

Effective Monitoring of Conservation Easements

- Dan Snodgrass---The Nature Conservancy of Texas dsnodgrass@tnc.org, 830-868-4830.
- Wesley Newman---Katy Prairie Conservancy wnewman@katyprairie.org, 936-931-5564

Monitoring Conservation Easements

Equipment:

Clipboard/Field book (*“Write in the Rain”*)

Camera (digital)

GPS unit

Easement monitoring forms

Annual Site Review Field Notes

CE Annual Site Review

OBSERVATION SKILLS

Procedures:

- Carefully review the terms of the Easement, the easement documentation report from the Property and the prior year's Compliance Monitoring Report, if any.
- Based on the terms of the Easement, modify questions, or add the additional questions, to the Compliance Monitoring Report as necessary.
- Schedule review with landowner/landowners representative. Should be at the same time of year, every year.
- Be familiar with intent and purpose of the easement.
- Allow sufficient time to complete a thorough site visit.

Procedures:

- Conduct the review with particular emphasis on improvements, agricultural operations, water courses, ecological features specifically targeted for protection in the Easement, and photo sites in the easement documentation report.
- Solicit assistance from people with appropriate expertise
 - Plant/animal specialists
 - Soils
 - Hydrologist
 - Resource managers
 - Etc.....
- Document everything. Take lots of notes and pictures of anything and everything.
 - Identify sites or activities that may lead to future problems
 - Overgrazing
 - Clearing
 - Plowing
 - Unauthorized construction – fences, roads, structures, etc...

Procedures:

- Review notes before leaving property. Did you forget to write anything down?
- If landowner/agent participates in the review, go over any issues or potential issues with him/her on site. Make clear what issues are really important.
- Any observations that appear to be inconsistent with the terms of the Easement or the landowner's answers to the questions on the Report Form should be photographed, mapped and investigated.
- If there has been significant change in the landscape at any photo site, new photographs should be taken.

Annual report:

- Review and summarize field notes and photographs.
 - Not all notes and photos necessarily need to be in the report.
 - Keep copies of all photos and notes taken, with the report. These notes will provide the long term continuity of the monitoring program over time.
- Try to develop a concise Report that is to the point.

Annual report:

- Information to be included in the Compliance Monitoring Report
- Accurate identification of the monitored Conservation Interest and its location
- Identification of all persons present for the visit
- Reference and, if necessary, an update to ownership and property owner and /or property manager contact information, and any lessees or other occupants
- Photography appropriate for the scale of the site and the easement terms, and keyed to a location map.
- Detailed field notes

Annual report:

- Identification, documentation and consideration of the consequences of any significant changes to the Conservation Interest property that occurred as a result of circumstances beyond the landowner's control (e.g., natural catastrophic events)
- Description and documentation of any new infrastructure, improvements, resources, water bodies, facilities, etc.
- A narrative summary of the visit, including a comparison of the current conditions of the property and the condition stated in the last visit or the initial baseline report.
- Review the Report with the landowner and obtain his/her signature acknowledging that he/she has been informed on the content of the report.
- If the Report identifies no violations, the Report should state that the interest is "In Compliance".

Annual report:

- If the Report identifies a risk of violation, the Report should state a compliance status of “In Review”. Any classification of “In Violation” or “In Review” should be fully explained and should only occur after the Reviewer has consulted with his or her supervisor or assigned attorney.
- A draft of the complete Report should be sent to the landowner for comments and corrections.
- After the draft has been reviewed by the landowner and any comments incorporated into the Report, the Report should be signed by the Reviewer. The Reviewer's signature should be notarized.
- A signed copy should be sent to the landowner with a letter advising that the easement review has been completed and that the landowner is in compliance or noting any areas of noncompliance and proposed remedies. The landowner should be requested to return a copy with his or signature and retain a copy.

Other Thoughts:

- Communicate with landowner/rep throughout the year
- Be familiar with what is happening on the property
- *Look at issues in context and keep them in perspective*
- **Remember, it's all about the relationship!**