

HISTORY OF SMITH FAMILY LAND IN LEVERETT

by David M. Smith, April 2008

The evidence on the ground shows that the tract has the same history elucidated by studies in nearby Petersham by scientists at the Harvard Forest.

The area is so far from big lakes and rivers that the Indians probably used it only for hunting. White settlers found only ancient forest. They cleared most of it away by cutting and burning. Stone walls are evidence of plowing some of the land. Walls were a way of getting rid of stones which were hand-carried for the shortest necessary distance. If they were not tall enough, split-rail fences were built on top of them. Even if the ground was not plowed, it was still cleared for hay production from introduced grasses and native herbaceous growth. The hay was cut with scythes for which surface stones were harmful. Such stones were put on handy boulders or into piles. These considerations explain the dimensions of the rectangular former plowed field and the heap of stones in an old field-corner just to its northwest. Clearance of most of the forest may have finished after about 1727 when Scotch-Irish immigrants escaping high land rents in Northern Ireland received land grants in the area.

Subsistence agriculture continued on most of the land until about 1790. The availability of better farmland in the Midwest and the Industrial Revolution caused major changes in the agricultural economy. Some farms were abandoned and jobs developed in new mills along the streams. Food crops could be sold in the mill towns, so farming became prosperous for a period of several decades. The farmers knew that the good times would end and tried to stop construction of the Hoosac railroad tunnel that ended farming as an enterprise around 1850. There was a brief boom in sheep-raising that lasted until wool came in from Australia and the US Southwest, where sheep did not have to be kept in barns in winter.

At some time in the 19th century a farmer used the land across Rat Hollow Road from the rectangular field to raise guinea pigs for sale to laboratories. Local people called the animals "rats" and his home the Rat Place; the cellar-hole is still there. I do not know of any other remains of houses on my land; the farmers of most of the land probably lived to the east and west.

When land was abandoned it was often covered with grasses which make cover for mouse-sized vegetarian rodents called voles. Recent research by the NY Botanical Garden showed that voles kill hardwood seedlings by eating the foliage and girdling them by nibbling off the bark. Pine pitch is distasteful so they leave little pines alone. This is why white pines naturally appeared in nearly pure stands after farms were abandoned. The pines then shaded out the grasses which is probably why the natural regeneration that later developed beneath the pines was made up of a variety of tree and shrub species.

The "old-field" white pine started to become merchantable about 1870. Wm. B. Stetson acquired 5,000 acres of old farms in the region to feed his sawmill at a dam on Roaring Brook just east of the power line. The mill ran on steam when the water was low. He died in 1895 and the land was

almost all sold since then. Much of it now belongs to the WD Cowls Co. Land close to East Leverett was retained partly as an annual source of firewood for the Stetson home place there. Fallen white pine timber was salvaged after the 1938 hurricane. Continual removal of hardwoods has restored pine to the ridge top south of Rat Hollow Road. Partial cuttings for sawlogs and pulpwood started about 1948 and there has been a major harvest in every decade since then, along with annual firewood thinnings. My land is a part of Mass. Tree Farm #7 along with the land now owned by my brother, Allen Smith, farther to the east on Roaring Brook north of Shutesbury Road.

Smith Conservation Restriction: Description of the Property

The entire Smith property includes a 2-acre Conservation Restriction given to the Rattlesnake Gutter Trust (RGT) in 1999. The rest of the property (115.5 acres) is included in this CR. There are no structures on the property. There is no mortgage. There is an easement to Western Massachusetts Electric Company for their transmission lines (Deed Book 1457, page 199; Plan Book 30, Page 11, Franklin County Registry of Deeds.)

The purposes of the conservation Restriction are:

Expansion of protected land: This Smith Conservation Restriction is 115.5 acres of south-facing hillside on the lower slope of Brushy Mountain (*see Section 2, Maps*). The new CR links three separate previously-protected areas. To the north, it abuts the 16 acre Mosher Conservation Area which was given to the Rattlesnake Gutter Trust in 2004. To the south, the Premises abuts the 2-acre Smith CR (1999) that extends to Shutesbury Road. On the other side of the Shutesbury Road is the 40-acre Roaring Brook Conservation Area owned by the Town of Leverett (2000). The four protected properties provide 173 acres of protected conservation land. (*See Section 2, Map of Smith Conservation Area and Surrounding Protected Lands.*)

Scenic protection. The land slopes to the south to the well-traveled Shutesbury Road. From the property there are views of the hills to the south. There are also views within the property of the trails, the interior of the forest and the stone walls. The property can also be seen from the January Hills to the south.

Surface water protection. The lower slope of the Smith CR is included in the Commonwealth's Priority Habitats (10/1/2006) for wetlands protection. There are numerous small streams and wetlands that feed Roaring Brook in the valley below. *For wetlands on the property near the boundary lines, see Section 6, especially photographs S10 (#113), S27 (3035), S33 (#042), S35-37 (#045-047), and S41 (#053).*

Protection of wildlife habitat: The Premises, comprised of 115.5 acres, is linked to 3 other protected properties for a total of 173 acres of forested wildlife corridor from the south-facing slope of Brushy Mountain down to the valley of Roaring Brook. The lower slope of the CR as well as the protected land to the south are Priority Habitats (Massachusetts Natural Heritage & Endangered Species Program, Estimated Habitats of Rare Wildlife) as of October 1, 2006. The premises itself is forested except for Rat Hollow Road, a former county way now a hiking trail, and the maintenance road under the power line. The power line itself provides edge and shrubby vegetation for scrubland species. Both the woods and power line provide important habitat for a variety of birds, mammals, reptiles and amphibians.

There is an excellent description of the history of land prepared by David M. Smith.

Most of the 115 acres is wooded. David M. Smith, a professor of forestry at Yale University, has managed the woodlot to produce large-diameter, high-value trees; these crop trees are primarily white pine and red oak. Poor quality trees have been removed for firewood and other products. A timber harvest has occurred each decade since about 1948, with annual sales of firewood. The resulting forest is comprised of native species of mixed ages, including white pine, hemlock, red oak, birch, maple, and mountain laurel.

While a formal wildlife inventory has not yet been done, mammals reported by neighbors and hikers include deer, bear, bobcat, and fox. There was certainly deer scat seen during the April 5, 2008 walk of the property line - some places appearing to be "deer yards" where deer had congregated during this very snowy winter. This area was included in work done for the Massachusetts Second Breeding Bird Atlas (atlas block: Shutesbury 2). A list of birds observed June 14, 2007 is attached as is the list of birds heard the day of the boundary walk. It is clear from the list that the property includes a rich variety of both forest and shrub land (along the power line) birds.

Public use: Rat Hollow Road/Old Mountain Road provides access for hikers to the property. The land will be open for passive recreation except where prohibited by signs or where such activities would negatively impact the ecological health of the property or the conservation purposes of the CR.

Furtherance of Government Policy: The CR will help the Rattlesnake Gutter Trust meet all four goals of Leverett Conservation Commission: rural character preservation, natural resource protection, public education about open space, wider recreational use of natural resources.

The boundaries of the property are described in the survey. (*See Section 2.1 Survey of the Property.*) These descriptions and the ease of access to the property will make it easy to monitor. The property can be accessed from the east by driving to the end of Old Mountain Road (which then becomes Rat Hollow Road.) The property can also be accessed from Shutesbury Road through the original Smith CR or by walking up the power line. The line is well-marked. On the western and northern edge, it often follows an embedded barbed wire fence (*See Section 6, photograph S7, #006*) or stone walls (*too many photographs to list*). On the east and south lines, there are fewer stone walls and some short segments of electric fencing. However, there are stone bounds or iron pipes at each turn in the line (*see Section 6, photographs*). The neighboring deeds are including in the Appendix of the Baseline Monitoring Report.

Notes of birds on proposed Smith Conservation Restriction (Mary Alice Wilson)

On Rat Hollow Road, Smith and Mosher properties, June 14, 2007

(Massachusetts Breeding Bird Atlas 2 team (Mary Alice Wilson, Sally Hills, Merry Cushing),
atlas block: Shutesbury 2)

- Barred Owl (adult and newly fledged young)
- Ruby-throated Hummingbird (feeding on laurel)
- Yellow-bellied Sapsucker (pair feeding young)
- Hairy Woodpecker
- Black-throated Blue Warbler
- White-breasted Nuthatch
- Blue-headed Vireo
- Red-eyed Vireo
- Black-capped Chickadee
- Tufted Titmouse
- Veery
- Wood Thrush
- Black-throated Green Warbler
- black-throated Green Warbler
- Ovenbird
- Common Yellowthroat
- Scarlet Tanager (pair)

Also June 14, on power line, Smith property

- Great Crested Flycatcher
- Red-eyed Vireo
- Blue Jay
- Red-breasted Nuthatch
- Veery
- Catbird
- Prairie Warbler
- Common Yellowthroat
- Eastern Towhee
- Indigo Bunting

April 5, 2007, during CR Baseline walk

- Ruffed Grouse Drumming
- Barred Owl (male calling mid-day)
- Pileated Woodpecker (2 calling)
- Black-capped Chickadee

Conservation Restriction Abstract: Smith Conservation Restriction

Note: This abstract is designed to help with monitoring, for more information see the Deed itself.

Landowners: Ellen Doris Smith, 116 Morningside Drive, Oak Ridge, TN 37830 and Nancy V.A.Smith, P.O. Box 686, Carbondale, CO 81623, trustees of the David M. Smith Revocable Trust

Holder of CR: Rattlesnake Gutter Trust

Property location: North of Shutesbury Road, west of the end of Old Mountain Road where it becomes Rat Hollow Road (former county way, now hiking trail). Property is both north and south of Rat Hollow Road.

Acreage: approximately 115.5 acres

Date CR Recorded: **Registration Book and Page #:**

I. Purposes

- Expansion of Protected Land: linking 3 previously-protected properties
- Scenic Protection: views from property to south, views from hiking trails of interior forests. land use history
- Surface Water Protection: lower slope in Priority Habitat (10/1/06)
- Protection of Wildlife Habitat: both within the CR (115.5 acres) and larger (173) protected area. Includes both well-managed (diverse age and species) forest and shrub lands along power line.
- Public Use: Passive recreation on woods roads and trails except where prohibited by signs.
- Furtherance of Government Policy - goals of Leverett Conservation Commission: rural character, natural resource protection, public education about open space, wider recreational use of natural resources.

II. PROHIBITED ACTS AND USES, EXCEPTIONS THERETO, AND PERMITTED USES

A. Prohibited Acts and Uses

1. temporary or permanent buildings, signs, facilities
2. mining, excavating, dredging

3. dumping, storing of rubbish
4. destroying trees, vegetation
5. activities detrimental to drainage, flood control, water quality
6. recreational vehicles (except forestry, police/fire, handicapped)
7. disruption or removal of stone walls
8. subdivision of property
9. any use inconsistent with protection for conservation

B. Reserved Rights and Exceptions:

1. Recreational Activities: non-motorized that do not degrade environment
2. Forestry: to preserve present conditions, if forestry, 132 Forest Cutting Plan
3. Non-native Flora: can be removed
4. Composting: of biodegradable materials from the premises if does not impact protection and does not impact scenic views
5. Wildlife Habitat Improvement: to enhance or restore
6. Archaeological Investigations: with appropriate approvals
7. Trails: marking, clearing maintenance of trails, woods roads
8. Signs: to protect conservation values, information
9. Permits: needed as appropriate
10. Power line easement retained by electric company

C. Notice and Approval

If needed, owner must notify Trust 60 days before approval needed. If no response in 60 days, deemed to be approved.

Public Access included: yes

If so, are there any limitations? Passive recreation only and in a manner that does not impair goals of CR. Signs to indicate appropriate use of trails. Can be closed temporarily for forestry operations.

DAVID M. SMITH REVOCABLE TRUST

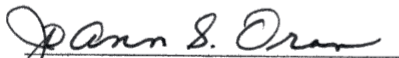
TRUSTEES' CERTIFICATE


The undersigned, Ellen D. Smith and Nancy V. A. Smith (collectively Trustees"), as Trustees of The David M. Smith Revocable Trust ("Smith Trust") under agreement dated April 4, 2007

hereby certify as follows:

1. We, Ellen D. Smith and Nancy V. A. Smith are all of the Trustees of The David M. Smith Revocable Trust dated April 4, 2007.
2. The Smith Trust is in full force and effect and has not been amended, modified, revoked or terminated.
3. The execution and delivery of a conservation restriction on the Smith Trust's real property located on Rat Hollow Road or Old Mountain Road in Leverett, Massachusetts, have been duly authorized as required by all beneficiaries of the Smith Trust and such authorization is now in full force and effect.
4. We have full power and authority under the terms of the Smith Trust to execute and deliver a conservation restriction upon the real estate located at Old Mountain Road or Rat Hollow Road in Leverett, Massachusetts to Rattlesnake Gutter Trust and in connection therewith to execute and deliver, on behalf of the Smith Trust, any and all documents necessary to effectuate said transaction, including, but not limited to a Conservation Restriction and trustees certificate, together with any other agreements, certificates, affidavits and other documents.

Executed as a sealed instrument as of this 4th day of September, 2008.


Witness


Ellen D. Smith, Trustee

Witness

Nancy V. A. Smith, Trustee

DAVID M. SMITH REVOCABLE TRUST

TRUSTEES' CERTIFICATE


The undersigned, Ellen D. Smith and Nancy V. A. Smith (collectively Trustees"), as Trustees of The David M. Smith Revocable Trust ("Smith Trust") under agreement dated April 4, 2007

hereby certify as follows:

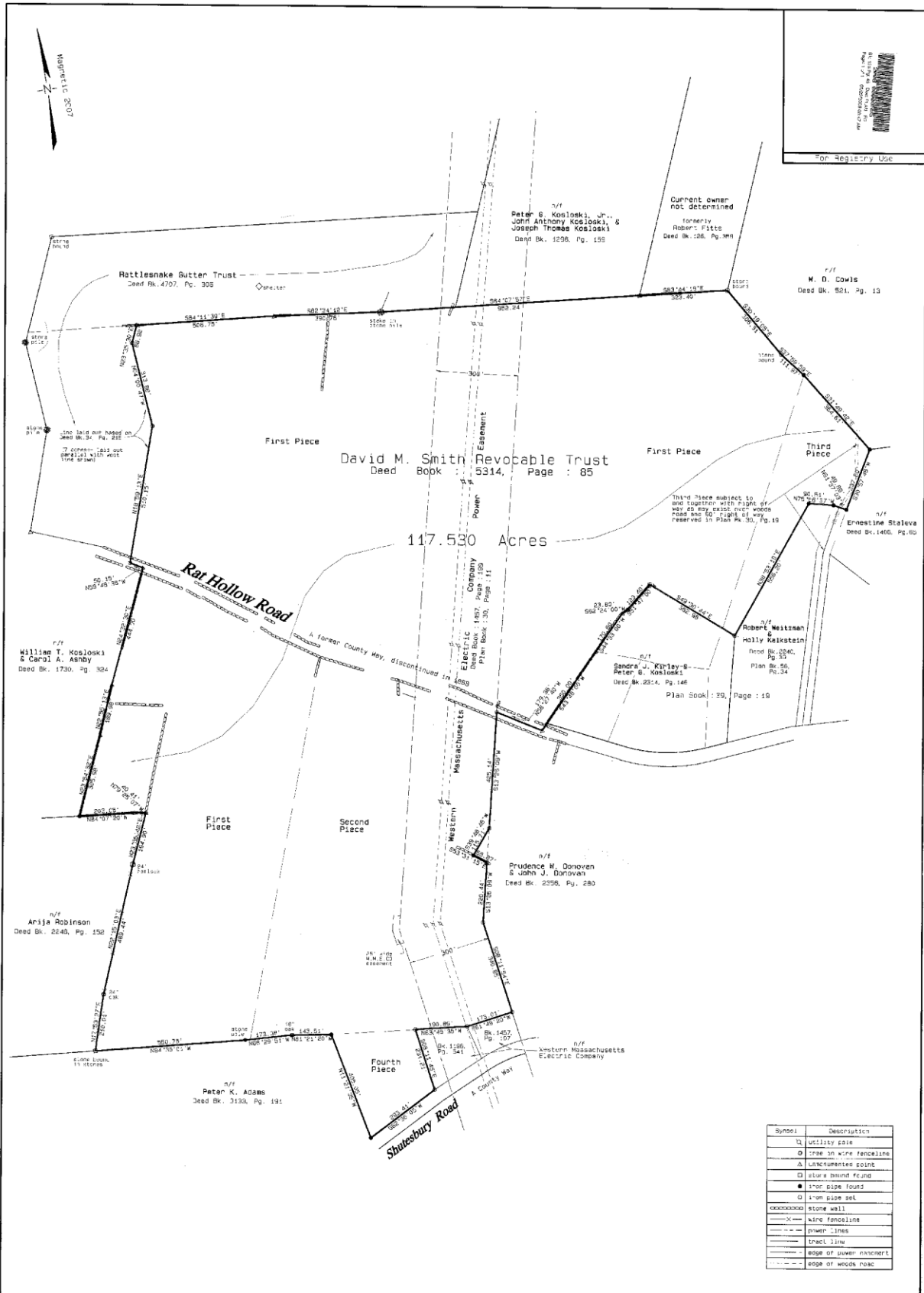
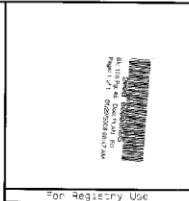
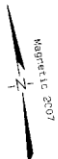
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Executed as a sealed instrument as of this 9th day of Sep . , 2008.

Witness



Nancy V. A. Smith, Trustee
P.O. Box 683, Carbondale, Colorado



Symbol	Description
—	utility pole
—	tree in wire fence line
—	structures gone
—	stone mound found
—	stone pipe found
—	4" iron pipe set
—	stone well
—	wire fence line
—	power lines
—	tract line
—	edge of power placement
—	edge of woods rear

I hereby report that this plan has been prepared in conformity with the rules and regulations of the Registrar of Deeds of the Commonwealth of Massachusetts.

I further report that the lines of streets and ways shown are those of public or private streets or ways already established and that no new lines for the division of existing ownership or for new streets or ways are shown.

Daniel L. Wanner, December 27, 2007
 Professional Land Surveyor Date



Plan of Land
 prepared for
David M. Smith Revocable Trust
 located in
Leverett, Massachusetts
 Daniel L. Wanner, P.L.S., 225 Shelburne Line Road,
 Colrain, Massachusetts
 Scale: 1" = 150' Date: December 27, 2007

PLAN BOOK 125 PAGE 1/5

KNOW ALL MEN BY THESE PRESENTS that we, FRANKLIN S. CLARK, of New York, County and State of New York, DAVID M. SMITH, of Hamden, County of New Haven, State of Connecticut, ALLEN C. SMITH, formerly of Dearborn now of Riverview, County of Wayne, State of Michigan and CLARA LOUISE ANDERSON, of Amherst, County of Hampshire, Commonwealth of Massachusetts, hereinafter called "Grantor", for consideration paid, grant to WESTERN MASSACHUSETTS ELECTRIC COMPANY, a corporation duly organized under the laws of said Commonwealth, hereinafter called "Grantee", and its successors and assigns forever, with QUITCLAIM COVENANTS, the right, privilege and easement to make surveys and patrol in connection with, and to construct, maintain, relocate and operate, at any time and from time to time upon, over and under the surface of the hereinafter described right-of-way within the hereinafter described parcels of land situated in Leverett, Franklin County, Massachusetts, lines for the transmission of electricity, said lines to consist of such conducting, supporting, strengthening and protecting facilities and other equipment or appurtenances as the Grantee may from time to time install; also the right to cut, trim, burn and spray with chemicals any and all trees and brush or parts thereof growing within or overhanging the limits of said right-of-way, and to cut or trim such trees within said parcel but outside of said right-of-way as may in the judgment of the Grantee be advisable for the safety of said lines, and to remove any and all structures now or hereafter standing in whole or in part in said right-of-way (all trees so cut and all structures so removed to remain the property of the Grantor); also the right to have no structure of any kind hereafter at any time erected or maintained within said right-of-way; also the right to have no change of grade, filling or excavating done within said right-of-way without first obtaining the written consent of the Grantee; also the right to have no act performed which is inconsistent with the purposes of this easement; also the right to reach said right-of-way across said parcel in any reasonable manner for the purpose of exercising all or any of the aforesaid rights; all such lines to remain the property of the Grantee and to be removable by it at any time.

Description of parcel: The parcels of land affected by the easement hereby granted are in the Town of Leverett, County of Franklin, and are part of land acquired by the Grantors by deeds dated December 26, 1901, and duly recorded in Franklin County Registry of Deeds, Book 484, Page 357, and Book 491, Page 283, and by deeds dated April 15, 1898, recorded in said Registry, Book 458, Pages 414 and 415. See also estate records of Clara S. Clark, Hampshire County Probate Docket No. 21413 and estate records of Katharine Clark, Hampshire County Probate Docket No. 42078.

Said right of way shall be a strip 300 feet in width running from land now or formerly of Peter G. Kosloski on the north to land of the Grantee herein and land of the Grantor herein on the south. The easterly sideline of said right of way shall be 165 feet easterly of and parallel to the following described survey line, and the westerly sideline shall be 135 feet westerly of and parallel to the following described survey line.

Said survey line is described as follows:

Beginning at a point at land of said Kosloski and running thence S. 0° 46' 19" E. a distance of 2,310 feet more or less to a point; thence S. 22° 40' 39" E. a distance of 380 feet more or less to a point at land to be conveyed by the Grantor herein to the Grantee herein.

Also included is an additional strip of land 25 feet wide on the westerly side of said right of way extending 50 feet along each side of the angle point in the above-described westerly sideline. Excepting and excluding a triangular tract of land containing 2,280 square feet, more or less, in area extending west of the easterly sideline and being land now or formerly of Frederick V. and Irma W. Waugh.



200

The location of said right-of-way shall be fixed by the survey which is used in the installation of the first such line on said parcel.

The consideration for this deed is \$400.00

The road from East Leverett to Shutesbury is sometimes known as the "East Leverett to Shutesbury Road."

The location of the above described easement is more particularly described as follows:
Beginning at a point at land to be conveyed by the Grantor herein to the Grantee herein; said point being S. 79° 42' 50" W. a distance of 163.00' from a concrete bound, which is N. 10° 17' 10" W. a distance of 109.59' from a concrete bound on the northerly side of the Leverett to Shutesbury Road; thence, N. 10° 17' 10" W. a distance of 393.56' to an angle point; thence, N. 11° 37' 10" E. a distance of 2,310' more or less to land of said Kosloski.



WITNESS our hands and seals this twenty-second day of March 1974

<u>Clarence M. Reed</u>	<u>Franklin S. Clerk</u>
<u>William M. Hall</u>	<u>David M. Smith</u>
<u>Barbara A. Smith</u>	<u>Alma Clark</u>
<u>Clara L. Murphy</u>	<u>Clara Louise Anderson</u>

2.

COMMONWEALTH OF MASSACHUSETTS

Somerville, ss March 22, 1974

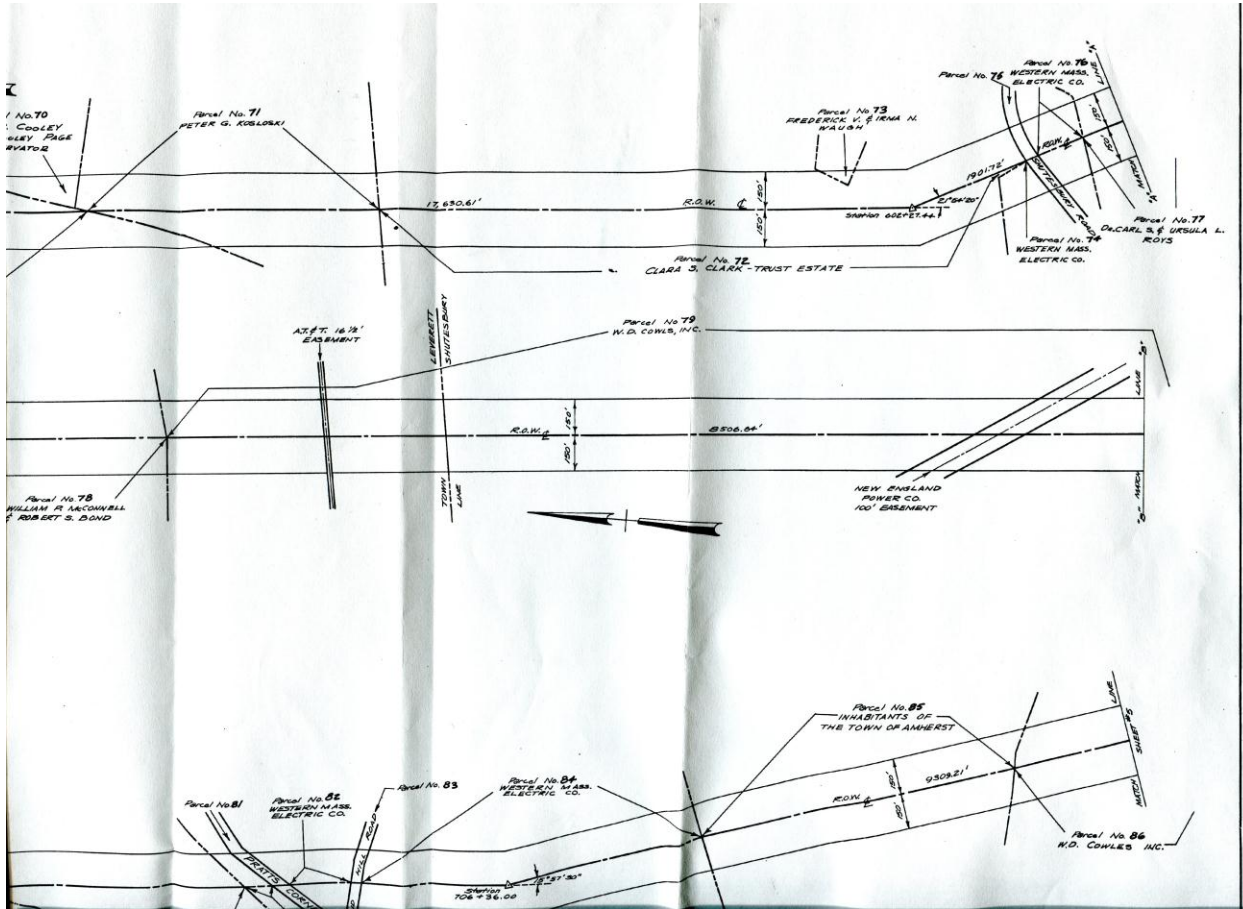
Then personally appeared the above-named David M. Smith
and acknowledged the foregoing instrument to be his free act and
deed, before me,

Bruce G. Brown
Notary Public
BRUCE G. BROWN, Notary Public
My commission expires Oct. 18, 1974

Franklin ss. Rec'd for record 11 Hr. 20 Min. A.M. April 2, 1974

Part of the Proposed Transmission Line Right of way from Ludlow to Northfield PB 30, p.11

Smith Property is listed by previous owner (Clara S. Clark – Trust Estate)



(left hand part of same upper section of PB 30, p. 11

