



MAINE FARMLAND TRUST

Steps in the Conservation Easement Process

1. Farm Visit:

An MFT staff member meets with landowners (and any other parties such as heirs, attorneys, or advisors) at the farm to discuss their vision for protecting the farmland, as well as other objectives and needs related to the project. Often at this point, photos of the property are taken and other pertinent information gathered (soils map, tax maps, survey maps, timber harvest plans, NRCS conservation plans, etc.)

2. Lands Committee Evaluation:

MFT staff presents the project to the Lands Committee for discussion and approval. Once approved, the landowner is notified and work on the easement proceeds.

3. Stewardship Donation:

When MFT accepts an easement, we agree to monitor the property in perpetuity to ensure compliance with the terms of the easement. In the event of a violation, MFT takes whatever action (legal or otherwise) necessary to enforce the easement terms. Obviously, this is a significant expense for the organization. As such, MFT requests that landowners make a donation to our stewardship fund (this is a pool of funds from all easements; it is not a specific fund for each farm) to help pay for these costs. The landowner's donation can be made outright, or in the form of a pledge paid over time (with some of it at closing and an MOU agreed upon as to future payments.)

4. Development of Draft Easement:

Based on ongoing discussions with the landowners, MFT's legal counsel prepares a draft easement which is then reviewed by the Lands Committee. Any changes are then sent back to the landowners (and their legal counsel) for their input. Sometimes it takes several "rounds" before consensus can be reached. This is often the time when unforeseen issues arise and must be worked through.

5. Review of Draft Easement by Landowners' Attorney:

Once landowners are comfortable with the easement language, they then review it with their attorney. (This is to ensure that interests of the landowners are independently represented). Again, based upon the attorney review, an additional revision may be needed.

6. Title Research:

A title search is initiated to identify mortgages and other encumbrances, as they must be "subordinated" or made secondary to the easement. MFT may initiate its own title search or the landowners or their attorney may provide a title opinion or copy of the title insurance policy. MFT does this at our expense as part of the process.

7. Baseline Documentation:

After the final language of the easement is acceptable to all parties and title work is finished, MFT staff and volunteers (with the help of landowners) assemble a “present condition report” or baseline documentation. This report consists of photographs, GPS points of key features, and other information that can be used as a basis for comparison in the future. MFT will keep the original copy of this baseline as well as working copies for use when monitoring the farm in the future. The landowner will be given a copy at closing.

8. Closing and Celebration

When the easement and baseline documentation have been finalized, the parties get together for the closing on the easement, and to celebrate the protection of farmland for future generations.