The Roles and Responsibilities of a Land Trust

William J. Taffe
President, Pemi-Baker Land Trust
Speaker’s background
(that mostly has nothing to do with Land Trusts!)

- Professional stuff
  - B.S. in Physics (Le Moyne College, 1964)
  - Ph.D. Upper Atmospheric Physics (University of Chicago, 1968)
  - Currently Professor of Computer Science and Technology at Plymouth State University with 14 years experience teaching Physics and 23 years teaching Computer Science
  - Also taught Computer Science at the Pontifical Catholic University of Ecuador (one year) and the National Institute for Optics, Electronics and Astrophysics in Cholula, Mexico (6 months)
  - Plus short research-focused appointments at the Air Force Cambridge Research Laboratories, National Center for Atmospheric Research (twice), National Bureau of Standards (ITSA/ESSA)
Speaker’s background (related to Land Trusts!)

- President of the Pemi-Baker Land Trust
- President of Rumney Ecological Systems – nature-focused organization protecting the Quincy Bog Natural Area in Rumney
- Covert’s Cooperator (a GREAT program … I’d be glad to tell you lots more about it.)
- Editor (Summer Season, NH Bird Records)
- Participant in numerous ornithological surveys
- Former Chairman of the Rumney Planning Board
- Once taught a course called “Maps and Mapping” to college students!
A Confession

From one learned book … comes a plagiarism,
From two learned books … comes an essay,
From three learned books … comes a dissertation,
From four learned books … comes a fifth learned book.
Anonymous

The Internet !!!
What is a land trust?

- A nonprofit organization that, as all or part of its mission, actively works to conserve land by undertaking or assisting in land or conservation easement acquisition, or by its stewardship of such land or easements.

- A non-profit, charitable organization under federal tax laws, directly involved in conserving land for its natural, recreational, scenic, historical and productive values. Land trusts can purchase land for permanent protection, or they may use one of several other methods: accept donations of land or the funds to purchase land, accept a bequest, or accept the donation of a conservation easement to permanently limits the type and scope of development that can take place on the land. In some instances, land trusts purchase conservation easements.
A land trust is not:

- a “trust” in the legal sense of the term
- a financial “trust” such as a person might establish to protect their financial assets
- a government agency, but instead an independent, entrepreneurial organization that works with landowners who are interested in protecting open space. Land trusts often work cooperatively with government agencies by acquiring or managing land, researching open space needs and priorities, or assisting in the development of open space plans.
- a tax advisor, a legal advisor or financial counselor to persons wishing to donate land. A land trust generally will discuss the general principles and laws but does not take the place of professionals in these areas.
How do Land Trusts protect land?

- Land Trusts use a variety of methods to protect land.
- Two of the most commonly used are:
  - the purchase or acceptance of donations of land and the
  - purchase or acceptance of donations of a conservation easement, a legal agreement that permanently restricts the development and use of land to ensure protection of its conservation values.
- Some land trusts acquire land and then convey it to another nonprofit organization or a government agency for permanent protection and stewardship.
Land trusts protect land by other means, including:

- providing funding to other groups for land acquisition;
- facilitating negotiations for land to be acquired by another nonprofit organization or a public agency.
- participating in public education efforts to promote the value of land conservation (such as several of us are doing today!)
- advocating for land protection ... but a Land Trust certified as a tax-exempt organization under 501(c)(3) status is regulated in the type of lobbying and advocacy permitted
Growth in number of land trusts in the US
Number of Land Trusts by Region
Acres Protected by Region
# Local, State and Regional Land Trusts
## Total Acres Conserved by Region, 2003

<table>
<thead>
<tr>
<th>Region</th>
<th>Acres Conserved</th>
<th>% Increase ’98 to ’03</th>
</tr>
</thead>
<tbody>
<tr>
<td>Northeast</td>
<td>2,982,513</td>
<td>60%</td>
</tr>
<tr>
<td>Pacific</td>
<td>1,521,007</td>
<td>147%</td>
</tr>
<tr>
<td>MidAtlantic</td>
<td>1,419,539</td>
<td>91%</td>
</tr>
<tr>
<td>Southwest</td>
<td>1,412,689</td>
<td>116%</td>
</tr>
<tr>
<td>Northwest</td>
<td>933,528</td>
<td>109%</td>
</tr>
<tr>
<td>Southeast</td>
<td>648,895</td>
<td>123%</td>
</tr>
<tr>
<td>Midwest</td>
<td>416,428</td>
<td>92%</td>
</tr>
</tbody>
</table>
The Northeast

<table>
<thead>
<tr>
<th>State</th>
<th>Size Sq. mi.</th>
<th># LT</th>
<th>Total acres</th>
<th>% prot.</th>
<th>Owned acres</th>
<th>Easement acres</th>
<th>Other acres</th>
</tr>
</thead>
<tbody>
<tr>
<td>CT</td>
<td>5,009</td>
<td>125</td>
<td>84,248</td>
<td>2.3 %</td>
<td>45,181</td>
<td>21,765</td>
<td>17,302</td>
</tr>
<tr>
<td>MA</td>
<td>8,257</td>
<td>155</td>
<td>276,071</td>
<td>5.2 %</td>
<td>113,204</td>
<td>60,427</td>
<td>102,439</td>
</tr>
<tr>
<td>RI</td>
<td>1,214</td>
<td>41</td>
<td>22,530</td>
<td>2.9 %</td>
<td>15,394</td>
<td>5,608</td>
<td>1,528</td>
</tr>
<tr>
<td>NY</td>
<td>49,576</td>
<td>79</td>
<td>570,967</td>
<td>1.8 %</td>
<td>147,216</td>
<td>167,974</td>
<td>255,777</td>
</tr>
<tr>
<td>NH</td>
<td>9,304</td>
<td>39</td>
<td>240,070</td>
<td>4.0 %</td>
<td>77,113</td>
<td>119,792</td>
<td>43,165</td>
</tr>
<tr>
<td>VT</td>
<td>9,609</td>
<td>33</td>
<td>480,897</td>
<td>7.8 %</td>
<td>38,512</td>
<td>368,986</td>
<td>73,399</td>
</tr>
<tr>
<td>ME</td>
<td>33,215</td>
<td>86</td>
<td>1,307,359</td>
<td>6.2 %</td>
<td>45,215</td>
<td>1,125,859</td>
<td>136,285</td>
</tr>
</tbody>
</table>
Land Trust by Land Type Protected

Number of Land Trusts Whose Primary Purpose is to Protect This Land Type
(one land trust may choose more than one primary land type)

<table>
<thead>
<tr>
<th>Land Type</th>
<th>Number of Land Trusts</th>
</tr>
</thead>
<tbody>
<tr>
<td>Habitat for Plants or Wildlife</td>
<td>584</td>
</tr>
<tr>
<td>Open Space</td>
<td>546</td>
</tr>
<tr>
<td>Working Farm or Ranchland</td>
<td>319</td>
</tr>
<tr>
<td>Working Forests</td>
<td>197</td>
</tr>
<tr>
<td>Historic or Cultural Resources</td>
<td>191</td>
</tr>
<tr>
<td>Other</td>
<td>183</td>
</tr>
<tr>
<td>Urban Parks</td>
<td>95</td>
</tr>
</tbody>
</table>
NH Coverage by Land Trusts
Regional Land Trusts in NH

Archaeological Conservancy
Arlington, VA 22204

Audubon Society of NH
Concord, NH 03301-8200

The Nature Conservancy - NH Chapter
Concord, NH 03301

New England Forestry Foundation
Orange, MA 01364

New England Wildflower Society
North Hampton, NH 03862

Society for the Protection of NH Forests
Concord, NH 03301

The Trust for Public Land - Northern New England Field Office
Montpelier, VT 05602
# Local Land Trusts in NH

<table>
<thead>
<tr>
<th>Trust Name</th>
<th>Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>Amherst Land Trust</td>
<td>Amherst, NH 03031</td>
</tr>
<tr>
<td>Ammonoosuc Conservation Trust</td>
<td>Sugar Hill, NH 03585</td>
</tr>
<tr>
<td>The Appalachian Trail Conference Land Trust</td>
<td>Lyme, NH 03768-0312</td>
</tr>
<tr>
<td>Ausbon Sargent Land Preser. Trust</td>
<td>New London, NH 03257</td>
</tr>
<tr>
<td>Bear-Paw Regional Greenways</td>
<td>Deerfield, NH 03037</td>
</tr>
<tr>
<td>Bedford Land Trust</td>
<td>Bedford, NH 03110-0315</td>
</tr>
<tr>
<td>Bow Open Spaces</td>
<td>Bow, NH 03304-3805</td>
</tr>
<tr>
<td>Chocorua Lake Conservation Foundation</td>
<td>Providence, RI 02906</td>
</tr>
<tr>
<td>Dan Hole Pond Watershed Trust</td>
<td>Ctr. Ossipee, NH 03814</td>
</tr>
<tr>
<td>Five Rivers Conservation Trust</td>
<td>Concord, NH 03301</td>
</tr>
<tr>
<td>Francestown Land Conservation Inc.</td>
<td>Francestown, NH 03043</td>
</tr>
<tr>
<td>Gilmanton Land Trust</td>
<td>Gilmanton Iron Works, NH 03837</td>
</tr>
<tr>
<td>Great Bay Stewards</td>
<td>Stratham, NH 03885</td>
</tr>
<tr>
<td>Green Mountain Conservation Group</td>
<td>So. Effingham, NH 03882</td>
</tr>
</tbody>
</table>
## And more Local Land Trusts in NH

<table>
<thead>
<tr>
<th>Trust Name</th>
<th>Address</th>
<th>Phone</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hanover Conservation Council</td>
<td>Hanover, NH 03755</td>
<td></td>
</tr>
<tr>
<td>Harris Center for Conservation Education</td>
<td>Hancock, NH 03449</td>
<td></td>
</tr>
<tr>
<td>Highland Lakes Association</td>
<td>Washington, NH 03280-1011</td>
<td></td>
</tr>
<tr>
<td>Howfirma Trust</td>
<td>South Hampton, NH 03827</td>
<td></td>
</tr>
<tr>
<td>Lakes Region Conservation Trust</td>
<td>Meredith, NH 03253</td>
<td></td>
</tr>
<tr>
<td>Lyme Hill &amp; Valley Association</td>
<td>Lyme, NH 03768</td>
<td></td>
</tr>
<tr>
<td>Marlborough-Roxbury Land Assoc.</td>
<td>Marlborough, NH 03455</td>
<td></td>
</tr>
<tr>
<td>Monadnock Conservancy</td>
<td>Keene, NH 03431-0337</td>
<td></td>
</tr>
<tr>
<td>Moose Mountain Regional Greenways</td>
<td>Wakefield, NH</td>
<td></td>
</tr>
<tr>
<td>Nashua River Watershed Association</td>
<td>Groton, MA 01450</td>
<td></td>
</tr>
<tr>
<td>NH Preservation Alliance</td>
<td>Concord, NH 03302-0268</td>
<td></td>
</tr>
<tr>
<td>Nichols-Smith Conservation Land Trust</td>
<td>Hollis, NH 03049</td>
<td></td>
</tr>
<tr>
<td>Nissitissit River Land Trust</td>
<td>Hollis, NH 03049</td>
<td></td>
</tr>
</tbody>
</table>
## And yet More!

<table>
<thead>
<tr>
<th>Organization</th>
<th>Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pemi-Baker Land Trust</td>
<td>Rumney, NH 03266</td>
</tr>
<tr>
<td>Piscataquog Watershed Association</td>
<td>New Boston, NH 03070</td>
</tr>
<tr>
<td>Rockingham Land Trust</td>
<td>Exeter, NH 03833</td>
</tr>
<tr>
<td>Roland Park Land Trust</td>
<td>Center Ossipee, NH 03814</td>
</tr>
<tr>
<td>Sanbornton Agriculture and Land Trust</td>
<td>Sanbornton, NH 03269</td>
</tr>
<tr>
<td>Seacoast Land Trust</td>
<td>Portsmouth, NH 03802-4183</td>
</tr>
<tr>
<td>Silver Lake Land Trust</td>
<td>Harrisville, NH 03450</td>
</tr>
<tr>
<td>Squam Lakes Association</td>
<td>Holderness, NH 03245</td>
</tr>
<tr>
<td>Squam Lakes Conservation Society</td>
<td>Holderness, NH 03245-0696</td>
</tr>
<tr>
<td>Strafford Rivers Conservancy</td>
<td>Dover, NH 03820</td>
</tr>
<tr>
<td>Turkey River Basin Trust</td>
<td>Concord, NH 03301</td>
</tr>
<tr>
<td>Upper Saco Valley Land Trust</td>
<td>North Conway, NH 03860</td>
</tr>
<tr>
<td>Upper Valley Land Trust</td>
<td>Hanover, NH 03755</td>
</tr>
<tr>
<td>Wildlife Land Trust</td>
<td>Gaithers, MD 20879</td>
</tr>
</tbody>
</table>
Reactive and Proactive Roles

- Land Trusts can be either proactive or reactive – most are both but tend to lean toward one or the other
- Proactive approach … Land Trust approaches potential seller
- Reactive approach … Land Trust is approached by potential donor
- Larger land trusts with regional or broader focus are more likely to lean toward the proactive approach
- Smaller land trusts with a local focus are more likely to lean toward the reactive approach
Proactive

- do long range planning on needs of the state or region
- determine which properties are the highest in conservation potential
- raise capital
- purchase properties or easements
- “We (TNC) have developed a strategic, science-based planning process, called Conservation by Design, which helps us identify the highest-priority places—landscapes and seascapes that, if conserved, promise to ensure biodiversity over the long term.”
Proactive Example

Society for the Protection of New Hampshire Forests … The Quabbin to Cardigan Conservation Collaborative ("Q2C") is a public/private effort to protect a broad corridor of interconnected conservation lands along the Monadnock Highlands, stretching more than 100 miles from the Quabbin Reservoir in central Massachusetts to New Hampshire's Mt. Cardigan and beyond into the White Mountains. The region contains one of the largest remaining areas of intact contiguous forest in central New England, but intense new pressures threaten this unique landscape.
Reactive

- Respond to offers of land and easements
- Dominant role of small or local land trusts
- Large land trusts are receptive usually only if the proposed donation fits their master plan
  - TNC
  - SPNHF
  - TPL → WMNF → Pemi-Baker Land Trust
- The need for Stewardship Endowment
  - Protection “in perpetuity” is a very long time! Unless there is an endowment to provide for the costs of future stewardship it may be in peril.
Reactive Examples

- “The Aspnes had purchased 281 acres in Stark as a possible retirement property while living in New Hampshire. When their work took them to Alaska, they realized they could no longer use the property. Having fallen in love with the beauty of the North Country, the Aspnes wanted to protect the land from development before putting it on the market, so they donated a conservation easement to the Forest Society.” (SPNHF)

- “The Nath family offered to donate to the Nature Conservancy a conservation easement on 270 acres, which adjoins Pine River State Forest, the Moulton tracts and Wilkinson Brook. Naturally, the Conservancy accepted.”
Cooperative Ventures

- “Earlier this year, Moose Mountains Regional Greenways purchased most of the old Gage Hill Farm, located on Gage Hill Road, thanks to the generosity of a private donor. The organization then donated the land to the Town of Wakefield to create a town forest; and a conservation easement on it was given to the Society for the Protection of New Hampshire Forests. All parties involved share a common goal of protecting the land and providing the townspeople of Wakefield with a special place for recreational and educational pursuits.”

- “June 13, 2005 — The U.S. Fish and Wildlife Service and The Nature Conservancy announced today the addition of 499 acres to the Pondicherry Division of the Silvio Conte National Fish and Wildlife Refuge in Jefferson and Whitefield.”
Many Land Trusts have a special focus

- The Nature Conservancy's (TNC) mission is to preserve the plants, animals and natural communities that represent the diversity of life on Earth by protecting the lands and waters they need to survive.

- The Trust for Public Land (TPL) is a national, nonprofit, land conservation organization that conserves land for people to enjoy as parks, community gardens, historic sites, rural lands, and other natural places, ensuring livable communities for generations to come.

- The Society for the Protection of New Hampshire Forests (SPNHF) is dedicated to protecting the state's most important landscapes while promoting the wise use of its renewable natural resources.
How a surveyor might facilitate land protection

- If you know of someone who is interested or inquires about protecting/preserving their land
  - Contact: Dijit Taylor, Director, Center for Land Conservation Assistance hosted by SPNHF … she can advise on the appropriate land trust
  - Get booklet “Conserving your land: Options for New Hampshire Landowners” by Brenda Lind … CLCA
  - Contact your County Extension office … or Philip Auger, Extension Educator, Land & Water Conservation, UNH Cooperative Extension in Rockingham County
Center for Land Conservation Assistance

- Center for Land Conservation Assistance
  The Center for Land Conservation Assistance (CLCA) is a New Hampshire non-profit organization that seeks to raise the level of professionalism in land conservation transactions and stewardship among all land conservation groups in the state. The CLCA also strives to ensure that land conservation and stewardship needs are met competently and professionally in all areas of the state.

- The CLCA serves as a statewide resource and network for land conservation information, and focuses on two primary audiences, land trusts and municipalities, and encourages the two to work cooperatively. The CLCA provides information and services in three basic areas: education and information, transaction assistance and land and easement stewardship.
The Land Trust Alliance (LTA)

- an association of land trusts
- dedicated to maintaining standards of the land trust movement
- assists individual land trusts in a variety of manners
- promulgates “Standards and Practices” which are a condition of membership
LTA’s Standards and Practices

1. Mission -- The land trust has a clear mission that serves a public interest, and all programs support that mission.

Practices

• A. Mission. The board adopts, and periodically reviews, a mission statement that specifies the public interest(s) served by the organization.

• B. Planning and Evaluation. The land trust regularly establishes strategic goals for implementing its mission and routinely evaluates programs, goals and activities to be sure they are consistent with the mission.

• C. Outreach. The land trust communicates its mission, goals and/or programs to members, donors, landowners, the general public, community leaders, conservation organizations and others in its service area as appropriate to carry out its mission.

• D. Ethics. The land trust upholds high standards of ethics in implementing its mission and in its governance and operations.
LTA’s Standards and Practices

2. Compliance with Laws -- *The land trust fulfills its legal requirements as a nonprofit tax-exempt organization and complies with all laws.*

3. Board Accountability -- *The land trust board acts ethically in conducting the affairs of the organization and carries out the board’s legal and financial responsibilities as required by law.*

4. Conflicts of Interest -- *The land trust has policies and procedures to avoid or manage real or perceived conflicts of interest.*
Practices for Statement 4 on Conflict of Interest

- A. Dealing with Conflicts of Interest. The land trust has a written conflict of interest policy to ensure that any conflicts of interest or the appearance thereof are avoided or appropriately managed through disclosure, recusal or other means. The conflict of interest policy applies to insiders (see definitions), including board and staff members, substantial contributors, parties related to the above, those who have an ability to influence decisions of the organization and those with access to information not available to the general public. Federal and state conflict disclosure laws are followed.

- B. Board Compensation. Board members do not serve for personal financial interest and are not compensated except for reimbursement of expenses and, in limited circumstances, for professional services that would otherwise be contracted out. Any compensation must be in compliance with charitable trust laws. The board’s presiding officer and treasurer are never compensated for professional services.
C. Transactions with Insiders. When engaging in land and easement transactions with insiders, the land trust: follows its conflict of interest policy; documents that the project meets the land trust’s mission; follows all transaction policies and procedures; and ensures that there is no private inurement or impermissible private benefit. For purchases and sales of property to insiders, the land trust obtains a qualified independent appraisal prepared in compliance with the Uniform Standards of Professional Appraisal Practice by a state-licensed or state-certified appraiser who has verifiable conservation easement or conservation real estate experience. When selling property to insiders, the land trust widely markets the property in a manner sufficient to ensure that the property is sold at or above fair market value and to avoid the reality or perception that the sale inappropriately benefited an insider.
LTA’s Standards and Practices

5. Fundraising -- *The land trust conducts fundraising activities in an ethical and responsible manner.*

6. Financial and Asset Management -- *The land trust manages its finances and assets in a responsible and accountable way.*

7. Volunteers, Staff and Consultants -- *The land trust has volunteers, staff and/or consultants with appropriate skills and in sufficient numbers to carry out its programs.*
LTA’s Standards and Practices

8. Evaluating and Selecting Conservation Projects -- The land trust carefully evaluates and selects its conservation projects.

9. Ensuring Sound Transactions -- The land trust works diligently to see that every land and easement transaction is legally, ethically and technically sound.

10. Tax Benefits -- The land trust works diligently to see that every charitable gift of land or easements meets federal and state tax law requirements.
LTA’s Standards and Practices

11. Conservation Easement Stewardship -- *The land trust has a program of responsible stewardship for its easements.*

12. Fee Land Stewardship -- *The land trust has a program of responsible stewardship for the land it holds in fee for conservation purposes.*
State and Federal Requirements

State Requirements: A Land Trust must register with the NH Secretary of State under Chapter 292 of the NH RSAs -- Voluntary Corporations and Associations -- as a non-profit charitable organization with a mission to protect and preserve land.

Federal Requirements: Two parts … the Land Trust must receive a 501(c)(3) tax exemption status from the IRS. Also, in order for a land owner to be able to take the full tax deductions permitted by Federal Law, the Land Trust must be given “Public Charity” status by the IRS under 509(a)(1). There are forms, processes and regulations which govern both designations.
TNC and the US Senate

- In May 2003, the Washington Post carried a series of articles critical of TNC – questionable relationships with for-profit businesses, financial transactions with trustees, possible tax implications that were being ignored and similar problems
- The US Senate Finance Committee began investigating in July 2003
- During 2004 TNC made sweeping changes in its methodology and structure
The Aftermath …

- Throughout 2004-2005 within many land trusts, and at most meetings of land trust groups, there was significant discussion of the need to improve practices and procedures in several areas.
- October 2004 -- LTA issued a stricter set of “Standards and Practices” which land trusts must adopt to join LTA
- On January 27, 2005 Congress’s Joint Committee on Taxation recommended dismantling tax deductions for private landowners who volunteer to conserve their land!
The Outcome

- In June 2005 the Senate Finance Committee released its report and held hearings on the matter.
  - TNC was both praised and criticized by the Senate report and although no determination was made concerning improper activities, both TNC and the Senate agreed that there was a need to strengthen governance, accountability and transparency.
- The Senate report felt TNC’s reforms were in the right direction but did not go far enough. TNC indicated willingness to consider the new recommendations of the Senate report.
LTA’s response to the probe

- The response of the Land Trust Community (spearheaded by the LTA) was to ask the Senate to let the community better regulate itself, to provide more consistent enforcement by the IRS and to enact legal reforms to counteract but not “throw the baby out with the bathwater”.

- Specifically LTA recommended:
  - Strict rules that establish minimum qualifications for appraisers and appraisals
  - Stricter penalties for inflated appraisals
  - Prohibition of deductions most subject to abuse
    - Golf courses, driving ranges, batting cages
    - Easements on “backyards” or other very small properties unless they meet additional tests of public benefit
  - Fairer tax code for working farmers and ranchers
The present situation

- Summer 2005 – it appeared that the Congress recognized the value of land protection and would not “do away with” the tax benefits for donation of land or easements
- The Land Trust community has stayed “on message” that strict attention must be given to standards and practices
- September 29, 2005 — The Land Trust Alliance (LTA) announced today that its governing board has voted to approve a new accreditation program for the nation’s 1500 land trusts—local, state, regional, and national groups that conserve land through voluntary agreements with private landowners in communities across the country. The program is designed to provide independent verification that these groups meet high standards for voluntary land conservation.