access to West Bowl is also covered in the Provisions for Approval letter of RMDP/EMP 2016-2020 and states:

“3. TSD and SLH agree that in the event the West Bowl Expansion Improvements are not accessible to the public via any accessible public road, or from Brook Road, no direct access or use of from the Private Land, other than construction, operating or maintenance activities, to the West Bowl Expansion Improvements shall be permitted.”(p. 1)

“4. TSD and SLH agree that if TSD decides to operate the West Bowl Expansion Improvements without providing vehicular access and parking for the general public via any accessible public road, or from Brook Road, all access to the West Bowl Expansion Improvements shall be through the existing Mount Sunapee ski area in a manner similar to the Sun Bowl and access and use of the West Bowl Expansion Improvements from abutting the Private Land shall not be permitted, except for construction, operating, or maintenance activities.” (p. 2)

“7. TSD and SLH agree that the West Bowl Improvements shall not be operated as a private ski area outside of the terms and conditions of the Lease.”(p. 2)

“14. DRED shall require and TSD agrees that ski slopes shall be set back at least 50 feet inside the West Bowl Expansion Land boundary. In addition, TSD shall be prohibited from developing, maintaining, or operating any trails or paths from the ski slopes on the West Bowl Expansion Land to adjacent private land to provide access for owners and/or visitors in private residences and facilities unless those trails or paths are also accessible for use by the general public and are included in an annual operating plan. The primary access from the adjacent residences and facilities to the ski slopes shall be through access points shared with the general public. Such owners and visitors shall not be granted any rights to use the recreational facilities on public land that are not also enjoyed by the general public.” (p. 3)

Deterrents to exclusive access to West Bowl is addressed in the 2016 Lease Amendment and states:

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“WHEREAS, as acknowledged in this Amendment, access to and utilities for the West Bowl Expansion Improvements and West Bowl Expansion Land, which may also serve the Private Land, may be located outside of the West Bowl Expansion Land. The parties to this Lease Amendment, including TSD and SLH, agree that all legal rights necessary to operate the ski area and recreational day use area shall be granted to the State and CLP upon the conveyance of the West Bowl Expansion Land and the West Bowl Expansion Improvements;”(p. 3)

“WHEREAS, if an operating chairlift and one or more trails that are accessed by the chairlift are constructed, the parties agree that in the event that any residential development occurs on the Private Land (hereinafter defined), there shall be no direct access to or use of the West Bowl Expansion Improvements from the Private Land unless public access is provided from any public road or Brook Road, a parking lot is built for the public to use, and the public has access to the West Bowl Expansion Improvements;”(p. 3)

Exclusive rights. Mount Sunapee Resort requires all users of the ski facilities to have either a valid day ticket or season’s pass. This requirement would include all users of the West Bowl ski area expansion. The West Bowl area would be operated as part of Mount Sunapee State Park’s system of chairlifts and ski trails, and all users of recreational facilities on public land would be treated the same.

Through its planned donation of the West Bowl to the State by Mount Sunapee Resort, the State will ensure continued recreational use of these lands. Impacts on other recreational uses within the leasehold area are addressed in the AOP: “On or before the 15th day of May during each year of this Agreement, the Operator shall submit to DRED an annual operating plan, including a schedule of the proposed days and hours of operation for the ski area, and a description of the types of recreational activities available to the public. The proposed schedule of operation shall be reviewed by DRED and either approved as proposed, or revised for resubmission” (see Section 5 of the [Lease](#)).

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Rights and easements transferred to the State. The West Bowl area would be operated as part of Mount Sunapee State Park’s system of chairlifts and ski trails, and all users of recreational facilities on public land would be treated the same. All easements, rights of way, agreements, etc. necessary to operate the West Bowl improvements will transfer to the State. Exclusive rights to West Bowl area are covered in the RMDP 2016-2020, which states:

“4. Mount Sunapee will provide rights, easements and agreements to DRED for road access from Brook Road in Goshen into the West Bowl base area, and for any utilities, such as water and sewer, if those

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utilities are not located on land that is transferred to DRED. The easements will be recorded with the land transfer deeds.” (p. 34)

The 2016 Amended Lease states:

“WHEREAS, as acknowledged in this Amendment, access to and utilities for the West Bowl Expansion Improvements and West Bowl Expansion Land, which may also serve the Private Land, may be located outside of the West Bowl Expansion Land. The parties to this Lease Amendment, including TSD and SLH, agree that all legal rights necessary to operate the ski area and recreational day use area shall be granted to the State and CLP upon the conveyance of the West Bowl Expansion Land and the West Bowl Expansion Improvements;”(p. 3)

“WHEREAS, in the event that all of the West Bowl Expansion Improvements are not completed by June 30, 2028, but TSD has constructed an operating chairlift and one or more trails accessed by the lift, then in this event TSD shall complete an as-built survey and site plan and shall transfer the West Bowl Expansion Land and the West Bowl Expansion Improvements, and all necessary easements, rights-of-way, and/or agreements for ski area and other recreational day use infrastructure on the Private Land, including an easement for vehicular access for maintenance and construction purposes, to DRED by June 30, 2028;”(p. 4)

“WHEREAS, TSD shall, under the terms and conditions agreed to in this Amendment cause either itself and/or SLH to convey in fee the West Bowl Expansion Land together with all necessary non-exclusive perpetual easements for road access from any public road or from Brook Road to provide public access to the West Bowl Expansion Land and the West Bowl Expansion Improvements. In addition to access, SLH shall also execute all necessary non-exclusive perpetual easements, rights-of-way, and/or other agreements, which may include, but are not limited to, rights to use, maintain, improve, repair, replace, rebuild, transfer, operate and manage the ski and other recreational area operations’ infrastructure, (including, without limitation, snowmaking, water lines, sewerage treatment facilities, power lines, that may be built on the Private Land. In its deed to the State, TSD shall carve out and reserve for TSD, its successors and assigns, perpetual necessary easements for parking areas, roads and other infrastructure built on the West Bowl Expansion Land and for utilities necessary for the development of the Private Land;”(p. 4)

“2. Section 1 of the Lease is hereby amended to include the following: When and if the West Bowl Expansion Improvements are completed, or when TSD has constructed an operating chairlift and one or more trails that are accessed by the lift, TSD shall cause SLH to convey in fee the West Bowl Expansion Land and the West Bowl Expansion Improvements by June 30, 2028, to DRED and the description of the Leased Premises shall be amended in fact to include the West Bowl Expansion Land and the West Bowl Expansion Improvements, which shall be free and clear of all real estate mortgages but subject to the Excess Density Allocation Acreage restriction, the Conservation Restrictions and any security interests in the West Bowl Expansion Improvements. If and to the extent that access to and/or utilities for the West Bowl Expansion Improvements or the West Bowl Expansion Land are located outside of the West Bowl Expansion Land, at the time of the conveyance of the West Bowl Expansion Land to DRED, TSD and SLH shall cause all legal rights necessary to operate the ski area and recreational day use area to be

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granted to DRED. In addition, at the time of the conveyance of the West Bowl Expansion Land to DRED, SLH shall also execute all necessary non-exclusive perpetual easements, rights-of-way, and/or other agreements, which may include, but are not limited to, rights to use, maintain, improve, repair, replace, rebuild, transfer, operate and manage the ski and other recreational area operations' infrastructure, (including, without limitation, snowmaking, water lines, sewerage treatment facilities, power lines, that may be built on the Private Land. In its deed to DRED, TSD shall carve out and reserve for TSD, its successors and assigns, perpetual necessary easements for parking areas, roads and other infrastructure built on the West Bowl Expansion Land and for utilities necessary for the development of the Private Land. At the time of conveyance of the West Bowl Expansion Land to DRED, the description of the Leased Premises shall be amended to add the West Bowl Expansion Land as a part of the Leased Premises. Such description shall be recorded in the Merrimack and Sullivan County Registries of Deeds, along with Mylars of the As-Built Survey of the Leased Premises including the West Bowl Expansion Land. The State shall be authorized, upon approval of this Amendment by Governor and Council, to add such As-Built Survey as a new Appendix I to the Lease and to include a revised legal description of the Leased Premises including the West Bowl Expansion Land as a new Appendix II, which legal description will define the revised Mount Sunapee Resort leasehold."(p. 6)

IV. Natural Heritage findings.

References to NHB reports in MDP/EMP are missing or inadequate. DRED's response: DRED proposes that Mount Sunapee Resort update select pages of its MDP/EMP to include updated references to and reports from the NHB as they become available, including the recently released "[Addendum to 2004 report on Mt. Sunapee State Park](#)," dated January 26, 2015.

Update: Natural Heritage findings.

References to NHB reports. Mount Sunapee Resort has updated its Environmental Management Plan (EMP 2016-2020) to include references to and reports from the Natural Heritage Bureau (NHB). The introductory paragraph of the Exemplary Natural Community Forest Systems section of the EMP 2016-2020, p. 19 states:

"B. EXEMPLARY NATURAL COMMUNITY FOREST SYSTEMS

Old growth forest characteristics have been identified by New Hampshire Natural Heritage Inventory in portions of two areas of Mount Sunapee known as "polygon 23" and "Polygon 20". A 1999 report entitled *Old Forests and Rare Plants at the Mount Sunapee Ski Lease Area*, identified these two old growth forest areas. A more recent study, commissioned by DRED and paid for by Mount Sunapee, was completed in 2003. This report entitled, *Natural Heritage Inventory of the East Bowl*, provides a full documentation of the characteristics and found "steeper slopes above 2260 feet in the East Bowl is an area

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of old growth sugar maple-beech-yellow birch forest that totals roughly 50 acres. There is a significant number of red spruce and yellow birch trees over 200 years old in this natural community.”

The Exemplary Natural Community Forest Systems section of the EMP 2016-2020, p. 20 states further:

“In the fall of 2004, the New Hampshire Natural Heritage Bureau completed a forest assessment on the state lands in the area of the West Bowl Expansion. That report is included as Appendix M in the EMP. An area of 16 acres, termed “Polygon D,” was identified as part of an Exemplary Natural Community in that study and was stated to “possibly” have old growth forest characteristics.

The Natural Heritage Bureau 2004 Evaluation of Proposed Ski Area Expansion on Mt Sunapee report is located in the EMP 2016-2020, **Appendix M**.

A map of Mount Sunapee State Park’s Exemplary Natural Community System is located in the EMP 2016-2020, **Figure EMP-6**, p. 34.

Impacts of the West Bowl expansion to old growth forests. *In November 2014, DRED updated the assessment of the West Bowl area through the NHB. This area was first surveyed by the NHB in 2004, see NHB report “[Evaluation of proposed ski lease area expansion on Mt. Sunapee – 11/23/2004.](#)”*

The NHB released its updated report on January 26, 2015, entitled “[Addendum to 2004 report on Mt. Sunapee State Park.](#)” NHB’s “[r]evisits to Polygons A and D confirmed the original assessment of the forest condition.”

The 2004 NHB report described Polygon A as a 4-acre stand of northern hardwood - spruce - fir forest. Analysis showed that large hardwood trees were in the vicinity of 100-190 years of age, while individual red spruce trees were in the 130-300 year range. The report goes on to say the surrounding areas are younger and appear to have been cutover and/or hard-hit by the 1938 hurricane. The conclusion regarding Polygon A is that it was likely harvested for hardwoods in the early 1900s, and is therefore a maturing forest “of local but not statewide significance.”

*Polygon D was described in the report as a 16-acre tract of northern hardwood-spruce-fir forest with mature, and possibly old-growth patches. The reference to potential old-growth was one of the reasons an updated assessment was conducted by DRED during 2014. While the hardwoods were difficult to age in this area due to rotten cores, the red spruce were aged between 120 to more than 200 years. The report states that: “Polygon D is considered of statewide significance for the following reasons: 1) the condition is good to very good in that it appears to have never been logged (indicators of this are the forest history, the considerable dead and downed woody debris, and the old trees); 2) even small patches of old examples of this natural community type (northern hardwood - spruce - fir forest) are rare in throughout central and southern NH; 3) it is part of a larger mosaic of mature and old growth patches of exemplary forest on Mt. Sunapee; and 4) it is contiguous with and forms the northern extent of the large, un-fragmented forest block to the south (the Sunapee-Pillsbury Highlands).” *The follow-up survey in 2014**

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determined Polygon D not to be old-growth, but rather a mature forest that is part of the larger exemplary natural community. Under the proposed MDP, portions of a chair lift and two ski trails would be located within the boundary of this polygon.

The 2014 NHB survey also assessed the condition of an abutting parcel of private land owned by Mount Sunapee Resort (as requested by Mount Sunapee Resort) which was described as “a relatively narrow (roughly 1,500’ wide) strip of land south of MSSP [Mount Sunapee State Park]. The proposed ski resort expansion would impact approximately half of this southern strip, as well as portions of the lower slope areas to the west... focusing primarily on the southern strip.” NHB’s description of most of this area was that while the general condition was good, it was not exemplary. However, in the northeastern corner of this parcel is an approximately 10-acre area the report describes as an area with larger trees and a condition that “may be worthy of inclusion in the exemplary northern hardwood - conifer forest system on MSSP.” Next to this privately-owned parcel is a state-owned tract that has never been surveyed by NHB but “could have forest of similar quality that would provide a direct connection to the exemplary forest on MSSP.”

[RSA 217-A:7](#) states “To the extent possible actions funded or carried out by state agencies shall not jeopardize the continued existence of any protected plant species or exemplary natural community.” While DRED’s first emphasis is to avoid these communities altogether, any actions within or connected to these communities are considered extremely carefully in the context of all of the statutes that guide the agency and its land management, in an effort to strike the best balance. Recreation in direct proximity or within an exemplary natural community is not new to the agency, and there are several other examples, including areas with federally or state-listed threatened and/or endangered species. Examples include:

1. *Mittersill Ski Area in Franconia Notch State Park—A Memorandum of Agreement (MOA) between the US Forest Service (USFS), DRED, Fish and Game and the NH Audubon Society ensures the protection, in perpetuity, of habitat for the Bicknell’s thrush (*Catharus bicknellii*) above 2,500 feet elevation. The habitat is part of an exemplary natural community system described by the NHB as **high-elevation spruce - fir forest system**.*
2. *Ossipee Lake Natural Area (OLNA)—The OLNA shoreline constitutes New Hampshire’s best remaining exemplary natural community **sandy pond shore system**. The public have used the OLNA shoreline intensively since the mid-1900’s and it is one of the few remaining undeveloped public areas on Lake Ossipee. In 2009, DRED published a management plan for the Ossipee Lake Natural Area. The management plan closed some areas of the shore for protection of the natural community, while other areas were left open for boaters and recreationists. The goals of the management plan are to balance protection of natural and historical resources while ensuring a clean, safe environment for recreation.*
3. *Mt. Washington State Park—The state park and adjacent national forest experience a significant number of visitors. An exemplary natural community **alpine tundra system** occurs in this highly utilized area. Visitors are invited to view the system, and the NHB utilizes that opportunity to educate visitors about the uniqueness and sensitivity of the plant communities that occur in that system.*

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Based on the 2015 NHB addendum, DRED would propose that Mount Sunapee Resort revise its proposed upgrade plans for the West Bowl ski area: The West Bowl 6 (Trail WB6) trail would be relocated outside of Polygon D, and the lift clearing for the West Bowl Express Quad (Lift M) and associated West Bowl 4 (Trail WB4) trail within Polygon D would be narrowed, see [map](#). The impact to Polygon D would be reduced to 1.6 acres compared to 4.2 acres in the original proposal.

In addition to minimizing the impact to Polygon D by trail relocation and narrowing, DRED proposes the installation and annual monitoring of permanent research plots within Polygon D to monitor disturbance impacts from the chairlift corridor, to be funded by Mount Sunapee Resort.

Update: Impacts of the West Bowl expansion to Exemplary Natural Community

Impacts of the West Bowl expansion to Polygon D.

After additional study of Polygon D, impacts to the mature forest have been further reduced. The RMDP 2016-2020 (p. 33) states:

“2. Mount Sunapee now proposes to substantially minimize the impacts in the sensitive forest stand known as Polygon D by eliminating both ski trails that were previously proposed in this area. This revised MDP reduces the impact to the 16-acre Polygon D from approximately 4.2 acres in the June 1, 2014 MDP to approximately 1.1 acres in this revised MDP.

a. The ski trail labeled W6 in the June 1, 2014 MDP has been eliminated.

b. The ski trail labeled W4 in the June 1, 2014 MDP that would have been under the quad chairlift line has been eliminated as a ski trail. Therefore, no terrain grading or snowmaking equipment will be on the chairlift line corridor in Polygon D.

c. The West Bowl Express Quad chairlift line corridor will be restricted to 50-60 feet wide going through Polygon D to minimize impacts. The trees within the lift line corridor will be flush cut to ground level and the stumps will be left in place. Heavy equipment will not be used to grade the terrain in Polygon D. Maintenance will be done by hand mowing.

d. Chairlift tower foundations will be pinned to rock or hand excavated to depth in Polygon D. Blasting will be restricted and not used anywhere within Polygon D.”

and further, the Exemplary Natural Community Forest Systems section of the EMP 2016-2020 (p. 20-21) states:

“In the fall of 2014, the New Hampshire Natural Heritage Bureau again looked at the forests on state land in the West Bowl Expansion area, and specifically looked at the “Polygon D” area. The follow-up survey in 2014 determined Polygon D not to be old growth, but rather a mature forest that is part of the larger exemplary natural community Northern hardwood conifer forest system. That report also looked at private lands owned by Mount Sunapee/Sunapee Land Holdings, LLC. That report is included as

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Appendix N in the EMP. The Natural Heritage Bureau Datacheck Results Letter is contained in the appendices as Appendix O.

In the fall of 2014, Mount Sunapee retained qualified scientists from Normandeau Associates and Ecosystems Management Consultants to study the forests in the West Bowl Expansion area. Their scientists also determined that old growth forest characteristics were not present in Polygon D in the West Bowl Expansion area. That report is Appendix P in the EMP.

In the fall of 2015, Mount Sunapee again retained scientists from Normandeau Associates and Ecosystems Management Consultants to assess the forests in approximately 260 acres of land privately owned by Mount Sunapee Resort through Sunapee Land Holdings, LLC (see Appendix Q for the Normandeau report).

Mount Sunapee has proposed transferring the ownership of approximately 260 acres of forested lands to DRED as conservation land as a condition of approval of the MDP. These lands would remain as conservation lands in perpetuity and not be included in the ski area leasehold. Our scientists found approximately 70 acres that are said to probably warrant designation as an Exemplary Natural Community.

They also found approximately 3 acres of forest that exhibit old growth forest characteristics. They found another 20 acres that may possibly warrant designation as an Exemplary Natural Community. NHB plans to review and verify those assessments for possible Exemplary Natural Community designation.

In the revised MDP, Mount Sunapee has eliminated all ski trails and snowmaking equipment that were originally proposed within the Polygon D area. By eliminating all ski trails in Polygon D, the total impacts were reduced from 4.2 acres to 1.1 acres which is from the width of the chairlift line passing through Polygon D.

In order to minimize the soil disturbance in Polygon D, no stumping of the trees will occur. Mount Sunapee has agreed that trees in Polygon D will be cut for the chairlift line will be flush cut to ground level, and no heavy equipment will be allowed to grade the terrain in the Polygon D. Additionally, Mount Sunapee will avoid all blasting in Polygon D for the construction of chairlift tower foundations. The chairlift foundations will be excavated by hand, and drilled and pinned to the bedrock."

The NHB and Normandeau Associates & Ecosystems Management Consultants reports referenced in the EMP 2016-2020 are located in the Appendices:

"APPENDIX N: NATURAL HERITAGE BUREAU 2015 ADDENDUM TO THE 2004 EVALUATION

APPENDIX O: NATURAL HERITAGE BUREAU 2015 DATACHECK RESULTS LETTER

APPENDIX P: NORMANDEAU ASSOCIATES and ECOSYSTEMS MANAGEMENT CONSULTANTS – 2015 FOREST STAND ASSESSMENT REPORT

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APPENDIX Q: NORMANDEAU ASSOCIATES and ECOSYSTEMS MANAGEMENT
CONSULTANTS – 2015 PRIVATE FOREST LANDS ASSESSMENT REPORT”

Potential impact of the Mountain Coaster. *The proposed location of the mountain coaster would be in the lower 3/4 of Polygon 32, described as “Polygon # 32- Stand Description: The lower ¾ of this polygon is primarily sugar maple, red maple, and paper birch, size class 3-4. It is a relatively young stand that was cut in the past.” The mountain coaster would be located below the upper 1/4 of the polygon that appears to contain some areas of old timber. See “[Old Forests and Rare Plants at the Mount Sunapee Ski Lease Area,](#)” dated January 1999.*

Should DRED approve this project, Mount Sunapee Resort would need to conduct all preliminary site plan reviews, including review of potential impacts to native plants and exemplary natural communities. Mount Sunapee Resort would continue to work with the NHB during the planning and siting stages of development.

Update: Potential impact of Mountain Coaster

Potential impact of the Mountain Coaster.

The Mountain Coaster is neither approved nor denied at this time. The Provisions for Approval letter (p. 1) states:

“The plans for expanding the ski trail network, construction of new lifts, construction or renovation of lodges or other facilities, additional water withdrawals from Lake Sunapee to expand snow-making, upgrading or modifying infrastructure, including power, water and sewage disposal systems and such other improvements or modifications that are appropriate for the recreational use of the Leased Premises as required in the lease, as set forth in the Mount Sunapee 2016-2020 Revised Five Year Master Development Plan (RMDP 2016-2020) and the Environmental Management Plan (EMP), both dated December 1, 2015, are approved for the projects in the RMDP, subject to the conditions below, except for the mountain coaster which is neither approved nor denied at this time.”

Other conservation efforts. *Mount Sunapee Resort has worked toward fulfilling the request of former [DRED Commissioner George Bald on February 27, 2002](#), for his recommendation on the expansion of the Lease boundary: “Okemo will identify a parcel of land adjacent to the Mt Sunapee/Pillsbury Greenway of at least 100 acres. The property will be acquired by Okemo and donated to the State of New Hampshire for inclusion in the Greenway. As I stated when I approved the original Master Development Plan in the fall of 2000, the Department is committed to expanding the boundaries of Mount Sunapee State Park by purchasing adjacent properties. This process presents an opportunity to move forward with that vision.”*

Mount Sunapee Resort purchased an approximate 208 acre parcel which will be donated to the State for inclusion in the Mt Sunapee/Pillsbury Greenway. In addition to that parcel, approximately 52 acres of

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additional private lands would be donated to the State for conservation purposes, ten acres of which may be worthy of inclusion in the exemplary northern hardwood - conifer forest system. Additional surveys will be needed to verify this. See Section VI. Impacts on the rural character, for more information about the conservation lands that will be donated to the State.

DRED proposes that Mount Sunapee Resort fund a survey, to be conducted by NHB, of the additional donated conservation lands and adjoining state land to determine condition of the forest and potential inclusion within the larger exemplary natural community.

Finally, DRED would propose that the Lease be amended whereby Mount Sunapee Resort agrees not to request any further ski area development in the East Bowl other than that which was approved in the previous MDP, including the construction of the Cataract Chairlift and Cataract Run ski trail in the East Bowl of Polygon 23. The remainder of Polygon 23 and all of Polygon 20 would remain undeveloped. This would codify the protection of these areas.

Update: Other conservation efforts

Conservation Lands conveyed to the State. A total of approximately 260 acres of land will be conveyed to the State as Conservation Lands. The RMDP 2016-2020 (p. 33) states:

“d. Approximately 260 acres of land will be transferred to DRED as conservation lands. These 260 acres (+/-) will not become part of the Mount Sunapee ski area leasehold, and will remain in their natural state to protect the summit scenic vistas of Mount Sunapee in perpetuity.

“e. The approximately 260 acres (+/-) of conservation land will be transferred to DRED after all permits are finalized, but prior to the beginning of any construction work for the West Bowl expansion such as clearing land for ski trails or the chairlift line.”

Conservation Lands may warrant ENC designation. The updated EMP 2016-2020 (p. 20) states:

“In the fall of 2015, Mount Sunapee again retained scientists from Normandeau Associates and Ecosystems Management Consultants to assess the forests in approximately 260 acres of land privately owned by Mount Sunapee Resort through Sunapee Land Holdings, LLC (see Appendix Q for the Normandeau report).

Mount Sunapee has proposed transferring the ownership of approximately 260 acres of forested lands to DRED as conservation land as a condition of approval of the MDP. These lands would remain as conservation lands in perpetuity and not be included in the ski area leasehold. Our scientists found approximately 70 acres that are said to probably warrant designation as an Exemplary Natural Community. They also found approximately 3 acres of forest that exhibit old growth forest characteristics. They found another 20 acres that may possibly warrant designation as an Exemplary Natural Community. NHB plans to review and verify those assessments for possible Exemplary Natural Community designation.”

and further, the Lease Amendment (p. 4-5) states:

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“WHEREAS, a portion of the SLH Lands includes the following two (2) parcels of land; the first being approximately 208 acres (“O’Connell Tract”) and the second being approximately 52 acres (a portion of the Lewin/Powell parcel, sometimes herein referred to as the “52 Acre Parcel”). These parcels are more particularly described on the Plan attached hereto as Exhibit B (said 260 acres being hereinafter referred to as the “Conservation Lands”). These parcels shall not become part of the Leased Premises but shall become part of Mount Sunapee State Park. At the time of conveyance, the parties agree that the 52 Acre Parcel shall be transferred with deed restrictions preventing future development;”

and further, the Lease Amendment (p. 5) states:

“1. When all of the West Bowl Expansion Improvements are fully approved and permitted by all authorities having jurisdiction (after expiration of all applicable appeal periods) and when TSD has issued a written notice to DRED stating that it intends to construct the West Bowl Expansion Improvements in accordance with the West Bowl Expansion Permits (the “Notice to Proceed to Construct”) but prior to actual construction commencing construction of such improvements, TSD shall cause SLH to convey in fee the two hundred sixty (260) acres of Conservation Lands to DRED as described on Exhibit B to be added to Mount Sunapee State Park. The Conservation Lands shall not become a part of the Leased Premises but shall become a part of Mount Sunapee State Park. At the time of conveyance, the parties agree that the 52 Acre Parcel shall be transferred subject to deed restrictions preventing future development of such land.”

East Bowl Polygon 23 and Polygon 20 are protected. The provisions for the West Bowl expansion also enables protection of the East Bowl. Only the Solitude Triple Lift “K” (formerly called the Cataract Lift) and the Solitude Trail #66 (formerly called the Cataract Run trail) that was previously approved by DRED may be constructed in Polygon 23. The remainder of Polygon 23 and all of Polygon 20 will be protected. The Provisions for Approval letter (p.2) states:

“6. The parties agree that there will not be any request to expand the leasehold boundary into the area known as the East Bowl of Mount Sunapee State Park.”

and further, the Lease Amendment (p. 5) states:

“WHEREAS, DRED, TSD, and CLP agree that only the projects and improvements that have been approved in prior MDPs and the 2016-2020 Revised MDP for Polygon 23, and any necessary maintenance, repair, renovation, or replacement of those projects or currently existing improvements in Polygon 23, shall be allowed to be implemented. Additionally, DRED, TSD, and CLP agree that there shall be no further development of either ski trails or ski infrastructure in Polygon 20;”

Mount Sunapee Resort will support further research by NHB. The RMDP 2016-2020 (p. 34) states:

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“5. Mount Sunapee proposes to support DRED and the Natural Heritage Bureau by providing up to \$40,000 in research funds to conduct an Ecological Integrity Assessment (EIA) on the upland forests on Mt. Sunapee. The EIA project can be used to update DRED’s knowledge of the condition of the upland forest types on Mt. Sunapee. These funds will be provided after all required permits and approvals have been finalized, and construction begins on the West Bowl expansion project.”

V. Environmental impacts. Within this category, DRED responds to the following areas of concern expressed by the public:

*DRED’s response: **Independent and updated studies.** Mount Sunapee Resort contracts studies from independent, qualified professional engineering and scientific firms. The necessary studies would be conducted to meet the permitting requirements of both the State of New Hampshire and the Towns of Goshen and Newbury. Mount Sunapee Resort would update its engineering and environmental impact studies in conjunction with its development of project design, construction, and site plans for the recreational facilities within the West Bowl area, as part of the State and local permitting process. DRED would review these studies as it approves the project in a manner consistent with the AOP process required for lands within the current lease boundary.*

DRED obtains environmental information related to proposed projects from each five-year EMP, pursuant to Section 15 of the [Lease](#): “The Operator shall develop and submit for approval to DRED an Environmental Management Plan adopting recognized Best Management Practices to preserve and protect the Leased Premises, which shall include but not be limited to: a. Water usage and conservation; b. Septage disposal/treatment; c. Drainage, erosion and water quality issues; d. Solid waste disposal; e. Air quality and traffic congestion mitigation; f. Forestry management; g. Wetlands impacts; h. Wildlife habitat preservation; and i. Scenic and aesthetic qualities.”

During the site plan review and permitting process, the engineering and environmental impact studies will be reviewed by State and local entities, including DRED (through an AOP process), DES, and the Towns of Goshen and Newbury. DES permitting will include review by the NHB and the NH Department of Fish and Game.

UPDATE: Environmental impacts.

Updated environmental studies.

These updated environmental studies are covered in the Provisions for Approval of the RMDP/EMP 2016-2020, which states:

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“13. If TSD proceeds with its efforts to secure local, state and federal permits for the West Bowl Expansion Improvements, it shall update the Environmental Management Plan (EMP), and applicable reports, studies, and documents as the information becomes publicly available” (p. 3)

“22. In addition to the required approvals by DRED, and approval by Governor and Council of the Lease Amendment, the West Bowl Expansion Improvements will require various land use and environmental approvals/permits from federal, state and local government authorities. TSD and SLH agree to comply with all applicable laws and regulations and shall acquire all necessary approvals/permits prior to constructing the West Bowl Improvements.” (p. 4)

The Lease Amendment states:

“WHEREAS, in addition to the required approvals by DRED through the Master Development Plan and other certain provisions of the Lease, the West Bowl Expansion Improvements will require various land use and environmental approvals from federal, state and local governmental authorities (“West Bowl Expansion Permits”);” (p. 3)

Boundary monuments. DRED would propose that Mount Sunapee Resort be prohibited from disturbing any boundary monuments unless approval from the Town of Newbury is provided, pursuant to [RSA 472:6](#): “I. Any person who purposely commits or causes to be committed any of the following acts with regard to a boundary marker knowing it to be a boundary marker shall be guilty of a misdemeanor: defacement, alteration of location, or removal of a stone wall or monument, or a mark on a tree, made for the purpose of designating a point, course or line in the boundary of a tract of land or in the dividing line between towns.

II. The provisions of paragraph I shall not apply when a boundary marker is moved pursuant to:

(a) Mutual agreement between all landowners whose property lines are affected by the moving of the boundary, or

(b) Authorization by government officials in order to more accurately place the boundary, or

(c) A finally adjudicated court order or decree, or

(d) A law that requires or allows the movement or alteration.”

DRED would propose that Mount Sunapee Resort include the boundary monuments in its AOP narratives and [mapping](#), including their proposed preservation efforts.

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UPDATE:

Boundary monuments should be protected. The RMDP 2016-2020 states:

“6. There are several historic Town of Newbury town line monuments that are in the area. Monuments numbers 9, 10, and 11 are located within the general West Bowl area, as shown on Figure III-2, but will not be impacted by the ski runs.”

Parking lot #4. Parking lot #4 was approved by DRED in its review of the MDP/EMP 2000-2004. Mount Sunapee Resort received site plan review approval from the Town of Newbury, but has not yet constructed Parking Lot #4. DRED issues a Special Use Permit to Mount Sunapee Resort for its use of the State Beach parking lot during the winter season, which has worked well. Should circumstances change, such as limitations on the availability of State Beach parking, Mount Sunapee Resort may elect to move forward with Parking Lot #4, provided all proper State and local review and permits are obtained.

UPDATE:

Parking Lot #4. Parking Lot #4 is addressed in the RMDP 2016-2020 and states:

“Parking areas will be created at the existing base area (Parking Lot #4) and at the West Bowl base.” (p. 8)

“The overall balance of the existing ski area is evaluated by calculating the capacities of the resort’s various facilities, as compared to the resort’s CCC. The above discussed capacities are shown in Chart II-2.resort’s CCC. The above discussed capacities are shown in Chart II-2.

As Chart II-2 above shows, the existing ski resort balance limits Mount Sunapee from reaching its CCC potential by deficiencies in the skier support facilities, i.e., Guest Services, Food Service Seating, and Parking.

Parking is recognized as a particular problem with parking availability being in highest demand on the higher volume skier days such as weekends and holidays.” (p. 31-32)

“Lot #4 will be built in the existing main base area with approximately 272 parking spaces. A day skier parking lot will be built in the West Bowl base area with approximately 450 parking spaces. Based upon the upgraded CCC objective of 6,850 skiers, there will still be a deficit in skier parking (see Table III-9 above). The overflow parking provided at the State beach parking lot (capacity 450 cars) will continue to be utilized on peak days.”(p. 56)

Parking Lot #4 is addressed in the EMP 2016-2020 and states:

“At present, Mount Sunapee has approximately 1,830 parking spaces to accommodate visitors and employees. This total includes the expansion of Parking Lots #2 and #3 that was approved in the 2000-2004 MDP. This total does not include the 272 spaces in Parking Lot #4 which was approved by DRED

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and by the Town of Newbury Planning Board (November 2003), but has not been built yet, and would have to be re-permitted as the previous permits have lapsed.”(p. 16)

MSAC membership. To provide additional technical expertise to the planning and review process, Commissioner Rose will revise the membership of the Mount Sunapee Advisory Committee (MSAC) by adding a member from the New Hampshire Department of Transportation (NH DOT).

Summer recreational development. *Opportunities for traditional recreational uses such as hiking, wildlife viewing, swimming, picnicking and camping will continue to be major recreational activities available at Mount Sunapee State Park. In addition, summer recreational facilities similar to the types of facilities offered by other ski areas and consistent with activities provided in other state park systems are presently available at Mount Sunapee ski area. Mount Sunapee Resort designed the summer recreational facilities to best “fit” into the landscape and the natural environment. All of these facilities are reviewed and approved by DRED as part of the MDP/EMP/AOP process.*

The expanded summer recreational facilities has contributed toward increased visitation at Mount Sunapee State Park’s beach, and increased economic activity in the region.

UPDATE: The mountain coaster.

After careful consideration of the Mountain Coaster proposal, Commissioner Rose neither approves nor denies the addition of the Mountain Coaster at this time.

Proposed impacts of the West Bowl expansion to hiking trails. *Mount Sunapee Resort has provided DRED with an updated map to correctly reflect the current location of hiking trails in the West Bowl area, see [map](#). DRED would propose that all recreational facilities developed in the West Bowl area be done to reasonably accommodate the current recreational use of the land. Mount Sunapee Resort, in consultation with the Sunapee-Ragged-Kearsarge-Greenway Coalition (SRKGC), has agreed to re-route the Summit Hiking Trail, if necessary. Mount Sunapee Resort also agrees to accept spring clean-up maintenance of the Summit Hiking Trail, the Province Trail, and the Lake Solitude Trail between the summit and the lake in support of the SRKGC and the Monadnock Sunapee Greenway Trail Club (MSGTC). This trail maintenance work will be documented as part of an approved MDP.*

Hiking trails, including the Summit Hiking Trail and Solitude Trail, are accessible for year-round use. Hiking trails are not currently closed during the ski season and the West Bowl expansion would not affect this policy. Through Mount Sunapee Resort’s Annual Operating Plan, DRED would continue to review and approve Mount Sunapee Resort’s operations, including its proposed recreational activities offered to the public; however, DRED recognizes that there are times and conditions in which limiting or

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restricting certain recreational uses in certain areas is appropriate for resource protection and/or public safety.

Update: Hiking trails

Maintenance of the hiking trails.

The maintenance of hiking trails is covered in the RMDP 2016-2020, which states:

“3. Mount Sunapee now proposes to minimize ski trails crossings on the Sunapee-Kearsarge-Ragged Greenway Coalition’s Summit Hiking trails by reducing the number of ski trail crossings to three (3) from the six (6) crossings that were in the June 1, 2014 plan.

- a. Mount Sunapee will provide signage to alert both downhill skiers and hikers to the trail crossing areas.*
- b. Mount Sunapee will provide spring maintenance and clean-up annually on the Summit Hiking Trail.” (p. 33)*

The EMP 2016-2016 states:

“Mount Sunapee has worked with the Sunapee-Kearsarge-Ragged Greenway Coalition (SKRGC) to address ski trail crossings with the Summit Hiking Trail within the West Bowl, and will continue to work with them in the future. The revised 2016-2020 MDP reduces the number of ski trail crossings from as many as six to three. Hikers will be allowed to cross ski trails during the winter ski season and Mount Sunapee will have signs to warn skiers of hiking trail crossing. Through the efforts of the SKRGC, DRED and Mount Sunapee a codified Memorandum of Agreement (MOA) has been developed that supports year round hiking, reduces the number of ski trail crossings, and provides for spring maintenance and clean-up on Summit Trail each year by Mount Sunapee Resort.” (p. 26)

Maintenance of hiking trails is covered in the Provisions for Approval of the RMDP/EMP 2016-2020 and states:

“15. DRED and TSD agree to enter into a Cooperative Maintenance Agreement with the Sunapee-Ragged-Kearsarge Greenway Coalition to recognize the existing four season hiking trails with the Mount Sunapee Resort and to work together to protect and maintain the designated trails to provide stewardship and safe public recreational opportunities. TSD agrees to provide annual spring maintenance on the Summit Hiking Trail.”(p. 3)

At the Mount Sunapee Advisory Committee (MSAC) annual operating plan meeting, there shall be a standing item on the agenda for an update regarding the hiking trails within the leased boundary. This report will be an opportunity for DRED, Mount Sunapee Resort, and the Sunapee-Ragged-Kearsarge-Greenway Coalition to provide an overview of its annual work plan for the trails.

Trail crossings in West Bowl.

The RMDP 2016-2020 states:

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“3. Mount Sunapee now proposes to minimize ski trails crossings on the Sunapee-Kearsarge-Ragged Greenway Coalition’s Summit Hiking trails by reducing the number of ski trail crossings to three (3) from the six (6) crossings that were in the June 1, 2014 plan.

a. Mount Sunapee will provide signage to alert both downhill skiers and hikers to the trail crossing areas.

b. Mount Sunapee will provide spring maintenance and clean-up annually on the Summit Hiking Trail.” (p. 33)

The EMP 2016-2020 states:

“Mount Sunapee has worked with the Sunapee-Kearsarge-Ragged Greenway Coalition (SKRGC) to address ski trail crossings with the Summit Hiking Trail within the West Bowl, and will continue to work with them in the future. The revised 2016-2020 MDP reduces the number of ski trail crossings from as many as six to three. Hikers will be allowed to cross ski trails during the winter ski season and Mount Sunapee will have signs to warn skiers of hiking trail crossing. Through the efforts of the SKRGC, DRED and Mount Sunapee a codified Memorandum of Agreement (MOA) has been developed that supports year round hiking, reduces the number of ski trail crossings, and provides for spring maintenance and clean-up on Summit Trail each year by Mount Sunapee Resort.” (p. 26)

Potential impacts to the watershed. Mount Sunapee Resort would update its environmental impact studies in conjunction with its development of design, construction and site plans, including water resources and watershed impacts of the West Bowl ski area development. DRED would propose that the updated studies would be added as an addendum to the MDP/EMP, as the studies become available.

Mount Sunapee Resort would conduct the necessary local and state reviews and obtain the required permits associated with its snowmaking activities. During the site plan review and permitting process, the engineering and environmental impact studies would be reviewed by State and local entities, including DRED, and the Towns of Goshen and Newbury. DES would continue to fulfill its regulatory responsibilities pertaining to environmental permitting. DES permitting will include review by the NHB and the NH Department of Fish and Game.

The hydrologic study by [Bruno Associates, dated May 2004](#), on the potential impact of snowmaking operations is contained in the MDP/EMP 2015-2019 as Appendix J. Bruno Associates reports that neither Lake Gunnison nor Rand Pond receive any run-off from Gunnison Brook which drains the lands in the West Bowl area. Lake Gunnison is fed by Blood Brook, and Rand Pond is upgradient from Gunnison Brook and hydraulically isolated from it. Snowmelt runoff from snowmaking on the West Bowl trails was conservatively calculated as a percentage of the streamflow in Gunnison Brook by using a 7-day and a 30-day melt time. A 7-day melt time, thought unrealistic but used for perspective, resulted in a 2.2% increase in streamflow during a 10-year storm event, and 1.5% increase in the streamflow during a 50-year storm event. A more realistic 30-day snow melt time resulted in a 0.5% increase in streamflow during a 10-year storm event, and 0.4% increase in the streamflow in a 50-year storm event.

The report concludes: “In summary, Lake Gunnison and Rand Pond will be completely unaffected because they are hydraulically disconnected. Storm event run-off from the proposed trails is

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expected to be negligible in terms of the overall watershed area, and the increase in flow that will be realized by the Gunnison Brook during spring melt is a very small percentage of its storm event flow, and is unlikely to create a noticeable impact at any bridges or culvert crossings.”

Update: Water resources

Local Watershed.

West Bowl improvements and the local watershed are addressed in the EMP 2016-2020:

“Mount Sunapee also protects groundwater resources from fuel and other hazardous materials. Employees are educated on the proper techniques for handling, storing and disposing of hazardous materials. Mount Sunapee meets all regulations governing storage of fuels in excess of 1,100 gallons as required by the State. Mount Sunapee has procedures and technologies in place for protecting and monitoring above and below ground tanks. Beyond regular safety meetings, Mount Sunapee personnel routinely inventory containment systems and materials. These personnel are equipped and trained to respond to fuel spills of less than 25 gallons in a safe and expeditious manner. For spills in excess of 25 gallons, personnel are familiar with procedures for notifying the NHDES Oil Response Team.”(p. 11)

“Due to the hydraulic separation of the lake from Gunnison Brook, there is no potential for the water level or water quality to be affected by snowmelt or runoff from the proposed trails and improvements within the West Bowl area.”(p. 12)

“The analysis of the hydrologic conditions within this watershed, prepared by Bruno Associates (see Appendix I), was completed to identify the characteristics of the watershed so that an appropriate BMP strategy for water quality can be created. The results of this study show that Gunnison Brook presents the major drainage in which runoff and snowmelt will flow from the West Bowl area. It also shows that the amount of runoff projected from snowmelt will have little impact on overall stream flows during the spring melt-off period.”(p. 13)

“Given this background, while Mount Sunapee’s efforts within the current leasehold has been to create new solutions within existing developed areas, the expansion with the West Bowl will allow for more proactive efforts to protect and preserve water quality within the new watershed. Mount Sunapee fully anticipates working closely with the NHDES, LSPA, professional engineers and hydrogeologists and our local communities, to develop storm water and erosion control systems that provide the necessary detention and treatment of runoff at all times of the year.” (p. 13)

Snowmaking

The impact of snowmaking on Lake Sunapee is addressed in the EMP 2016-2020 and states:

“Snowmaking is an essential component in the operation of a successful ski resort in the eastern United States. Mount Sunapee is fortunate to have Lake Sunapee and its abundant water supply adjacent to the

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mountain for its snowmaking water supply. We manage this resource carefully as we recognize how important Lake Sunapee is to our resort and to the greater community and region. The substantial surface area of Lake Sunapee, at 4,090 acres, enables us to withdraw enough water to support our snowmaking operations without causing any measurable impact to the lake.” (p. 5)

“Mount Sunapee’s water withdrawals for winter snow making from Lake Sunapee are regulated by a water withdrawal permit (#2000-02687) from the NH-DES. This permit allows Mount Sunapee to use Lake Sunapee for its snowmaking water supply during winter months. Mount Sunapee’s five-year average for water withdrawals is 153 million gallons.”(p. 5)

“Over the past five ski seasons, Mount Sunapee has averaged approximately 153,000,000 gallons of snowmaking withdrawal per year.”(p. 7)

“Higher withdrawal volumes for snowmaking generally occur in years with mild winter temperatures and/or lower natural snowfall amounts. Based upon these averages, Mount Sunapee’s current snowmaking water withdrawal permit is sufficient to meet its future needs.” (p. 7)

“To put Mount Sunapee’s snowmaking water usage into perspective, if 100% of Mount Sunapee’s annual snowmaking water were to be instantaneously withdrawn from Lake Sunapee, the lake level would be reduced by only 1.375 inches (one and three-eighth inches).” (p. 7)

“Snowmaking water withdrawals typically occur over a four-month period from mid-November to early March. Based upon the total hours of snowmaking during this period, the average daily water usage would impact the lake level by approximately 1/32nd of an inch. Natural recharge to the lake on any given day most likely exceeds any snowmaking water withdrawals.” (p. 7)

The impact of snowmaking on Lake Sunapee is addressed in the RMDP 2016-2020 and states:

“Expansion of the resort’s snowmaking system is an important part of the upgrading plan. Ensuring a reliable and quality skiing product on the proposed trails is critical to the reputation and development of the resort as a whole. In conjunction with the terrain modifications, the installation of snowmaking infrastructure on 18 acres of existing ski trails, along with 105 acres of new ski trails, will add approximately 123 additional acres of new snowmaking coverage. Whenever Mount Sunapee proposes to build a new ski trail, the installation of snowmaking pipes and snowmaking equipment on the new trail is always a planned requisite for the trail.

Mount Sunapee’s currently permitted water rights from the NH-Department of Environmental Services to use water from Lake Sunapee for winter snowmaking operations are sufficient to accommodate the proposed increases in snowmaking coverage for the additional ski trails that are proposed in this MDP. See Figure III-4 for a snowmaking coverage map. Both existing and expanded snowmaking coverage is illustrated on the Snowmaking Coverage map.”(p. 49)

Wastewater systems

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Wastewater systems are addressed in the EMP 2016-2020, which states:

“In the spring of 2000, Mount Sunapee completely rebuilt the existing spray field lines due to the age and condition of the existing disposal lines. The new spray lines have the ability to operate nozzles individually, increasing spray effectiveness within the disposal area.” (p. 9)

“An additional engineering report by Hoyle Tanner and Associates, Inc. in March 2003 (see Appendix G), suggested that the wastewater system (lagoons and spray fields) will provide adequate capacity for increasing skier visits to approximately 325,000 visits. Over the past five seasons, skier visitation has averaged 255,000 annual visits. Mount Sunapee does not propose to expand the wastewater lagoons, as their capacity is adequate. In addition, other options such as the newer low flush fixtures and water recycling can be implemented to avoid the need to expand the lagoons in the future.”(p. 9)

“The current permitted capacity of the spray fields is 250,000 gallons per week of lagoon effluent. Mount Sunapee has proposed to expand the spray field by 15-20% to allow better ability to dispose of lagoon effluent during the permitted spring, summer and fall spraying seasons. In very rainy spring and fall periods, the soil conditions may be too saturated to permit spraying. Although Mount Sunapee has not expanded the spray fields to date, this remains a viable option in the overall management of the waste water system. Our primary lagoon management objective is to ensure that the full storage capacity of the lagoons is maximized by completely emptying the lagoon by October 31st of each year.” (p. 9)

“Mount Sunapee Resort currently operates a lagoon and spray field system for on-site wastewater treatment and disposal under NHDES permit #GWP-870458-N-001. Mount Sunapee staff, who are licensed with the State of New Hampshire, operate, monitor and maintain the system. The monitoring program utilizes a series of monitoring wells with chemical biological sampling requirements. The system continues to operate within all parameters required by State of New Hampshire.”(p. 9)

“Mount Sunapee continues to use the engineering services of Hoyle Tanner and Associates, Inc. for its wastewater systems as they have over twenty years of experience with the Mount Sunapee system. They are retained to:

1) Evaluate the integrity of the existing system, 2) evaluate the capacity and utilization of the existing system, 3) Study the future wastewater requirements at Mount Sunapee, 4) make recommendations on how to meet the future wastewater requirements at Mount Sunapee, and 5) design appropriate expansion measure to meet future requirements.” (p. 9)

All necessary easements, rights of way, etc. necessary to operate the West Bowl improvements will transfer to the State.

Exclusive rights to West Bowl area are covered in the RMDP 2016-2020, which states:

“4. Mount Sunapee will provide rights, easements and agreements to DRED for road access from Brook Road in Goshen into the West Bowl base area, and for any utilities, such as water and sewer, if those

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utilities are not located on land that is transferred to DRED. The easements will be recorded with the land transfer deeds.” (p. 34)

Provisions for Approval of the RDMP/EMP 2016-2020 which states:

11. *“All necessary documents, including, but not limited to, easements, rights-of-way, operating agreements, and maintenance agreements, shall be negotiated and entered into in good faith by DRED, TSD, and SLH and any and all necessary documents to implement these rights and agreements shall be negotiated and executed without undue delay. SLH shall execute all necessary perpetual easements, rights-of-way, and/or other agreements, which may include, but are not limited to, rights to use, maintain, improve, repair, replace, rebuild, transfer, operate and manage the ski and other recreational area operations’ infrastructure, including, without limitation, snowmaking, water lines, sewerage treatment facilities, power lines, and parking areas that may be built on the Private Land. In its deed to the State, TSD shall carve out and reserve, for TSD, its successors and assigns, perpetual necessary easements for parking areas built on the West Bowl Expansion Land and for utilities necessary for the development of the Private Land.” (p. 2-3)*

The 2016 Amended Lease states:

“WHEREAS, TSD shall, under the terms and conditions agreed to in this Amendment cause either itself and/or SLH to convey in fee the West Bowl Expansion Land together with all necessary non-exclusive perpetual easements for road access from any public road or from Brook Road to provide public access to the West Bowl Expansion Land and the West Bowl Expansion Improvements. In addition to access, SLH shall also execute all necessary non-exclusive perpetual easements, rights-of-way, and/or other agreements, which may include, but are not limited to, rights to use, maintain, improve, repair, replace, rebuild, transfer, operate and manage the ski and other recreational area operations’ infrastructure, (including, without limitation, snowmaking, water lines, sewerage treatment facilities, power lines, that may be built on the Private Land. In its deed to the State, TSD shall carve out and reserve for TSD, its successors and assigns, perpetual necessary easements for parking areas, roads and other infrastructure built on the West Bowl Expansion Land and for utilities necessary for the development of the Private Land;” (p. 4)

“2. Section 1 of the Lease is hereby amended to include the following: When and if the West Bowl Expansion Improvements are completed, or when TSD has constructed an operating chairlift and one or more trails that are accessed by the lift, TSD shall cause SLH to convey in fee the West Bowl Expansion Land and the West Bowl Expansion Improvements by June 30, 2028, to DRED and the description of the Leased Premises shall be amended in fact to include the West Bowl Expansion Land and the West Bowl Expansion Improvements, which shall be free and clear of all real estate mortgages but subject to the Excess Density Allocation Acreage restriction, the Conservation Restrictions and any security interests in the West Bowl Expansion Improvements. If and to the extent that access to and/or utilities for the West Bowl Expansion Improvements or the West Bowl Expansion Land are located outside of the West Bowl Expansion Land, at the time of the conveyance of the West Bowl Expansion Land to DRED, TSD and SLH shall cause all legal rights necessary to operate the ski area and recreational day use area to be granted to DRED. In addition, at the time of the conveyance of the West Bowl Expansion Land to

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DRED, SLH shall also execute all necessary non-exclusive perpetual easements, rights-of-way, and/or other agreements, which may include, but are not limited to, rights to use, maintain, improve, repair, replace, rebuild, transfer, operate and manage the ski and other recreational area operations' infrastructure, (including, without limitation, snowmaking, water lines, sewerage treatment facilities, power lines, that may be built on the Private Land. In its deed to DRED, TSD shall carve out and reserve for TSD, its successors and assigns, perpetual necessary easements for parking areas, roads and other infrastructure built on the West Bowl Expansion Land and for utilities necessary for the development of the Private Land. At the time of conveyance of the West Bowl Expansion Land to DRED, the description of the Leased Premises shall be amended to add the West Bowl Expansion Land as a part of the Leased Premises. Such description shall be recorded in the Merrimack and Sullivan County Registries of Deeds, along with Mylars of the As-Built Survey of the Leased Premises including the West Bowl Expansion Land. The State shall be authorized, upon approval of this Amendment by Governor and Council, to add such As-Built Survey as a new Appendix I to the Lease and to include a revised legal description of the Leased Premises including the West Bowl Expansion Land as a new Appendix II, which legal description will define the revised Mount Sunapee Resort leasehold." (p. 6)

Campground Road. *Campground Road is not within the leasehold boundary. Mount Sunapee Resort is granted permission by DRED to access and use Campground Road by Special Use Permit, and has provided approximately \$10,000 towards maintenance of the road. DRED and Mount Sunapee Resort are investigating the options for the long-term repair and maintenance of Campground Road.*

VI. Impacts on the rural character.

*DRED's response: **Maintaining the rural character.** The West Bowl ski area expansion would provide for the protection of additional lands. Approximately 150 acres of private land would be conveyed to the State for purposes of expanding the ski area. In addition to those acres, approximately 260 acres would be donated to the State and added to the park for conservation and environmental protection purposes, including the application of state forest management standards, and would be available for passive recreation, such as hiking and wildlife watching.*

The approximately 260 acres of conservation lands consists of a 208 acre tract as well as an additional approximately 52 acre tract which would be donated to the State for conservation purposes. These 260 acres would be excluded from the ski area lease boundary, and Mount Sunapee Resort would retain its right to use the property to meet local density requirements and other permitting and/or mitigation requirements. Preliminary assessments of these conservation acres indicate that both the 208 acre tract, as well as approximately 10 acres of the 52 acre tract, may be worthy of inclusion in the exemplary natural community system. In all, approximately 410 acres of lands would be conveyed to the State and would be added to Mount Sunapee State Park.

Land use	Acreage (approximate)	Time of transfer to State
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West Bowl ski area	150	2028
Conservation lands – Remaining Lewin-Powell tract, excluded from ski area lease	52	2028
Conservation lands – O’Connell tract, excluded from ski area lease	208	following the permitting of the ski area expansion and 1 st year of construction
Total land donation	410	

Over the years, ski lifts, trails and associated base lodges have become part of the rural character of New England. DRED, in consultation with the Mount Sunapee Advisory Committee, would continue its role in the approval of all recreational facilities through each of Mount Sunapee Resort’s Annual Operating Plan, which states: “The Annual Operating Plan shall describe in detail the following operations: ... m. Implementation of Master Development Plan site improvements” (see [Lease](#), Section 5).

DRED would also review and approve Mount Sunapee Resort’s design, construction and site plans to ensure that the design and plans are appropriate for incorporation into the State Park System, as provided for in the [Public Involvement and Oversight Policy for Mount Sunapee Ski Area](#), Section IV, D: “Site development in accordance to the AOP, MDP or EMP will be guided by the following: • All applicable federal, state and local permits shall be obtained by the Operator and its contractors and subcontractors, prior to the start of construction activity. • Construction plans will be submitted to DRED and the Town of Newbury or the Town of Goshen as may be appropriate, 60 days prior to construction. • DRED will review and approve plans in consultation with DES and other appropriate agencies. • Monitoring for compliance will be performed by DRED and may include inter-department or other cooperative arrangements.”

Mount Sunapee Resort would be subject to local site plan review regulations and permitting processes for the Towns of Newbury and Goshen for the development of the public recreational facilities within Mount Sunapee ski area, including the West Bowl area, and any private development occurring on private lands if permitted by the Town of Goshen.

Mount Sunapee Resort-owned land to the north contains steep terrain which would be subject to the [Town of Goshen’s building ordinances](#) pertaining to steep terrain and alteration of steep terrain.

Lands already protected by conservation easement, the addition of donated land that will be under State ownership, State and local site plan review of proposed development, and State and local regulations on steep terrain contribute towards ensuring the rural character of Mount Sunapee.

Update: Maintaining rural character

Conservation Lands conveyed to the State. A total of approximately 260 acres of land will be conveyed to the State as Conservation Lands that contain areas that may possibly warrant designation as an Exemplary Natural Community.

The RMDP 2016-2020 (p. 33) states:

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“d. Approximately 260 acres of land will be transferred to DRED as conservation lands. These 260 acres (+/-) will not become part of the Mount Sunapee ski area leasehold, and will remain in their natural state to protect the summit scenic vistas of Mount Sunapee in perpetuity.

e. The approximately 260 acres (+/-) of conservation land will be transferred to DRED after all permits are finalized, but prior to the beginning of any construction work for the West Bowl expansion such as clearing land for ski trails or the chairlift line.”

and further, the revised EMP (p. 20) states:

“In the fall of 2015, Mount Sunapee again retained scientists from Normandeau Associates and Ecosystems Management Consultants to assess the forests in approximately 260 acres of land privately owned by Mount Sunapee Resort through Sunapee Land Holdings, LLC (see Appendix Q for the Normandeau report).

Mount Sunapee has proposed transferring the ownership of approximately 260 acres of forested lands to DRED as conservation land as a condition of approval of the MDP. These lands would remain as conservation lands in perpetuity and not be included in the ski area leasehold. Our scientists found approximately 70 acres that are said to probably warrant designation as an Exemplary Natural Community. They also found approximately 3 acres of forest that exhibit old growth forest characteristics. They found another 20 acres that may possibly warrant designation as an Exemplary Natural Community. NHB plans to review and verify those assessments for possible Exemplary Natural Community designation.”

and further, the Lease Amendment (p. 4-5) states:

“WHEREAS, in the event that all of the West Bowl Expansion Improvements are not completed by June 30, 2028, but TSD has constructed an operating chairlift and one or more trails accessed by the lift, then in this event TSD shall complete an as-built survey and site plan and shall transfer the West Bowl Expansion Land and the West Bowl Expansion Improvements, and all necessary easements, rights-of-way, and/or agreements for ski area and other recreational day use infrastructure on the Private Land, including an easement for vehicular access for maintenance and construction purposes, to DRED by June 30, 2028;

WHEREAS, a portion of the SLH Lands includes the following two (2) parcels of land; the first being approximately 208 acres (“O’Connell Tract”) and the second being approximately 52 acres (a portion of the Lewin/Powell parcel, sometimes herein referred to as the “52 Acre Parcel”). These parcels are more particularly described on the Plan attached hereto as Exhibit B (said 260 acres being hereinafter referred to as the “Conservation Lands”). These parcels shall not become part of the Leased Premises but shall become part of Mount Sunapee State Park. At the time of conveyance, the parties agree that the 52 Acre Parcel shall be transferred with deed restrictions preventing future development;”

and further, the Lease Amendment (p.5-6) states:

“NOW, THEREFORE, for good and valuable consideration received, the undersigned agree to amend the Lease as follows:

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1. When all of the West Bowl Expansion Improvements are fully approved and permitted by all authorities having jurisdiction (after expiration of all applicable appeal periods) and when TSD has issued a written notice to DRED stating that it intends to construct the West Bowl Expansion Improvements in accordance with the West Bowl Expansion Permits (the "Notice to Proceed to Construct") but prior to actual construction commencing construction of such improvements, TSD shall cause SLH to convey in fee the two hundred sixty (260) acres of Conservation Lands to DRED as described on Exhibit B to be added to Mount Sunapee State Park. The Conservation Lands shall not become a part of the Leased Premises but shall become a part of Mount Sunapee State Park. At the time of conveyance, the parties agree that the 52 Acre Parcel shall be transferred subject to deed restrictions preventing future development of such land."

Potential impacts of the West Bowl expansion to the Sunapee Highlands. As part of its [Wildlife Action Plan](#) (WAP), NH Fish and Game Department (NHFG) [ranks wildlife habitat by ecological condition](#), based on ranking the biological, landscape and human impact factors most affecting each habitat type and provides this information to assist in conservation planning efforts. A review of the 2010 Highest Ranked Wildlife Habitat By Ecological Condition for the [Town of Goshen map](#) identifies the West Bowl area as within a Supporting Landscape habitat, defined as: "Supporting Landscapes consists of the upland part of the watershed for surface waters, some very intact forest blocks, some known locations of WAP species and some locations of exemplary natural communities."

Based upon previous input from NHFG during their [2004 review](#) and field reconnaissance of the West Bowl area, there are no known occurrences of rare wildlife within or near the expansion area, however additional wildlife surveys would need to occur to evaluate any potential impacts.

Mount Sunapee Resort would update its wildlife and habitat assessment in conjunction with its development of design, construction and site plans necessary for local and state reviews and permitting. DES permitting requires review by NHB for potential impacts to protected plant communities and NHFG for potential impacts to protected wildlife.

Update: Potential impacts of the West Bowl expansion to the Sunapee Highlands

Further research will be conducted by NHB. The RMDP 2016-2020 (p. 34) states:

"5. Mount Sunapee proposes to support DRED and the Natural Heritage Bureau by providing up to \$40,000 in research funds to conduct an Ecological Integrity Assessment (EIA) on the upland forests on Mt. Sunapee. The EIA project can be used to update DRED's knowledge of the condition of the upland forest types on Mt. Sunapee. These funds will be provided after all required permits and approvals have been finalized, and construction begins on the West Bowl expansion project."

Updated assessment studies will be added to the EMP. The EMP 2016-2020 (p. 24) states:

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“Mount Sunapee is committed to environmental stewardship. We will continue to be vigilant during the implementation of the MDP to address wildlife issues. From our previous analyses, we believe that the implementation of our MDP, including the West Bowl area, will not adversely impact critical wildlife habitat.

During the permitting process for the West Bowl expansion, studies will be updated as required and current information will be utilized from DRED, NHB and NH Fish and Game.”

and further, the Lease Amendment (p. 3) states:

“WHEREAS, the grant of the West Bowl Expansion Permits will likely require some of the West Bowl Expansion Land to be subject to restrictions requiring preservation of upland areas and other conservation related restrictions (collectively, the “Conservation Restrictions”);”

West-facing ski slopes. DRED recognizes that, as is common practice in the ski industry, Mount Sunapee Resort would equip and operate the West Bowl ski area to the best advantage at any given time, based upon weather conditions, snowmaking technology, and scheduled operations.

Other ski areas with west-facing and even south-facing slopes include Bromley in Vermont, Vail’s Back Bowls in Colorado, and Crans-Montana, Switzerland, and the Mittersill Ski Terrain at Cannon, which faces west-northwest.

Potential impacts on the Town of Goshen. Mount Sunapee Resort would update its traffic analysis in conjunction with its development of project design, construction, and site plans for the recreational facilities within the West Bowl area, and as part of the local site plan review process and permitting, and DRED review. DRED would propose that the updated traffic analysis be included as an addendum to the MDP/EMP, when the analysis becomes available.

DRED would propose that Mount Sunapee Resort continue to work with the Town of Goshen and the NH DOT District Maintenance Office on traffic and roadway issues and concerns. Mount Sunapee Resort has indicated that it may be possible to operate the West Bowl ski area as the SunBowl area currently operates, without public vehicular access to the base.

DRED received comments in support of the West Bowl expansion from the Board of Selectmen of the Town of Goshen.

Development of privately-held lands in the Town of Goshen. The Lease Amendment (p.5) states:

“WHEREAS, a portion of the SLH Lands includes approximately 248 acres of land adjacent to the West Bowl Expansion Land that it may privately develop in the future (said 248 acres being referred to as the “Private Land”);

WHEREAS, the acreage contained within the West Bowl Expansion Land (approximately 150 acres) may exceed the acreage required by the Town of Goshen’s lot coverage and density regulations to construct the

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West Bowl Expansion Improvements (said excess acreage is deemed the "Excess Density Allocation Acreage");

WHEREAS, to the extent allowed by the Town of Goshen, the parties agree that the Excess Density Allocation Acreage may be used to satisfy, in whole or in part, any lot coverage or density regulations of the Town of Goshen applicable to development of the Private Land as if the Private Land contained an amount of land equal to 248 acres plus the Excess Density Allocation Acreage;"

and further, the Provisions for Approval letter (p. 1) states:

"2. DRED, TSD, and SLH acknowledge and agree that residential and commercial development, except what is specifically authorized under the existing Goshen zoning ordinances, on the Private Land abutting the West Bowl Expansion Land shall require a zoning variance or change in the Town of Goshen's zoning ordinances."

VII. Economic issues and concerns.

*DRED's response: **Changes in the operator/lessee and CNL.** The financial structures associated with the ownership, leasing and operation of ski areas can be complex. The State anticipated this in negotiating the original lease. The current [Lease](#) states: "The Operator may assign, or otherwise transfer any interest in this Agreement with the prior written approval of the State. Services required under this Agreement may be delegated or subcontracted by the Operator with the prior written approval of the State. Such approval shall not be unreasonably withheld by the State." (See Lease, Section 22)*

The State provided its approval of the assignment of the Lease to CNL in 2008. An Assignment of Lease Agreements was filed recorded on December 10, 2008, at the [Merrimack County Registry of Deeds](#) (see Vol. 1713, Pg. 0467) and on December 24, 2008, at the [Sullivan County Registry of Deeds](#) (see Vol. 1713, Pg. 0467).

CNL is SEC regulated REIT focused on ski resorts, golf resorts, marinas, amusement parks and nursing homes nationwide, with a 15-year term that expires in 2015. CNL's interest in the Lease may be reassigned, delegated or subcontracted with prior approval of the State, or could otherwise be transferred back to the Operator at the end of the term of the REIT. The term of CNL's interest in the Lease was anticipated by the State and the reassignment, delegation or subcontracting of the Lease is expected to be approved by the State.

UPDATE: Changes in operator/lessee

Changes in operator/lessee and CNL

The Lease Amendment (p.1-2) states:

"WHEREAS, TSD assigned its rights as Operator under the Original Lease to CNL Income Mount Sunapee, LLC ("CNL") by Assignment and Assumption of Lease Agreement dated December 5, 2008,

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and recorded in the Merrimack County Registry of Deeds at Book 3099, Page 1054, and in the Sullivan County Registry in Book 1713, Page 467 (the "Assignment");

WHEREAS, said Original Lease was amended by Order of the Merrimack Superior Court dated February 13, 2015, and recorded in the Merrimack County Registry of Deeds in Book 3472, Page 431, and in the Sullivan County Registry of Deeds in Book 1938, Page 322, (the "Judicial Amendment") amending Appendix I and Appendix II of the Original Lease defining the Sunapee leasehold (the "Leased Premises") (the Original Lease, Assignment and Judicial Amendment collectively referred to as the "Lease");

WHEREAS, CNL entered into a certain Sublease Agreement with TSD dated as of December 5, 2008, a memorandum of which is recorded in the Merrimack County Registry of Deeds at Book 3099, Page 1094, and re-recorded in Book 3110, Page 392, and in the Sullivan County Registry of Deeds in Book 1713, Page 507, and re-recorded in Book 1716, Page 952, as amended by the First Amendment to Sublease Agreement dated March 5, 2009, as further amended by the Second Amendment to Sublease Agreement dated December 31, 2011, and as further amended by the Third Amendment to Sublease dated April 30, 2015, an amendment to memorandum of which is recorded in the Merrimack County Registry of Deeds in Book 3476, Page 2532, and in the Sullivan County Registry of Deeds in Book 1942, Page 257, (collectively, the "Sublease Agreement") pursuant to which TSD agreed to perform the covenants and obligations of CNL as Operator under the Lease;

WHEREAS, CNL changed its name to CLP Mount Sunapee, LLC pursuant to a Certificate of Amendment filed with the Delaware Secretary of State on February 1, 2012;

WHEREAS, TSD is the present operator of the Mount Sunapee Ski Resort pursuant to the Sublease Agreement;

WHEREAS, an affiliate of TSD, Sunapee Land Holdings, LLC ("SLH") owns approximately 657 acres of unimproved land located westerly of the Leased Premises (the "SLH Lands");"

and further, the Lease Amendment states:

"WHEREAS, TSD intends to pay for the construction of the West Bowl Expansion Improvements by borrowing money from banks, other lending institutions and/or other private sources and to secure those loans with a security interest on the West Bowl Expansion Improvements;"(p. 3)

"WHEREAS, notwithstanding the foregoing recitals and terms of this Amendment, nothing in this Amendment is meant to add TSD and SLH as parties to the Lease and in any way adversely affect CLP's position under the Lease and the Sublease Agreement."(p. 5)

Financial benefits of the proposed West Bowl expansion to the State. DRED would receive direct financial benefit from the increased lease revenue payments that would be expected with increased

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visitation resulting from the proposed expanded ski facilities in the West Bowl. DRED proposes that, in the same manner as outlined in the current Lease, 3% of gross annual revenue generated from the West Bowl ski facilities would be included in the reporting of revenue generated by Mount Sunapee Resort and in the Lease payments made by Mount Sunapee Resort to the State: “The Operator agrees to pay, without demand, to the State as rent for the Leased Premises a base fee of one hundred fifty thousand dollars (\$150,000) per year (adjusted annually for inflation) plus a variable fee of three percent (3%) of the Operator's gross annual revenues from the operation of the ski area, payable on or before December 31, 1998 of each year following the ski season year end” (see [Lease](#), Section 3).

UPDATE: State will not receive financial benefit from private land development

Competitive services developed on private land.

The Provisions for Approval of the RMDP/EMP 2016-2020 states:

“8. TSD and SLH agree that all West Bowl Expansion Improvements that will serve the day use skiers and/or other day use recreational users, which improvements may include, but not be limited to, retail shops, food and beverage concessions, equipment rentals, daycare facilities, ticket sales, ski and/or other schools, and other recreational operations infrastructure shall be located within the West Bowl Expansion Land. It is understood that should any of the improvements be built on the Private Land by SLH, its affiliates and/or its assigns and those improvements are competitive with services provided by the ski area, that all revenue generated from these Improvements while any of the facilities at Mount Sunapee State Park ski area are open to the public during the winter ski season will be subject to the three (3%) percent lease payments as long as TSD operates the ski area.” (p. 2)

“12. TSD, SLH, and DRED agree that the cost of operation, maintenance, repair, improvement, rebuilding, management, and/or replacement of the ski and/or other recreational area infrastructure that is also shared with any development on the Private Land shall be shared on a prorated basis based on usage rates. Such responsibility to share the prorated costs shall be included in title transfer documents for developments on the Private Land and reserved in the transfer documents for the West Bowl Expansion Land, including all easements on the Private Land and the West Bowl Expansion Land.” (p. 3)

The 2016 Amended Lease states:

“In the event that any of the West Bowl Expansion Improvements are built on the Private Land by SLH, its affiliates and/or its assigns and those improvements are competitive with services provided by the ski area, then all revenue generated from these Improvements while any of the facilities at Mount Sunapee Ski Area are open to the public during the winter ski season will be subject to the three (3%) percent Lease payments as long as TSD operates the ski area.”(p. 7)

West Bowl will be subject to provisions of the Lease.

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The 2016 Amended Lease states:

“WHEREAS, upon the completion of construction of the West Bowl Expansion Improvements, the completion of an as-built survey and site plan, and the commencement of operation thereon, the conveyance of title in fee of the West Bowl Expansion Land and the West Bowl Expansion Improvements shall occur and the West Bowl Expansion Land and the West Bowl Expansion Improvements shall be subject to all the terms and conditions of the Lease and Operating Agreement, as amended, and all Master Development Plans, approved by DRED, in the same manner as all other lands constituting the Leased Premises;”(p. 4)

“Upon approval of this Amendment by the Governor and Executive Council, the West Bowl Expansion Land and Improvements shall be subject to Section 5 (Annual Operating Plan), and Section 7 (Site Improvements) of the Lease, as amended, and the applicable provisions of the 2016-2020 Revised Master Development Plan, as approved by DRED, in the same manner as all other lands currently constituting the Leased Premises.

If and when TSD constructs an operating chairlift and one or more trails that are accessed by the lift, the West Bowl Expansion Land also shall be subject to Section 3 (Rent), Section 12 (Taxes) and Section 15 (Environmental Management) of the Lease, as amended.” (p. 7)

DRED and economic and tourism development. *DRED supports economic and tourism activity and development, and collaborates with abutting and nearby private landowners and businesses for the promotion of recreational and tourism activities. There are many abutting and nearby private landowners and businesses that benefit from their proximity to state lands, such as an equestrian facility abutting Bear Brook State Park, businesses and lodging establishments at Hampton Beach State Park, an OHRV rental shop near Jericho Mountain State Park. DRED is responsible for monitoring its lands and investigating potential encroachments.*

The State itself has been the beneficiary of land exchanges and facility improvements with public and private entities that have enabled the State to expand or improve economic, tourism and recreational activity and development, such as at Umbagog Lake State Park, Cannon Mountain, and exchanges with private developers within the State-wide network of trails, and land exchanges with Towns for the expansion of municipal services.

EXAMPLES OF STATE ASSISTANCE TO BUSINESSES FOR THE PURPOSE OF SUPPORTING THE STATE’S ECONOMY:

- *DTTD grants for tourism promotional initiatives ([Res 3300](#) Rules for Joint Promotional Program)*
- *Parking leases to support overnight lodging businesses at Hampton Beach*
- *Lease of summit parking lots to Mount Washington Auto Road at Mount Washington State Park*

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- *Bureau of Trails technical assistance to help establish the “Ride the Wilds” program to promote local businesses in the north country and trail crossings on DRED lands*

EXAMPLES OF PUBLIC-PRIVATE PARTNERSHIPS:

- *Collaboration with private partners for transparent operations at Mount Washington State Park*
- *Seacoast Science Center at Odiorne Point State Park*
- *Student Conservation Association at Spruce Pond Camp, Bear Brook State Park and service and interpretive work throughout the State Park System*
- *Cooperative efforts facilitated by the Bureau of Trails with private landowners for continued public access and use of multi-use trails*
- *DRED’s agricultural leases to individual farmers*
- *Contracts with the food service concessionaire at Franconia Notch State Park*
- *Partnerships with local lodging establishments at Cannon Mountain*
- *AMC’s operation of the State’s hut at Lonesome Lake*

DRED recognizes the importance of maintaining a first-class ski area that meets the needs of its guests, that retains customer loyalty, and competes in the marketplace. Since the Lease in 1998, the following New Hampshire ski areas have expanded or are in the process of expanding their ski terrain: Bretton Woods, Loon Mountain, Pats Peak, Cannon Mountain and Waterville Valley.

UPDATE: Clarification regarding development and encroachment

The 2016 Amended Lease states:

“WHEREAS, if an operating chairlift and one or more trails that are accessed by the chairlift are constructed, the parties agree that in the event that any residential development occurs on the Private Land (hereinafter defined), there shall be no direct access to or use of the West Bowl Expansion Improvements from the Private Land unless public access is provided from any public road or Brook Road, a parking lot is built for the public to use, and the public has access to the West Bowl Expansion Improvements;”(p. 2-3)

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“WHEREAS, as acknowledged in this Amendment, access to and utilities for the West Bowl Expansion Improvements and West Bowl Expansion Land, which may also serve the Private Land, may be located outside of the West Bowl Expansion Land. The parties to this Lease Amendment, including TSD and SLH, agree that all legal rights necessary to operate the ski area and recreational day use area shall be granted to the State and CLP upon the conveyance of the West Bowl Expansion Land and the West Bowl Expansion Improvements ;”(p. 4)

“WHEREAS, a portion of the SLH Lands includes the following two (2) parcels of land; the first being approximately 208 acres (“O’Connell Tract”) and the second being approximately 52 acres (a portion of the Lewin/Powell parcel). These parcels are more particularly described on the Plan attached hereto as Exhibit B (said 260 acres being hereinafter referred to as the “Conservation Lands”). These parcels shall not become part of the Leased Premises but shall become part of Mount Sunapee State Park. At the time of conveyance, the parties agree that the 52 acres parcel shall be transferred with deed restrictions preventing future development;”(p. 4)

“WHEREAS, a portion of the SLH Lands includes approximately 248 acres of land adjacent to the West Bowl Expansion Land that it may privately develop in the future (said 248 acres being referred to as the “Private Land”);”(p. 4)

“WHEREAS, DRED, TSD and CLP agree that only the projects and improvements that have been approved in prior MDPs and the 2016-2020 Revised MDP for Polygon 23, and any necessary maintenance, repair, renovation, or replacement of those projects or currently existing improvements in Polygon 23, shall be allowed to be implemented. Additionally, DRED, TSD and CLP agree that there shall be no further development of either ski trails or ski infrastructure in Polygon 20;”(p. 5)

“1. When all of the West Bowl Expansion Improvements are fully approved and permitted by all authorities having jurisdiction (with all appeal periods expiring) and when TSD has issued to DRED a written Notice to Proceed to Construct (but prior to actual construction commencing), TSD shall cause SLH to convey in fee the two hundred sixty (260) acres of Conservation Lands to DRED as described on Exhibit B to be added to Mount Sunapee State Park. These lands shall not become a part of the Leased Premises but shall become a part of Mount Sunapee State Park. At the time of conveyance, the parties agree that the 52 acre parcel shall be transferred with deed restrictions preventing future development.”(p. 5)

The conditional approval letter of the Mount Sunapee 2016-2020 Revised Environmental Management Plan (REMP) by DRED Commissioner Rose states:

“3. TSD and SLH agree that in the event the West Bowl Expansion Improvements are not accessible to the public via any accessible public road, or from Brook Road, no direct access or use of from the Private Land to the West Bowl Expansion Improvements shall be permitted.” (p.1)

“4. TSD and SLH agree that if TSD decides to operate the West Bowl Expansion Improvements without providing vehicular access and parking for the general public via any accessible public road, or from Brook Road, all access to the West Bowl Expansion Improvements shall be through the existing Mount

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Sunapee ski area in a manner similar to the Sun Bowl and access and use of the West Bowl Expansion Improvements from abutting the Private Land shall not be permitted.”(p. 1-2)

“6. The parties agree that there will not be any request to expand the leasehold boundary into the area known as the East Bowl of Mount Sunapee State Park.” (p.2)

“7. TSD and SLH agree that the West Bowl Improvements shall not be operated as a private ski area outside of the terms and conditions of the Lease.”(p. 2)

Foreign workers. *Foreign seasonal workers in the United States are classified as either H2B or J3 status workers and while use of foreign seasonal workers is not uncommon in the hospitality industry, Mount Sunapee Resort states that it has not yet utilized foreign seasonal help, although they would be welcome to apply. Mount Sunapee Resort’s employees have come mostly from the local area or other areas of New Hampshire. Mount Sunapee Resort takes part in local job fairs each year and its seasonal work force needs have been met from the surrounding communities.*

Full-time, year-round employment at Mount Sunapee Resort has increased from 16, in 1997 prior to the lease, to 34. In addition to 34 full-time, year-round employees, Mount Sunapee Resort employs approximately 635 seasonal staff during the winter season and approximately 80 seasonal staff during the summer. Mount Sunapee Resort had a 70% average employee retention rate last year and is approximately \$4M in payroll this year.

VIII. Economic impact to the State/Region. DRED received many positive comments from individuals and the local communities that said that Mount Sunapee Resort is an economic driver and a good employer for the region. Impact on the local economy and jobs was the most frequently cited issue by respondents (this topic was cited 36%), with 4% of the comments generally negative in tone and 94% of the comments generally positive in tone.

DRED received comments in support of the West Bowl expansion from the Board of Selectmen of the Towns of Goshen, Newbury, Bradford, Newport, and Sunapee. DRED requested that Mount Sunapee Resort update its economic analysis of the West Bowl expansion.

The State would receive indirect financial benefit in the same ways that it does from all tourism businesses including, but not limited to, rooms and meals tax. The Towns of Goshen and Newbury would receive property tax revenue.

Mount Sunapee Resort retained RKG Associates to prepare and update to its 2004 analysis of economic and fiscal impacts for the proposed expansion. The key findings are provided below, see [Mount Sunapee Resort Update of Economic & Fiscal Impacts, dated April 7, 2015](#):

“C. Key Findings

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The following are the key findings of the economic and fiscal impact analysis of the proposed West Bowl expansion of Mount Sunapee Resort.

Town of Goshen

- Increase in Assessed Property Values \$3,861,800
- Increase in Property Tax Revenue \$91,254

Town of Newbury

- Increase in Assessed Property Values \$703,949
- Increase in Property Tax Revenue \$10,904

State of New Hampshire

- Increase in Average Annual Rooms and Meals Taxes \1 \$101,530
- Increase in Average Annual Business Profits Tax Revenue \1 \$49,472
- Increase in Average Annual Visitors to Mount Sunapee \1 35,044

Department of Resources and Economic Development

- Increase in Average Annual Lease Payment \2 \$148,167
- Increase in Conservation Land acres to Mount Sunapee State Park 250

Employment

- Increase in Full Time Equivalent Employment 23
- Increase in Total Annual Wages \$1,173,210

\1 – Annual average over next four years versus annual average from FY99 to FY15

\2 – Annual average over next four years versus annual average over FY12 to FY15”

Mount Sunapee Resort states that its Master Development Plan offers its “vision for maintaining the overall facilities at Mount Sunapee, while also maintaining Mount Sunapee’s appeal to our loyal guests and our competitive standing in the New England ski marketplace” ([MDP](#), pg. 3).

IX. Other. Within this category, DRED responds to the following areas of concern expressed by the public:

*DRED’s response: **Abutters of West Bowl.** Mount Sunapee Resort would continue to comply with the State permitting process and local site plan review and approval process, which requires the notification of abutters. In addition, DRED and the Upper Valley Lake Sunapee Regional Planning Commission held a public hearing on the project on August 26, 2014, and there has been media coverage on the project since then. The draft decision on the MDP will be sent out for public comment, providing abutters additional opportunity for comment.*

***Free access to the West Bowl lands.** The lands in the West Bowl have been in private ownership and landowners have the right to post their lands at any time. Summer and winter access by the general public would be guaranteed when the land comes under State ownership and the nature of that access would be set forth in the AOP. DRED would work with Mount Sunapee Resort to help ensure public recreational opportunities in the future.*

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The West Bowl ski area expansion would provide for the protection of a total of approximately 410 acres of additional lands transferred and donated to DRED. Of that total, approximately 260 acres would be available for non-ski related public access and use, such as hiking and wildlife watching, pursuant to DRED's directive under [RSA 227-H:8](#): "Use of Land for Recreational Purposes. – Any land acquired by the department or under its jurisdiction, pursuant to this chapter, may, in the discretion of the department, be used for public recreational and park purposes, provided that such use is not contrary to the conditions incident to any bequest or gift."

Charging fees for access to public recreational facilities and areas has been established as a way to support the stewardship of outdoor resources. The Division of Parks and Recreation is self-funded through its fees pursuant to [RSA 216-A:3-g](#) which states: "Fees for Park System. – The commissioner of the department of resources and economic development, in consultation with the director of parks and recreation, shall establish fees for access to and use of the state park system. The fees approved by the commissioner, after prior approval of the fiscal committee, shall not be subject to the provisions of RSA 541-A, so as to provide the department with the ability to maximize revenues and to adjust fees according to market conditions and trends as is the common practice in private industry. ..."

UPDATE: Provisions that inhibit exclusive access

Provisions that inhibit exclusive access. Certain provisions will be in place so that owners residing and/or visitors lodging in private residences and facilities abutting state park lands are not granted any rights and access to the recreational facilities on public land that are not also enjoyed by the general public. Deterrents to exclusive access to West Bowl is addressed in the RMDP 2016-2020 and states:

"g. Mount Sunapee will provide a fifty foot (50') setback between the edge of the new West Bowl ski trails and the new property boundary line for the lands being transferred to DRED. The new boundary line for the proposed expanded ski area is shown in Figure III-2 on page 36." (p. 33)

Deterrents to exclusive access to West Bowl is also covered in the Provisions for Approval letter of RMDP/EMP 2016-2020 and states:

"3. TSD and SLH agree that in the event the West Bowl Expansion Improvements are not accessible to the public via any accessible public road, or from Brook Road, no direct access or use of from the Private Land, other than construction, operating or maintenance activities, to the West Bowl Expansion Improvements shall be permitted."(p. 1)

"4. TSD and SLH agree that if TSD decides to operate the West Bowl Expansion Improvements without providing vehicular access and parking for the general public via any accessible public road, or from Brook Road, all access to the West Bowl Expansion Improvements shall be through the existing Mount Sunapee ski area in a manner similar to the Sun Bowl and access and use of the West Bowl Expansion Improvements from abutting the Private Land shall not be permitted, except for construction, operating, or maintenance activities." (p. 2)

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“7. TSD and SLH agree that the West Bowl Improvements shall not be operated as a private ski area outside of the terms and conditions of the Lease.”(p. 2)

“14. DRED shall require and TSD agrees that ski slopes shall be set back at least 50 feet inside the West Bowl Expansion Land boundary. In addition, TSD shall be prohibited from developing, maintaining, or operating any trails or paths from the ski slopes on the West Bowl Expansion Land to adjacent private land to provide access for owners and/or visitors in private residences and facilities unless those trails or paths are also accessible for use by the general public and are included in an annual operating plan. The primary access from the adjacent residences and facilities to the ski slopes shall be through access points shared with the general public. Such owners and visitors shall not be granted any rights to use the recreational facilities on public land that are not also enjoyed by the general public.” (p. 3)

Top Ranked Issue: Impact on the Economy/Jobs. DRED received many positive comments from individuals and the local communities that said that Mount Sunapee Resort is an economic driver and a good employer for the region. Impact on the local economy and jobs was the most frequently cited issue by respondents (this topic was cited 36%), with 4% of the comments generally negative in tone and 94% of the comments generally positive in tone.

DRED, with Mount Sunapee Resort, has begun work on an economic analysis of the West Bowl expansion. DRED received comments in support of the West Bowl expansion from the Board of Selectmen of the Towns of Goshen, Newbury, Bradford, Newport, and Sunapee.

The [MDP](#), Section I.5. History of the Lease, provides a summary of the economic benefits resulting from the Lease. See also Section VIII within this report for the economic and fiscal impacts for the proposed expansion.

“Mount Sunapee has paid the Town of Newbury approximately \$2,225,000 in local property taxes, and has paid the Town of Goshen approximately \$245,000 in local property taxes in the 16 years of the lease. Prior to the 1998 lease agreement, the Towns of Newbury and Goshen received no local property tax payments from the ski area.

“Mount Sunapee has paid the State of New Hampshire approximately \$1,855,000 in Rooms and Meals taxes since 1998, and stimulated substantial additional Rooms & Meals tax revenues from the Sunapee region for the benefit of the State’s General Fund. Mount Sunapee has paid the State of New Hampshire approximately \$1,257,000 in Business Profits Taxes.

“Mount Sunapee also provides significant financial support within our community. Our charitable giving emphasizes college education scholarships for our area students, support for environmental education and support for the arts in our community. We are also strong supporters of our local hospital and medical facilities. Through our charitable donations, we have provided approximately \$603,000 in the Sunapee Region in monetary charitable donations, primarily to non-profit organizations and students. In student scholarships alone, Mount Sunapee has given over \$400,000 in college scholarship awards

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in the past 16 years. In addition, Mount Sunapee has also donated over \$450,000 in product donations (ski lift tickets) to charitable organizations for their fundraising efforts and events in the past sixteen years.

“Additionally, Mount Sunapee is a strong economic engine in the region due to our annual employment and payroll, our annual business purchases and from ancillary spending by our guests in the community and region. In direct purchases, Mount Sunapee has purchased over \$40,000,000 in goods and services from regional businesses, contractors and service providers since 1998.

“Mount Sunapee has had an average annual payroll of approximately \$3,500,000 for the past five years compared to a \$900,000 annual payroll in the last year of operation by the State of New Hampshire. The majority of this payroll is paid locally or regionally within the greater central New Hampshire region. The mountain currently has 33 full-time year-round employees compared to 16 full time employees in 1997 prior to the lease. With the summer Adventure Park, projected payroll for 2013-14 will be approximately \$3,940,000.

“In addition to the direct economic benefits from Mount Sunapee and its guests, the resort is an economic driver that also indirectly helps other businesses and service providers in the Sunapee region by being a major attraction in our region. This generates additional employment in our area and region, and other taxable benefits to the State of New Hampshire's General Fund.”

UPDATE:

X. New Information.

Separation of interests of the parties. The Lease Amendment maintains the separate interests of the parties (p. 5):

“WHEREAS, notwithstanding the foregoing recitals and terms of this Amendment, nothing in this Amendment is meant to add TSD and SLH as parties to the Lease and in any way adversely affect CLP’s position under the Lease and the Sublease Agreement.”

Ten-year option to extend the term of the lease. The Lease Amendment (p. 7-8) states:

“3. Section 2 of the Lease is hereby amended as follows: CLP agrees to exercise its first option to extend the Term and therefore the Lease will terminate on June 30, 2028, unless earlier terminated under the terms of the Lease. CLP shall have two (2) additional options to extend the Term for additional periods of ten (10) years each (i.e. until June 30, 2038, and June 30, 2048). For clarity, this Amendment adds one (1) additional ten (10) year option term to the two (2) option terms granted in the Original Lease. The provision of the Lease requiring notice to the State regarding CLP’s intention to extend the

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Term for the remaining options to renew the Term remains the same for the 2038 and 2048 extension options, provided that such notice shall be sent to:

*Commissioner of DRED
172 Pembroke Road
Concord, NH 03301*

4. Section 2 of the Lease is hereby amended to add the following: In the event that the West Bowl Expansion Improvements are not completed or TSD has not constructed an operating chairlift and one or more trails accessed by the lift on the West Bowl Expansion Land by June 30, 2028, this Amendment to the Lease shall be null and void in all respects with the exception of paragraph 3 above, which paragraph shall remain in full force and effect. Notwithstanding any provision set forth in the Lease to the contrary, and notwithstanding any and all rights available at law or in equity, the parties hereby acknowledge and agree that TSD is not obligated to seek or obtain the West Bowl Expansion Permits or construct the West Bowl Expansion Improvements. Further, in the event that such West Bowl Expansion Improvements are not completed or TSD has not constructed an operating chairlift and one or more trails accessed by the lift on the West Bowl Expansion Land by June 30, 2028, then neither TSD nor CLP shall be considered in breach of the Lease, but any and all associated approvals granted in the 2016-2020 Revised MDP, and future MDPs, related to the West Bowl Expansion Improvements shall be withdrawn and not be effective as of June 30, 2028."

Provisions pertaining to the relationship between CLP and TSD. The Provisions for Approval letter (p. 4) states:

"21. Notwithstanding any breach by TSD and/or SLH, CLP shall not be considered to be in breach of the Lease as amended as long as it is otherwise performing."

"23. Notwithstanding anything in the Lease to the contrary, in the event the Sublease Agreement with TSD terminates or expires, prior to the transfer of the West Bowl Expansion Land and Improvements, the contemporaneously executed Lease Amendment shall be null and void in all respects with the exception of paragraph 3, extending the term of the Lease, which paragraph shall remain in full force and effect. Subject to Section 22 of the Lease, the State hereby affirms and acknowledges CLP's right to assign or otherwise transfer any interest or delegate obligations under the Lease."

and further, the Lease Amendment (p. 8) states:

"Notwithstanding anything to the contrary, in the event the Sublease Agreement with TSD terminates or expires, at any point, this Amendment shall be null and void in all respects with the exception of Paragraph 3 above, which shall remain in full force and effect.

In all other respects, the Lease remains unmodified and in full force and effect."

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Contract performance. The Provisions for Approval letter (p. 4) states:

“17. In the event that the West Bowl Expansion Improvements are not completed or that TSD has not constructed an operating chairlift and one or more trails accessed by the lift on the West Bowl Expansion Land by June 30, 2028, then neither TSD nor CLP shall be considered in breach of the Lease, but any and all associated approvals granted in the 2016-2020 RMDP, and future MDPs, related to the West Bowl Expansion Improvements shall be withdrawn and not be effective after June 30, 2028.”

18. As long as TSD has DRED approval to construct the West Bowl Improvements, the conditions contained in this RMDP Approval Letter, and future MDP approval letters as they relate to the West Bowl Improvements, shall remain in full force and effect.

19. If any of the conditions in this RMDP Approval Letter are not complied with by TSD and/or SLH, such lack of compliance shall be considered to be a breach of this RMDP Approval Letter and must be corrected. In the event of noncompliance the State shall give TSD and/or SLH a written notice specifying the condition not complied with and requiring it to be remedied within thirty (30) days from the date of the notice. If the noncompliance is not timely remedied, the State may pursue any of its remedies at law or in equity.

20. In the event the West Bowl Expansion Land has not been transferred to the State by June 30, 2028, then TSD shall be prohibited from operating the chairlift and/or trails leading from the Leased Premises to the West Bowl Expansion Land.

21. Notwithstanding any breach by TSD and/or SLH, CLP shall not be considered to be in breach of the Lease as amended as long as it is otherwise performing.”

and further, the Lease Amendment (8) states:

“5. Section 25 (Default and Termination) of the Lease is hereby amended to include the following: If TSD constructs an operating chairlift and one or more trails accessed by the lift on the West Bowl Expansion Land but fails to have SLH convey the West Bowl Expansion Land and Improvements to the State on or before June 30, 2028, TSD shall be prohibited from operating the chairlift and accessing the trails. The State reserves all rights to pursue TSD and SLH for any other legal remedies available to it outside of and not affecting the Lease, this Amendment, the Sublease Agreement, or any of the terms thereunder, or any of CLP’s interest therein. Notwithstanding any breach by TSD and SLH, CLP shall not be considered to be in breach of the Lease or this Amendment if otherwise performing with respect to the terms of the Lease.”

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