

# Standards and Practices

Practice 11C2 is an accreditation indicator element. Watch for an update to this narrative in early 2018 after the Commission finalizes the accreditation requirements.

## STANDARD 11

# C. Conservation Easement Monitoring

- ▲2. Monitor each conservation easement property at least once per calendar year
  - ▲a. If the land trust uses aerial monitoring, conduct on-the-ground monitoring at least once every five years
  - ▲b. Promptly document the annual monitoring activities for each conservation easement

## BACKGROUND

A land trust should monitor its easements at least once per calendar year. Monitoring helps a land trust develop a relationship with the landowner, helps discover changes in land ownership, enables it to see if the easement is effective, helps uncover violations, saves time and money on enforcement actions, and establishes a record in case of court action. Annual monitoring routinely reminds the landowner of the easement and provides a means for annual landowner contact. With annual monitoring, the land trust can promptly document any changes in the property's condition relative to the easement. All monitoring activities, including informal ones (for example, a drive-by or casual observations not done as part of a formal monitoring), should be documented to build a record for future monitoring and in case the land trust must address a violation. The land trust should complete its monitoring report promptly after the monitoring visit. Critical elements of the annual monitoring report include the inspection date, name of the property inspected, who did the

inspection, observations related to the property's condition and conservation values and observations related to potential easement violations. Some easements with particularly sensitive conditions or on land where a landowner is performing management activities may require monitoring more frequently than once a year. Land trusts use a combination of on-the-ground review, aerial observation, aerial imagery, satellite and other methods in their annual monitoring.

## FREQUENCY

Land trusts should conduct inspections regularly, *at least once per calendar year*. If the land trust closed on a conservation easement at the end of one year, it needs to monitor the conservation easement by the end of the next year. (For example, if a conservation easement closed in October 2016, then the first monitoring visit must be before the end of 2017.) Violations that are discovered more than a year after commencement of the noncompliant activity may be more difficult to resolve or remediate. This does not necessarily mean the land trust does not have enforcement rights after a year. For more information on this issue, refer to state conservation easement enabling law and land trust counsel.

Sometimes more frequent regular monitoring is desirable, depending on the easement terms, the property's location and characteristics, the availability of monitors and monitoring method used, and the capacity of the land trust. For example, a land trust that accepts easements protecting water quality in an agricultural valley may need to monitor farm activities more frequently than once per year. If it chooses to monitor more frequently, the land trust must have commensurate capacity.

Certain circumstances warrant occasional monitoring outside of the regular monitoring schedule, such as:

- A landowner is executing a reserved right that may affect the conservation values if not conducted in accordance with the easement terms. For example, if a landowner is executing a reserved right to build a residence, then the land trust may want to monitor the property during construction to check for compliance with specific terms of the reserved right. Or, if a landowner is harvesting timber on a working forest easement property, then the land trust may need to monitor the harvest to ensure the logger implements best forest management practices.
- There exists greater than average potential for a violation. For example, easements neighboring residential developments have a greater potential to be violated by trespassers.
- The land has transferred to new owners.

- A significant land alteration project, such as construction of a building or excavation, is occurring on an adjacent property.
- Collection of biological or ecological data is needed in support of the easement terms.
- A landowner requests a statement of compliance (also referred to as an *estoppel* or *compliance certificate*), perhaps before a transfer of ownership.

If a land trust conducts occasional monitoring for a specific reason, then it should clarify in the monitoring documentation that the monitoring was outside of the regular monitoring protocol. Regular monitoring involves an overall inspection of the property and addresses all easement terms, while occasional monitoring looks at a specific circumstance and addresses only the relevant easement clauses. Likewise, documentation of a monitoring visit conducted to address a landowner's request for a statement of compliance should be so noted.

## SCHEDULING MONITORING

Like easement terms, monitoring schedules are tailored to the requirements of the landowner, the land trust and the type of easement property. To determine the best time to monitor, consider:

- Provisions of the conservation easement — are there any terms that need particular timing for the inspection, such as restrictions on specific agricultural practices or terms involving specific management for rare species?
- Terms of the inspection clause of the easement, such as limits on times of access to the property or requirements about contacting the landowner prior to monitoring.
- Physical factors, such as seasons and weather.
- Safety concerns, such as hunting season.
- Landowners' schedules.
- Land trust scheduling requirements, as may be outlined in the monitoring policy (see [Practice 11C1](#)).

To get the most from a site inspection, monitoring should occur when the property is most visible and accessible, and ideally when the landowners are most available. For example, monitoring in the winter months in the northern United States may not be feasible given snow cover, or areas of the country prone to mudslides may have road closures during spring months or periods of heavy rain. For easements protecting critical habitat for rare, threatened or endangered species, ground monitoring may be timed to observe habitat, such as when rare plants are in bloom or when birds are nesting or present. Land trusts may need to work around landowners' schedules, such as farmers' planting times or second homeowners' availability.

As organizations establish annual work plans, it is important to include the monitoring schedule. To ensure adequate time is allotted, land trusts may estimate total time by multiplying the average time for one inspection by the number of easements. Formally scheduling the monitoring will help ensure that it is completed.

## MONITORING METHODS

Land trusts protect a variety of properties and waterbodies in diverse landscapes across the country. Consequently, monitoring methods vary. For some land trusts, the geography and topography of the region dictates the monitoring method. For others, ancillary goals of the monitoring program, such as creating an opportunity to work closely with the landowner toward improving resource management, shape the monitoring method. In any case, land trusts should select monitoring methods that match the type of land and resources that they are protecting, the easement terms and the capacity of the land trust. Regardless of the method, land trusts must maintain documentation of the monitoring event. Some common monitoring methods include:

- *On foot.* This method is most common for smaller properties that are relatively accessible and can be walked within a few hours. This method easily allows the landowner to accompany the monitor on the visit. It is the best choice for easements that need close visual inspection. It may be more costly in terms of time and money than some other methods, particularly if using staff or consultants.
- *Automobile.* This method is good for monitoring properties that are bisected or surrounded by public roads or have interior roads in good condition. It is a good choice to minimize time spent on larger properties that are highly visible from the car (such as open fields), but not for properties that require a closer visual inspection. Many land trusts also use informal drive-by visits to keep tabs on easement properties between formal monitoring visits.
- *Recreational vehicle.* Using recreational vehicles is a great way to cover a lot of ground, provided there are accessible trails, access ways or open lands and the use of such vehicles will not conflict with the terms of the easement or damage ecological resources. However, this method may not be feasible for certain areas, such as wet or steep properties. There are costs associated with the use, upkeep and transport of these vehicles if owned by the land trust, and there are also safety and insurance considerations. Some landowners may have these vehicles available for use at their properties, or volunteers or consultants may own their own recreational vehicles, which may lower costs.
- *Horseback.* This method is an obvious and enjoyable way to monitor an equestrian or large ranch property or other types of properties that are suitable for horses. Riders should be experienced and take precautions to minimize the risk of injury. The Montana Land

Reliance typically monitors by foot or vehicle, but if the stewards or the easement landowners have horses or all-terrain vehicles, they will sometimes ride them during monitoring visits.

- *Boat.* For easements that protect rivers, lakes, islands, shorelines, swamps or other waterbodies or their upland buffers, a canoe, kayak or other boat may be the best (or only) way to view significant portions of the property. Maine Coast Heritage Trust, which holds easements on islands, uses this method for some properties. If the entire property cannot be viewed by boat, additional monitoring is required. If a land trust must own and maintain kayaks, canoes or larger boats for monitoring, it should factor this expense into stewardship costs.
- *Aerial (airplane or helicopter).* Aerial flyovers are a great way to view easement properties or blocks of protected land, particularly if they are large, forested, remote or comprised of rigorous terrain. Aerial monitoring is not appropriate for all properties or to inspect certain types of restrictions covered by the conservation easement. However, aerial monitoring can save enormous time for a land trust, and volunteer pilot programs can keep the costs low. Land trusts may need to follow aerial monitoring with a ground visit to obtain a better visual inspection, to document changes on the property, to investigate a suspected violation and to meet with the landowner. At a minimum, land trusts should supplement aerial monitoring with on-the-ground monitoring at least once every five years. The land trust should also make sure its aerial photographs are verifiable to a specific date.

The Society for the Protection of New Hampshire Forests previously used aerial monitoring to inspect all of its properties. However, as the Society's roster grew to more than 500 easements, it became impractical to fly over all easements each year. The Society now has an aerial monitoring protocol in which it contracts annually with an aerial imagery supplier to obtain up-to-date aerial images of all easement properties. Easement boundaries are superimposed on the imagery using GIS data, and then Society staff inspect the images to detect changes and potential violations. The Society documents its aerial monitoring by ensuring aerial photographs are verifiable to a specific date and provide sufficient information to monitor the properties (including easily identifiable boundaries and restrictions appropriate to aerial monitoring).

- *Remote sensing/satellite.* If a land trust is protecting exceptionally large properties on a landscape-scale, then satellite imaging is a good first step in the monitoring process. The land trust can compare the satellite images to property maps and older aerial photographs to note any changes that would require a follow-up visit (either by air or on the ground). Land trusts are cautioned not to rely solely on satellite images; other forms of monitoring

must be used each year to confirm interpretation of the images and compliance with easement terms.

- **Combination.** Land trusts may elect to use a combination of monitoring methods, based on property characteristics and available resources. For example, the Columbia Land Conservancy, a countywide, staffed land trust in New York, conducts aerial monitoring of all easement properties every year. A flight can usually cover all properties in one day. In addition to saving time, this method also is the most effective way to monitor the organization's larger, forested easements. CLC also conducts ground monitoring on half of its properties each year, so that staff visit on the ground once every two years. The Vermont Land Trust also uses a combination of methods, including ground visits and the review of aerial images obtained from the Farm Service Agency and municipal tax-mapping authorities.

## CONDUCTING GROUND MONITORING

All monitoring programs must include some component of ground monitoring. This section describes how land trusts typically conduct a monitoring visit, from preparation through post-visit documentation and follow-up. Guidelines for monitoring should be contained in written policies or procedures (see Practice 11C1).

### Pre-Monitoring Preparations

#### Inform the Landowner

Before the land trust conducts its easement monitoring, it should contact the landowner to provide notice of its monitoring plans, including the date and method of monitoring. If appropriate, the land trust may ask the landowner or another person, such as the property manager, to accompany the monitor during the visit. The land trust should follow any requirements contained in the easement, such as providing notice of the visit in writing, as well as any requirements of the land trust's monitoring policy or procedure (see Practice 11C1).

When calling or sending a letter to landowners about its monitoring plans, the land trust may also remind landowners to contact the land trust if they are planning any activities that require notification or approval (see Practice 11F). Some land trusts also send a questionnaire asking about the landowner's potential plans for the property over the coming year. Other land trusts take a more conversational approach and notify the landowners (and managers, as appropriate) of the monitoring visit by phone and inquire about future plans during the conversation.

## Review Files

To be efficient and effective, monitors must do their homework prior to the monitoring visit. This homework includes reviewing, as appropriate:

- Easement terms and subsequent amendments, waivers, clarifications and/or approvals
- The baseline documentation report and any updates or supplemental materials
- Previous monitoring reports
- Correspondence between the land trust and landowner, including notices and approvals
- Maps, including the easement map, survey or plat map and natural resource maps (soils, wetlands, topography) and aerial photographs
- Management plans (timber, agricultural, natural resource inventories)

## Field Supplies

What to bring for monitoring depends on the type of property and method of monitoring.

Following is a typical list of items that land trust monitors may need on inspection trips.

- Directions or location map
- Easement map and/or aerial or other maps that identify the property and depict any special use areas
- Monitoring form or checklist
- Copy of easement or summary of permitted and restricted uses
- Copy of baseline documentation (and updates, if applicable)
- Camera and batteries
- GPS unit, compass, binoculars, flagging tape and measuring tape or pole
- Survival gear, including water, food, insect repellent, cell phone, first-aid kit
- Foul weather gear, sleeping bag, space blanket, whistle (if monitoring large, remote properties or where conditions change with minimal warning)
- Special clothing, as applicable (for example, brightly colored safety vest during hunting season)

*Remember:* Any written materials or maps used in monitoring should be working copies, so originals are not damaged or lost.

Land trusts should carefully consider what easement-related materials are appropriate for the site visit and, if the landowner is to be present, whether any materials could cause potential problems. For example, suppose the monitor has a copy of the easement in hand when conducting a site visit

with the landowner. The landowner asks whether a certain activity can take place on the property. The monitor might feel pressured to review the easement and provide an immediate answer. In fact, depending on the landowner's question and the role of the monitor within the land trust (staff, volunteer or consultant), they should take time to review the easement, defer the question to the appropriate staff person or even possibly speak with an attorney to confirm interpretation of a clause. If the monitor answers incorrectly during the visit, it will place the land trust in an awkward position and may strain the land trust–landowner relationship or reduce the landowner's confidence in the land trust.

Or, suppose the monitor has a monitoring form in hand that includes a list of items on which the land trust hopes to partner with the landowner for better resource management. Perhaps, for example, the easement is silent on the matter of overgrazing, but the land trust wishes to note any signs of overgrazing and provide the landowner with information about proper grazing practices to encourage sounder resource management. If the landowner notices the form, they may question why overgrazing is relevant and feel the land trust is inappropriately intruding into their land management practices. Again, this would place the land trust in an awkward position and could strain the relationship.

## Safety

A monitor should take safety precautions as appropriate. At the very least, monitors should leave word about their whereabouts. If the landowner is at the property but not accompanying the monitor, the monitor usually should let the landowner know they are there. Bringing another person along on the visit may be advisable for large or remote properties, or when meeting difficult landowners and a witness to the inspection and conversation may be useful later. Monitors may also want to leave a sign or business card in their car window, notifying landowners and others about the monitor's presence on the property. Monitors should be prepared for the unexpected, including bad weather and difficulties with domestic animals or wildlife. Monitors should always leave a property immediately if they do not feel safe.

## The Monitoring Visit

### What to Monitor For

The conservation easement terms, baseline documentation report and prior monitoring forms are the documents that guide the monitor on what to look for during the monitoring visit. Focus monitoring on the easement's use restrictions and reserved rights: if buildings are prohibited, observe whether there is new construction; if mining is prohibited, observe whether the land

surface is disturbed; if reserved rights have been exercised, document this fact; and so on. Some features that require particular attention include:

- Boundaries or other areas that are vulnerable to encroachment
- Roads and other access ways
- New trails or access points
- Flagging tape
- Areas of recent activity permitted by the easement
- Signs of disturbance (for example, excavation, vegetation distress, dumping, tree felling)
- Indicators of property conditions (for example, erosion, residual dry matter, invasive species, water quality)
- Activity in or around building areas (existing or reserved), if applicable
- Areas heavily used by landowners or by the public
- Streambanks and lakeshores, if restricted by the easement

In some instances, properties are so large that it is not feasible to monitor the entirety every year, so it is important to keep a record of which areas the land trust monitored to ensure it monitors other areas of the property on the next visit.

A land trust should monitor only for compliance with the easement terms. Although a land trust might notice other land management issues or concerns, it is important to maintain the distinction between easement issues and issues that are not within the purview of the land trust's responsibility. Before a land trust brings non-easement issues to a landowner's attention, it should consider why the issue matters to the land trust and how the landowner may receive the information. For example, a monitor may discover a deer-hunting stand in a tree that straddles the easement property boundary. The terms of the easement permit the stand, but the monitor suspects that a neighbor erected the structure and the landowner is unaware that the neighbor is hunting on the property. In this instance, the landowner may be grateful to the land trust if the monitor mentions the deer stand, either because the landowner is distressed about the neighbor's trespass or because the landowner appreciates the land trust's concern.

Consider another scenario in which a monitor notices an abundance of noxious weeds on the protected property, but the easement does not require the landowner to minimize or eradicate the weeds. Suppose the monitor tells the landowner that he should address the problem. The landowner may be offended or upset that the monitor questioned his stewardship of the property and feel that the land trust overstepped its legal monitoring authority. In this case, a better

approach may be simply to ask the landowner whether he would like some information on controlling invasive species.

Decisions about what to say and how to say it are judgment calls based on the land trust's relationship with the landowner. Land trusts also should carefully consider what observations are in writing on the monitoring form, particularly if the land trust requires the landowner to review and sign the form.

### Documentation during Monitoring

A primary purpose of monitoring is to observe and document changes in the condition of the easement property that are relevant to the easement terms. If there is doubt about what changes are relevant to easement terms, err on the side of documentation while in the field and determine the relevance later, back in the office. In general, the monitor should document new activities and changes, whether due to human activity (construction, new land use and so on) or natural causes (fire, severe wind damage, flooding). Documentation generally includes taking photographs and keeping a record of photo points on a map for future reference or for any necessary monitoring follow-up. It may also include taking measurements, water samples or other types of analysis implied by the easement terms.

Some land trusts prepare ongoing or periodic updates for the baseline documentation at the time of the monitoring visit. Land trusts may file these photographs and other materials with the monitoring records or store them in a separate, supplemental baseline documentation file. Some land trusts update their baseline photographs at least once every five to ten years. Others do not routinely update baseline materials or photos according to an established timetable. Others prepare baseline documentation updates concurrently with the rerecording of the organization's easements, as may be required by state marketable title act statutes. A land trust's monitoring policy and procedures should include direction on when and how to supplement the baseline if this activity is part of the land trust's monitoring practice (see [Practices 11C1 and 11B3](#)).

### Monitoring with Landowners

A bonus of the monitoring visit is that it can provide a venue for the land trust and landowner to meet, talk and build a solid relationship — the cornerstone of effective easement stewardship (see [Practice 11D1](#)). This interaction helps landowners feel comfortable about contacting the land trust with questions or requests, thus serving the best interests of both parties. A monitoring visit is a great opportunity for a land trust to informally discuss its goals and its stewardship philosophy and to seek opinions and advice from landowners about the land trust's work.

Although land trusts usually encourage landowners to attend monitoring visits, monitors should consider how the landowner's presence might affect their inspections. For example, a landowner may have a personal preference for driving instead of walking, which may limit the area covered. Landowners may also lead the monitoring visit; therefore, the monitors end up viewing only the areas that the landowners have brought them to see. If a landowner's presence will impede a thorough inspection, then the monitor could meet with the landowner before or after the visit instead, or follow up with a more extensive monitoring visit alone.

Monitors should be cautious about answering landowner questions during the visit if they feel they need additional time to review the easement or contact legal counsel. Landowners may ask for interpretation of easement clauses during the monitoring visit or ask at the conclusion of the visit, "So, everything's fine, right?" Monitors should expect these questions and be prepared with answers that neither dismiss the landowner's questions nor overstep the monitor's role. If the monitor states or implies that an activity "is fine," then the landowner can assume they have received official word from the land trust. If the monitor's response proves later to be incorrect, it may put the land trust in a difficult situation, may strain the landowner relationship and may even affect the land trust's reputation in the community.

It is always better for the monitor to say something like, "I will review the easement terms following today's visit so I can answer your question thoroughly" or "I didn't see anything that concerns me, but if my supervisor notices anything from my report, she'll call you." Or, if the monitor thinks there may be a potential violation, they may say, "I will review the easement terms and call you if I have any questions" or "I have a few questions I want to talk with my supervisor about first and she'll get back to you." If the land trust is using volunteer or contract monitors, it should instruct the monitors to say that they will relay the landowner's questions to the land trust supervisor, who will follow up with them shortly.

Note that word choice and demeanor are key. Be polite and avoid accusations, so that the landowner does not become defensive or feel scolded. Specific training, including role-playing, on responding to landowner inquiries will help prepare monitors. One land trust reported that an inexperienced monitor called and left messages with a landowner, who did not return the calls. Finally, the monitor called again and left this message: "Unless you call me back, I'll go on your property." This declaration angered the landowner, and the monitor quickly learned better ways of seeking permission to enter a property.

## Post-Monitoring Work

The land trust needs to conduct post-monitoring work establish a record of the visit, update materials for the next monitoring inspection and address areas of concern. The results of monitoring must be documented promptly and saved to build a record for future monitoring and in case the land trust has to go to court over a violation. Establishing a system for post-monitoring work will help ensure the land trust is consistent, efficient and thorough in upholding its easement monitoring and stewardship obligations. Designating a point person or coordinator to oversee post-monitoring work will help ensure that the work is completed.

### Transcription of Field Notes

During a monitoring visit, a monitor may take notes or mark maps with observations. The monitor will need to write a separate report containing this information if it is not included on the monitoring form. The land trust should place a copy in the monitoring files. The monitor should avoid making any conclusions or subjective statements in these notes because these statements become part of the stewardship record.

### Photographs

Photographs taken on a monitoring inspection document changes to the property that directly relate to the conservation easement. Land trusts may file these photographs as a supplement to the original baseline documentation report or with the monitoring report. If they document a potential violation, the land trust usually files the photos with the monitoring records. In any case, all photographs should be labeled and keyed to photo points shown on a monitoring map or, if for baseline purposes, the baseline map. The photos' labels should state what the photograph depicts and why, where, when and by whom they were taken.

Like all easement documentation, land trusts should handle photos so that they will be admissible as legal evidence in court if needed. The photographer should sign and date them, and the record should include information on the photographer's role or affiliation (for example, volunteer monitor or staff position). The land trust can record this information in a format similar to that used for the baseline documentation reports (see [Practice 11B](#)). Some land trusts also have the landowner sign the photos. The photo documentation should comply with established organizational recordkeeping policies.

## Monitoring Reports

The completed monitoring report provides a written record that documents the condition of the property with respect to easement compliance and documents the fact that the monitoring occurred. This record may be used in legal proceedings, if the easement is violated. Land trusts should document annual monitoring activities promptly after the activities occur. For tax-deductible easement donations, the IRS requires that the easement include the right for the land trust to enter the property for inspecting compliance with the easement terms and, in some easement audits, the IRS has sought proof that the land trust monitored the property. (Of course, land trusts must monitor all easements, regardless of whether they were the subject of an income tax deduction.) A land trust may use its monitoring reports to demonstrate its commitment to protecting the conservation purposes of its easements.

The monitoring report should describe only factual or objective information. The monitor should sign and date the report and, if required by the land trust's policies or procedures, the landowner and other parties to the easement should sign it as well. Because the report may be used in legal proceedings, land trusts should be very thoughtful about what statements are included. If, for example, the land trust is investigating a potential violation, then the report may indicate that the land trust has identified an area or issue that needs additional follow-up.

At a minimum, a monitoring report form should include:

- Identification of the specific conservation easement being monitored
- Date of the inspection
- Identification of the monitor
- Observations relative to the restrictions, reserved rights and conservation values recorded during the inspection

In addition, land trusts may want to include the following:

- Monitor's affiliation, address and signature
- Property owner and location
- Information to substantiate the specific monitoring visit, such as:
  - Description of the area that was observed during the inspection (such as the entire property, eastern boundaries and south road and so forth)
  - Information that helps substantiate the monitor's observations (including substantiation of "no change observed")
  - Observation of the conditions and context of the inspection (such as weather or ground conditions, routes of travel, means of travel and so forth)

- Presence or absence of landowner or other party

Monitors should complete all sections of the form and leave no blanks (they can write “not applicable,” if necessary). If they leave sections blank, the form may be deemed incomplete and raise questions in an enforcement or legal action. Some land trusts require a second person from the organization to review and sign the document to ensure that the form is complete and that they take any necessary follow-up actions. Another good quality control practice is to maintain a database that can track the monitoring status of the land trust’s entire easement roster.

### Following Up with Landowners

Land trusts should notify their easement landowners in writing that the land trust inspected the property and address any questions or concerns that arose during monitoring. This follow-up gives landowners certainty about whether the land trust found any issues that need to be discussed and creates a written record for the land trust files. It also builds trust with the landowner and community, demonstrating that the land trust is upholding its stewardship responsibility.

Many land trusts report positive outcomes from sending the landowner two copies of the signed monitoring report and asking that the landowner sign one copy and return it. They follow up with a phone call if the landowner does not return the copy promptly. The land trust retains the signed copy in the monitoring file. Some land trusts prefer to send a monitoring report to the landowner for signature only if the landowner accompanied the monitor during the actual inspection. Other land trusts simply summarize the results of the inspection in a letter. Some land trusts prefer to call all landowners in addition to sending a letter, so they have another opportunity for personal contact.

Caution is advised when providing the monitoring report to landowners. Although a land trust should be transparent about its practices and findings, the monitoring form may also include information that the land trust does not necessarily intend for the landowner, such as observations about land management concerns or other incidental remarks not directly related to the easement’s terms, which can lead to misunderstandings. In both the monitoring report and the follow-up letter, a land trust should give careful consideration to making any statement about easement compliance. It is often unrealistic to observe the entire property on a monitoring visit, so the land trust should avoid a declaration about compliance if there is a possibility that an unnoticed violation exists or that the monitor made an incorrect interpretation of the facts.

If there are issues or concerns that need follow up after monitoring, the land trust may want to consider phoning or visiting with the landowner about those items before describing them in a letter. A well-considered approach can help avoid creating an adversarial situation.

## EASEMENT CO-HOLDERS AND CONTINGENT INTEREST HOLDERS

If a conservation easement names another entity as a co-holder or grants contingent interests, such as third-party enforcement rights, to another entity, the land trust that holds the primary monitoring responsibility should keep the co-holder and/or contingent interest holders apprised of the monitoring schedule and outcome. Depending on the specific agreement between the co-holders and/or contingent interest holders, the land trust should keep any such entities up-to-date by providing copies of the monitoring reports, correspondence between the land trust and landowner, the baseline documentation report and associated supplemental materials. Conversely, if a land trust holds a non-primary easement interest behind another easement holder and monitoring is delegated to the other interest holder, the land trust should receive a copy of the monitoring report and keep apprised of any stewardship issues. Each party should know and understand its stewardship role in the easement, and if there is a suspected violation, all parties should be informed. If a co-holder fails to conduct annual monitoring, the land trust has the responsibility to conduct and document its own visits.