HOUSE DOCKET, NO. 1701 FILED ON: 1/20/2011

HOUSE . . . . . No. 1149

The Commonwealth of Massachusetts

PRESENTED BY:

George N. Peterson, Jr.

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act authorizing the Division of Capital Management and Maintenance to grant an easement over an access road in Upton State Forest.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
George N. Peterson, Jr.	*9th Worcester*	*1/20/2011*

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By Mr. Peterson of Grafton, a petition (accompanied by bill, House, No. 1149) of George N. Peterson, Jr., authorizing the Division of Capital Management and Maintenance to grant an easement over an access road in Upton State Forest. Environment, Natural Resources and Agriculture.

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act authorizing the Division of Capital Management and Maintenance to grant an easement over an access road in Upton State Forest.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to grant an easement forthwith over an access road in Upton State Forest in the town of Upton to the owner of a wireless telecommunications tower, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Notwithstanding sections 40E to 40J inclusive of chapter 7 of the General Laws, the commissioner of capital asset management and maintenance, on behalf of, and in consultation with the commissioner of the department of conservation and recreation, may grant an easement along an access road in the Upton State Forest, currently under the care and control of said department of conservation and recreation to Industrial Tower and Wireless, LLC of 40 Lone street, Marshfield, Massachusetts . The easement granted to Industrial Tower and Wireless, LLC shall follow the gravel road from Warren street to the proposed building site for a wireless telecommunications tower on land bordering the state forest and shall be for the purpose of accessing the tower and supplying utility service transmissions systems, including electrical

and telephone lines, underground to the tower. The easement area contains approximately 23,412 square feet of land and is within the layout of the existing gravel roadway shown in a plan entitled "Proposed Communications Facility Off Warren St. Upton, MA Map 15 Lot 30" prepared by Industrial Communications Engineering Division and dated February 22, 2010. The exact boundaries of the easement shall be determined by the commissioner of capital asset management and maintenance, in consultation with the department of conservation and recreation, after completion of a survey. The value of the easement shall be determined by the commissioner of the division of capital asset management and maintenance pursuant to 1 or more independent professional appraisals. Said easement shall be conveyed by deed without warranties or representations by the commonwealth.

SECTION 2. In consideration for and as a condition of the grant of the easement authorized in section 1, Industrial Tower and Wireless, LLC shall: construct and maintain 2 single leaf gate replacements in Upton State Forest, the locations of which shall be determined by the department of conservation and recreation; and provide 2 to 3 new radio systems to said department for the benefit and use by staff members at the Upton State Forest; provided, however, that if the value of this consideration is determined to be less than the value of the easement granted, Industrial Tower and Wireless, LLC shall pay the difference and said amount shall be paid into the Conservation Trust of the department.

SECTION 3. Notwithstanding any general or special law to the contrary, the Industrial Tower and Wireless, LLC shall be responsible for all costs and expenses, including but not limited to, costs associated with any engineering, surveys, appraisals, and deed preparation, and preconstruction, construction and postconstruction costs to mitigate and remedy erosion and grading issues on the access road and annual maintenance of said road, related to the grant

authorized under this act as such costs may be determined by the commissioner of the division of capital asset management and maintenance in conjunction with the department of conservation and recreation.

SECTION 4. Notwithstanding any general or special law to the contrary, the inspector general shall review and approve the appraisal required pursuant to section 1. The inspector general shall prepare a report of his review of the methodology utilized for the appraisal and shall file the report with the commissioner of capital asset management and maintenance, the house and senate committees on ways and means and the joint committee on bonding, capital expenditures and state assets. The commissioner of capital asset management and maintenance shall, 30 days before the execution of any conveyance authorized by this act, or any subsequent amendment thereto, submit the proposed conveyance or amendment and a report thereon to the inspector general for his review and comment. The inspector general shall issue his review and comment within 15 days of receipt of the proposed conveyance or amendment. The commissioner of capital asset management and maintenance shall submit the proposed conveyance or amendment, and the reports and the comments of the inspector general, if any, to the house and senate committees on ways and means and the joint committee on bonding, capital expenditures and state assets at least 15 days before execution of the conveyance.

SECTION 5. The grantee shall use the easement solely for the purposes of access to the wireless communications tower and to supply utility service transmissions systems, including electrical and telephone lines to said tower as determined by the commissioner of capital asset management and maintenance. The easement or other agreement pertaining to the grant of the easement shall include a provision restricting the use of the property to such purposes and

providing that such property shall revert to the Department of Conservation and Recreation and if the property ceases to be so used or is used for any other purpose.