

District 5, 8  
 Certcode 0415-0

**CERTIFICATE OF HIGHWAY MILEAGE  
 YEAR ENDING FEBRUARY 10, 2022**

Fill out form, make and file a copy with the Town Clerk, and submit the Mileage Certificate on or before February 20, 2022 to: Vermont Agency of Transportation, Division of Policy, Planning and Intermodal Development, Mapping Section via email to: aot.mileagecertificates@vermont.gov or if necessary via mail to: VTrans PPAID - Mapping Section, 219 North Main Street, Barre VT 05641.

We, the members of the legislative body of **UNDERHILL** in **CHITTENDEN** County on an oath state that the mileage of highways, according to Vermont Statutes Annotated, Title 19, Section 305, added 1985, is as follows:

**PART I - CHANGES TOTALS - Please fill in and calculate totals.**

Town Highways	Previous Mileage	Added Mileage	Subtracted Mileage	Total	Scenic Highways
Class 1	0.000				0.000
Class 2	8.750				0.000
Class 3	43.46				0.000
State Highway	4.944				0.000
<b>Total</b>	<b>57.154</b>				<b>0.000</b>
* Class 1 Lane	0.000				
* Class 4	6.74		0.35	6.39	0.000
* Legal Trail	0.60				

\* Mileage for Class 1 Lane, Class 4, and Legal Trail classifications are NOT included in total.

DS  
 PO

**PART II - INFORMATION AND DESCRIPTION OF CHANGES SHOWN ABOVE.**

- NEW HIGHWAYS:** Please attach Selectmen's "Certificate of Completion and Opening".
- DISCONTINUED:** Please attach SIGNED copy of proceedings (minutes of meeting).  
 -0.35 mi CL4 TH-11 (Butler Ln) partial discontinuance
- RECLASSIFIED/REMEASURED:** Please attach SIGNED copy of proceedings (minutes of meeting).
- SCENIC HIGHWAYS:** Please attach a copy of order designating/discontinuing Scenic Highways.

IF THERE ARE NO CHANGES IN MILEAGE: Place an X in the box and sign below.

**PART III - SIGNATURES - PLEASE SIGN.**

Signatures of Selectmen/ Aldermen/ Trustees:  
 Signature of T/C/V Clerk: Johnathan Croft Date Filed: 2.2.22

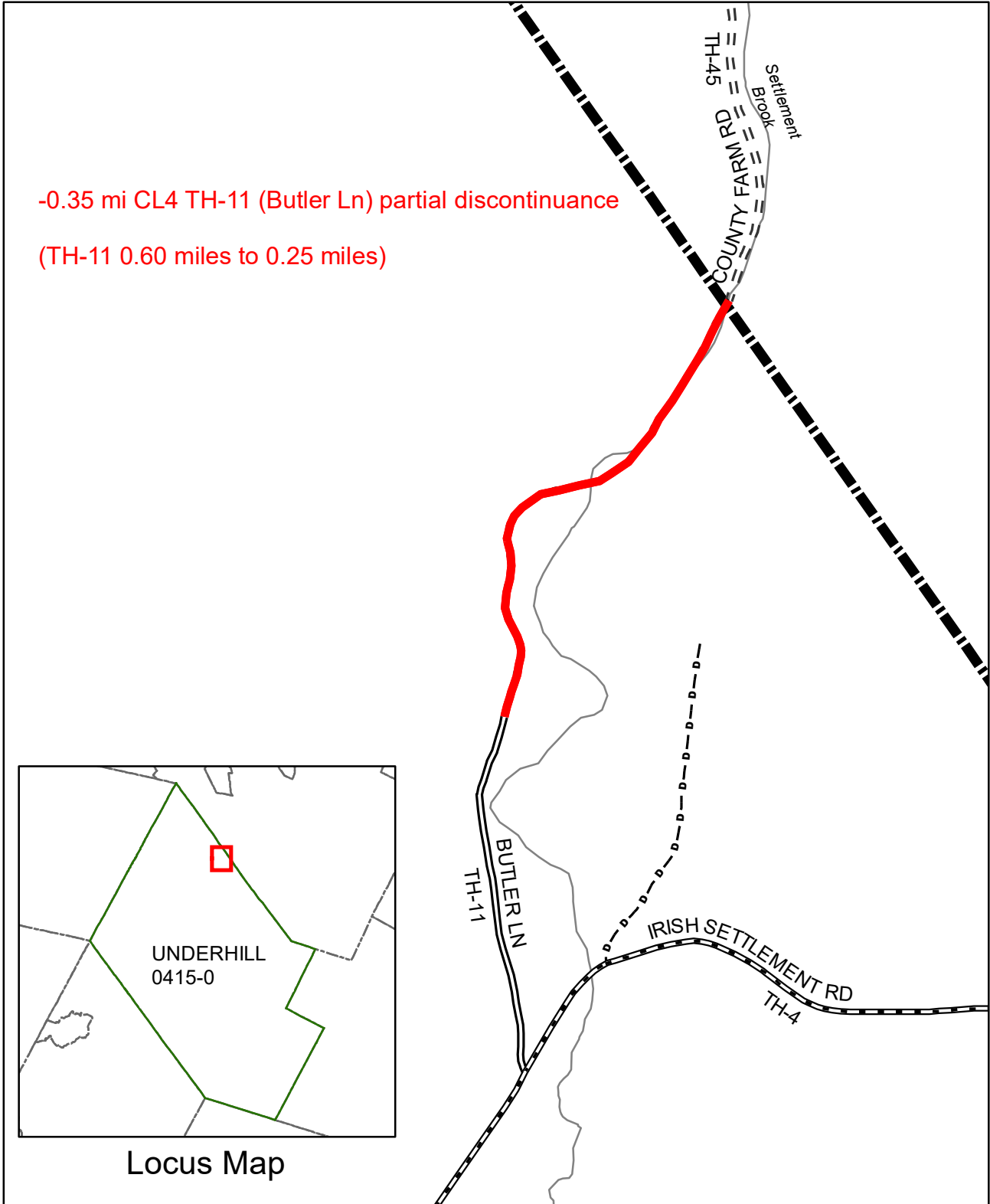
Please sign ORIGINAL and return it for Transportation signature.

**AGENCY OF TRANSPORTATION APPROVAL:** Signed copy will be returned to T/C/V Clerk.

APPROVED:

Johnathan Croft  
 8B1F350F309C4C9  
 Representative, Agency of Transportation

DATE: 3/14/2022



**Mileage Certificate Changes**  
**UNDERHILL**

(CTUA:0415-0)  
(CERTCODE:-0415-0)

Mapping Section  
Division of Policy and Planning  
Vermont Agency of Transportation -- March 4, 2022



**From:** [Brad Holden](#)  
**To:** [Rinehart, Niels](#)  
**Cc:** [Croft, Johnathan](#)  
**Subject:** Town of Underhill - TH 11 Selectboard's Return & Order  
**Date:** Tuesday, September 14, 2021 9:46:44 AM  
**Attachments:** [SELECTBOARD'S ORDER & RETURN.pdf](#)

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**EXTERNAL SENDER: Do not open attachments or click on links unless you recognize and trust the sender.**

Good Morning Niels & Johnathan,

Attached is the Selectboard's Return & Order discontinuing a portion of Town Highway 11, Butler Lane, in Underhill. Please let me know that you are in receipt of this.

Thank you,  
Brad

Brad Holden  
Town Administrator  
PO Box 120  
Underhill VT 05489  
802-899-4434 Ext 7  
[bholden@underhillvt.gov](mailto:bholden@underhillvt.gov)

TOWN CLERK'S OFFICE  
Received SEP 13, 2021 03:55 PM  
Recorded in VOL: 270 PG: 201 - 207  
Of Underhill Land Records  
ATTEST: Sherri Marin, Town Clerk

## **TOWN OF UNDERHILL, VERMONT SELECTBOARD'S RETURN AND ORDER**

**In Re: Discontinuance/Non-Discontinuance of a portion of Butler Lane also known  
as Butler Road (Town Highway 11) Right-of-way**

The Town of Underhill Selectboard held a duly warned public hearing on July 15, 2021, pursuant to 19 V.S.A. § 708, et seq., for the purpose of hearing all persons interested in the matter of whether the Town of Underhill should discontinue a portion of the town highway right-of-way for Butler Lane, also known as Butler Road and Town Highway 11 (TH 11). Prior to the hearing, on July 14, 2021, the Selectboard held a public examination of the portion of Butler Lane.

The portion being considered for discontinuance is described as follows: "Starting at or near the northeast boundary corner of the property located at #23 Butler Lane, also known as Butler Road, said terminus being approximately 1300 feet northerly of the intersection of Town Highway 4 and Town Highway 11, and then proceeding northerly on Town Highway 11 to the Underhill-Cambridge Town Line."

### **Introduction and Procedural Background**

1. The Notice of Examination of Premises and Public Hearing of Discontinuance of the right-of-way for a portion of Butler Lane, also known as Butler Road (Town Highway 11), was posted at the Town of Underhill Clerk's Office on June 7, 2021. Notice was also posted at the Underhill Center Post Office and Jacobs Family Market and on the Town's website home page.
2. On June 10, 2021, the Notice was delivered to the Town of Underhill Planning Commission.
3. The Notice was published in the Burlington Free Press on June 30, 2021.
4. The Notice was published in the Mountain Gazette, Vol. 21 No.1 on July 1, 2021.
5. On June 7, 2021, the Notice was sent by certified mail to the Commissioner of Forest, Parks and Recreation.
6. On June 7, 2021, the Notice was sent by certified mail to the Town of Cambridge Selectboard.

7. On June 7, 2021, the Notice was sent by certified mail to the persons owning or interested in the lands on that portion which Town Highway 11 passes or abuts.
8. On July 14, 2021, the Selectboard conducted an Examination of the Premises at 6:00 PM on the portion of Town Highway 11 being considered for discontinuance. Minutes from the Examination, which include a list of the interested persons, are available at the Underhill Town Clerk's Office as well as on the Town's website.
9. On July 15, 2021, at 6:00 PM, the Selectboard convened an in-person public hearing at the Underhill Town Clerk's Office, located at 12 Pleasant Valley Road. Interested persons also participated virtually and by telephone using remote meeting link information provided in the Notice. Detailed minutes from the hearing are available at the Underhill Town Clerk's Office as well as on the Town's website.
10. Written testimony was received by hand delivery and by email prior to the hearing.
11. Testimony was given by the Underhill Town Administrator, Brad Holden.
12. Testimony was given by interested persons as detailed in the hearing minutes.
13. At approximately 8:40 PM the Board closed the evidentiary portion of the hearing.

### **Interested Persons – Testimony Submittals**

- A. A letter dated, July 12, 2021, from Rebecca Washburn, Lands Administration and Recreation Division of the Vermont Department of Forests, Parks, and Recreation received by the Underhill Town Clerk via email on July 13, 2021.
- B. A single page document containing testimony, dated July 14, 2021, from Underhill resident David Demarest which was hand delivered to the Town Administrator on July 14, 2021.
- C. A single page document containing testimony, dated July 15, 2021, from Underhill resident Pat Weisel hand delivered to the Underhill Town Clerk on July 15, 2021.
- D. A single page email containing testimony received by the Town Administrator on July 15, 2021 from Underhill Resident Mike Weisel.
- E. A single page email containing testimony received by the Town Administrator on July 15, 2021, from Underhill resident Cathy Corbin.
- F. A single page email containing testimony received by the Town Administrator on July 15, 2021, from Underhill resident Karl Neu. The email was not read at the hearing but will be

considered testimony because it was technically emailed on July 15, 2021, at 4:27 PM, which was prior to the hearing.

G. A single page email containing testimony received by the Underhill Selectboard on July 18, 2021, at 2:56 PM, by Underhill resident Mike Weisel. This testimony will not be considered due to the fact that it was received after the evidentiary hearing was closed.

### **Town of Underhill – Submittals**

H. Town of Underhill Notice of Examination of Premises and Public Hearing for Discontinuance of the Northern Portion of Town Highway 11, Butler Lane, also known as Butler Road, dated June 7, 2021.

I. Certificate of Service, June 7, 2021, mailing to interested persons.

J. Affidavit of Publication from the Burlington Free Press dated June 30, 2021.

K. Legal Notice Mountain Gazette dated July 1, 2021.

L. May 27, 2021 Underhill Selectboard Minutes.

M. A letter, dated May 19, 2021, from James W. Barlow, attorney for the Town of Cambridge.

N. Town of Underhill Notice of Hearing for Town Highway 24, 11, 12, 21, dated October 26, 1995, and recorded in Volume 85 Pages 388-389 of the Town of Underhill Land Records.

O. Town of Underhill Decision and Order Report of Hearing to Reclassify or Discontinue Town Highways 24, 11, 12, 21, dated January 17, 1996, and recorded in Volume 85 Pages 389-390 of the Town of Underhill Land Records.

P. A letter to the Town of Cambridge Selectboard relating to Town Highway 11, dated December 8, 1995.

Q. A follow-up letter to the Town of Cambridge Selectboard relating to Town Highway 11, dated January 15, 1996.

R. Town of Cambridge Beers Atlas circa 1870.

S. Town of Underhill H.F. Walling Atlas 1857.

T. 1849 Layout of TH 11. Survey from Town Line to Irish Settlement, 3 rods in width and recorded in Town Meeting Records volume 1847-1866 page 35.

- U. Underhill Center to Cambridge Layout, 3 rods in width and recorded in Town Records Volume 4 1866-1893 Page 25-41.
- V. Town of Underhill Lotting Plan by John Johnson, dated January 1, 1825.
- W. 1941 aerial photograph DCC-8-29.
- X. 1962 aerial photograph 23-062.
- Y. 2018 orthophoto overlay depicting parcel lines, town line, and approximate location of TH 11 and the two sets of stone bridge abutments.
- Z. Vermont ANR Natural Resources Atlas – Hydrologically Connected Road Segments – (MRGP).
- AA. Vermont E911 Map.
- BB. Vermont ANR Natural Resources Atlas – DFIRM Flood Hazard Areas (Zone A).
- CC. 2016 Vermont General Highway Map for the Town of Underhill.
- DD. 1956 Vermont General Highway Map for the Town of Underhill.
- EE. 1931 Vermont General Highway Map for the Town of Underhill.
- FF. 1931 Vermont General Highway Map for the Town of Cambridge.
- GG. 1956 Vermont General Highway Map for the Town of Cambridge.
- HH. 2015 Vermont General Highway Map for the Town of Cambridge.
- II. 27 High resolution photographs taken April 24, 2021.

Except as otherwise indicated, all of the written and oral testimony, submittals and other evidence cited above and summarized in the above-referenced hearing minutes (which are, themselves, incorporated herein by reference) were reviewed and considered by the Selectboard in rendering this decision.

## Findings

1. Based upon the survey of record recorded in Town Meeting Records 1847-1866 Page 35, TH 11 appears to have been originally laid out three rods (49.5 feet) in width and opened to the public on November 28, 1849.
2. Based upon the survey of a highway from Underhill Center to Cambridge Burrough recorded in Town Records Volume 4 (1866-1893) Pages 28-29, TH 11 was resurveyed and reestablished as three rods (49.5 feet) in width, said survey received for record on February 29, 1868. In order for the highway to be utilized again a comprehensive re-survey would need to be completed in order to determine the exact location of the right-of-way.
3. The portion of TH 11 being considered for discontinuance has two sets of existing stone bridge abutments, where two bridges previously crossed over the Settlement Brook.
4. Reputedly the two bridges which previously crossed the Brook were destroyed by flooding sometime during the 1930s and, in order to utilize the highway again, new bridges would need to be engineered, designed, and reconstructed. It is not known whether the historic bridge abutments could be reused or if new abutments would be needed.
5. The 1956 Vermont General Highway Map depicts the entire length of TH 11 as untraveled.
6. The 1969 Vermont General Highway Map depicts the southern half of TH 11 as a soil surface 2<sup>nd</sup> class gravel road and the northern half as untraveled.
7. The 2016 Vermont General Highway Map depicts the entire length of TH 11 as a Class 4 Town Highway with the southern half having a surface of soil or graded and drained earth and the northern half is designated as untraveled. The untraveled portion is heavily vegetated and would require significant rehabilitation even for pedestrian use.
8. The entire length of TH 11 is considered to be a Hydrologically Connected Road Segment per the Vermont Natural Resources Atlas.
9. The portion of TH 11 being considered for discontinuance is located in a Zone A Special Flood Hazard Area according to 2011 FEMA DFIRM map 50007C.



10. Since the presumed right-of-way has been untraveled for the past approximately 80 years significant natural reforestation has occurred. A significant number of trees, some of substantial size, would need to be cleared in order to reopen public access.
11. Based upon Findings 7-10, above, any rehabilitation in the right-of-way could only be achieved under stringent environmental oversight, regulation, and permitting, including but not limited to State wetland, floodplain, stormwater and stream alteration review.
12. Given the location of the above-referenced bridge abutments, the natural barrier of the stream, and currently unavailable bridge structures, it would be nearly impossible to mobilize necessary equipment onto the right-of-way for improvement purposes without traversing private property.
13. The Town of Underhill Selectboard considered all of Town Highway 11 for reclassification or discontinuance at a December 2, 1995 examination of premises and at a public hearing on December 6, 1995. At that time, the Selectboard confirmed that the highway was an "inter-town highway" and therefore subject to a different procedure. The Underhill Selectboard concluded that it should contact the Cambridge Selectboard to set a joint hearing. Said joint hearing was never held.
14. Any effort to link the right-of-way of TH 11, which was once part of the original route that connected Underhill Center with Cambridge Borough, is dependent on the commitment of the Town of Cambridge toward the same goal. At the time of this writing, the Town of Cambridge Selectboard — as evidenced in correspondence from Cambridge's attorney — does not appear interested in pursuing either an independent or collaborative effort to restore the original right-of-way that links the two towns. Therefore, for all practical purposes, any effort of the Town of Underhill to maintain any type of access would come to a dead end at the town boundary.
15. While precise estimates are not available, any effort to restore the historic right-of-way for the segment of TH 11 at issue here would involve substantial cost to the Town of Underhill to reestablish a route that has been largely untraveled by the general public for many years, over the objections of the adjoining landowners. Multiple well-established, alternate vehicular routes to Cambridge now exist in the Town, as do other recreational corridors.

## **DECISION AND ORDER**

The portion of TH 11 under consideration is described as follows: "Starting at or near the northeast boundary corner of the property located at #23 Butler Lane, also known as Butler Road, said terminus being approximately 1300 feet northerly of the intersection of Town Highway 4 and Town Highway 11, and then proceeding northerly on Town Highway 11 to the Underhill-Cambridge Town Line."

On the basis of the foregoing findings, it is clear that the segment of Butler Lane at issue in this proceeding should be discontinued. The segment of Butler Road, described above, has long been largely untraveled and could only be reestablished at substantial cost to and effort by the Town. This work would involve resurveying the right-of-way, engineering, designing and constructing new crossings of Settlement Brook, acquiring new temporary and permanent access rights from adjoining landowners, removing numerous large trees and applying to the State for necessary environmental permits, among other things. Even with this effort and expense, a vehicular right-of-way to the Town of Cambridge would only exist if Cambridge similarly decided to reestablish its right of way on the other side of the municipal boundary. This appears highly unlikely at this time. This route generally has not been used by the public in many years, nor is it needed or convenient in any way. Therefore, after examining the premises, hearing evidence from all interested persons, and reviewing the record, it is the Selectboard's determination that the public good, necessity and convenience of the inhabitants of the Town of Underhill warrants discontinuing the above-described portion of Town Highway 11.

This decision to discontinue the northern portion of TH 11 is based on the condition that the Town of Underhill is able to utilize a reasonable area near the terminus of the southern portion of the discontinued segment for the purpose of turning around town and emergency vehicles. The location of the turn-around will be determined and defined at a later date.

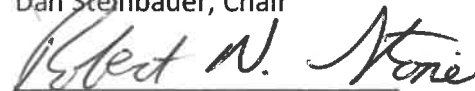
IT IS HEREBY ORDERED: The above-described segment of TH 11 (Butler Lane) is **DISCONTINUED** as a public highway. This Order shall be recorded by the Town Clerk, per 19 V.S.A. § 711.

Issued September 13, 2021

Underhill Selectboard



Dan Steinbauer, Chair



Robert Stone

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Peter Duval