

Fulfilling the Promise:

Conservation Easement Stewardship

Why is Stewardship So Important?

- Ensures the fulfillment of the original intent of the conservation easement – true work of conservation.
- Required to uphold and defend their easements.
- Legal standing in court may be weakened if Grantee does not have an ongoing record of stewardship on a property in dispute.
- IRS requires that “the eligible donee. . . have the resources to enforce the restrictions” of the easements.

Stewarding A Conservation Easement

Requires:

- Drafting a conservation easement
- Preparing a baseline inventory
- Surveying and posting easement boundaries
- Maintaining good relationships with landowners
- Keeping annual and precise monitoring records
- Ability to respond to violations

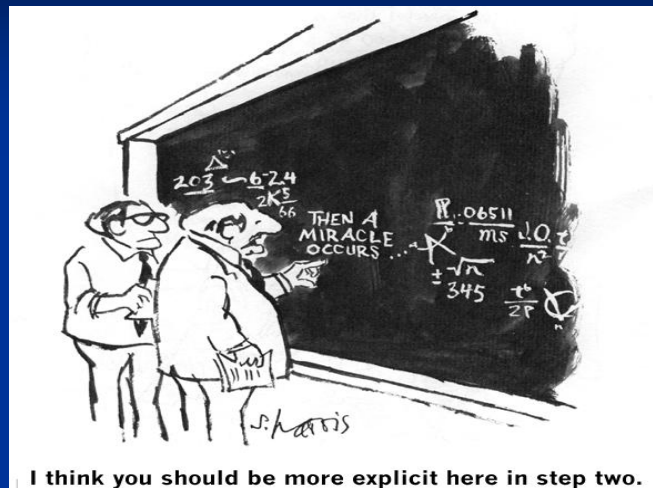
Conservation Easement Language Keep it Simple!

- Only one single family residence may be constructed on the property vs. . . .only one single family residence of no more than 5,000 square feet of heated and unheated space can be constructed on the property.
- No timbering within the riparian buffer vs. . . No timbering within the 50-foot riparian buffer area as delineated on Map 2 in the BDR.

Stewardship – The Bottom Line

- Maintain good landowner relationships – avoids conflicts and violations over time (letter and questionnaire).
- Maintain annual monitoring schedule for each conservation easement (monitoring form).
- Prepare and maintain thorough monitoring reports and photodocumentation records in order to establish a foundation for the defense of the easement in the event a violation.

Stewardship Funding



Why is it Necessary?

- Perpetuity is a long time.
- Everything requires resources:
 - Developing the easement
 - Annual monitoring
 - Responding to grantor requests or permission requirements
 - Legal defense of the property
- IRS requires the donee have resources to enforce the easement's restrictions

Stewardship Expenses

Need to consider:

- The size of the property and its remoteness
- The number of reserved rights (degree of complexity)
- The relationship with the landowner
- Access to the easement
- Ease in locating boundaries



Monitoring Costs (9b)

- Round trip travel
- Staff time (pre/during /post)
- Supplies; photos
- Landowner Contact
- Enforcement

Stewardship Budget Plan

Many variables to consider including:

- Staff/contractor time required
- Restrictions and permission requirements (the complexity of the easement restrictions)
- Overall number of easements, travel time
- Annual vs. unexpected expenses
- Fee vs. conservation easement

How to Pay for Stewardship

- Ask the landowner (letter).
- Can seek grant funds, e.g., CWMTF or private contributions.
- Operating budget/transaction cost.
- Transfer fees.



Transfer Fee Language

- Requiring a fee (e.g., flat fee or a percentage of sales price) at the time the property is sold.
- Written in the Easement.
- Does not apply to spouses, family members.



How Are Stewardship Funds Managed?

- Stewardship Endowments
- Enforcement Fund
- Investment Policies



Stewardship Funding/Management Summary

- Good stewardship requires adequate and stable funding.
- Need to recognize the difference between annual (monitoring) and long-term (enforcement) funding needs.
- Policies should be developed on how the funds are invested.

Stewardship and the Next Generation

Problems and violations are
inevitable.

Be prepared.

