

CONSERVATION EASEMENT STEWARDSHIP: A GUIDE FOR LANDOWNERS



Conservation Land Stewardship Program

State of New Hampshire

April 2024

TABLE OF CONTENTS

Introduction	2
What is stewardship?	2
About the Conservation Land Stewardship Program (CLSP)	3
Municipal Conservation Easements	4
Conservation Easements Are Forever	4
Contact Us.....	4
Map of CLSP Properties in New Hampshire	5
What does Property mean?	6
What is a Conservation Easement (CE)?	7
Anatomy of a Conservation Easement.....	8
Exercising Reserved Rights	10
Public Access	11
Baseline Documentation Report (BDR)	12
Stewardship and Management Planning.....	12
Monitoring Visit	13
Conservation Easement Boundaries	15
Change in Ownership	16
Record Keeping	16
Can a Conservation Easement be Changed or Removed?	17
Violations and Enforcement	17
Leases	18
Conclusion	18
Resources Available to Conservation Easement Landowners.....	19
Management and Planning.....	19
State Agencies.....	20
Glossary	21

Cover image: Cattle in pasture at a conservation property in Stratford, NH

INTRODUCTION

Land conservation has a special place in New Hampshire. The mosaic of properties that have been protected across the state provide many benefits, including clean water, wildlife habitat, economic health, productive working lands, and outdoor recreation.

For individual landowners, your land may hold a number of values—a quiet getaway, a source of timber, a place to hunt, a part of your family's history, as well as a financial asset.

Conservation easements (CEs) are one of the most effective means available to conserve and protect the resources you value for future generations while maintaining private ownership.

We have prepared this handbook to:

- Answer questions you may have about conservation easements,
- Help you understand your rights and responsibilities as the owner of a conserved Property,
- Outline the role of and assistance available from the Conservation Land Stewardship Program (CLSP), and
- Foster a partnership with open communication.

Caring for a conserved Property can be a complicated undertaking. There are a number of necessary obligations and important actions required on the part of both the landowners and CLSP staff to ensure successful easement stewardship. Most important are open communication and an ethical commitment to ongoing protection of the land in accordance with the terms of the easement.

Every Property and conservation easement is unique, so this guide serves only as a general overview.

We hope you find it helpful and we welcome your questions and feedback. Thank you for working with us in our efforts to conserve the New Hampshire landscape.

WHAT IS STEWARDSHIP?

For the landowner: Sustainable use (including conservation) of natural resources, taking into consideration the interests of society today, future generations, and other species, as well as private needs.

For CLSP: The ethical and legal duty to monitor and enforce a conservation easement in perpetuity. When the State agrees to hold an easement, it takes on a "stewardship" responsibility of the Property, in perpetuity.



DNCR Conservation Easement Forester, Alexa Kosalek, with consulting forester and land surveyor, Dennis McKenney

ABOUT THE CONSERVATION LAND STEWARDSHIP PROGRAM (CLSP)

The Land Conservation Investment Program (LCIP) began in 1986, and along with its private partner the Trust for New Hampshire Lands, protected just over 100,000 acres of land across New Hampshire utilizing funds appropriated by the State legislature and Governor. Beginning in 1994 the LCIP transitioned to solely a stewardship and monitoring program.

The authority for the LCIP was transferred from the LCIP Board of Directors to the Council on Resources and Development (CORD) in accordance with [RSA 162-C](#). CORD is given certain powers and duties by virtue of RSA 162-C and as such possesses an authority for certain decision making. CLSP and CORD act together to fulfill the requirements of RSA 162-C.

The name of the program was changed from the LCIP to the Conservation Land Stewardship Program (CLSP) in 2002 to reflect the change in focus from purchasing new land to stewarding conserved land. The name change also reduces confusion with LCHIP, the New Hampshire Land and Community Heritage Investment Program.

CLSP is an independent State Agency administratively attached to the Department of Administrative Services. CLSP works with state-held conservation easements on behalf of three state agencies: Fish and Game Department (NHFG); Department of Natural and Cultural Resources (DNCR); and the Department of Agriculture, Markets and Food. (DAMF) CLSP also monitors non-LCIP properties for NHFG through a contract and Memorandum of Understanding. Additionally, CLSP supports and maintains an interest in the properties protected by the 78 municipalities that participated in the LCIP program. CLSP continues to grow as new conservation easement lands are acquired by, or donated to, the state. CLSP has created this guide as a resource specifically for new state-held conservation easement landowners.

CLSP is responsible for collecting monitoring and field visit information for each LCIP property and providing an annual summary to CORD. CLSP relies on municipalities to submit their reports in order to provide status updates to CORD. The annual report is presented by CORD to the speaker of the house, the president of the senate, the governor, the house clerk, the senate clerk, and the state library. A copy of the report can be found on our website.

COMMUNICATING WITH AGENCIES AND CORD

As your primary contact, CLSP is responsible for the stewardship, annual monitoring, and reporting on the status of LCIP properties. However, anyone has the right to communicate directly with the Grantee agency listed on your monitoring report or with CORD. CORD meets at least 4 times per year (more frequently as scheduled or required). Information regarding CORD can be found at [Office of Planning & Development - NH Economy](#). Whenever possible, it is useful to copy CLSP on any correspondence with CORD or the Grantee agency.

MUNICIPAL CONSERVATION PROPERTIES

While much of our work is monitoring state-held easements, a vital component of CLSP is providing technical assistance, education, and field support to participating municipalities. Municipalities are responsible for stewardship and monitoring of both CEs and fee-owned conservation parcels acquired through LCIP. Towns conduct annual monitoring inspections and send copies of their annual reports to CLSP. Staff at CLSP attempt to contact each municipality at least annually, and conduct field visits every 4-6 years (more often if needed or as requested). CLSP staff also meet with local conservation commissions to provide technical assistance and training, and to support municipalities in fulfilling their commitments. CLSP staff can provide general guidance for communities with questions about easement language and other issues arising during the perpetual life of these conservation properties.

CONSERVATION EASEMENTS ARE FOREVER

Good stewardship, regular monitoring, and open communication makes caring for conserved land more enjoyable and less expensive. Together, they can keep a minor problem from becoming a costly mess requiring litigation and are essential components of effective long-term land management and to protecting the conservation values set forth.

CONTACT US

Conservation Land Stewardship Program

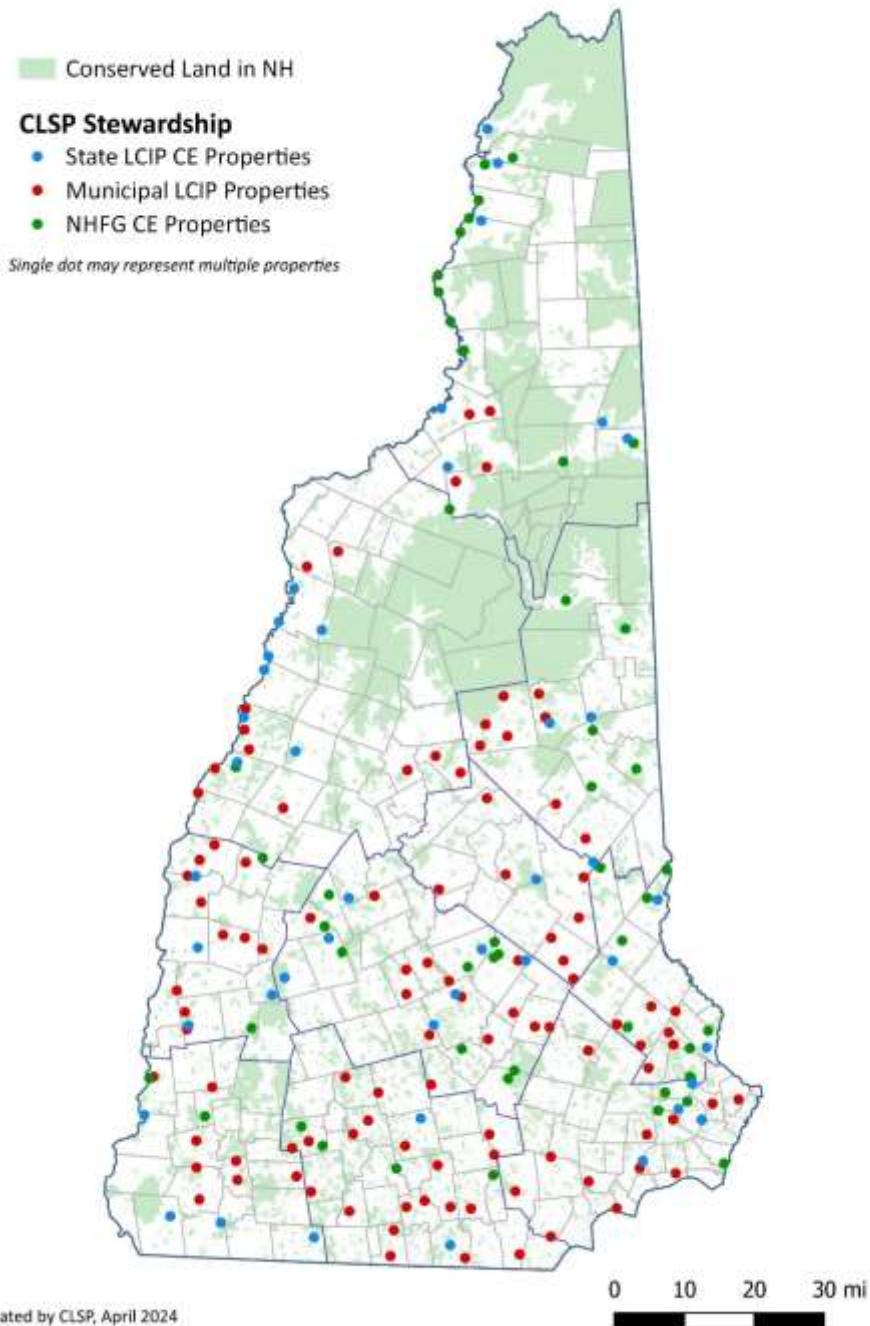
Website: www.clsp.nh.gov

Email: info@clsp.nh.gov



MAP OF CLSP PROPERTIES IN NEW HAMPSHIRE

CLSP conducts stewardship and monitoring work on over 400 state and municipal-held conservation properties scattered throughout New Hampshire. The majority of these properties are owned and managed by private citizens, others are owned by a variety of businesses, organizations, and municipalities.



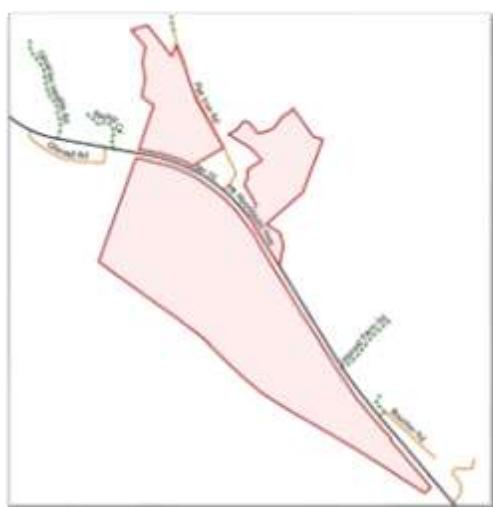
WHAT DOES PROPERTY MEAN?

This guide uses the term Property as shorthand for “real property” – the physical land (the surface and what lies below and above it), structures or improvements fixed to the land (including but not limited to crops, buildings, machinery, wells, dams, ponds, mines, canals, and roads), and all the rights of ownership. See [26 CFR § 1.856-10](#) for a more detailed description of how the IRS defines real property. Historically, “real property” was used to distinguish between immovable property, which would transfer title along with the land, and personal or movable property, to which a person would retain title. Property rights consist of three basic elements: the exclusive right to choose how property will be used, the exclusive right to any benefits derived from property, and the right to exchange property with someone else on terms that are mutually agreeable to the two parties.

Real property must be legally described with verifiable boundaries – often referred to as metes and bounds in a conservation easement. A metes and bounds legal description starts from a point of beginning, then traces the outline of the property's boundary lines until there is closure in the legal description. Natural monuments and artificial monuments can be used as metes and bounds (www.law.cornell.edu/).

When a conservation easement deed refers to a “Property” (with a capital “P”), it is referring to the entire area of land protected under the easement, whether that Property is a single tax parcel or multiple map/tax lots, and regardless of parcel separation by roads, ROWs, non-easement-encumbered properties, or other barriers. A detailed description of the metes and bounds encompassing the entire Property is typically included as an appendix in the deed and should be consulted when necessary.

Conservation easements often include specific language regarding subdivision. A subdivision is the division of a lot, tract, or parcel of land into two or more lots, plats, sites, or other divisions of land, often for the purpose of sale or building development. The subdivision process is regulated by the municipality where your Property is located. Many conservation easements include restrictions on subdivision in order to keep the entire conservation easement Property under singular ownership. **Most conservation easements do NOT allow a subdivision. If you are considering subdividing a conservation easement Property, carefully review the property deed and/or conservation easement to ensure compliance with the terms** and to avoid the potentially costly repercussions of a violation. We strongly suggest you seek legal counsel with someone who understands conservation easements in New Hampshire.



The map to the left shows a Property described as three separate tracts in the conservation easement deed. The tracts are part of three different tax parcels and are divided from each other by roads; however, all three tracts are covered by the same conservation easement deed and together constitute a single “Property.” The Property shown may “be sold, transferred, devised, or conveyed only in its entirety”, or in other words all three tracts of this CE must stay under single ownership forever.

Where a subdivision IS allowed, it is typically explicitly specified as a Reserved Right and the subdivision lines are predetermined and clearly articulated.

WHAT IS A CONSERVATION EASEMENT (CE)?

A conservation easement (CE) is a written legal agreement between the landowner ("Grantor") and the Holder ("Grantee") of the easement. The Grantor owns and manages the land, and the CE provides the Holder the affirmative right to periodically assess the condition of the Property to ensure it is maintained according to the terms of the legal agreement. Property with a CE can be bought, sold, and inherited. Every CE is unique, reflecting the special qualities of the land and the interests of the original Grantor, and ensures the land is permanently protected through all subsequent changes in Property ownership. The CE is tied in perpetuity to the land and binds all future owners to its terms and restrictions.

Many rights come with owning property, including the rights to manage resources, subdivide, develop, or change how the Property is used. These rights are often referred to as a 'bundle of rights' (see sidebar on right). A CE permanently limits or excludes one or more of the rights in the bundle in order to protect the Property's important natural or cultural resources or conservation values.

Where state funds were a part of acquiring interest in a Property, such as purchasing a conservation easement, the state also has some rights. One of these affirmative rights is to allow transitory non-commercial pedestrian public access (See Part VI on page 9 for more information.)



New Hampshire
Department of Agriculture,
Markets & Food

WHAT IS A 'BUNDLE OF RIGHTS'?

A bundle of rights is a set of legal rights attached to the ownership of a Property. When a person purchases a Property, they buy all the rights previously held by the seller, except those which are reserved or limited in the sale, for example by a conservation easement. The 'bundle of rights' can be pictured as a bundle of sticks that can be separated out and given to different parties.

The bundle of rights varies by state; on land **without** a conservation easement, landowner rights usually include the right to:

- Transfer ownership to another qualified party at will (e.g., sell, lease).
- Manage the use of the Property in any means deemed legal within the jurisdiction in which the Property exists (e.g., build and improve, excavate, conduct commercial activities).
- Limit who may or may not enter the Property (e.g., rights of way, motorized vehicles, the public).
- Participate in any activities the owner enjoys while on the Property (within the confines of the law).

The Holder of a CE is responsible for enforcing the restrictions on the use of certain rights the owners have set aside.

ANATOMY OF A CONSERVATION EASEMENT

Every Conservation Easement (CE) deed is unique. **Always** consult the full CE deed for specific easement terms. The following is a general summary of a typical easement; it **does not** list all provisions of a CE. The language used in a CE reflects the era when the CE was written; the more recently a CE was established, typically the more detailed the agreement.

- I. **Opening:** Identifies Grantor (landowner(s)) and Holder (easement Holder often referred to as “Grantee” in older CEs)
- II. **Purposes:** States the major conservation goals and objectives of the easement, as well as the conservation values protected by the CE. If state or local funding was used to purchase the CE or the Property, this section will explain how the goals and objectives of the CE are linked to federal, state or local government objectives for land conservation. This is a defining part of the CE.
- III. **Use Limitations:** Outlines activities and land uses that are restricted in order to protect the conservation values of a Property and meet the conservation purposes of the CE. Some use limitations examples include:
 - a. Maintain Property as open space. No industrial or commercial activities except agriculture and forestry.
 - b. No dwellings.
 - c. No dumping of environmentally hazardous materials.
 - d. No removal, filling, or other disturbances of soil surface, nor any changes in topography, surface or subsurface water systems, wetlands, or natural habitat.
 - e. No mining, quarrying, or excavation of rocks, minerals, gravel, sand, topsoil, or other similar materials on the Property.
 - f. No subdivision (most commonly), OR in a few cases a clearly defined specific allowance.
- IV. **Forestry and Stewardship Planning:** Guides how the Property will be managed, taking into consideration the purposes, use limitations, and reserved rights. Some examples include:
 - a. Forestry and wildlife habitat management activities shall be conducted in accordance with a stewardship plan, prepared by a licensed professional forester, a certified wildlife biologist, or other qualified person.
 - b. Plans must have been prepared or updated within 10 years of any forestry or wildlife habitat management activity.
 - c. Grantor and Holder must meet certain submission and review deadlines.

Plan outlines Grantor/landowner goals and objectives and addresses long-term protection of conservation purposes and values of the CE.

- V. **Reserved Rights of Grantor/Landowner:** All conservation easements allow some rights to be retained by the landowner. Some examples may include:
- Utilities. Right to maintain, repair, and replace existing utilities.
 - Ponds. Right to create ponds for allowed conservation purposes.
 - Posting. Right to post against vehicles, against hunting on active livestock fields, or against access to forestland during harvesting.
- (See "Exercising Reserved Rights" on page 10 and "Public Access" on page 11 for more information.)
- VI. **Affirmative Rights/Obligations of Holder:** The Holder bears responsibility for enforcing the terms of the CE on the protected Property. Some examples of rights and obligations granted to the Holder include:
- Access to the Property for easement monitoring. The Holder will regularly inspect the Property for compliance with the CE with reasonable notice, in a reasonable manner, and at reasonable times.
 - Dealing with violations of the CE. If the Holder determines the CE has been violated or will be violated, the Holder will notify the landowner and give the landowner a defined period of time to stop/cure the violation.
 - Public pedestrian access for non-commercial hunting, fishing, and transitory passive recreational purposes, but no camping or fires.
 - Right to post signs identifying the Property as State of New Hampshire easement land.
- VII. **Additional Sections:** There are additional sections in almost every CE that are of a more administrative nature and usually include but are not limited to:
- Notification of Transfer - Grantor agrees to notify the Grantee in writing before the transfer of title to any part of the Property.
 - Benefits and Burdens - The benefits and burdens of owning CE run with the Property and shall be enforceable against all future owners and tenants in perpetuity.
 - Breach of Easement - When a breach of the CE comes to the attention of the Holder, the Holder will notify the Grantor and the Grantor will have an opportunity to correct the issue.

CE DEFINITIONS DO NOT CHANGE WITH THE TIMES

The terms of a conservation easement are defined at the time the CE is executed. For example, most LCIP CEs, especially earlier CEs, define "Agriculture" very narrowly. Usually it is described as "ancillary" farm-related activities such as PYO fruit, hayrides, etc. That original definition stays with the CE and does not change over time or change with the addition of new legislation such as that of "Agritourism." Agriculture and Agritourism are both defined in RSA 21:34-a. As of 2016, Agritourism is considered a form of marketing.

You cannot substitute a currently accepted definition for the definition that existed when the CE was written.

To avoid difficult and costly situations, it is incumbent upon the landowner to communicate new or upcoming activities and events that occur between monitoring visits. If you engage in an activity or event that is not allowed by the CE, you the landowner are responsible for any corrective measures that may be required, including the legal fees of the State. "It's better to beg forgiveness than to ask permission" **does not** apply to conservation easements. **If you have any questions, please contact CLSP. We are here to help.**

EXERCISING RESERVED RIGHTS

A typical CE has a few standard reserved rights. Exercising these reserved rights often requires landowners to notify the CE Holder. CLSP is commonly the conduit for initial contact and can coordinate communications with our partner agencies. Final decisions about reserved rights or otherwise interpreting the CE lie with the holding agency. In these instances, CLSP serves as a liaison and a source of information for the landowner and the agency.

If you are unsure whether notification is necessary, it is always better to check in with CLSP before beginning your project. Each CE holding agency has its own process for reviewing and approving reserved rights, so checking in ahead of time with CLSP can save you time, effort, and expense.

Every conservation easement is unique. Prior notification gives the CE Holder the opportunity to ensure your planned activity or use is carried out in a way consistent with the terms of your CE. If the described activity is not in compliance, the CE Holder will work with you to refine the plan and protect your Property's conservation values within the context of the CE.

As a first point of communication, CLSP recommends landowners provide prior notification to CLSP staff. This may be as simple as a phone call or e-mail. If the item appears to warrant more consideration, CLSP may contact you for additional information, especially when exercising an activity outside of commonly allowed practices such as normal forestry or agricultural activities. CLSP then shares the information with appropriate agency partners. With newer CEs there may be very specific requirements that only the grantee agency, not CLSP, is authorized to act on. Some activities or events might require review by the Charitable Trusts Division of the Department of Justice.

Providing prior notification helps the landowner and CE Holder more fully understand the scope, scale, and impacts of the activity and ensures the landowner will receive an appropriate written response.

EXAMPLES OF RESERVED RIGHTS

- The right to maintain, repair or replace utilities on the Property that serve the Property.
- The right to create ponds for the purpose of agriculture, fire protection, or wildlife habitat.
- The right to post against vehicles, motorized or otherwise.



Many conservation easements provide protection to wetlands and may restrict activities that can harm these important natural resources.

PUBLIC ACCESS

CEs purchased with public funds almost universally allow for some level of public access. This access right is typically limited to transitory, pedestrian activities and may not extend to bicycles, motorized vehicles, horses, pets, etc. Unless specifically articulated in the CE, there is no right conveyed to members of the public to create or maintain trails, disturb vegetation, boundaries including stone walls, or other features. In some CEs there is specific right granted for a defined trail corridor for pedestrians and / or snowmobiles, and on occasion construction of a limited parking area or mowing.

Reserved rights of landowners usually include the right to temporarily close public access for certain activities, for example closing a trail for safety during a timber harvest; however, broadly posting against all access is normally not allowed. If you experience conflict with members of the public concerning access, please contact CLSP.

In NH, the Landowner Liability Law ([NH Rev Stat § 508:14](#)) and Duty of Care Law ([NH Rev Stat § 212:34](#)) protect landowners, **in most cases**, from liability when someone gets hurt on their property.

Landowners are protected whether or not they give permission to use the land, and whether or not land is signed as "No Trespassing". **However**, a landowner is not protected if they charge a fee to enter the property, maliciously fail to warn about a dangerous condition, or intentionally hurt a recreational user.

Some changes to RSA 207 (General Provisions as to Fish and Game) that may impact landowners took effect on January 1, 2024. Section 207:36-a was updated regarding permanent and portable tree stands and hunting blinds. All tree stands or observation blinds must now be clearly labeled with the owner's name and contact information. A new section was added covering Game Cameras (207:63). It includes the requirement that cameras placed on private or state owned or managed property must be clearly labeled with the camera owner's contact information. For the full text of these statutes, go to <https://gencourt.state.nh.us/rsa/html/NHTOC/NHTOC-XVIII-207.htm>



Meetinghouse Pond in Marlborough features a boat ramp. Providing access to public waters was an important aspect of the LCIP.

BASELINE DOCUMENTATION REPORT (BDR)

A baseline documentation report (BDR) is created for every CE, as mandated by law. A BDR may be a simple or extensive report. Newer BDRs are more comprehensive. The BDR records the general condition of the Property protected or affected by the terms of the CE at the time of the easement's creation. This record is used to verify changing conditions over time. A BDR typically consists of text, maps, and photos and is typically reviewed and signed by the originating landowner, easement Holder, and any other party with an interest in the CE. CLSP staff may reference the BDR during the monitoring process to identify changes to the Property (natural or manmade). As a landowner exercises reserved rights, changes occur on the land, and monitoring visits are conducted, CLSP will add descriptions and photos to the Property's file to create a continual record of the protected Property over time. Each Monitoring Visit Report also becomes an important datapoint.

STEWARDSHIP AND MANAGEMENT PLANNING

Every Property is unique and landowner interests differ widely, but we urge you to consider your land like you would any other important asset. Your first responsibility is to the CE and doing no harm; beyond that you have a number of choices for how you manage your Property. Older CEs may not include robust management plan requirements, while newer CEs can be highly detailed. Almost all easements call for an approved stewardship plan to be in place when management is actively pursued. These long-term plans can range from "leave it alone" to a very hands-on approach; at the very least, they contain a reference to the CE, the landowner's goals and objectives for the Property, an inventory of the Property, and a timeline of recommendations for reaching the stated goals. Plans are typically valid for a limited period, often 10-15 years, and should be updated at the end of that time. Newer CEs usually outline very specific conditions and requisite approvals for stewardship plans.

If you are new to land management, we recommend beginning by contacting the University of New Hampshire Cooperative Extension (UNHCE). UNHCE has an office in every county in the state, staffed with knowledgeable people with local expertise. (See page 19 for more information.) UNHCE has also developed a form to help landowners identify their goals and objectives for their property:

<https://extension.unh.edu/natural-resources/forests-trees/woodlot-management/landowner-goals-objectives>



Large tracts of mixed hardwoods provide habitat to many neotropical migratory songbirds, such as the scarlet tanager.

Another excellent resource is *Good Forestry in the Granite State: Recommended Voluntary Forest Management Practices for New Hampshire* (link provided below in Resources). This guide provides practical recommendations for promoting good conservation practices. The more extensive your management goals are, the more we advocate for bringing in a forester or natural resource consultant to work with you on your plan. The benefits of having a stewardship plan for your Property are many and can include protecting water quality, improving or expanding production of forest products, enhancing wildlife habitat, and ensuring fiscally prudent actions. The process of creating a plan will help you define your desires and objectives for your Property and become better acquainted with your land.

The *NH Wildlife Action Plan* (link provided below in **Resources**) is another great source of information useful in the development of a plan. Having a stewardship plan in place may also make you eligible for some government cost-share programs and grants.

MONITORING VISIT

As the Holder of a CE, the State of New Hampshire is legally bound to ensure a Property's conservation values are protected forever. To meet this obligation, CLSP staff will typically monitor your Property once per calendar year and produce a monitoring visit report documenting the condition as reported or seen, along with any other possible issues and supplemental materials. The landowner typically receives a copy of this report. We may revisit a Property multiple times within a year if conditions warrant, for example, a major management activity or change is planned or underway, or the landowner requests a visit to review a project plan.

Monitoring provides an ongoing record of the Property's condition and use over time, establishes a record of stewardship, detects violations early and helps maintain a good relationship between CLSP staff and landowners. A monitoring visit is an information gathering event in which CLSP staff observe portions of the Property's interior and boundaries and document any changes. During most visits we collect GPS information. CLSP also collects photo and/or video images during every visit, and satellite or aerial imagery are often added back in the office. CLSP staff does not make determinations or interpret an easement in the field.

CLSP staff notifies easement landowners prior to a monitoring visit and landowners are invited, but not required, to meet with and /or to accompany staff during the visit. If we cannot connect with you, CLSP staff must still visit your Property to fulfill our responsibility to monitor on behalf of the CE Holder.

Pre-visit communication and/or an on-site meeting are opportunities for the landowner to communicate to CLSP any events or activities that have occurred since the last visit, and any that are

COMMUNICATION

The monitoring visit typically lasts 1-4 hours a year and CLSP staff never see the whole of the property. **You as landowner are responsible for communicating to CLSP throughout the rest of the year new activities and/or events that you have conducted, or plan to conduct, that were not covered in the regular visit.**

This enables CLSP and the CE Holder to evaluate and confirm whether a given activity or event complies with the purposes and terms of the CE. This kind of communication helps avoid difficult and often costly situations.

being contemplated in the future. This is your opportunity to gather information from CLSP before putting the proverbial shovel in the ground.

To ensure timely communication, please notify CLSP staff of any changes to your contact information as well as your preferred contact method. If you would like us to use an alternate contact, such as a forester, we ask you to send us a written notice. Successful easement stewardship is an ongoing commitment which depends on open communication between you and CLSP.

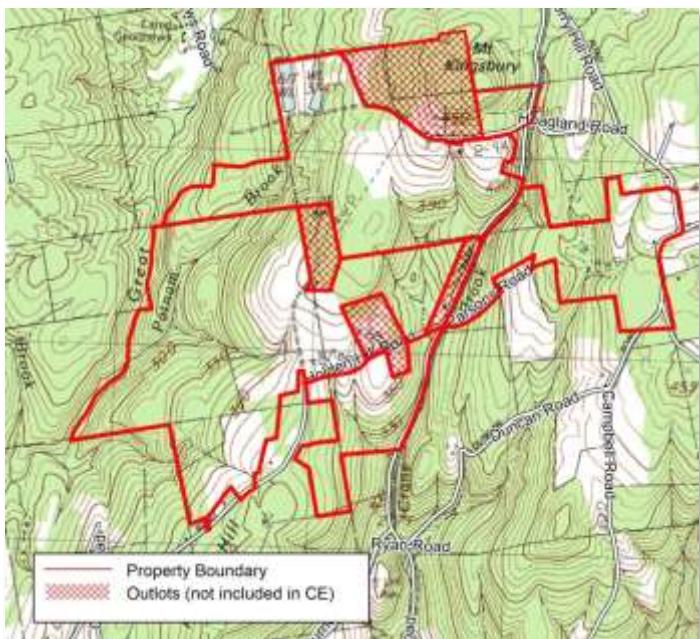
Good communications between landowners and CLSP are the most important aspect of our program. You, the landowner, and the State of New Hampshire are partners. You are our best information resource and we strive to be yours. We work closely with the CE Holder agencies to administer the stewardship and monitoring responsibilities. All reports are provided to the CE Holder. If any questions or issues arise out of the monitoring visit, we make special note of this to the CE Holder and CLSP provides follow through support. Please read your annual monitoring report carefully and contact us immediately with any questions, concerns, or corrections you might have.



Boneset (*Eupatorium perfoliatum*) providing sustenance for a variety of beneficial insects on Moose Mountain in Brookfield, NH

CONSERVATION EASEMENT BOUNDARIES

While some conservation easements (CEs) cover all land owned by the Grantor, other CEs protect only a portion. Every CE document includes a legal description of the protected area, the “Property,” and has a boundary survey recorded at the time the easement is established. A professionally surveyed Property will have its corners marked with permanent survey monuments (e.g., iron pins, drill holes, stone posts). Other information such as surveys of abutting properties, municipal parcel maps, and GIS data can be used to identify boundaries for monitoring and enforcement purposes.



“Outlots” are not covered by the conservation easement, and therefore are not subject to the terms of the CE deed.

other markers identifying easement boundaries readily allow current and subsequent landowners—and neighbors—to know where the easement borders are and help protect your Property from trespass and third party encroachments. CLSP has several varieties of tags and signs available for landowners. We recommend hanging tags with aluminum nails for safety reasons. If you hang a tag on a living tree, drive the nail in only enough so it cannot be easily pulled out, allowing the tree to grow many years without popping the tag off.

CLSP staff may place a limited number of tags on CE boundaries to highlight points of access, Property corners, or places where boundary problems might develop. Only licensed land surveyors can set or alter permanent boundary markers such as iron pins or monuments. A forester can assist a landowner with boundary maintenance, such as repainting blazes if maintenance is identified as a landowner goal in a stewardship plan.

The conservation easement defines the protected “Property” with a capital “P.” This is important when figuring out what land is subject to the CE’s terms and conditions. The CE’s appendix typically includes the metes and bounds of the Property. These bounds should align with a registered survey.

Separate tracts, map and lot numbers, or tax bills may not constitute or define a preexisting subdivision for a CE.

1. Knowing the location of your CE boundaries is essential for protecting your Property's conservation values, conducting monitoring visits, and informing your neighbors and others that your Property is covered by a conservation easement. Placing boundary tags along your easement boundaries is recommended as a good proactive management tool.

Tags and



Selection of property tags available from CLSP.

CHANGE IN OWNERSHIP

Every CE Property will change ownership, or in the case of organizations the managers, through the years. To ensure perpetual protection of your land, we advise you to convey to your realtor and prospective new landowners that a CE exists on the Property. Reference to the conservation easement must be contained within the transferring document to ensure a proper chain of title. Failure to do so requires correcting the legal documents.

It is important that your realtor and the prospective new owner of your Property understand the significance of the easement:

- Why it exists,
- How it works,
- Specific restrictions and allowances, and
- The CLSP's monitoring protocol.

If CLSP has been notified of the sale, staff will contact the new landowners, introduce the agency, explain our stewardship program, and attempt to answer any questions the new owners may have. Establishing contact quickly with new landowners helps minimize potential problems, ensuring continued protection of the Property's natural resources.

RECORD KEEPING

We strongly recommend keeping track of all documentation related to your Property and its stewardship. This information can be especially important to future landowners, which is sometimes other family members. Keep a copy of all monitoring reports and let us know if you are planning to transfer legal ownership within your own family, to a real estate trust, or a limited liability corporation.



CLSP needs to maintain records of the correct legal ownership of all the CE properties we track.

Sustainable forest management will maintain NH woodlands and associated wildlife far into the future. A well-laid skid road in Stonehouse Forest, Barrington, NH

CAN A CONSERVATION EASEMENT BE CHANGED OR REMOVED?

No, in general. All CLSP CEs are in perpetuity and run with the land. The bar for changing a conservation easement has been set extremely high, and rigorous standards are in place to prevent conservation values being eroded. Typically, amendments are only granted for public safety or public benefit purposes, e.g., straightening a dangerous curve in a road or replacing a failed culvert on a public highway.

Amendments to conservation easements are generally not even considered unless the prospect of amendments is specifically contained in the CE deed **or** the purpose is to strengthen the CE. Examples that would be favorably considered include adding acreage to a Property or eliminating a reserved right. Any amendment consideration needs agreement from the CE Holder and is subject to full legal review.

For a Property protected through the Land Conservation Investment Program, any amendment would require the consideration of CORD, chaired by the Director of NH Business and Economic Affairs. For non-LCIP properties the Grantee agency would have this responsibility. Proposed amendments and terminations may also be subject to review by the NH Department of Justice (DOJ). Under state law, many if not most conservation easements constitute charitable trusts. The Charitable Trusts Unit of the DOJ developed a guiding document, available on their website, for landowners called *Amending or Terminating Conservation Easements: Conforming to State Charitable Trust Requirements* ([link provided in Resources section](#)). Some circumstances might also require consideration of Internal Revenue Service laws and rules.

VIOLATIONS AND ENFORCEMENT

The best way to avoid most violations is through open and timely communication with accurate information. One of our primary goals is to maintain a positive working relationship with landowners and solve problems efficiently and effectively. Due to the individual and unique characteristics of each easement, violations can range from minor, inadvertent infractions like improperly posting bounds, to major issues that violate the specific language of the easement and significantly degrade the protected conservation values. A permitted activity can become a violation if executed improperly. If conservation values have been compromised, it is likely that consideration may be needed for remediation.

"Third party" violations are violations by anyone other than the Grantor and Holder. Third party violations most often come in the form of boundary encroachments. CLSP staff will work with landowners to resolve third party issues, but if you discover a violation on your CE property consider notifying appropriate town authorities as the event may have criminal implications. There may be other law enforcement resources available to you as well. For example, State Forest Rangers (through the Division of Forests and Lands) would be able to assist in the event of a timber trespass and a Fish and Game Conservation Officer may be able to help if there has been documented unauthorized ATV use. In any event, if you find a third party violation, document it as thoroughly as possible and notify our office immediately. **Without documentation it can be difficult or impossible to provide a meaningful response.** For properties monitored by CLSP, decisions regarding violations and enforcement actions are made by those agencies in consultation with CLSP and CORD, as appropriate.

Well-marked and maintained boundaries are the best deterrent to third party encroachments.

Read your CE carefully to determine which activities are allowed or prohibited on your Property, and do not hesitate to contact CLSP if you need help answering questions about the easement. We take all violations very seriously and in most instances will ask for voluntary restoration or reparation. If a resolution is not possible, we refer matters to the DOJ for further action; however, it is our goal to communicate and cooperate with easement landowners and resolve violations without legal action.

LEASES

On occasion a Landowner may have an interest in leasing their land to another party. This is most often seen with farming and agricultural activities. We **strongly advise** you to seek legal counsel when creating any lease or entering into any legally binding agreement. Any lease should reference the conservation easement, so the lessee is aware of its existence. It is **important to understand** that if any problems occur that place the conservation easement out of compliance with the purposes, terms, and conditions, it is the Landowner who is held responsible for correcting any issues and bringing the conservation easement back into compliance.

CONCLUSION

We welcome you to the conservation community in New Hampshire and look forward to working together with you. Please keep in mind that your actions today may be of critical importance decades from now. We hope the information in this brochure is helpful to you. If you have any questions, please contact us.

Conservation Land Stewardship Program

Website: www.clsp.nh.gov

Email: info@clsp.nh.gov



Agriculture embodies many things, from dairy cattle, apple orchards, and 20-acre corn fields, to 1-acre vegetable and flower gardens.

RESOURCES AVAILABLE TO CONSERVATION EASEMENT LANDOWNERS

UNIVERSITY OF NEW HAMPSHIRE COOPERATIVE EXTENSION (UNHCE) [EXTENSION.UNH.EDU](https://extension.unh.edu)

UNHCE has an office in every county, staffed with knowledgeable people with local expertise. Foresters, agricultural specialists, wildlife biologists and others are on hand to answer your questions about how to steward, conserve and protect your land. Find contact information for your local office on the UNHCE website. UNHCE county foresters will visit your property and help you achieve your objectives including sustainable forestry, recreation, enhancing wildlife habitat and water resources, maximizing income during a harvest, and planning for the future. They also have information about a variety of stewardship funding opportunities including one that may provide financial assistance with developing a stewardship plan.

GRANIT [WWW.GRANIT.UNH.EDU](http://www.granit.unh.edu)

GRANIT is New Hampshire's statewide Geographic Information System (GIS) clearinghouse. Use GRANITView (an online mapping tool) to enhance your stewardship management planning. The data is presented as layers you can add to a map, allowing you to see what natural and human-made resources border and intersect with your Property. Data layers include recreational trails, public lands, wetlands, and soil types. You can also download your property boundaries for use in various apps.

NH DEPARTMENT OF JUSTICE

- Charitable Trusts: www.doj.nh.gov/charitable-trusts/conservation-easements.htm
- Amending or Terminating Conservation Easements: Conforming to State Charitable Trust Requirements, by Doscher P, Knowles T, McLaughlin N. 2010. Center for Land Conservation Assistance.
<https://www.doj.nh.gov/charitable-trusts/documents/conservation-easements-guidelines.pdf>

MANAGEMENT AND PLANNING

GOOD FORESTRY IN THE GRANITE STATE [HTTPS://EXTENSION.UNH.EDU/GOODFORESTRY/INDEX.HTM](https://extension.unh.edu/goodforestry/index.htm)

This guide provides background and practical tips to help woodlot owners take care of their land. Topics include forest health, stream crossings, invasive plants, steep slopes, wildlife of greatest conservation need, forest products, maple sugaring, silviculture (the art and science of growing trees), wildlife habitat, riparian forests (forests along rivers and streams), and much more.

NH WILDLIFE ACTION PLAN

[HTTPS://WWW.WILDLIFE.NH.GOV/WILDLIFE-AND-HABITAT/NH-WILDLIFE-ACTION-PLAN](https://www.wildlife.nh.gov/wildlife-and-habitat/nh-wildlife-action-plan)

The NH WAP is a blueprint for conserving Species of Greatest Conservation Need (SGCN) and their habitats in New Hampshire. The 2015 version of the WAP is currently available (the 2025 revision is underway – WAPs are updated every ten years). The NH WAP identifies 169 SGCN, representing a broad array of wildlife, and focuses on 27 habitats that support these species. Individual profiles include information about population, threats, and actions needed to conserve these features in New Hampshire. Actions include on-the-ground habitat work, land conservation, habitat management, building partnerships, and providing public education.

STATE AGENCIES

The state government departments listed below hold conservation easements on land in NH and their websites are very informative about best practices related to conservation, wildlife, and land management.

NH FISH AND GAME (NHFG) WWW.WILDLIFE.NH.GOV

(603) 271-3421 Guardian of New Hampshire's fish, wildlife, and marine resources.

NH DIVISION OF FOREST AND LANDS WWW.NH.GOV/NHDFL/

(603) 271-2214 DFL is a division within the Department of Natural and Cultural Resources. The Director of the Division of Forest and Lands is responsible for the enforcement of timber harvesting laws under RSA 227:G:3.

NH DEPARTMENT OF AGRICULTURE, MARKETS, AND FOOD WWW.AGRICULTURE.NH.GOV/

(603) 271-3551 Their mission is to support and promote agriculture and serve consumers and business for the benefit of the public health, environment and economy.

GLOSSARY

ACCESS POINT(s)

Roads, drives, trailheads or other items providing access to and/or located within the Property.

AFFIRMATIVE RIGHTS OR OBLIGATIONS

Uses and rights granted to the easement holder to be conducted on a protected property, such as the right of physical access for monitoring. Also refers to provisions that require the landowner to maintain resources protected by the easement (i.e., wetlands, water rights), or if owner fails to maintain, requires easement holder to maintain.

AMENDMENT

A modification or supplement to a Conservation Easement signed by Owners and Holder and recorded in the Public Records.

BASELINE DOCUMENTATION REPORT

A record of the condition and conservation values of the property at the time a conservation easement is established. The report is used to monitor and enforce the easement and is signed by landowner and holder at time of donation.

CONSERVATION EASEMENT

A legal agreement between a landowner and a private land trust or governmental entity that limits certain uses on all or a portion of a property while keeping the property in the landowner's ownership. Each agreement is unique, tailored to the specific property and the goals of the landowner and the organization holding the easement. A conservation easement runs with the land, meaning it applies to present and future owners of the land. Placing a conservation easement on your property allows you to retain your right to sell the property or someday leave it to your children or heirs, while knowing that your property's unique conservation values will be protected in perpetuity.

CONSERVATION EASEMENT STEWARDSHIP

The easement holder's management of the easement after the easement is acquired, including monitoring, landowner relations, recordkeeping, enforcement, and processing landowner notification and approvals.

CONSERVATION VALUES

Biological, ecological, social or cultural values fulfilled by the type and amount of natural resources, habitat, biodiversity, open space, historic, agriculture or recreational resources present in a Property. For example, land may have a high conservation value if it contains habitat for endangered species or if it has open space in a highly developed area.

EASEMENT HOLDER

A qualified organization such as a nonprofit land trust or a governmental agency whose responsibility is to monitor and enforce the terms of the conservation easement.

GRANTEE (SEE EASEMENT HOLDER)

GRANTOR

The party who transfers title in real property to another by grant deed or quit claim deed; the landowner granting a conservation easement.

IMPROVEMENT

Any buildings, structures, facilities and other improvements within the Property, whether temporary or permanent, located on, above or under the Property.

- Agricultural examples: barn, stable, silo, spring house, green house, hoop house, riding arena, and storage buildings.
- Residential examples: garage, swimming pool, and children's play facilities.
- Site examples: trails, retention basins, wells, septic systems, bridges parking areas, fences, walls, gates, and man-made ponds.
- Utility examples: structures for the reception, storage or transmission of potable water, stormwater, sewage, electricity, gas and telecommunications or other sources of power.

MONITORING

The process by which an easement holder regularly conducts property inspections to ensure that the conditions of the easement are being upheld.

PROHIBITED USES

Future uses and activities that are prohibited on a property protected by a conservation easement in order to maintain the conservation values of the property.

“PROPERTY”

The land being conveyed from Grantor to Holder; the description in the CE locates and identifies all of the boundaries of the specific piece(s) of land covered by the CE. The legal description of property completely identifying the property using strict monuments that will not change over time.

PURPOSES

The reasons for conserving a Property. Conservation purposes can include retaining or protecting natural, scenic, or open-space values of real property, assuring its availability for agricultural, forest, recreational, or open-space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving the historical, architectural, archaeological, or cultural aspects of real property. A Property must contain unusual, unique or outstanding qualities the protection of which in their predominately natural or open condition will benefit the public. These qualities can be cultural, scientific, aesthetic, economic and recreational.

RESERVED OR PERMITTED RIGHTS

Uses and activities on an easement protected property retained by the grantor.

STEWARDSHIP, FOREST, OR RESOURCE MANAGEMENT PLAN

A record of the decisions and intentions of the landowner(s) prepared by a qualified resource management professional for the purpose of protecting natural resources during certain operations (e.g., timber harvest) potentially affecting natural resources protected under the easement. The plan includes a resource assessment, identifies appropriate performance standards and projects a multi-year description of planned activities for identified operations to be conducted in accordance with the plan.

SUBDIVISION

Any division of the Property for separate use or ownership by any means.