

# Land Trust Chapter

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# Acknowledgments

We would like to thank the following people who aided in the development of the 2009-2010 Community-Based Research Project:

## **New London Conservation Commission members**

Andy Deegan, Chair  
Dan Allen  
Robert Brown  
Sue Clough  
Emma Crane, Planning Board Representative  
Vicki Koron  
Terry Dancy  
Ruth White

## **Ausbon Sargent Land Preservation Trust Staff**

Debbie Stanley, Executive Director  
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## **Colby-Sawyer College**

Nick Baer, Assistant Professor  
Ben Steele, Chair of the Natural Science Department  
Leon Malan, Chair of the Environmental Studies Department  
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George Hastings, Systems Development Specialist  
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NH Dept. of Environmental Services

Daniel Sundquist, Director of Land Conservation Planning, Society for the Protection of NH Forests

Peter Stanley, Zoning Administrator, Town of New London

A special thanks to our professors Laura Alexander, Harvey Pine, and Jennifer White, for their guidance, support, and patience throughout this year.

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## **Land Trusts: An Overview**

In the fall, students from the third year project developed a Natural Resources Inventory (NRI) for the town of New London. The next step for the students was to develop conservation priorities for the town. In order to have a better understanding of land conservation, the students researched the land trust movement in America. Land Trusts are unique conservation organizations that have grown in popularity since the late 1800's. The writing includes a brief history of the early land trusts, discusses how land trusts conserve land today and the different groups that operate in the New London area.

## **History and Timeline of Land Trust Organizations**

In response to increasing population and destruction of the natural landscape in the late 1800's, it was clear that some sort of conservation program was needed. Charles Eliot, botanist, ecologist, and well-practiced landscape architect, started the first organization to meet such needs. These organizations, called land trusts, are nonprofit organizations that aim to conserve both water and land. Eliot started the first land trust in 1891 and called it the Trustees of Public Reservations, known today as the Trustees of Reservations. The organization was based on Eliot's background and ecological knowledge, focusing on the human need for open space. Today, their mission is very much the same, stating, "The Trustees of Reservations preserve, for public use and enjoyment, properties of exceptional scenic, historic, and ecological value in Massachusetts". It has grown to own over 90 properties, about 200 conservation easements, and has more than 27,000 members.

The early growth of land trusts was slow. The Connecticut Forest and Park Association was the only other land trust to be created before the 1900's, just a few years after the Trustees. Another type of environmental organization originating around the same time was environmental advocacy groups. The Audubon Society, the Sierra Club, and the Appalachian Mountain Club are some of the better-known examples of these groups. Although their missions and goals are not geared towards land conservation as specifically as land trusts, they still convey a general or secondary interest in preservation or conservation. The original incentive for the creation of the Audubon Society, for example, was to put an end to the destruction of bird species and their habitats. This has resulted in roughly a quarter of a million acres preserved in over 80 sanctuaries. Today, the primary function of the Audubon Society is advocacy, although some (such as the Massachusetts branch) also contribute to on-going research and promote environmental education.

The Nature Conservancy (TNC) was incorporated as a nonprofit in 1951 and is the largest conservation organization, having more than 119 million acres of land protected worldwide. It was created as the Ecological Society of America in 1915, later renamed the Ecologists' Union in 1946, and finally The Nature Conservancy in 1951. The Nature Conservancy specializes in both land conservation and policy, operating in 32 countries and establishing chapters in each of the 50 states. The Nature Conservancy works closely with other smaller regional land trusts, such as the Ausbon Sargent Land Preservation Trust in New London.

The land trust movement did not truly begin until 1981, when more than half of the land trusts in America were created. During this year, 40 people met for three days in mid-October to discuss land conservation in Cambridge, Massachusetts. The majority of those attending came from local or regional land trusts throughout the United States. The purpose of the meeting was to exchange information and build stronger relationships in the local land conservation community. On the final day of this consultation, it was decided that a permanent organization was needed to continue what was begun over the three-day period. They created an organization to act as an information clearinghouse for all of the land trusts and environmental advocacy groups to have access to. This organization would become the Land Trust Alliance (LTA), which represents more than 1,600 land trusts across the United States. The LTA established *Land Trust Standards and Practices*, which are the guidelines that the organization encourages every land trust to follow for ethical and practical conduct. Land trusts can earn accreditation from the LTA after the adoption of the *Standards and Practices*, along with a thorough examination to ensure that the land trust upholds them. The LTA also holds an annual conference, called the National Land Trust Rally, which brings together participating land trust staff, partner organizations, and volunteers to address current challenges and exchange ideas. They publish two newsletters alternately, *Landscape* and *Exchange*, which act as a means of further communication between the land trusts. The LTA is a ground-breaking organization that has increased the communication and networking between conservation organizations.

Today, there is at least one land trust operating in each of the 50 states, and as of 2000 there was a total of about 1,263 (Brewer, 2003). Some, such as TNC, have extended their conservation efforts worldwide. The loss of open space remains a pressing concern as urban sprawl (the low density development that extends from cities into rural areas) continues to threaten the natural lands that will quickly disappear if not protected (Brewer, 2003).

## **Methods for Land Conservation**

There are two main methods for conserving land, fee simple and conservation easements. In the earliest days of conservation, fee simple was the only way to conserve land. Fee simple is the purchase or donation of a property for conservation. Another method is conservation easements. This method was not widely used by conservation organizations to protect land until about the 1980's (Brewer, 2003). Conservation easements remove certain rights, specifically the right to develop, from the landowner while still allowing them to retain ownership of the land. Deed restrictions are a third method that are sometimes discussed as a way to conserve land. They consist of limitations written into a deed that specifies what can be done with the land. They are not widely used due to their similarities to conservation easements.

### **Fee Simple vs. Conservation Easements**

There are benefits and drawbacks associated with both fee simple and conservation easements. One negative aspect of fee simple is the cost associated with buying a property. Most conservation organizations are non-profits that rely on membership fees or donations, limiting the amount of money they can spend on properties. Buying a property is much more expensive than only buying the conservation easement of a property. Fee simple also discourages potential land donors since many are not willing to donate their property and their ownership of the land. Conservation easements give them another option; they can donate only the easement and still be the owners, allowing them to continue living on and enjoying their land. A benefit that is associated with fee simple is the increase in control that the conservation organization has over the property. The owner may place some restrictions on the property that the organization must abide by, but for the most part, once the land is in the land trust's ownership they can manage it as they wish. Regardless of these possible restrictions, the extra control that the organization has reduces possible infractions and litigation because there is no private owner to break the terms of an easement. This is unlike conservation easements, which need to be monitored to make sure the owner is abiding by the guidelines of the easement. This monitoring incurs additional costs that are absent in fee simple properties. Other issues may arise with conservation easements when property changes hands by either being sold or passed down to another individual. The new owner may be less conservation motivated and disagree with the terms of the easement. This can lead to litigation attempting to get the conservation easement removed or amended. This is an issue that could arise more often as the original owners sell or pass on their land.

All of the methods have advantages and disadvantages associated with them. A method that works well for one organization or one project may not work for a different organization or project. Relying too heavily on one method could lead to problems in the future. An organization who owns all of their land may run out of funds and be unable to purchase a highly desirable parcel. An organization limited to using fee simple may only be able to buy smaller parcels because they cannot afford larger parcels. An organization who uses only conservation easements or deed restrictions may find they are spending too much money on stewardship and monitoring the properties when they are unable to open them to the public. In comparison, an organization that utilizes both fee simple and easements has a larger number of options. They can buy parcels and open them to the public while accepting or buying easements on properties to ensure their protection. Conservation organizations might consider evaluating each situation and property to decide which method of protection would be best to use.

### **Regional Land Trusts**

Land trusts can be regional, state-wide or national organizations. The regional land trust for New London is the Ausbon Sargent Land Preservation Trust (ASLPT). For the state of New Hampshire, one of the state wide conservation organizations is the Society for the Protection of New Hampshire Forests (SPNHF), more commonly known as the Forest Society. Both the ASLPT and SPNHF are dedicated to protecting the most important landscapes while promoting the wise use of its renewable natural resources. One of the major national land trusts that operates with the ASLPT and SPNHF is The Nature Conservancy (TNC). Other organizations, such as The National Audubon Society and the U.S. Fish and Game, also help conserve land with national, state, and local land trusts.

### **Regional Partnerships**

The ASLPT is the regional land trust for the 12-town Mt. Kearsarge/Lake Sunapee region. It is one of only nine accredited land trusts in America. The accreditation program is a new program for land trusts. Accredited land trusts meet national quality standards, uphold the public trust, and ensure that conservation efforts are permanent. Land trusts can become accredited through a rigorous program offered by the Land Trust Alliance (LTA). In the past, the ASLPT has worked with the New Hampshire branch of TNC. The Nature Conservancy can provide financial services for local land trusts, which comes from funding that they receive from donations and fundraising. The Nature Conservancy can help identify potential donors for the ASLPT and also collaborate to identify potential grants and other forms of funding.

Currently, the ASLPT is working with the New Hampshire branch of TNC in an effort to conserve the Courser farm parcel in Warner. Over a period of five years, funding from the New Hampshire department of Fish and Game's (NHFG) Landowners Incentive Program has helped to complete the first 3 phases of the 895-acre project. This is a four phase project, and the final phase is to be completed by the summer months of 2010.

The ASLPT has also partnered with SPNHF on past projects. As previously stated in the "Methods for Conservation" section, an effective way of conserving land is through the use of conservation easements. In some cases, land trusts or land owners will select a backup easement holder for their property. In the past, it has been appropriate for SPNHF to act as a backup easement holder for the ASLPT. Depending on the circumstances, the ASLPT will also partner with SPNHF in an effort to aid them in fundraising, which goes towards the purchase of important land parcels. The cooperation between the ASLPT and SPNHF has helped to protect numerous expansive northerly views, including Lake Sunapee, Croyden Peak, Mount Cardigan and the White Mountains.

The ASLPT partners with other organizations such as with the Audubon Society. In some cases, it is also appropriate for the ASLPT to partner with the NHFG, as with the Courser parcels. Similar to TNC, the NHFG might provide financial services to the ASLPT to help them conserve important land parcels. An example of this would be with the Esther Currier Wildlife Management Area at Low Plain in New London when the NHFG donated \$54,000 to the ASLPT. However, the NHFG does own the permanent conservation easement on the property so the partnership benefited both the ASLPT and NHFG.

In the future, the ASPLT plans to work more closely with the town to educate the public about the importance of conserving land. The ASLPT, along with its partnerships and connections with TNC, SPNHF, NHFG, and the Audubon Society, help preserve New London's important land in perpetuity. The town of New London might now consider conserving more land parcels with the ASLPT to protect the town's rural character, open space, wildlife habitat, and other important natural resources.

Land Trusts represent a driving force in land conservation across America. Developing an understanding of how land trusts operate opens a unique perspective into land conservation. While land trusts are steeped in history, they have only come to prominence in the last thirty years. Today, New London and the surrounding areas are fortunate to have the support of regional and statewide land trusts like the Ausbon Sargent Land Preservation Trust and the New Hampshire Forest Society. The efforts of these organizations ensure that land is protected from unchecked development and can be conserved for the use and enjoyment of future generations.

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