

## CONDUCTING A BASELINE STUDY

A baseline study is the recording of the condition of a property at the time of transfer of the easement. It is a record that can be used in case any questions should arise about the future state of the property's resources. It provides a point of comparison for future land use and easement violation issues.<sup>3</sup>

Whose responsibility is the baseline study? Grantee or grantor? "If the conservation easement is being considered as a tax-deductible gift, and if the donor retains rights in the property that, once exercised, could impair the conservation values of that property, the IRS holds the donor responsible for providing sufficient baseline data to establish the condition of the property at the time of the gift." If the grantee is buying the easement at "fair market value" it is their obligation to provide the study.<sup>4</sup> However, it is in the interest of the grantee (and actually his/her responsibility) to be involved with the baseline study. In fact, the grantee should always take the initiative and the responsibility. It allows for control over what information is included. This will make the task of the future stewardship of the easement, as well as its management and enforcement much easier.

The study should be completed before acceptance of the easement by either party. It allows for full acknowledgement of the easement's value. Both parties, the grantor and the grantee, should sign a statement of agreement that the documentation provided is an acceptable representation of the condition of the property. The IRS requires this on the part of the grantor if they are considering tax benefits. The study needs to provide enough information to adequately describe the condition of the site at or close to the point when the easement takes effect. If a specific natural resource is to be protected, both parties must sign a statement agreeing on its condition.

The diversity and kind of information required for a baseline study will differ with each easement. Preston Bristow of the Vermont Land Trust has listed the following as important documentation components of most baseline studies: a cover sheet; an acknowledgement statement; a property description and current use; an inventory of existing buildings; any excluded parcels; an inventory of natural resources; a summary of both restricted and permitted uses; a locator map; a topographic map, and an aerial photo, at or close to the time of acceptance. Ground photos should be taken at an accessible location, so that subsequent photos can be compared with original conditions. How detailed an organization or individual needs to be when completing a study depends on two criteria. 1.) Does the landowner want to reserve rights that could, in the future, change the natural resources of the property, and 2.) how susceptible to damage are the resources that the easement is seeking to protect? Information that is collected should be definitive, clearly labeled, easily replicated, and comprehensible. Multiple copies of the data should be made and a copy kept in a safe, fireproof location. Remember that this information is being collected so that future stewards of the property will have a meaningful, but understandable study to compare future conditions on the property with those of the time of acquisition.

