

THE IMPORTANCE OF PERIODIC MAINTENANCE INSPECTIONS

A periodic maintenance or monitoring inspection of a conservation easement should include field inspection and documentation of the condition of a property as it compares to the original baseline study over a given amount of time.

Maintenance inspections serve varied and important functions. They ensure that the original easement provisions remain intact and continue to protect aspects of the property they were intended to protect. Most importantly, regular inspections allow for ongoing positive relationships with the original grantor of the easement and with any successive property owners. If violations have occurred, they can be documented and the process of restoration set in motion. If a violation must be settled in court, the fact that regular inspections have taken place will contribute to a successful defense. They help establish the organization's "commitment"¹ to the protection of the easement property.

A positive relationship between the property owner and the easement holder will allow for the easy transfer of information between the two. Monitoring visits are a time for one-on-one discussion. Questions can be asked. Problems can be addressed and hopefully solved before they become serious. Inspections should be at the property owner's convenience and a copy of the report supplied to them in a timely manner. A willingness to cooperate and accommodate property owners may be rewarded by increased donations of both land and money.

It is important for the conservation organization to establish commitment to protect the easement property. The property owner will feel confident he/she has chosen the right organization to protect the property in perpetuity. This strong relationship may also enable the owner to feel comfortable recommending you to other possible donors. It also helps qualify an organization to be eligible under Internal Revenue Service regulations as an easement donee. IRS regulations state an organization "must have a commitment to protect the conservation purposes of the donation" (Treas. Reg. 1.170-A-14 (C) (1)).⁶

How often should an inspection take place? This depends on the location and nature of the easement. Commonly, monitoring occurs once a year. Certain easements should be inspected more often than others. These include easements located near populated areas where boundary issues could be a problem, i.e. illegal dumping; easements which allow public access where dangerous conditions or property damage could occur; or easements which contain sensitive environmental areas.

What information needs to be collected? Monitoring inspections should be treated as an extension of the baseline study. There are two important pieces of information that the person monitoring the easement should know. What are the conservation purposes defined in the easement? What are the permitted and prohibited uses? Comparisons should be made, sensitive areas checked, and consequential changes noted, photographed and recorded properly. Standardized forms should be used to allow for easy comparison. As in all information that is recorded, the report should be signed, dated and filed properly. Remember to make copies, include them with the previous records stored in a safe fireproof place, provide timely copies to the property owner, and to update your database.

