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The Honorable Robert Lynn, Chairman
Committee on the Judiciary
New Hampshire House of Representatives
Concord, New Hampshire 03301

Dear Chairman Lynn and Members of the Committee:

Thank you for accepting this testimony regarding House Bill 1297, legislation regarding property owned pursuant to the public trust doctrine. The Society for the Protection of New Hampshire Forests (Forest Society) supports this bill and would ask the Committee to find it Ought to Pass.

Our interest in the bill is driven by our ownership of 70,000 acres of permanently protected land throughout New Hampshire. We conserve these lands because they contribute to interconnected, biologically diverse ecosystems, combat climate change, protect water quality, provide forest products, sequester carbon, and enhance outdoor recreational opportunities. We believe they provide important public benefits.

New Hampshire's 501(c)3 non-profit organizations have a long history of land acquisition for conservation and open space protection purposes. These organizations are acting in the public's interest when they acquire land. The public value of their actions is recognized by IRS regulations that provide significant tax benefits to individuals who donate land to 501(c)3 organizations for conservation purposes. Further, other charitable foundations as well as citizens and corporations have donated funding to non-profit organizations for land conservation. Thus, there is significant public and private investment in the land acquired and held by New Hampshire's non-profit organizations for conservation purposes.

Once land is acquired by land trusts it becomes a stewardship responsibility. Protecting properties from adverse possession and prescription claims can become an expensive challenge for land trusts. If abutting property owners encroach on a land trust's property, these non-profit organizations can incur significant costs for surveys and legal expenses to defend the property interest they hold as part of the public trust.

To clarify, the Forest Society has not been subject to an adverse possession claim in a court of law. However, we do have examples of situations where abutters or other parties have crossed the boundary line to conduct activities on our lands. For example, on one property, the abutters have been maintaining a lawn over the boundary for decades. They informed us they believe they now have the right to do this.

Although not an attorney, it is my understanding the public trust doctrine has been interpreted in some jurisdictions to only apply to government-owned properties or public lands. Therefore, it is possible the HB 1297 as drafted may not apply to properties owned by private, non-profit organizations. To explore ways to improve the legislation so that it would address the problems 510c3 conservations have encountered, we recognize the bill may require revisions. If so, we would ask the Committee to form a subcommittee to consider improvements in HB 1297.

Thank you for your consideration.

Sincerely,



Matt Leahy, Public Policy Director
Society for the Protection of New Hampshire Forests