



Extension

UNH COOPERATIVE EXTENSION STEWARDSHIP TRAINING GUIDES

How to Monitor Conservation Easements

Volunteer Handbook

Nature
groupie

How to Monitor Conservation Easements

A step-by-step guide to monitoring conservation easements

Written by Emma Tutein, Haley Andreozzi, and Malin Clyde, UNH Cooperative Extension. December 2015. Revised June 2018.

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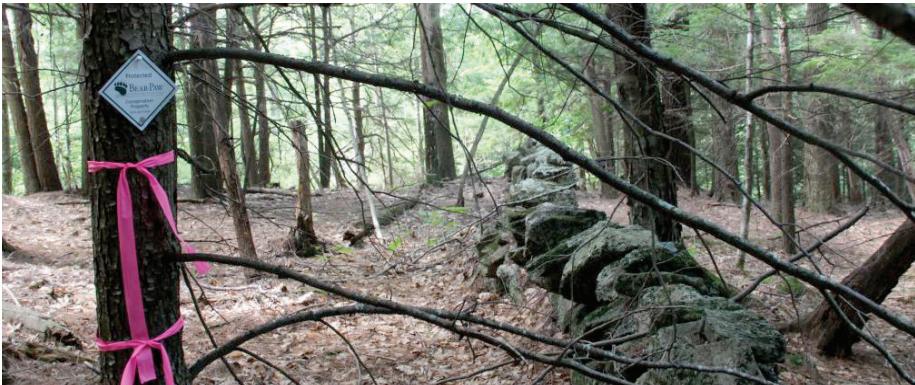
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How to Monitor Conservation Easements

The purpose of this guide is to help you, as a volunteer, to better monitor conservation easements.



Whether you volunteer for an established land trust, serve as a board member on an all-volunteer land trust, or serve as a conservation commissioner in your town, you can play a critical role in stewarding land protected through conservation in your community. Learning how to properly monitor conservation easements is critical to maintaining the legal standing of conservation easements in perpetuity.

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*When we
see land as a
community to
which we belong,
we may begin to
use it with love
and respect.*

~Aldo Leopold



Conservation Easement Basics

Why do we monitor conservation easements?

When a town, land trust, or other conservation organization becomes the holder of a conservation easement, they are committing to monitoring the eased land forever. This may seem like a daunting task, but annual monitoring of conservation easements provides many benefits to the easement holder.

First and foremost, it satisfies the easement holder's legal obligation to steward the easement. It also provides a regular record of activity and changes on a property over time, which may provide important information in the future. An annual visit can also help maintain a positive relationship with the landowner, and provides an opportunity for questions and continued communication between the easement holder and landowner.

Perhaps most importantly, annual monitoring is the most effective way to prevent easement violations. Legal enforcement of easements can be costly and time consuming. Preventing violations or catching them early can be critical to maintaining the integrity of the land and the easement itself.

Is monitoring easements right for you?

It is important to consider whether monitoring conservation easements is the right volunteer job for you. Monitoring easements can be a fun way to explore nature while contributing to the important work of stewarding conservation lands.

However, it also requires the physical ability to walk long distances over varied terrain, as well as a level of comfort with navigating off-trail in the woods. See the companion handbook, *Outdoor Skills for Conservation Volunteers*.

Because conservation easements are legal documents, it's also important that you are willing to be sensitive to the landowner, conduct yourself in a professional manner, and follow the best practices outlined in this guide.

For more details on the skills and duties required of a conservation easement monitor, refer to the Volunteer Job Description included in this guide on page 13.

NOTES

Conservation Easement Monitoring Materials

If you are volunteering for a land trust or other established conservation organization, you are likely reporting to a volunteer supervisor/coordinator who can provide you with all the documentation needed to monitor a conservation easement.

If you are monitoring easements for a town as a conservation commissioner or volunteer, finding these documents may be trickier and some of them may not exist.

If you need help identifying or locating key documents or if you need help developing them for a new project, we strongly recommend connecting with your local land trust for assistance and resources.

How to Read a Conservation Easement Deed

Because conservation easement deeds are complex legal documents, you may find them difficult to understand at first. However, it is important for you to understand the information laid out in the easement deed because it describes the constraints specific to the easement you are monitoring. The following information is intended to help you understand what you are reading and what to look for.

For all conservation easements, there are five main parts:

1. Preamble describing the conservation purposes

The preamble states the major goals, conservation purposes, and conservation values to be protected by the conservation easement.

The statement of conservation purposes typically relates to the IRS criteria for qualified charitable deductions as well as to the purposes of the land trust, and it should identify the specific ways in which the easement satisfies these criteria.

The conservation values are the specific values a property possesses that are being protected through the easement.

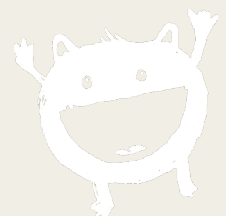
The preamble may also include any relevant statements that are linked to state and local government objectives associated with land conservation. These are particularly important if state or local grant funding was used for the purchase of a conservation easement or property.

2. Use limitations

Use limitations restrict certain uses of the property protected by the conservation easement. These restrictions are designed to protect a property's conservation values in order to meet the conservation purposes of the easement.

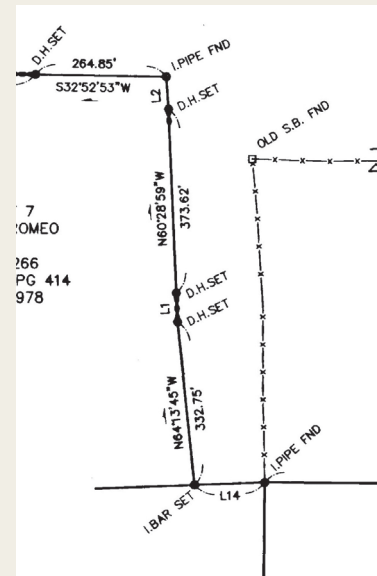
CHECKLIST: Key Documents

- ☐ **Conservation easement deed**
- ☐ **Survey map of property**
- ☐ **Current landowner name and contact information**
- ☐ **Aerial imagery of property if available**
- ☐ **Baseline documentation**
- ☐ **Conservation easement monitoring form**
(sample form included in this guide)



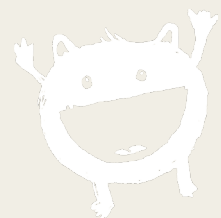


How to Read a Survey Map



The ability to read survey maps is a key skill for monitoring conservation easements.

To learn all about reading survey maps, see *The Nature Groupie Training Guide on Outdoor Skills for Conservation Volunteers*.



3. Reserved uses and rights

Reserved rights are rights owners retain for their property, typically ones that might not otherwise be permitted by the use limitations.

4. Affirmative rights of the easement holder

Affirmative rights are what the landowner permits the easement holder to do on or with the landowner's property.

The most basic affirmative right is the right to inspect the land and monitor and enforce the conservation easement. Normally the easement holder will have the right to enter the property for the purposes of monitoring compliance with easement terms and discussing any issues with the landowner.

In addition, the easement holder may be granted affirmative rights to conduct wildlife management studies or practices, obtain emergency access to the property, or post signage on property boundaries indicating that the property is encumbered by a conservation easement.

Some conservation easements include an affirmative rights provision assuring public access to the property, but many do not.

5. Administrative provisions

The administrative provisions within a conservation easement are the other terms and conditions that are important for administering the agreement and defining the relationship between the landowner and the easement holder.

Among the many issues addressed, administrative provisions spell out the relationship between the easement holder and the landowner, address IRS requirements, cite responsibility for property tax, insurance and property management payments, address liability and indemnification, and provide a process for amendment.

What to Do 1 -2 Weeks in Advance

Review Your Conservation Easement Materials

- 1. Gather Key Documents.** Gather the documents needed for monitoring the easement (see page 3) and review them. Read through the conservation easement deed to make sure you understand the purpose of the easement, the use limitations, the rights of the landowner, and the rights of the easement holder.
- 2. Review.** It is also helpful to review monitoring reports from past years. Even if you were the easement monitor for the property in the past, it may surprise you how much you can forget from year to year. Make note of any areas of concern outlined in previous reports or in the baseline documentation. The baseline documentation (a report of the conditions on the land at the time of conservation) is also important to review, especially if it's a newer easement.
- 3. Outdoor Skills Guide.** Review the *Outdoor Skills for Conservation Volunteers Handbook*, which goes into great detail about how to use a compass, and read survey maps. You can find the handbook at naturegroupie.org.
- 4. Maps.** Review the survey map and aerial imagery to plan your monitoring route. Are there boundaries with many abutters? Areas that look like they get high use? These are areas to pay careful attention to during your visit.
- 5. Update.** Verify that the landowner contact information, easement information, and monitoring reports are up to date, accurate, and in order.

Schedule Your Visit

- 1. Contact.** Contact the landowner to arrange a suitable time for the site visit. Introduce yourself and explain the purpose of your visit. Be sure to ask the landowner where you should park and where best to access the property. Let him/her know your planned route to monitor the property.
- 2. Invite.** Invite the landowner to join you on your monitoring visit. If they cannot join you, offer to meet with them another time to walk their land or simply meet to get to know them or answer their questions.
- 3. Monitoring Partner.** If the landowner will not be joining you for the monitoring walk, arrange to have another land monitor or friend join you on your monitoring visit. It's safer, and more fun, to conduct your monitoring visit with another person.

Gather Supplies

Consult the suggested supply list (see sidebar) to make sure you have everything you need to conduct your conservation easement monitoring visit.

Suggested Supplies

Paperwork and Recording

- ☐ Copy of easement deed
- ☐ Aerial photos
- ☐ Baseline documents, maps, photos of markers, etc.
- ☐ Previous monitoring reports
- ☐ Monitoring form
- ☐ Camera (or phone with camera)
- ☐ Notepad/clipboard
- ☐ Pencils

Navigation and Boundaries

- ☐ Compass
- ☐ GPS (or phone with GPS)
- ☐ Flagging tape
- ☐ Appropriate signage (land trust or town signs)*
- ☐ Hammer and aluminum nails*
- ☐ Field tape measure*

Personal

- ☐ Drinking water and snack
- ☐ Appropriate clothing and footwear for terrain and weather
- ☐ Sunscreen
- ☐ Protection from insects
- ☐ First aid kit
- ☐ Cell phone with fully charged battery
- ☐ Field guides*
- ☐ Binoculars*

*recommended but not required

Conducting the Monitoring Visit

Monitoring Protocol

1. Supplies

Review the list of suggested supplies (see page 5) and ensure you have everything you need for your field visit. Remember to look at the weather forecast to be prepared for any changes in the weather.

2. Review safety procedures

See page 10 of this training guide.

3. Meet with the landowner

Hopefully you have already spoken to the landowner and provided them with much of the following information, and/or arranged for them to join you on the monitoring visit. If not, and the landowner's residence is on the property, it may be necessary to stop and introduce yourself. Briefly restate to the landowner the purpose of your visit and where on the property you will be conducting your monitoring activities. If the landowner will not be walking the property with you, give him/her an estimate of how much time it will take to complete the visit.

4. Ask the landowner questions

If you haven't already, ask the landowner questions about the property that are required as part of the monitoring visit (see monitoring form). Remember to be sensitive to the needs and concerns of the landowner. No landowner likes to feel as if he/she is being interrogated, so be tactful and courteous when asking questions. Record any relevant details of the conversation on the monitoring form and verify its accuracy with the landowner. Use the landowner's knowledge to fill any gaps. Here are some of the types of questions you may consider asking:

- The landowner's general history with the land
- Current or planned land uses
- Current or planned land management activities
- Natural and/or human-caused changes to the landscape
- Abutter's activities
- Observed wildlife or plants

5. Walk the property boundaries and interior

- Visit areas of interest including boundaries, access points, areas of past problems, and areas of recent management activity. Populated boundaries should be checked more often. Isolated interior areas or borders with other conservation land are less of a priority in annual monitoring.



Photo Tips

- Photographs are meant to be for documentation purposes – avoid excessive artistry.
- Include an object in the photograph that provides scale and reference to the surroundings.
- Record locations where photographs are taken on a map.

- Make use of interior roads and property trails if possible.
- Record notes and observations on the easement monitoring form.
- Take photographs of specific areas of concern. Focus on documenting changes from previous visits, changes in previously photographed areas, and significant natural changes.
- Consider safety at all times and exercise caution when walking the property. Make sure to keep yourself oriented on the property using maps, compass, GPS, or landscape features. Remain on the property being monitored.
- Make sure to complete the easement monitoring form and check recorded information for accuracy.
- When you're finished with the site walk, check in with the landowner (if on site) and thank him/her for their cooperation. Let them know that your report will be on file if they have any questions.

Monitoring Visit Follow-Up

As soon as possible (maximum 30 days):

1. Report out

Fill out the easement monitoring form as soon after the monitoring visit as possible. Sign and date the report. Include a narrative summary of any relevant observations, conversations, or experiences from the monitoring visit. Organize and label photographs according to the number, date/time, and location on the property. Write a very short description about the subject and significance of any photography included with the monitoring report.

2. Submit report

Arrange to meet with your volunteer supervisor or conservation commission to submit the monitoring report, voice any concerns, and report any significant changes, property disturbances, or unusual situations.

3. Landowner follow-up

Consider sending the landowner a card or short letter thanking him/her for taking the time to visit with you (especially if they joined you on the walk). Remind them they can get a copy of the report from the easement holder.

4. Key Best Practices

Monitoring conservation easements is a serious volunteer job. Due to the legal nature of conservation easements and the sensitive nature of landowners' rights, it's important to follow these key best practices as a conservation easement volunteer (see sidebar).

Key Best Practices

- When in doubt, stick to the reasonable person standard: act as a reasonable person would act under the same circumstances.
- Review the easement documents before your monitoring visit.
- Follow the landowner's instructions for visiting the property, especially parking instructions.
- Document your observations.
- Document all communications with the landowner.
- Do not attempt to interpret the easement, approve activities, or enforce the easement's provisions.
- Treat all information collected during monitoring inspections as private and confidential. Do not share this information for any purpose other than to perform your monitoring responsibilities.

IMPORTANT!

As an conservation easement volunteer you CANNOT:

- Interpret the easement for landowners.
- Approve or disapprove a landowner's future plans.
- Accuse a landowner of violating easement terms.
- Attempt any mediation or enforcement action.



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- Write a clear, detailed and objective description of your observations. Avoid making conclusions or describing the activity as a “violation.”

Your description should include the following (as applicable):

- i. description of the person(s) observed conducting the activity;
- ii. types and models of equipment being used to conduct the activity;
- iii. description of any changes in the land or alterations of manmade features;
- iv. documented or recorded statements made by the person(s) observed conducting the activity, whether addressed to you or to someone else;
- v. documented or recorded statements made by you to the person(s) observed conducting the activity (if possible)—but DO NOT initiate communication with any person(s) either observed conducting the activity or suspected to be responsible for the activity;
- vi. written or recorded description of any feelings that you experienced where you felt you were in danger or your safety was at risk; and describe the conditions responsible for that experience (note: this information may serve as legal evidence in the event of litigation (e.g., for an assault) so honesty and the timeliness of your written description is imperative);
- vii. list of questions and/or follow-up items that you may have; and
- viii. description of any other factors that you deem relevant, including suggestions or general comments.

4. **Communicate the activity** to your volunteer supervisor or back to your conservation commission.
5. **Make sure your observations are documented.** If circumstances prevented you from sketching and/or writing a clear and detailed description of your observations at the time they occurred, do it as soon as possible after the fact.

Safety Recommendations for Land Monitors

The following is a list of safety precautions for on-site monitoring. It should be noted that the following list consists of recommendations and is not exhaustive. Common sense should be the primary tool used to determine if monitoring activities can be conducted without undue risk. If there is uncertainty about whether monitoring can be performed safely, it is recommended that you postpone the monitoring visit until it is safe.

Before Visiting a Site:

1. Ensure you are well rested.
2. Inform someone where you intend to go, when you intend to return, and what actions should be taken if you do not return by the time you are due.
3. When possible, make arrangements to be accompanied by another volunteer while performing field-monitoring duties.
4. Carry with you a list of any current medical conditions, medications taken, and allergies.
5. Carry with you a list of pertinent contact information, including phone numbers and locations for your program coordinator, nearby pay phones, hospitals, and emergency response agencies.
6. Monitor weather reports. Do not perform duties if severe weather is predicted (lightning, flooding, ice, etc.). If severe conditions arise while in the field, cease activity and return home.
7. Pack a first-aid kit and check its contents.
8. Ensure all electronic equipment (cell phone, GPS, flashlight etc.) is fully charged and carry extra batteries when possible.
9. Dress according to the current conditions and pack precautionary items such as extra socks, foul weather gear, etc. Expect the unexpected.
10. Ensure you have adequate water and food on your person and bring extra in case an emergency situation arises.
11. Familiarize yourself with the area to be monitored. Plan a route ahead of time and take note of any documented hazards (e.g. cellar holes) and avoid them accordingly. Carry maps and aerial photographs. Plan alternative routes in case of emergency.
12. Familiarize yourself with dangerous plants such as poison ivy and habitats of stinging insects such as yellow jackets. Learn to identify signs and symptoms and have first aid materials on hand (see *Outdoor Skills for Conservation Volunteers*).

NOTES



While in the field:

1. Be visible. Wear bright colors and/or reflective clothing.
2. Maintain situational awareness. Assess your position frequently and be mindful of terrain, wildlife, and weather conditions.
3. Follow trails and other well established routes whenever possible.
4. Never attempt to cross frozen surfaces such as wetlands, lakes or ponds.
5. Do not approach wildlife.
6. Avoid allergenic plants.
7. Document human activity in writing or by photography when possible, but never confront individuals.
8. Maintain contact with and periodically update individuals who have knowledge of your activity.

Upon Returning from Monitoring:

1. Inform all individuals previously notified of your safe return.
2. Thoroughly examine your body for ticks and exposure of any sort.

Hunting Season

Due to the wide variety of game found in New England, hunting is a sport that is in season a majority of the year. In order to avoid the possibility of mistaken identity, it is a good idea to wear bright colors such as an orange hat, vest, or gloves. A list of general hunting season dates to be aware of are listed in the sidebar.

Refer to state wildlife agency websites for exact start and end dates of hunting seasons for the current year and more information about hunting precautions.

Be Aware: **New England** **Hunting Season Dates** **(Approximate)**

Late April
Youth turkey-hunting
weekend

Early May – Late May
Spring gobbler season
(wild turkey)

Starting Early September
Black bear
(dates vary for method
and WMU)

September – January
Waterfowl
(Dates vary by species
and zone)

**Mid-September –
Mid-December**
Deer/archery and
fall turkey/archery

Mid-October (1 week)
Turkey/shotgun

September – March
Small game and furbearers
(dates vary by species
and region)

October – December
Pheasant

Mid-October – Late October
Moose (by permit only)

Late October
Youth deer-hunting weekend

Early November
Deer/muzzleloader

**Mid-November –
Early December**
Deer/regular firearms



Poison Ivy, Poison Oak, and Poison Sumac

These species of plants can cause uncomfortable and painful rashes when they make contact with the skin. Go to poisonivy.aesir.com/view for information on identification and treatment.

Lyme Disease Precautions

When monitoring in the spring, summer, or fall, ticks are always a risk. Ticks often carry Lyme disease. Indicators of Lyme disease may include a “bull’s eye” ring around a tick bite. The UNH Cooperative Extension is a good resource for tick identification, Lyme symptoms and tick activity levels; go to extension.unh.edu/articles/Its-Tick-Season-Protect-Yourself.

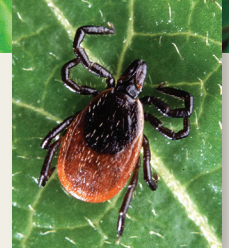
Lyme disease is caused by a bacterium *Borrelia burgdorferi*, which lives in the black-legged tick (*Ixodes scapularis*). In the nymph stage, these ticks are extremely small and will often hide in hairy areas of your body. As the tick ingests blood, its body becomes more swollen. Most Lyme disease cases are associated with the bite of the tick’s nymph stage, of which 10-36% may be infected with Lyme disease spirochetes. Nymphal ticks are about the size of a pinhead, difficult to spot, and active during the late spring and summer months. Adult ticks are active in fall, warm winter days, and spring. They’re larger, easier to spot and therefore associated with fewer cases of Lyme disease, even though more of these ticks are infected with Lyme disease spirochetes.

Prevention

- Deer ticks are most prevalent in late spring and early summer in areas of low-lying vegetation in wooded, brushy, or overgrown grassy habitats (less likely in fields).
- Wear a long-sleeved shirt and long pants tucked into socks or boot tops, or wear gaiters. Light-colored clothing makes it easier to see and remove ticks.
- Insect repellent on clothes and exposed skin can reduce tick attachments.
- Early detection of tick bites is key: conduct regular tick checks on exposed skin and check your whole body daily. Transmission of the bacterium is unlikely if tick is removed within 24 hours of attachment.
- Serious consequences of this disease can be prevented by treatment in its early stage with oral antibiotics. Seek early diagnosis and treatment of suspected tick-borne infections.

Tick Removal

- Do not apply creams, alcohol, or heat to an attached tick: this may cause a more severe infection from the tick’s release of stomach contents.
- Use tweezers to grasp the body of the tick as close as possible to your skin and pull slowly with a constant yet gentle pressure to extract the tick.
- Keep the tick in a vial for medical documentation.
- Seek medical attention immediately if you develop any of these symptoms:
 - Rash associated with bite location, often in the shape of a ‘Bull’s Eye,’ though up to 40% of infected people do not have a rash symptom
 - Flu-like symptoms (fever, fatigue, headache, chills or body aches)
 - Later symptoms include more severe medical problems such as joint and neurological complications



Volunteer Job Description: Conservation Easement Monitor

Preferred Qualifications

- Physical ability to walk long distances in varied terrain
- Comfort in the outdoors in varied terrain and weather conditions, including off trails
- Interest in conservation
- Legal adult with valid identification
- Ability to get to and from the property
- Good communication skills
- Reliability

Duties

Conservation easement monitors are representing the land trust, town, or conservation organization that holds the conservation easement. As such, it is important to maintain positive relationships with landowners.

The basic role of a monitor is to observe a property with respect to conservation restrictions and record observations using a standard form (see sample form provided) and, in some cases, photographs.

Monitors will be expected to comply with the following policies and procedures:

- Complete thorough, on-the-ground inspections and documentation including photographs and written comments regarding any changes in the lands or alterations to man-made features.
- Cultivate positive relationships with landowners.
- With prior approval from both landowners and land trust/town staff, post and replace easement boundary markers and signs.
- Discuss observations with your volunteer supervisor and/or town conservation commission.

Benefits

- Physical exercise
- Opportunity to contribute to conservation efforts
- Develop work experience
- The opportunity to become part of a community of conservation enthusiasts
- The opportunity to get out and enjoy nature

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