

Easement Stewardship: DENR Perspective



Division of Soil and Water
Conservation District Workshop

Stewardship Task Force (2004)

Two goals:

1. Establish and evaluate monitoring fees
2. Recommend strategy for management of perpetual stewardship of protected properties

Stewardship

Stewardship defined as maintaining the protection of the ecological integrity of conservation properties

Stewardship would have three parts:

1. Monitoring
2. Legal Protection and Defense
3. Site-management activities

Annual Monitoring

- Property visits and reports of site integrity or of breaches of easement or dedication agreements
- Monitoring activities include staff time, travel, materials and overhead associated with site visits and periodic boundary re-marking

Annual Monitoring

- Pre-visit
 - Understanding the agreement, maps, management plan, baseline documentation and past monitoring reports
 - Contacting the landowner
- Site visit
 - Evaluate exercised reserved rights and management plan updates
 - Check boundary/violations
- Post-visit
 - Generating report(s)
 - Notification of appropriate entities if encroachment or management issues are identified during site visit



Legal Protection and Defense

- Minor violations
 - Handled by easement holder
 - Typically do not involve litigation
- Major violations
 - Require legal consultation or action by AG's office or other legal counsel

Management

Management includes affirmative activities or remedial actions necessary for maintaining conservation values of the property, and may also include activities designed to enhance those values.

At least three potential activities:

1. Exercising reserved rights
2. Implementing management plans
3. Unplanned affirmative activities and remedial action

DENR Stewardship Program

- On-line reporting platform
- Invoice system for reimbursement
- Currently two focus areas
 - EEP
 - 102 projects; 12,740 acres
 - CREP
 - 154 projects; 5,596 acres

DENR Lessons Learned

- More time-consuming & costly than expected
- There will be surprises
 - Encroachments
 - Violations
- Not everyone is enthusiastic about easements (restrictions?) on their property



Recommendations

- Learn from others, if possible
- You need to think long-term
- Adequate endowment



- Under CREP, annual monitoring requirement for SWCD starts in year 15. This allows the trees to become established.
- Monitoring needs to have a dedicated endowment. **15A NCAC 02R .0402** was recently amended. For properties and easements donated to the NC Department of Environment and Natural Resources, a fee of one thousand dollars **(\$1,000) per acre** shall be charged at the time the land or easement is transferred to the Department's Conservation Grant Fund Endowment to cover costs of long-term management of the property. For properties that are less than one acre in size, the minimum payment shall be one thousand dollars (\$1,000). This charge applies only to properties and easements donated to the Department for the sole purpose of property or easement maintenance. This does not apply to properties or easements donated to the Department in association with restoration projects conducted by the Department.

Conclusion

