

Monitoring a Conservation Easement

Volunteer Training & Protocol for Bear-Paw Regional Greenways

INTRODUCTION

Without our volunteers, Bear-Paw would never have been able to achieve 10,000 acres of conservation and stewardship over the past 25 years. Volunteer monitoring can be a physically demanding task and requires off trail navigation.

What is a Conservation Easement?

Conservation easement deeds are a legally binding document wherein the landowner voluntarily surrenders select land use rights (typically development and mining rights) that are extinguished forever, while retaining ownership of the land. The landowner is responsible for paying taxes and caring for the land; the easement holder is responsible for ensuring that landowners act within the terms of the easement.

Conservation easements allow land trusts to conserve land, keeping it in its undeveloped state, for a lower cost than outright ownership. Cost effectiveness is particularly important for smaller land trusts, which lack the resources (human & financial) to shoulder the burdens of land ownership on the same scale but can fund easements with the help of state or federal grants.

Private vs. Public Easements

Bear-Paw holds conservation easements on both public and privately owned lands. Conservation easements do not guarantee public access. Monitors for privately owned easements must contact the landowner about scheduling a monitoring visit ahead of time and respect their wishes regarding the timeline of visits. If the landowner makes a request that you cannot work with or that seems unreasonable, contact Bear-Paw's Stewardship Coordinator (see page 4).

Many of the towns within the Bear-Paw region have elected to put some or all of their town lands into conservation, and these are our public easements. Each town has its own Conservation Commission and the Chair is typically the point of contact for town-owned easements. Monitors should let the Conservation Commission know they plan to monitor and invite them to participate in the monitoring walk.

Why Annual Monitoring is Required

Conservation easement holders are legally obligated to monitor all easements annually. Monitoring reports must be completed and filed, as well as shared with all secondary interest

holders (e.g. state or federal granting agencies or town conservation commissions) each year. As a Land Trust Alliance accredited nonprofit Bear-Paw follows their stewardship best practices.

Easement monitoring is an excellent opportunity for us to build & maintain good landowner relations. As easement land changes ownership and passes to people who may not be familiar with land trusts, the ability to work with our landowners to do what is best for the land is vital. Easement monitors are an important link in the chain of landowner communications.

In addition to satisfying legal obligations and maintain landowner relations, conservation easement monitoring can be a form of natural history record keeping. Although not its primary function, annual monitoring allows us to maintain a record of the property and what changes have occurred on a particular parcel over time.

SITE VISIT PROCEDURES

Being an effective easement monitor is about more than just how much of the boundary you can walk. Becoming familiar with the easement terms, communicating with the landowner, and understanding the property's history are also important. Easement monitors are Bear-Paw ambassadors, and are most effective when they're able to become familiar with the easement and the landowner.

Pre-Visit Preparation

Prior to scheduling your visit, you should read over the documents pertaining to the conservation easement in question. That includes the conservation easement, maps & property surveys, and previous years' monitoring reports if applicable.

Reading a conservation easement.

Understanding the terms of the easement is key to knowing what is and is not allowed on the land, and whether the easement is being violated.

Preamble: Describes the major goals, conservation purposes, and conservation values to be protected by the easement.

Use Limitations: Use limitations restrict certain land uses, and are designed to protect the land's conservation values to meet the easement's purposes.

Reserved Rights: Rights retained by the landowners which might not otherwise be permitted by use limitations. Reserved rights may be transferable in perpetuity or extinguished after a period of time or under certain conditions.

Affirmative Rights: Affirmative rights are granted to the easement holder, and include the right to inspect the land, monitor, and enforce the conservation easement.

Administrative Provisions: Administrative provisions are other important legal terms and conditions, including the process for amending an easement.

Maps and boundary surveys.

The maps will help you know what to prepare for, from steep slopes to streams and ponds, and the nature and conditions of the easement boundaries.

Topographic Maps: Topo maps will give you a sense of how hilly the land is, and how difficult it will be to traverse. They typically show streams and ponds, but may not show wetlands.

Aerial Maps: Aerial maps are useful when you want to see land cover, large bodies of water, or signs of human activity. Learning to identify specific land cover types is a skill, and will take time, but signs of frequent human use are often fairly obvious.

Boundary surveys. Surveys can be difficult to understand initially, but they're the most useful form of map for navigating a property boundary. They give direction and distance for each line that makes up a part of the boundary, and identify stone walls, drill holes & pins, etc. The survey is always the final point of reference for evaluating if something has occurred within the easement boundaries.

Reading monitoring reports.

Previous years' monitoring reports will include a description of the monitor's visit, any changes planned or easement violations noted, boundary conditions, etc., and will help direct the current year's monitoring efforts for best effect. The monitoring report template changes frequently to accommodate LTA requirements, so be sure to look over an updated version before you begin monitoring.

Scheduling Your Visit.

Contact the landowner or Conservation Commission representative at least 2 weeks in advance of your anticipated visit and invite them to join you on the walk. If they don't plan to join you, ask if they have made or observed any changes on the easement and make note of their response for the monitoring report. Be sure to ask where they would like you to park and tell them when you plan to visit. If they do intend to participate, schedule the visit accordingly.

Volunteers who monitor public easements are encouraged to visit more than once per year, particularly if the property is too big to walk in a single visit. If multiple visits are made to a public property the Conservation Commission does not need to be contacted each time. Monitors of private easements should plan to schedule one visit per year unless property size or circumstances require multiple visits; we do not want to make our landowners feel as though they're being held under a microscope.

During Your Visit.

Bring water, GPS or cell phone, a print or electronic copy of the easement deed, maps, and monitoring report template, and anything else that helps you feel comfortable navigating the woods. If you're monitoring a private easement and the landowner doesn't plan to join you but is home when you arrive, be sure to knock and introduce yourself.

Take your time walking the property. Enjoy the process and feel free to bring a friend, especially if the landowner doesn't plan to join you. Your safety is paramount.

During your walk, focus on the property boundaries, high traffic areas, and the sites of previous violations (if applicable). Road frontage, public trails and access points, and boundaries shared with areas of high development are particularly susceptible to misuse. Boundary encroachments and littering or the dumping of trash are the most common issues.

If you observe activity that you believe to be an easement violation, do not attempt to confront the responsible party. It is not the easement monitor's job to enforce the terms of the conservation easement. Describe the activity in your report and if possible take photos; a Bear-Paw staff member will follow up on the report and take whatever action is necessary.

If the landowner is home, please check in with them again before you leave so they know that you made it out of the woods safely.

After Your Visit.

Please fill out and return the monitoring report to our office within two weeks of your visit. If multiple visits were made, the report should be submitted within two weeks of the final visit.

Monitoring reports are due no later than December 1st to allow us to file and disseminate them to our conservation partners.

Feel free to share any photos taken on public easements; if the land is posted against public access, ask the landowner for permission before sharing.

BEAR-PAW STAFF CONTACT INFORMATION

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