



# Basic Conservation Options

## Saving Special Places

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*North Fen Bog Pond & Button Sedge  
Mast Rd. Natural Area, SELT  
Photo courtesy Emma Tutien*



# Basic Conservation Options - what we'll cover

- Conservation Easements - in detail
- Qualified Appraisals
- Donations of Land
- Bargain Sale
- Costs
- Conservation Funds
- Funding Sources



*Blandings Turtle,  
Mast Rd Natural Area, SELT*

# Conservation Easement Definition

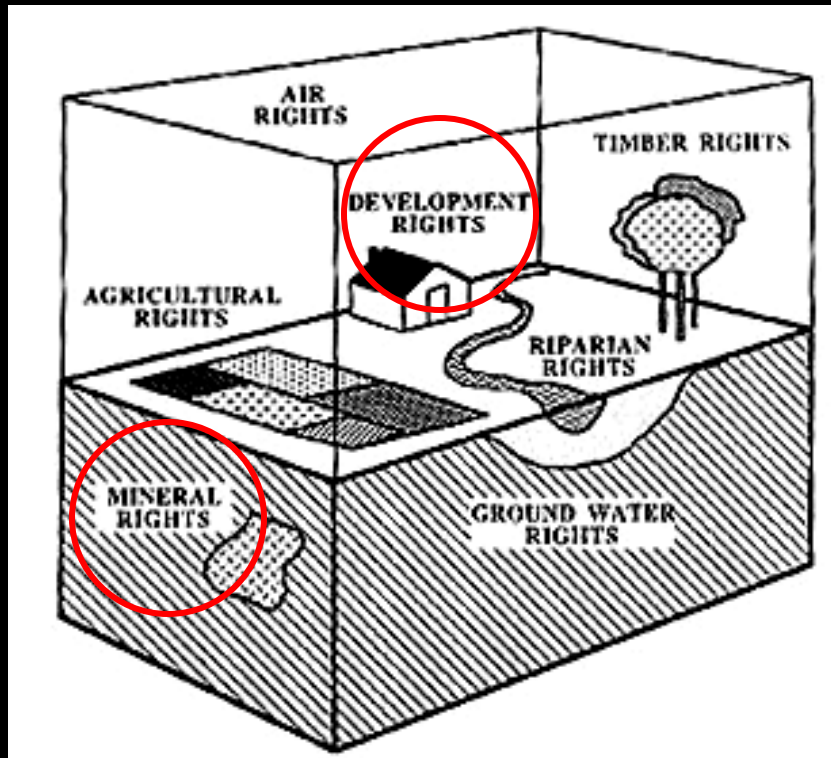
Voluntary legal agreement between a landowner and "easement holder" that permanently limits certain property uses in order to protect conservation values



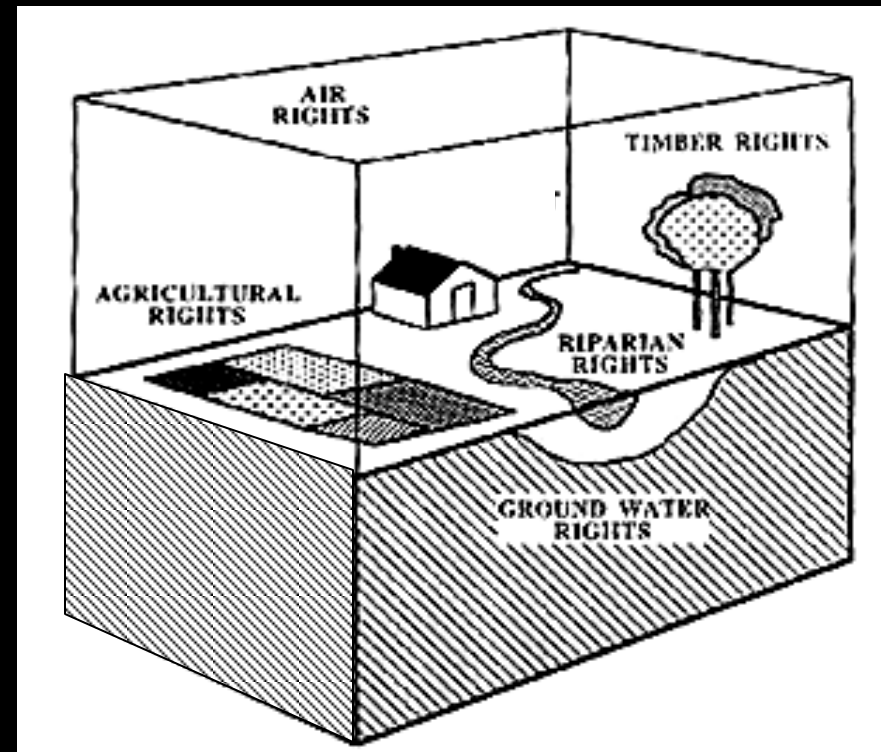
*French Mill, ca. 1729,  
Tucker/French Family Forest, SELT*

# Conservation Easements & the Bundle of Rights of Land Ownership

Before CE



After CE



# Potential Easement Holders

- Land Trusts - currently 42 local, regional or statewide land trusts in NH
- Government Entities - Towns, State or Federal Agencies



*Newfields Community Gardens  
Cole Farm, SELT*

# Easement Holder Responsibilities

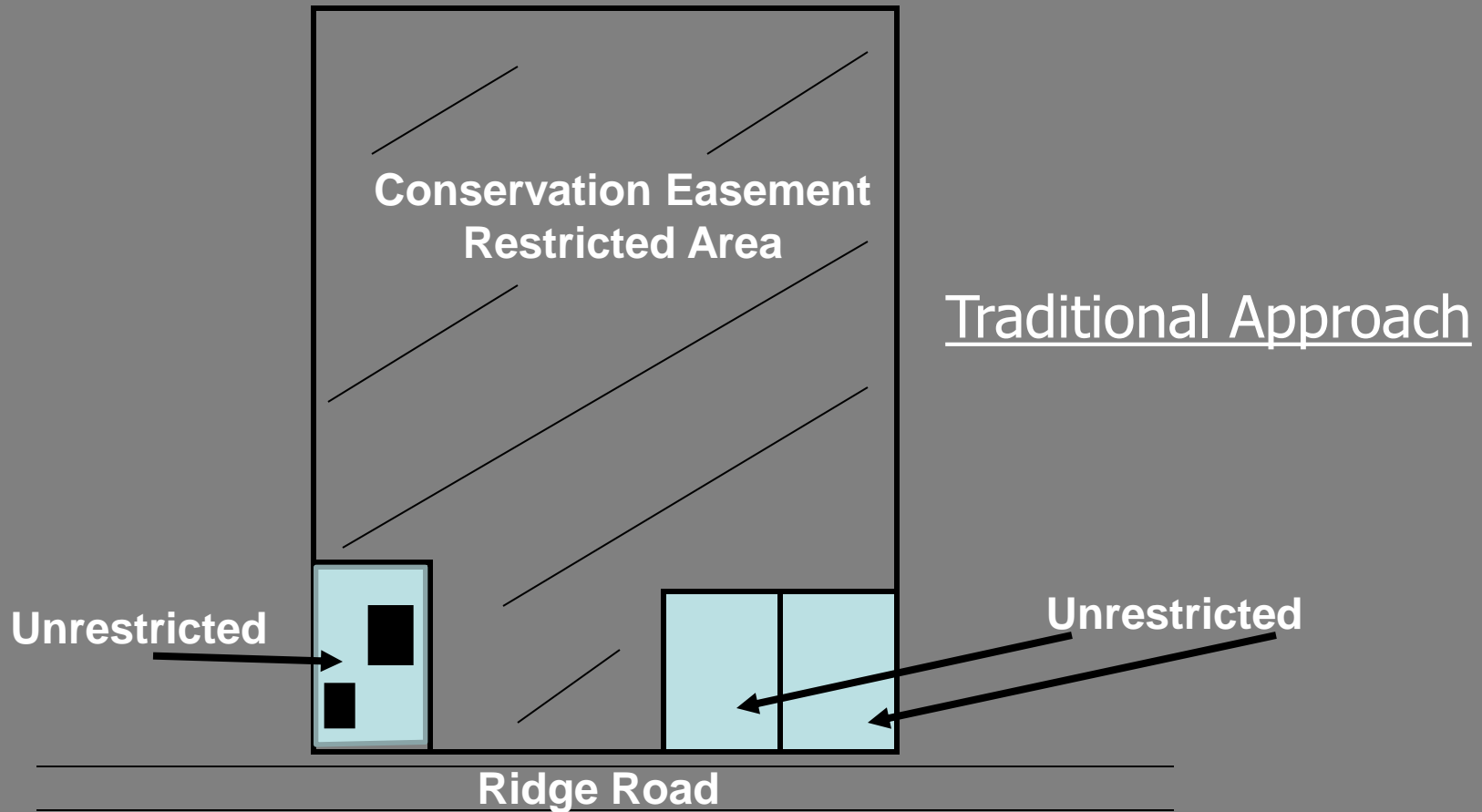
- Baseline Documentation
- Easement Monitoring - Annual Visits
- Enforcement
- New Landowner Contact
- Contingency Plans/Back-ups



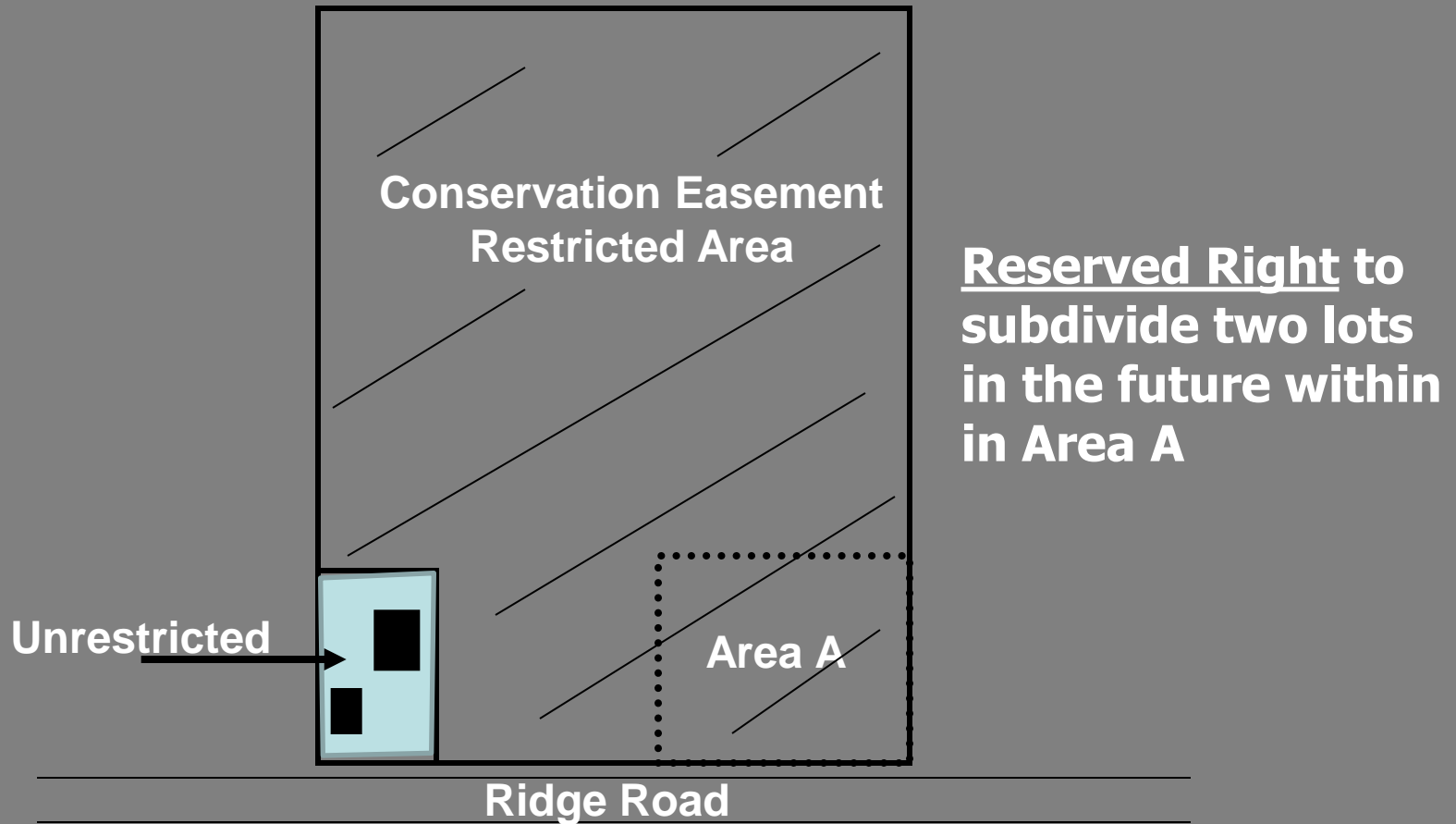
*NH's Largest Recorded Black Gum  
Mast Rd. Natural Area, SELT*



# CE's Do Not Have to Encompass the Entire Parcel



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# Other Conservation Easement Features

- privately owned land restricted by a CE remains in private ownership
- usually no impact on property taxes
- typically encourage farm and forest management
- executory interest (backup) easement holder arrangements add enforcement strength
- have held up well through court testing
- development rights may be gifted or sold at full value or at bargain

# How Much is the CE or Fee Worth?

- Qualified Appraisals are essential for determining values to comply with
  - Grant source requirements
  - LTA Standards and Practices
  - IRS rules and potential audits
- Appraiser lists are kept by land trusts
- Conservation Easement appraisals are really two appraisals in one
  - "before" = Fair Market Value
  - "after" = Restricted Value

# IRS Test - does the CE satisfy at least one of the following?

- **IRS Qualifying Conservation Purposes:**
  - Public recreation or education
  - Significant natural habitat
  - Open space for scenic enjoyment/significant public benefit
  - Open space pursuant to clearly delineated governmental policy/significant public benefit
  - Certified historic structure



*Bobcat - French/Tucker Forest, SLTNH, Kingston*



# "50/16" Conservation Easement Gifting Income Tax Deduction Rules (Made permanent in 2015)

- Full appraised value is deductible
- Deduction is limited to 50% of Adjusted Gross Income (AGI) for each tax year
- 16 years to deduct the full appraised value - the year of the gift and a 15 year carry forward period for the remaining value
- NOTE: Farmers and woodlot owners who earn 50% or more of income from agriculture or timber in the year of the gift can deduct up to 100% of AGI and get the 15 year carry forward for the remaining value

# Example of "50/16" CE Rule

assumptions - \$60,000/yr. income

\$400,000 gift

Year	Deduction	Remainder	Tax Savings
1	\$30,000	\$370,000	\$7,500
2	\$30,000	\$340,000	\$15,000
3	\$30,000	\$310,000	\$22,500
4	\$30,000	\$280,000	\$30,500
5	\$30,000	\$250,000	\$37,500
6	\$30,000	\$220,000	\$45,000
6yr Total	\$180,000		\$45,000

# Example of "50/16" Rules

assumptions - \$60,000/yr. income  
\$400,000 gift

Year	Deduction	Remainder	Tax Savings
7	\$30,000	\$190,000	\$52,500
8	\$30,000	\$160,000	\$60,000
9	\$30,000	\$130,000	\$67,500
10	\$30,000	\$100,000	\$75,000
11	\$30,000	\$70,000	\$82,500
12	\$30,000	\$40,000	\$90,000
13	\$30,000	\$10,000	\$92,500
14	\$10,000	0	
<b>14yr Total</b>	<b>\$400,000</b>		<b>\$92,500</b>



# IRS Rules of Note

- Gifts of fee are treated with the older 30/6 rule, i.e. the full value is deductible up to 30% of AGI with only a 5 year carry forward
- May make sense to gift CE first then the fee to capture highest income tax benefits
- Deductions aren't "transferable"
- A number of states offer tax credits and several of these allow the tax credits to be sold

# Other Options for Gifts of Land

- Donation of Remainder Interest with a Reserved Life Estate - gift now but stay on the land; landowner continues to use and manage the land for lifetime
- Donation by Will - risky



*Leased Prime Farm Land  
Cole Farm, SELT*

# IRS Form 8283

- Used to document Non Cash Charitable Contributions
- Must be filed annually with tax returns when claiming a conservation deduction
- Conservation organization should also sign
- Include Section B for deductions of more than \$5,000
- will require information based on a written appraisal by a qualified appraiser



# Bargain Sale

- Definition - Selling land or conservation easements for less than the appraised value
- Difference between appraised value and sale price is fully tax-deductible
- Note - Gain realized on selling a conservation easement is subject to Capital Gains Tax
- Pluses - gift deduction is combined with savings on capital gains taxes and brokers' commissions
- Increases chances that a conservation organization can do the deal
- Attractive for landowners - particularly those in higher tax brackets or those selling highly appreciated property

# Potential Costs

- Survey - almost always necessary
- Appraisal - landowners making full gifts of development rights must pay for the appraisal
- Legal Fees
- Title Search
- Land Trust Fees - land trusts often charge for staff time or contracted services
- Stewardship Fund Contribution - one time contribution

# Funding Sources

- Land & Community Heritage Investment Program (LCHIP) - funds derived by a fee on recorded documents at NH Registry of Deeds; usually a small component of project funding package
- USDA Agricultural Lands Easement (ALE) - projects with high proportion of good farm soils; maximum of 50% of CE value
- USDA Wetland Reserve Easement (WRE) - projects with >50% hydric soils; value of CE determined by formula; may not exist in new Farm Bill
- Aquatic Resource Mitigation (ARM) - DES wetland mitigation fund; allocated by watershed as funds become available

# Conservation Partnerships

*Healey Farm, Chester*

**Private Conservation Organizations**

**Communities**

**Landowners**

