Conservation Easement Stewardship
Monitoring Visit Checklist

File Name:

Location: Acres:

Date Recorded: Book/Page:

Current Owner: Phone Number:

Manager/Occupant: Phone Number:

Pre-visit Review & Preparation

- ☐ Prepare field file
- ☐ Review conservation easement deed
- ☐ Review Baseline/Current Conditions Report
- ☐ Review current year's aerial photo
- ☐ Schedule monitoring visit & invite landowner/manager

Date: Time:

Person(s): Meeting Place:

Directions:

Post-Visit Follow-up

- ☐ Prepare, scan & file monitoring report
- ☐ Discuss potential problems with Easement Stewardship Director
- ☐ Prepare, scan & file (copy) and send (original) letter to landowner
- ☐ Send copy of monitoring report to Executory Interest(s)

Materials & Equipment

- Field File
- Notebook
- Digital camera & extra batteries
- GPS – property boundary uploaded
- Land Trust CE signs
- Hammer
- Aluminum nails
- Pocket knife
- Pencils/Pens/Sharpies
- Business cards
- Binoculars
- Cell phone
- Food/Water
- Compass
- Flagging
- Field guides
- Tape measure
- Field vest/pack
- Hiking boots
- Jacket/Long sleeve shirt
- Rain gear
- Bug spray/Technu/Sunscreen

EASEMENT DOCUMENTATION REPORT
OSSIPEE MOUNTAINS (LRCT)
CHECKLIST

All items below must be provided with the Easement Documentation Report Package. Two duplicate originals shall be prepared for storage at each the Worldwide Office and Chapter Office; one electronic copy (on CD and including digitized photos) shall be prepared for storage at the Chapter Office. One copy shall be prepared for the property owner.

DATA & NARRATIVES

MAPS ** INDICATE NORTH ON ALL MAPS **

APPENDICES

TNC SAMPLE

CONSERVATION EASEMENT LEGAL MONITORING PROTOCOLS

2015

CE Detailed Checklist

1. **Keep track of hours, miles, and expenses for each Site**
    a. Hours spent preparing to monitor, monitoring, and writing report
    b. Miles driven to and from site
    c. Any other costs associated with the site visit
2. **Prepare for Site Visit:**
    * Plan site visits to monitor several abutting or geographically close sites in one day or trip
    a. Review information about the site
        i. Review EDR and prior year's LM report (and other earlier reports if appropriate)
            1) Make note of any previously observed issues of concern
            2) Be sure to read Conservation Easement (CE) or Deed Restriction (DR) specifically noting any restrictions or allowed uses
            3) Review driving and access directions to site
        ii. Study most current available aerial imagery to look for any signs of disturbance
        iii. Print out survey map of site if you think it is necessary
    b. Contact landowner by phone
        i. This should be done at least a couple of days prior to visit
        ii. Take notes on phone conversation
        iii. Identify who you are
        iv. Inform them of the date of your planned visit
        v. Ask questions about: if any changes have occurred since last visit, whether they have any management plans for the coming year, whether they have any plans to change ownership of the land, and whether they have any questions about the protected property.
        vi. Invite the landowner to join you on the monitoring visit.
    c. Cache applicable maps using Collector App onto iPad for off-line field use
    * For more detailed help using Collector refer to *NHFO Collector Instruction Manual*
    d. Cache applicable Connect materials w/ Colligo (survey, EDR, prior reports) on iPad for off-line field use. (OR bring field copies of EDR and prior reports, surveys, etc.)
    e. Review site information and monitoring plan with Krista
    f. Gather/prepare field equipment
        - iPad- make sure it is fully charged
        - Waterproof iPad case
        - Soft case with keyboard - if intending to work (post process) away from office
        - iPad charger and extra battery pack for iPad if going on an extended trip
        - Back up items: Handheld GPS and digital camera
        - Previous year's LM Report (on Colligo or print) and field copy of EDR
        - Map(s) & NH Atlas
        - Compass
        - Notebook & pen/pencil
        - Ziploc bags to protect equipment

- Flagging
- Conservation Easement boundary signs
- Nails & Hammer
- Field vest or back-pack
- Cell phone; fully charged and with TNC contacts
- Personal effects (water, food, extra clothing, rain gear, relevant first aid, etc.)

3. **Visit the Site:**
   a. Open Collector on iPad, select applicable cached map & start streaming monitoring route (or use GPS if not using iPad)
   b. Take Photopoints to document important changes or possible issues.
   *Photos take up a lot of storage space on the device so only take pictures that are necessary
      i. Fill out attribute fields
      ii. Label the Photopoint 1 (subsequent Photopoints will be labeled 2, 3, 4, etc.)
   c. Take Waypoints to document important changes, possible issues, or features not captured previously but that do not warrant a photograph.
      i. Fill out attribute fields
      ii. If you want a label to appear on the monitoring map, give the Waypoint a succinct 1-2 word label; otherwise leave this blank
      iii. Use the Comment field to capture the reason you took the waypoint; try to use consistent key words followed by succinct descriptor ("Invasive Species – 5 plants multiflora rose" or "Corner @ IP" or "Derelict car"
   d. Populate the Annual Monitoring Point (AMP) with observation notes and other pertinent information on the condition of the property and your site visit (or use notebook if not using iPad).
4. **Post Visit:**
   a. With iPad:
      i. Reconnect to a Wi-Fi network
      ii. Sync your cached maps
   b. With a computer:
      i. Open Collector Companion to access Monitoring Form Template
      ii. Input additional observation notes into Site Monitoring Report
      iii. Download photos from the device library, name them according to the standard convention (*SiteTractLMdate.photopoint.jpg = "FallStateLM25Nov2016.A1.jpg")* and store then in the designated shared photo directory.
      iv. Review report for accuracy
      v. Send Krista an e-mail saying you have completed this process.
         1) Discuss any potential problems w/ Krista
         2) Update report as per any feedback from Krista
         3) Enter hours and mileage to the LM Tracking Log
   c. Once approved by Krista she will:
      i. Print out monitoring report and archive as a .pdf file.
      ii. Add monitoring report to the site's Easement Documentation Report (EDR) Binder.
      iii. Archive Photos
      iv. Send post-monitoring letters to Landowner
      v. Send copy of monitoring reports as appropriate to other holders of Legal Interests

This is a useful Handout Prepared by Deborah Goard of SELT for 2015 SSP

Baselines:

Creating a record by which monitoring is compared:

The purpose of a baseline report is to document the condition of the Property at the time it is conserved. It documents everything from land cover (forests vs field) to wetlands and stream locations to trails, buildings, farm dumps, pre-existing trespasses from abutters etc. It also gives a basis to compare to for all monitoring going into the future. Think in terms of 20+ years from now. Chances are the people who were present when the easement was acquired will not be the same people around who are going to steward the property in 20 or 100 years from now.

Baseline documentation is required by the IRS for tax-deductible donated easements, however, they should be completed for all conservation easements, and are required in order for accreditation.

What exactly should you be focusing on: The purposes of the easement and its conservation values. For example if the purposes are to protect agricultural soils or scenic views from road frontage along x road you need to document all of these things in the baseline report. This could include maps showing the location of the farmland soil and photos of the road frontage at the time the easement was acquired. Then you need to include the Property's conservation values. Is it located within a large block of unfragmented land good for wildlife habitat or is it a property that has been farmed for hundreds of years providing local foods or perhaps has an important network of trails that the public has used for decades. For these you would describe the wildlife habitat and document it with photos and maps, show maps of current farmland or include the location and condition of the trail network.

Accreditation requires:

- Date of completion
- Information on location
- Property description
- Documentation of conservation values and public benefits
- Documentation of existing conditions that related to the conservation easement's restrictions and reserved rights
- Dated signatures of landowner and organization acknowledging that both attest to the accuracy to the information contained in the report (compliance with Treasury Dept Regulations for donation)
- Statement of the purpose of the baseline document report
- Background information on the project that would help in conservation easement monitoring or enforcement
- The authorship and qualifications and/or experience of the baseline preparer
- Other acknowledgements or information that would make the material admissible as a business record in court
- Baseline or conservation easement map(s)
- Other items recommended in the Treasury Department Regulations
    - 3 maps

Record-keeping:

Record-keeping is important for many reasons including understanding how the project came together such as funding sources and landowner intent, knowing how the property has changed over the years, or any on-going issues or resolution of violations. Records are crucial for the on-going stewardship of the property, especially as staff turns over.

When thinking about record-keeping you need to consider many parts including how you go about storing the information, what form it is stored in and whether it can be converted as new software comes out and old software is no longer supported, how it is backed up and how you get information you are missing, who has access to it and who is responsible for it and what type of information you have.

We have 3 forms of records that we use including our permanent files of original documents, our electronic files which are their off-site backup and our working/field files which can be used on a day to day basis.

Permanent Files

- Original documents such as deeds, baselines, monitoring reports, correspondence (may be copies)
- Should be stored in secure fireproof file cabinet and in an area that will not flood

Electronic Files

- A backup of the permanent files. Should be stored in a different location such as backed up online or external hard drive.
- Need to give thought about changing technology. Currently we save all electronic files as PDFs, but we still need to stay aware about any changes in case these are no longer supported in the future.

Working & Field Files

- These include copies of original documents that you need for stewardship including CE deeds, monitoring reports, surveys, baselines. These copies can be taken out in the field and get dirty.
- Storage can be in many forms. Some do binders, we have a file cabinet with hanging folders for the working files which include a field file which includes the survey, baseline and CE deed in a plastic sleeve that can be taking on the monitoring visit.

Getting rid of things is also necessary. You do need to keep all critical documents, however things such as unrecorded surveys, letter drafts or e-mails setting up a time to meet with the landowner don't need to be saved.

Finally, something to consider is how accessible your data is. In other words can easily can you get information you need about each property. We use Conservation Connections which is a database developed with the Forest Society. This database is populated with information including the project history, all people associated with each property as well as all critical documents, monitoring visits and phone discussions with various parties. Once the information is in there you can easily pull up a specific property and find information you need to steward it. In addition you can also pull out information for all of your easements including how many of them require public access, which ones used the same surveyor or appraiser. It takes time but has huge benefits.

Monitoring Reports:

Monitoring is done to make sure the terms of the conservation easement are being upheld. Monitoring should be done annually on ALL easements either on the ground or aerially is acceptable. Monitoring should be done according to the monitoring policy of the organization. The product should be a written report complete with a map of the route taken and showing the location of anything found. Photos should be included showing any changes.
Monitoring can be done at any time of the year however there are better times to do it. Spring before leaf out and fall after leaf drop is ideal. It provides a better view of the land. Winter or summer is good for wetlands. Winter it may freeze so you can walk on it and summer it may be dry enough to walk on it. If using volunteers they should have an initial training on how to monitor a conservation easement. Refreshers should be offered (getting people to come is not always successful).

Accreditation Requires

- Identification of the specific conservation easement being monitored
- The date of the inspection
- Identification of the monitor
- Observations relative to the restrictions, reserved rights and conservation values recorded during the inspection
- A description of the area that was observed during the inspection
- Information that helps substantiate the monitor's observations
- Observation of the conditions and context of the inspection, such as Weather/ground conditions, routes of travel, means of travel
- Affiliation of the monitor
- Address of the monitor is not organization staff
- A notation of the presence or absence of the landowner or other party.

Violations:

There are 3 types of violations: Third-party, paper and then major vs. minor

Paper violations include, as I mentioned above, failure to notify us that the title is transferred, or perhaps not notifying us before a timber sale occurs (as long as it's done in a manner consistent with the easement).

Third-party and Major – go through examples.

As you go through the violation resolution process remember to document, document document! You should have photos of the violation, write-ups of site visits & conversations with the landowner/third party. You want to make sure you have enough evidence in case you do end up needing to go to court.

When a violation is finally resolved, this should also be documented as well.

Finally, a few years ago (this is the third year) Terrafirma Insurance was established to help land trusts defend their conserved lands from legal challenge. It's available for Land Trust Alliance members, which are all tax exempt land trusts.

Property Transfers:

At some point, the owner of the conservation easement is going to change, either to a completely different party or to a family member. We have had about 3 to 4 properties for sale each year for the last several years. I would say that failure to notify the Land Trust of the transfer to title is probably the most common paper violation we have, even though the deed clearly states when they need to let us know, usually at least 10 days before the transfer occurs.

There are several ways we try to remind people that they need to let us know including

- Asking them at monitoring visit or pre-visit phone call
- Looking at the registry of deeds if we think a change has occurred
- Putting a reminder in our newsletter
- Including it in their annual monitoring letter

When a property is up for sale we make sure to get in contact with the realtor to make sure they understand there is a conservation easement on the land. We also give them a packet which includes a welcome letter to potential buyers, an aerial photo of the land, a map with surrounding conservation lands and the conservation easement deed. We also offer to answer questions that a serious buyer has.

Once the land has transferred owners you should contact the new owners as soon as you can. These days I've had a hard time finding a phone number so usually end up sending them a welcome letter and asking them to contact me which works 99% of the time.

The best thing to do is to have an in-person meeting at their house/land to go over the terms of the conservation easement, give them some history of the land, find out why they bought it, go over any plans they have in terms of management, answer any questions they have and provide them with resources for management. This is really important to do as the general consensus nationally is that successor landowners are far more likely to commit a violation of the easement.