



# Caught Holding the Bucket: Navigating a complex encroachment issue

Alex Metzger, Monadnock Conservancy  
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**Please put questions in the chat  
at any time.**

**Welcome**



# Land Acknowledgement

We recognize that the areas where we now sit are the ancestral lands – the homes – of many Indigenous Peoples since time immemorial.

Let us take a moment to honor these land stewards and consider how to educate ourselves to be good advocates for sovereignty, self-determination and treaty rights – what is our responsibility as beneficiaries of these lands?

*Thanks to Daisy Purdy, Sarah Howard, the Nature Conservancy and Native Governance Center for the inspiration for this language.*





# **Poll: Terraforma Risk Management Credit**

# Hello from Terrafirma

Tom Kester  
ARMS Operations Manger



Conservation Defense Liability  
Insurance for Land Trusts

# Agenda

## **Welcome & Introduction**

Alex Metzger, Stewardship Director, Mondanock Conservancy

## **Risk and violations**

Violations and the risks they pose

## **Case study**

The story of a recent major violation on a fee-owned property

## **Reflection and adjustment**

Lessons learned about risk from the case study

## **Questions and Wrap Up**

# Instructor



Alex Metzger

Stewardship Director

Monadnock Conservancy

[alex@monadnockconservancy.org](mailto:alex@monadnockconservancy.org)

# Risk and Violations

Risk is a fact of our work. Many aspects of stewardship are outside our control. Risk mitigation requires foresight and preparation.





# Violations pose many risks

- Conservation values
- Financial strain
- Standing and reputation
- Staff workload and health

# Violations test preparedness

- How well do your policies and procedures guide your response?
- How prepared are your staff, committees, and board to act?
- How will you navigate different perspectives and relationships?
- How will you protect the organization's reputation?



# Case study



# Case study – 335 acre working forest

- Water resources
  - Important tributary brook
- Forest resources
  - Managed woodlot and mature forest
- Recreational trails
  - One of our most popular hiking spots
- Conservation easement
  - Held by another larger land trust



Doug Brown, 2012



# The 13-ton violation July, 2022

- A large pile of soil was discovered on the property, spilling over the bank of the brook
- Japanese knotweed (*Reynoutria japonica*) seen growing from the soil pile

# Impact to conservation values

- Trespass
  - Soil was dumped over a clearly marked boundary line
- Water resources
  - Soil in stream and risk of further erosion
- Invasive species
  - Waterway previously free of invasives





# Legal challenges

- Conservation easement terms
  - Dumping and soil moving
  - Surface water protection
  - Invasive species
- State laws (RSA 482-A)
  - Fill in wetlands without permit
  - Introducing invasive species

# Immediate actions

**Immediate action is critical in major violations to get the ball rolling**

- Notified easement holder
- Filed complaint with NH Department of Environmental Services (NH DES)
- Visited the neighbor responsible
- Organized site visits with CE holder, NH Invasive Species Coordinator, and NH DES
- Documented everything!

# Structuring the resolution

- Violation letter from the easement holder
  - Resolve easement violations in accordance with NH DES
- Letter of Deficiency from NH DES
  - Resolve wetland violations
    - Soil stabilization
    - Soil removal
    - Replanting and monitoring
- Claim review from Terrafirma
  - Claim covered
  - Required attempts to recover costs





# Complicating factors

- Weather and seasons
  - Planning, notifications, and approvals take time
  - Winter, then constant rain
- Silence from the violator
  - 10 months with no response
  - Needed to move forward without their participation
- Soil disposal plan

# Soil stabilization, May 2023



# Soil removal, August 2023



# Soil disposal, August 2023



# Replanting, August 2023



# The fun part finished, now for...



# Legal and financial responsibilities

- Filed a legal complaint against neighbor for cost recovery
  - Approximately \$22,000
- Began court proceedings
  - Automatic disclosures submitted, prepared for depositions
- Settled for full amount
  - Case was strong, evidence was convincing
- Disbursement of funds, subrogation
  - Replaced money paid by Terrafirma, then reimbursed our enforcement fund

# Reflection and adjustment

Making time to do a “postmortem” is key to improving risk management. Consider what went right and where improvements could be made.



# Mitigating Risk to Conservation Values

- Boundary marking and controlling access
- Communication with users and neighbors
  - Could have been more proactive before violation happened
- Timely and appropriate response to issues



# Mitigating Financial Risks

- Sufficient enforcement fund
  - LTA guidelines
- Conservation defense insurance
  - Terrafirma
- Expense tracking and cost recovery
  - Good

# Mitigating Risk to Organization

- Document and organize
  - Ease of finding key documents
  - Photographing tire tracks – smoking gun
- Meet your deadlines
- Set the right precedent
  - Lots of discussion – firm but fair
  - No personal malice
- Communication with the public
  - Have a narrative and a strategy





# Mitigating Risk to Staff

- Avoid burnout
  - Major violations take a lot of time and can be stressful
  - Thorough planning and logistics
- Build a good team and delegate
  - Staff, lawyers, experts, contractors
- Strength in numbers
  - Volunteers are a great resource
  - Consider personal safety

# Questions



# National Land Trust Census

**Every five years, the National Land Trust Census measures the important conservation work of state, local and national land trusts in the United States.**

- Jan 2026 – Census survey opens
- March 31, 2026 – Census survey deadline
- Questions? Contact Katie Chang [kchang@lta.org](mailto:kchang@lta.org)



# Upcoming Online Learning

**Feb 3**– Just Do It: Building the Endowment You Really Need (\$75 member, \$0 [2026 Online Learning Pass](#))

**Feb 10**– K-12 Education Evaluation Toolkit Guide (Free!)

**Feb 12** – Stewardship Tea and Talk (Free for members)

**Feb 24** – Diversifying Revenue: Mission Related Vs. Unrelated Business Income (\$75 member, \$0 [2026 Online Learning Pass](#))

**Feb 26** – Invasive Plants: The Big Picture (Free for members)

**March 3 – May 5** – Better Baseline Documentation Reports: A Short Course (\$125 member, \$0 [2026 Online Learning Pass](#))

**April 2** – Best Practices for Notices of Approval for Conservation Easements (\$75 member, \$0 [2026 Online Learning Pass](#))

**April 22** - It's All Legalese to Me: Reading and Understanding Conservation Easement Provisions (\$130 member, \$0 [2026 Online Learning Pass](#))

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