



## **Abenaki Cultural Use Land Access Project: Background and Frequently Asked Questions, for private forest landowners**

### **Introduction**

Through the *Abenaki Cultural Use Land Access Project*—a collaboration between Vermont Family Forests (VFF) and Middlebury College students—we are exploring a process for granting Abenaki tribal citizens permission to access private forestland in Vermont for cultural use, such as hunting and harvesting plants. Below, we explain why Abenaki tribal citizens are seeking private forestland access, what the benefits are to opening your land to Abenaki citizens, what Abenaki access to your land might look like, pertinent legal information, and more. If you have questions beyond what is stated here, please direct them to Vermont Family Forests at [info@familyforests.org](mailto:info@familyforests.org).

### **What is the history of the Abenaki people in Vermont?**

For thousands of years, the Abenaki have lived on the land we now call Vermont. Yet their livelihood now looks very different from how it looked before European settlers moved onto this land. The Abenaki people have a rich history of collecting natural resources for food, medicine, crafts, and ceremony—part of a way of life intrinsically linked with the natural world. This continues to be the case despite the great changes their lifestyle has undergone since European settlement.

As Europeans settled this region beginning in the 1600s, the Abenaki were pushed to the outer reaches of Vermont's lands. The lands that were most fertile and that held the majority of natural resources used by the Abenaki were the ones that European settlers found most appealing to own and develop.

Compounding the displacement of the Abenaki from their land, the state of Vermont aimed to further reduce Abenaki presence in the early 20<sup>th</sup> century through eugenics policies such as forced sterilization. Many Abenaki disguised their identity or fled the country, further fracturing the Abenaki community.

Today, many in Vermont are trying to right these wrongs. In 2011 the Elnu Abenaki Tribe and the Nulhegan Abenaki Tribe received recognition by the State of Vermont, followed by the Abenaki Nation at Missisquoi, and the Koasek Band of the Koas Abenaki Nation in 2012. In June 2019, the University of Vermont issued a formal apology for the “stereotyping, persecution and in some cases state-sponsored sterilization” that was sanctioned by law and supported by the Eugenics Survey of Vermont (1925-1931).

### **Why reach out to private landowners?**

As a Vermont landowner, you are uniquely situated to help build better connections between the Abenaki and other Vermont residents in the 21st century. Private land makes up 80 percent of the forestland in Vermont, leaving enormous untapped potential for land access within the state. Vermont Family Forests (VFF) works with more than 200 landowners who collectively

care for more than 20,000 acres. Access to even a fraction of this land could have a real impact on opportunities for connecting with the land and gathering wild plants and animals. This project builds upon a similar collaboration between Wabanaki people and Maine conservationists, and by current land-access permissions for the Nulhegan Band of the Abenaki Nation on public and corporate land in Vermont. We hope to create conversation and connection through land-access permissions that bring together the Abenaki sense of land as belonging to Ktsi Niwask (the Creator) and the current American institution of private property.

### **What are the benefits of opening my land to Abenaki cultural use?**

- Fostering connections and sharing assets to build community and cross-cultural understanding.
- Recognizing the past and moving forward together.
- Sharing the mutual benefits of sustainable traditional land practices.

### **Are there other similar partnerships around the country?**

Currently, the four Abenaki tribes recognized by the state of Vermont (the Elnu Abenaki, the Nulhegan Abenaki, the Abenaki Nation at Missisquoi, and the Koasek Band of the Koas Abenaki Nation) have gathering access rights to all state lands, including state parks and forests. The Nulhegan Band of the Abenaki has gathering access to the Green Mountain National Forest and to land owned by the Winooski Hydroelectric Company, TransCanada, and FirstLight Power Resources. Each permission agreement specifies harvest guidelines (species, quantities, etc), whether Abenaki citizens need to provide advance notice before accessing the land, whether hunting is allowed, and so on.

The First Light Learning Journey in Maine is *“an ongoing collaborative effort, begun in 2017, between Maine conservation organizations and Wabanaki Tribes to expand Wabanaki access and stewardship of land.”* Representatives from over twenty different land trusts, universities, the Army Corps of Engineers, and various conservation groups in Maine have been meeting to listen and learn from one another for the past couple years. You can read about their process on their website, <https://firstlightlearningjourney.net>.

Also in 2017, the Amah Mutsun Tribal Band, who live in Central California, formed a partnership with the Midpeninsula Regional Open Space District through a permanent easement that grants rights to the Amah Mutsun *“to help steward the mountaintop for natural resource conservation, cultural relearning and public education in partnership with Midpen”*. The Amah Mutsun partner with several nonprofits, educational institutions, and government land management bodies.

### **How do I establish a cultural use agreement?**

To form an agreement allowing Abenaki access to your land, you will need to fill out the *Questionnaire for Interested Landowners*. The questionnaire establishes the prerequisites for use of your land and serves as a contract allowing access to your land until such a point as you contact VFF to opt-out of the program or until you no longer own your property (in which case it is requested that you contact VFF to have your information removed from the database). Information that you will be asked to provide includes address, availability and location of

parking, notice before visits, seasonal restrictions, species restrictions, hunting permissions, and so on.

**What if someone gets hurt on my property? Will I be held liable?**

No, you will not be held liable if someone is injured on your property. The Vermont Landowner Liability Law protects landowners from claims of liability for damages or injury on their property by recreational users.<sup>4</sup> See Sec. 5791-5795 below:

“The law states that an owner shall not be liable for property damage or personal injury sustained by a person who does not pay a fee to the owner and enters upon the owner's land for a recreational use, unless the damage or injury is a result of intentional or extremely reckless misconduct by the owner... The landowner does not have to ensure that the land is completely safe for recreational use, but the landowner may not intentionally create a risk to recreational users... ‘Recreational uses’ are broadly defined by the law to include any activities undertaken for recreational, educational, or conservation purposes such as hunting, fishing, trapping, guiding, camping, biking, in-line skating, jogging, skiing, swimming, diving, watersports, rock climbing, hang gliding, caving, boating, hiking, riding an animal or vehicle, picking wild or cultivated plants, picnicking, gleanings, rock collecting, nature study, outdoor sports, visiting or enjoying archeological, scenic, natural or scientific sites, or other similar activities.”

- 12 V.S.A. Sec. 5791-5795

**Where will the information about my land access permission be housed? How will Abenaki citizens find out which private forestlands are available for them to access?**

Vermont Family Forests will maintain an up-to-date spreadsheet of landowners who have agreed to offer access to Abenaki citizens. The spreadsheet will contain all pertinent information from landowners’ completed *Questionnaire for Interested Landowners* surveys, plus a map of whatever portion of the land you are offering access to, so that Abenaki citizens know where they can walk and gather. We will provide access to the spreadsheet from the VFF website, on a password-protected webpage. Chief Stevens will make the password available on the portion of the Nulhegan Abenaki website that is accessible only to registered Abenaki citizens.

**How much visitation can I expect?**

Given the small number of Abenaki citizens spread throughout Vermont, New Hampshire, and Maine, it’s very unlikely you will experience a high volume of Abenaki citizens requesting access to your land. In the *Questionnaire for Interested Landowners* survey, you can stipulate the degree of control you would like over visitation. It’s frankly more likely that the visitation to your land will be very minimal, but the gesture of opening land to Vermont’s indigenous people is significant.

**What if I no longer wish to participate in the Abenaki Cultural Use Land Access Program?**

You can simply opt out by contacting Vermont Family Forests, and we will remove your land information from the password-protected database on our website right away. Such an “opt-in, opt-out” system has been successfully utilized for other easements, such as those used by the Vermont Association of Snow Travelers (VAST) trail network and the Catamount Trail. Through

such a system, when a landowner opts into the program, the specific permissions they allow will remain in effect until they contact VFF to be removed from the database.

*This FAQ sheet was made possible by the work of Middlebury College students Hannah Redmon, Raquel Maldonado Moron, and Rachel Veneziano-Solle.*