

Upholding Our Commitment to the Land...



A Stewardship Guide for Conservation Easement Landowners

*Provided by the Southeast
Land Trust of New Hampshire*

2016 edition



SELT

SOUTHEAST LAND TRUST
of NEW HAMPSHIRE



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SELT

SOUTHEAST LAND TRUST
of NEW HAMPSHIRE

SELT is a member-supported nonprofit organization whose mission is to protect and sustain the significant lands in our communities for clean water, outdoor recreation, fresh food, wildlife, and healthy forests.

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Cover: Scamman Conservation Easement PHOTO CREDIT: JOHN BENFORD
Back cover: PHOTO CREDIT: JERRY MONKMAN

Our Conservation Easement Program

The Southeast Land Trust of New Hampshire (SELT) was originally established as the Rockingham Land Trust in 1980 with a mission to conserve land in greater Rockingham County. In 2006, the Rockingham Land Trust and the Seacoast Land Trust merged to become the Southeast Land Trust of New Hampshire. A second merger in the fall of 2014 with The Strafford Rivers Conservancy expanded the coverage area to include all of Rockingham and Strafford Counties as well as a few towns in southern Carroll County. By the end of 2015, more than 10,400 acres of southeastern New Hampshire had been protected through conservation easements. Scenic views, river banks, valuable wetlands, agricultural land, threatened and endangered species, wildlife habitat and other significant natural areas are forever protected for further generations thanks to conservation easements.

Protection begins with the signing and recording of the easement, but continues long beyond. There are a number of necessary obligations and important actions on the part of both the landowners and SELT to ensure a successful easement stewardship program. Most important are open communication and an ethical commitment to ongoing protection of the land in accordance with the terms of the easement.

Meet SELT's Stewardship Staff



Deborah Goard
*Stewardship
Director*



Amanda Hollenbeck
*Easement Stewardship
Manager*

Baseline Documentation

A baseline documentation report (“baseline”) is created for every new conservation easement as part of the land protection process. This document records the physical condition of the land at the time of the easement’s creation, including buildings and other constructed features. It consists of written text, maps, and photos and is reviewed and signed by the easement landowner, SELT and any other party with an interest in the conservation easement. It is an important part of the conservation easement process, is required by law, and necessary in case there is a tax audit. The baseline functions to assure both SELT and the easement landowner that the requirements of the easement can and will be upheld. Stewardship staff reference the baseline each year when monitoring your property either on land or through aerial photographs.

Once the baseline is finalized the landowner and other interests receive a copy and SELT keeps the original stored in a secure, fireproof file cabinet. We recommend that you keep your copy in a safe but easily accessible location.



Existing land cover and land use, such as the forest land and commercial blueberry fields on the Panish conservation easement, is an example of what is typically documented for baselines.

Boundaries

Establishing the boundary location of a conservation easement property and associated areas (where additional construction or specific activities are allowed, such as “building envelopes”), is essential to ensuring that all parties understand the land area covered by an easement. Identifying boundary locations is also critical for preparing the baseline report and for annual monitoring purposes.

To help facilitate monitoring, SELT often marks the boundary and monuments with flagging as well as places signs along the boundary identifying it as conservation land.

SELT utilizes existing survey lines and markers, city/town parcel data, maps, field visits, aerial photos, compass and GPS for locating easement boundaries during field visits. Marking the boundaries makes identifying the boundaries during easement monitoring easier and readily allows current and subsequent landowners—and neighbors—to know where the easement borders are.



Stonewalls often mark both internal and external property boundaries as they do on the Field of Dreams conservation easement.

Monitoring

Monitoring is critical to the continued protection of the natural resources safeguarded by the conservation easement. Monitoring establishes a record of responsible stewardship, detects violations early and helps maintain a good relationship between SELT staff and landowners.

Each year staff view each easement property, observe the boundaries and interior of the easement property, and document any changes. SELT monitors all conservation easements at least annually utilizing either ground or aerial monitoring methods. The monitoring method used depends on the requirements of funders for the easement and whether significant management activities have occurred or reserved rights have been exercised on the property since the last monitoring visit. All properties are monitored using aerial photos annually while a ground visit occurs at least once every three years.

Monitoring typically takes place in the spring or fall when leaf cover is minimal and snow is absent. SELT notifies easement landowners by mail regarding the method of monitoring at the beginning of the calendar year and will contact the landowner before the ground visit or at the time the aerial photo of the land is reviewed. Landowners are encouraged to accompany staff on ground monitoring visits. Conservation easement monitoring reports are prepared and kept in a file as part of a continuous record of easement properties.



By viewing an aerial photo of the Town of Brentwood (Hudgens) conservation easement, staff is able to detect any changes to the land including timber harvests, new structures or boundary encroachments.

Exercising Reserved Rights

All conservation easements allow certain basic rights to be retained by the landowner, and some easements may include additional reserved rights. Examples include the ability to divide the property, construct additional buildings, create or maintain trails or roads and manage timber or farm the land. Every easement is unique. Please read your conservation easement or contact SELT to determine if a particular activity is permitted.

In many cases, prior consent by or notification to SELT is required before the landowner builds structures, harvests timber, or exercises other reserved rights. Often the landowner is required to submit plans to SELT describing the activity. SELT reviews the plans to make sure that the activities comply with the terms of the easement and, if they are not in compliance, we will work with the landowner to refine the plans. It is very important for the landowner to contact SELT before exercising reserved rights, as it is often during these times of modification of the land that misunderstandings occur and violations of the easement can result.

All exercised reserved rights are photographed, documented and kept in a permanent file.



Kate Donald, owner of Stout Oak Farm on SELT's Lyford conservation easement, talks to a group about the farm's agricultural operations. Commercial agriculture is a reserved right on this conserved land.

Violations

Vigilant stewardship and consistent, fair enforcement of the provisions of the conservation easements are necessary to protect the conservation values of the easements entrusted to us. Effective education of, and communication with, conservation easement landowners are the most effective ways to ensure the long-term protection of our easements' conservation values. Even so, easement violations will undoubtedly occur.

Because each easement is unique, violations can take many forms, from minor, inadvertent infractions like dumping leaves or placing signs, to major issues like extensive tree cutting, excavation or building in the wrong spot. Please thoroughly read your easement to determine which activities are allowed or prohibited on your property, and don't hesitate to contact us if you need help interpreting the easement. We take violations very seriously and in most instances will ask for voluntary restoration or reparation, but will resort to litigation when necessary. It is our goal to communicate and cooperate with easement landowners, and we have found that in almost every case violations can be resolved without legal action.



Photos top to bottom: bridge, hoop house, timber harvest, parking lot. All of these activities are examples of basic or reserved rights that may be allowed on conservation easements. If these activities were to be undertaken on an easement that does not permit them, they would be considered violations. ***What does your easement allow?***

PHOTO CREDITS: HOOP HOUSE KATE DONALD; OTHERS STAFF

Change in Ownership

As time passes, conservation easement properties will inevitably change ownership. In order to provide continuity and ensure the best safeguards for the conservation easement, landowners conveying their property should 1) inform SELT that their easement property is for sale 2) notify us when it has sold and 3) provide the names of the new owners. The baseline documentation report should be transferred to the new landowners as well.



It is very important that prospective or new landowners of property with a conservation easement in place are fully aware of the easement's terms and SELT's monitoring procedure. To help with this we encourage you to notify us as soon as your property is listed and to have your realtor call us early on in the sale process. We will provide your realtor with a packet specific to your conservation easement for them to distribute to interested buyers. We will also offer to meet with serious potential buyers to make sure they understand the conservation easement and answer any questions they may have before the sale of the property.

After the property has been sold SELT will contact the new landowners, introduce the organization, make certain the conservation easement is understood, explain our stewardship program and answer any questions they may have. Establishing contact quickly with new landowners helps minimize potential problems, ensuring continued protection of the property's natural resources.

When SELT meets with potential buyers it allows them to ask questions and make sure they fully understand the terms of the conservations easement. Having an informed buyer helps ensure the land's natural resources will continue to be protected for future generations. PHOTO CREDIT: JERRY MONKMAN

Property Taxes and Conservation Easements

It is widely acknowledged that conservation easements reduce the fair market value of land, as the rights to develop the property are eliminated. Two New Hampshire laws govern local property taxes paid for land under a conservation easement: NH RSA 79-A (Current Use Taxation) and NH RSA 79-B (Conservation Restriction).

NH RSA 79-A, New Hampshire's Current Use Assessment Program, taxes the land based on its "current use" such as agricultural land, forestland or wetland and not on its "highest and best use" which is often the development of the land for residential, commercial or industrial use. Landowners, with 10 or more contiguous acres (or any size wetlands) are eligible whether or not your land is under a conservation easement. The best way to ensure your property taxes are reduced is to enroll your property in the state's Current Use Assessment Program.

NH RSA 79-B, Conservation Restriction Assessment, requires towns to assess land subject to a conservation easement based upon the more limited conservation uses allowed by the easement and in no case greater than the amount that would be paid under the Current Use Assessment Program.

If your land is already enrolled in the Current Use Assessment Program there would probably not be a further reduction in property taxes as a result of your land being under a conservation easement. However, if your land that is under a conservation easement is less than 10 acres in size and therefore ineligible to be enrolled in the Current Use Program, applying for a Conservation Restriction Assessment with your town may reduce the amount of local property tax you must pay.



When land is taxed based on its “current use”, landowners are able to reduce their tax burden, allowing land to remain forested or in agricultural production. PHOTO CREDIT: PAULA SINGER

Funding Long-Term Stewardship

Accepting conservation easements is a long-term commitment by SELT. It requires the professional and financial ability to guarantee continued protection of the natural resources that easements are designed to protect. Creating baseline documentation reports, monitoring each conservation easement annually, writing reports, documenting changes in easements, following up on all violations and, as a last resort, prosecuting violations in court, all require staff time, office and field equipment and the funds to support such work.

SELT has established the Conservation Easement Stewardship Fund, a dedicated fund for easement stewardship. This fund is dedicated solely to covering the cost to manage, monitor, and enforce its conservation easements. For each easement, the Land Trust requires a minimum of \$10,000 for this purpose to be obtained as part of the project costs. Contributions to the Conservation Easement Stewardship Fund may come from a variety of sources including municipalities, private individuals and foundations. Endowment contributions can be made at the time the easement is donated, at the time that reserved rights are exercised, or an amount can be pledged and paid over a period of years.



SELT's Conservation Easement Stewardship Fund will help us to uphold our commitment to ongoing stewardship for all of the conservation easements we hold. This will ensure the property remains forever protected as the original Grantor's intended.

Funding the Defense of Conservation Easements & Terrafirma Insurance

In order to ensure SELT is able to enforce violations, we have set aside money for the legal defense of our conservation easements. These legal defense funds are held by SELT and are immediately available to the organization if necessary to cover unanticipated legal costs and associated fees with enforcing our conservation easements.

In addition, we are a member of Terrafirma, a charitable risk pool that insures us against the legal costs of defending our conservation easements and fee ownerships. Formed by the Land Trust Alliance in 2011, Terrafirma helps land trusts defend their conserved lands from legal challenge. As a member, we have access to a national team of experts and are able to convey the message that we have the capacity to defend our conservation easements.



The Ford conservation easement (now owned by the Town of Lee) was originally conserved as a wildlife preserve. With the establishment of a legal defense fund and as a member of Terrafirma, SELT has access to the resources needed to legally defend and enforce this and all of our conservation easements.

Taking the Stewardship of Your Land to the Next Level

SELT encourages landowners to go beyond the protection afforded by your conservation easement and actively manage or restore your land. Some actions you can take may include obtaining a written management plan for wildlife, agriculture or forestry, improving wildlife habitat, taking measures to prevent erosion or working to control exotic species.

Information & Assistance

There are many non-profit and governmental organizations in New Hampshire that can provide information and assistance to help you manage the natural resources of your private property. Some programs even provide funding to implement certain conservation practices. The list below shows just a few contacts to get you started. Visit the stewardship page of our website, www.seltnh.org, for more links. If you have a question about resource protection and management of your land, please don't hesitate to contact our stewardship staff by calling 603.778.6088.

UNH Cooperative Extension

extension.unh.edu

Rockingham County

603.679.5616

Strafford County

603.749.4445

Carroll County

603.447.3834

USDA — NRCS

www.nrcs.usda.gov

Rockingham/Strafford Counties

603.679.1587

Carroll County

603.447.2771

NH Department of Agriculture

agriculture.nh.gov

603.271.3551

NH Division of Forests and Lands

603.271.2214

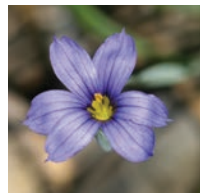
www.nhdf.org

NH State Conservation Committee

603.271.3551

www.nh.gov/scc

Check website for your County's local office.



Blue-eyed grass on the Great Bog Conservation Easement in Portsmouth.



SELTeverlasting

NEWS FOR OWNERS OF LAND PROTECTED BY A CONSERVATION EASEMENT

With 169 conservation easements (and likely a few more by the time you read this) our Easement Stewardship Department does not have much down time! While there is still the "fun part" of the job, walking around through the fields and forests of southeastern NH, the increase in protected lands also means an increase in requests and approvals, more questions from neighbors about what is happening on the conserved land work load, and more issues that need resolving such as third party visitations. To help meet the growing work load we will again be hiring a full time seasonal employee this summer to help with regular visits to our conservation easements as well as to help us with the routine work to keep the Department running smoothly (who doesn't love a day or two of scanning and filing?). We hope you enjoy the remaining weeks of winter and we look forward to our continued partnership in the stewardship of your land in 2016!

Best wishes,

Dorcas Good

Dorcas Good
Easement Stewardship Director

Local Farms Extend the Growing Season with High Tunnels

In the SELT service area the growing season is about 135 days lasting from around Memorial Day through the end of September. Memorial it has the last few years, we all know that with temperatures lasting into May and into October, even the planting and growing of crops that tolerate cool weather can be affected. One way that farmers in New Hampshire have been able to extend their growing season and provide a more predictable climate is through the use of high tunnels.

High tunnels, also called hoop houses, are structures made of metal pipes with a polyethene cover used to extend the growing season by protecting crops from sun, wind, excessive rainfall and cold. They differ from greenhouses in that they are not usually heated and crops are grown directly in the soil rather than in pots. Aside from extending the growing season, high tunnels have many other benefits. They can increase soil and plant quality, decrease pesticide use, decrease foliar disease, reduce the farm's carbon footprint and increase local food availability. Whether you are a large or small farm, high tunnels are a cost-effective way to increase plant yields.

WINTER 2016
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EVERLASTING—News for owners of land protected by a conservation easement

A newsletter is sent to all conservation easement landowners semi-annually to provide updates on monitoring and other easement stewardship activities and issues.

Thank you!

We want to thank the Little Traverse Conservancy of Michigan who allowed us to modify their guide to reflect SELT's own Conservation Easement Stewardship Program!



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