

# Understanding & Applying the Conservation Land Tax Credit

Tom Anderson, Program Coordinator

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# Outline for Today

- Program Overview – by the numbers
- Application process
- Each of the steps
- Selection criteria
- Important topics and ways to make it easier
- How the landowner gets their tax credit

# CLTC program by the numbers

- Jointly administered by EEA and DOR
  - EEA certifies the donation
  - DOR provides the tax credit through annual tax filing

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  - 98 open applications right now
  - \$2 million already obligated to 2019 credits
  - \$4,675,000 in request for 2020 forward

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- Part 1 Part 2 and Part 3 in brief



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- Tax Credit is 50% of the gift - up to \$75,000 tax credit
- Its refundable! ( what does that mean?)
- Types of gifts (fee, CR, APR, WPR, others)
- Who can receive the land interest gift
  - State environmental agency – DCR, DFW, DAR
  - Municipal Conservation Commission
  - Private 501 c3 corporation(must add a CR if gifting in fee)

## The Application

- You must apply for and receive Part 2 approval before the land donation is closed and recorded
- Get the latest version of application (online)
- Contact person
- Assessor's map important
- Mass Historical Commission

## The Application continued

Tell us about the land

Include draft of the deed and/or CR

Property cannot already be protected

No faxes or email of application

(Faxes and email ok for most subsequent docs)



# **General Selection Criteria**

## General Selection Criteria

- Generally, land that has:
  - more than 50% coverage or more than 5 acres, of 1 or more Tier I environmental assets and 1 – 5 below; or
  - more than 50% coverage each of two of the Tier 2 environmental assets, (each Tier 2 acreages must exceed 50% of coverage.) Or, more than 5 acres of combined Tier 2 environmental assets and 1 – 5 below; or
  - land that has at least 2 of the Tier 3 interest at 50% coverage each plus; one of the Tier 1 with at least 25% coverage or one of Tier 2 with at least 25% coverage, and 1 – 5 below;
- 1. that substantially contributes to the conservation values,
- 2. the land is of uniformly good condition and sufficient size to maintain the conservation purposes,
- 3. the uses will be consistent with the conservation purposes,
- 4. the surrounding land uses are not incompatible or do not materially impair the conservation values,
- 5. the recipient is a governmental entity or private conservation corporation whose purposes include the conservation of land or water areas and has sufficient resources and commitment, as well as a plan, to provide stewardship to ensure continued viability of the conservation purposes.

## Selection Criteria - Tier 1

1. Zone I and II and Zone A and B and high and medium yield aquifer drinking water maps.
2. Areas specifically identified in State, regional and local Public Water Supply Protection Plans.
3. BioMap 2 Core or Priority Habitat delineated by the Department of Fish and Game (DFG)
4. Prime or state important agricultural and forest soils.
5. BioMap2 Critical Natural Landscape
6. Other regional plans for water quality protection of rivers, streams, lakes, and significant wetlands, including reduction of erosion, especially for land contributing directly to the protection of public drinking water supplies.

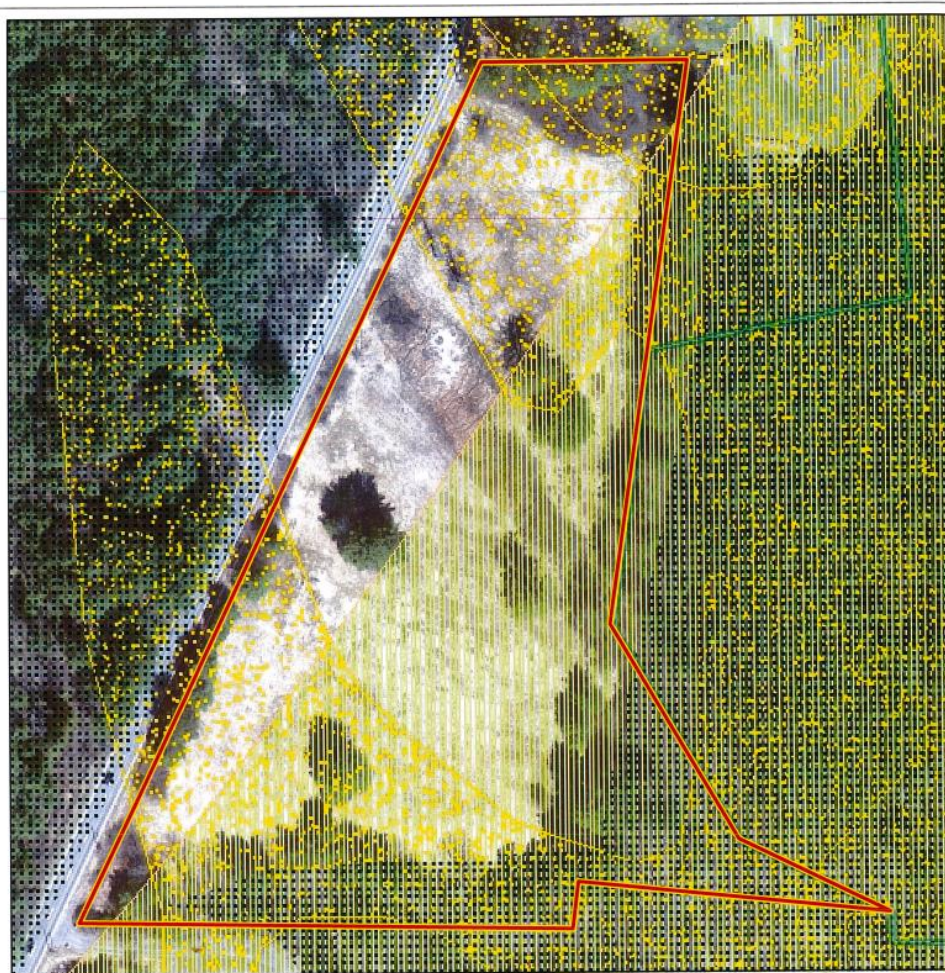
## Selection Criteria - Tier 2

- Prime agricultural and forestry lands and lands of sufficient size for viable agricultural and forestry production including Chapter 61 and 61A lands; working landscapes that are or will be in compliance with a Farm Conservation Plan or a Forestry Plan by a licensed forester that protects the natural resource values of the land.
- Significantly contributes to various focus areas for EEA and federal natural resource agencies.
- Protection of riparian buffers and wildlife corridors for native plant and animal species, especially species listed by DFG as “species of special conservation concern” in the Massachusetts Statewide Wildlife Action Plan and the BioMap2 or other state wildlife policy or plans.
- Protection of substantial areas or those that significantly contribute to cultural sites, state heritage corridors, and archaeological and historic resources including those listed by the Massachusetts Historical Commission; in specific areas mapped by the MHC as important for cultural resource protection. (i.e., [substantially] a large undeveloped area that is the “backdrop” for a historic site or landmark, or [significantly] the historic site or landmark itself).

## Tier 2 Continued

- Priority areas in the DCR's state forest assessment and strategy.
- 
- Substantially or significantly contributes to federal, state or local natural resource designated areas such as Areas of Critical Environmental Concern or habitat reserves.
- 
- Areas that substantially contribute to state and regional scenic plans designating the land as of statewide or regional significance
- 
- River protection Act buffers (0- 200 feet) and lands containing within 200 feet of mapped rivers, streams, lakes, ponds and coastal or freshwater wetlands, marshes or water areas.








**Additional environmental datasets covering the site:**




BioMap2 Core Habitat 100%  
 DCR Scenic Inventory 100%

**Environmental Overlays**

-  Prime Forest Land - only 1 through 3W
-  Prime Farmland Soils
-  DCR Greenway

0 50 100 Feet



-  Tax Credit Conservation Site
-  Municipal boundary
-  Protected OpenSpace

## Part 1 Notice of Eligibility

What it means

Land qualifies

CR and/or the deed is in review process

Field visit usually still needed

Get the appraisal (CR in review?)

No time limit for getting in the appraisal

No funds have been obligated



# Appraisal

## Appraisal

Appraise the gift

Must be commissioned by the owner

Appraisal is good for up to one year

Not tied to IRS appraisal

Please give me the appraisal in digital format

Include the Part 2 sheet

## PART II

If you have received a Notice of Eligibility letter from EEA, please submit the following information within 30 days:

Provide an electronic or hard copy of a Certified Appraisal<sup>1</sup> by an appraiser qualified to perform the subject appraisal. The appraisal must include all of the assumptions, constraints, and benefits taken into account. **The appraisal must be commissioned by the donor.** Please have Executive Office of Energy & Environmental Affairs Conservation Land Tax Credit program and the Massachusetts Department of Revenue included as "intended users" of the document.

(If the appraised value was based on potential development, please provide the information showing the basis and development assumptions and constraints and whether a change in zoning would be required).

Note: If the interest being appraised consists of multiple lots with multiple owners, separate values must be assigned to each individual lot so the percentage of the tax credit can be accurately allocated among all owners.

Provide us a statement confirming the amount of consideration (if any) the donor(s) will receive from the gift/bargain sale.

Appraised value of donation \$ \_\_\_\_\_

Minus total of all consideration  
To be received - \$ \_\_\_\_\_

Equals total gift/bargain sale  
For this donation = \$ \_\_\_\_\_

Q. Why does EEA request a Certified Appraisal and information on the consideration A. The CLTC Program is limited to an annual allocation of \$2 million. The appraiser's valuation helps determine the amount of the potential tax credit that will be claimed. If there are sufficient funds remaining in the annual allocation of the CLTC program, the applicant will receive a Notice to Proceed.

Q. What if the annual allocation for the program has been reached, but the applicant's donation has been determined to be potentially eligible?

A. If the annual limit on the cost of approved tax credits as provided under 830 CMR 62.6 (6) has been reached, applicants who are potentially eligible for the tax credit will be notified and they will be considered eligible for Pre-CLTC as funding becomes

<sup>1</sup> Documented narrative with an adequate explanation of the appraisal procedure and data (including comparables and adjustments) used to arrive at the valuation.



## Part 2    Notice to Proceed

## Part 2 Notice to Proceed

### What it means

- Appraisal is in and adequate for now
  - Appraisal includes intended users
    - EEA CLTC Program
    - Massachusetts DOR
- If funds available – we obligate them now
- 60 day window to close and record

### Waiting list

Part 2 letter includes ...

## Attachment A

CLTC Application # 0154

Address: 1 Main Street

### Final Documents required to be provided to EEA prior to issuance of a Land Identification Number:

\_\_\_ Copy of recorded Deed and/or Restriction with book and page number and date granting to an Agency, a Qualified Organization, or a Public Conservation Agency a Property Interest in Pre-CLTC land that meets EEA's criteria and conveyance standards, which perpetually protects the Qualified Donation and is recorded or registered at the appropriate Registry of Deeds.

**Please be sure to have the CR marginally referenced on the Grantor's Deed and/or have the documents electronically indexed to each other and provide proof of that. If you do not understand what we are asking for on this item, then please call and get clarification.**

\_\_\_ A recorded survey showing the subject and/or metes and bounds description, referencing a recorded instrument or a sketch plan containing a metes and bounds description, and clearly delineating the land as Conservation Land or the restricted area as a Restriction, recorded with the instrument(s) granting the Property Interest. Excluded areas shall be described in the same manner, with permanent boundary markers in place or provided for in the Qualified Donation Instrument.

\_\_\_ An electronic copy of completed Baseline Documentation Report sufficient to establish the condition of the property at the time of the donation. (unless already provided)

\_\_\_ Notarized ***Affidavit Regarding Consideration*** completed by each owner/donor. This document must list all sources of consideration received, or anticipated to be received, in compensation for this land transaction.

\_\_\_ Evidence of clear title/updated title exam to property of the **donor/owner/CLTC applicant** (e.g. title abstract, and if requested, title examination, title policy, attorney's opinion of title) and certification of title that complies with EEA title specifications and standards verifying all necessary signatories to the instruments conveying the Property Interest and that the Qualified Donation will have a first lien position. The title examination must list all ownership interests, the name, address and contact information for each owner, and the percentage of each owner's ownership interest in the donation if available, and evidence the capacity to convey a clear title;

\_\_\_ Votes authorizing the transaction, and attested copies of votes granting authority, if applicable;

\_\_\_ Satisfactory evidence that all liens affecting Certified Land have been released or subordinated;

\_\_\_ If there is an encumbrance or interest affecting the Certified Land, EEA may require an agreement from the holders of said encumbrances or interest that they will exercise their rights only in a manner consistent with Natural Resource Protection, duly recorded with the registry of deeds;

**Upon satisfactory receipt of the above, an LIN will be issued to the applicant, which verifies to the Department of Revenue the Certified Land's eligibility for the tax credit.**

The LIN number will be used by the DOR to issue a unique CLTC number to each Owner/Donor. The CLTC number issued by the DOR is the only number the DOR will recognize on the state tax forms for verification of eligibility for the tax credit.



## Advanced Search - Bristol Registry of Deeds

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### Advanced Image Search

**Book\*** 21451

**Page\*** 106

OR

**Start:**

**End:**

**Doc Type:** Select One

**Search Recorded Land**

**Book\***

**Page\***

**Search Plans**

**Doc #\***

OR

**Start:**

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**Doc Type:** Select One

OR

**Certificate #: \***

**Search Land Court**

Last Recorded Land Doc filed: 8904 Book 21595 Page 83 current time 3/21/2014 3:42:22 PM

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|----------------------|---------------------------|-------------|----------------|---------------|-------------|--|----------------------|
| Y 12/5/2013          | CONSERVATION RESTRICTIONS | 21451       | 106            | 53592         | REHOBOTH    | SEE INSTR<br><a href="#">18302-194, DEED</a> | <a href="#">View</a> |

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# Affidavit Regarding Consideration



Conservation Land Tax Credit (CLTC)  
**Affidavit Regarding Consideration**  
(To be completed by each individual donor)

CLTC Application # 0105 Property Address Hardwick Pond Road & Old Stage Rd., Ware

I hereby certify that the total amount (fair market value based on an appraisal submitted to our office) of the property interest in the above referenced Conservation Land Tax Credit application is \$ \_\_\_\_\_ **Line A**

I also certify and disclose that I/we have received/anticipate receiving, the following consideration for this gift/bargain sale; (Please list all consideration given to you in making this donation)

| Amount/Value | Source (use additional sheet if necessary) |
|--------------|--|
| \$ _____     | _____                                      |
| \$ _____     | _____                                      |
| \$ _____     | _____                                      |
| \$ _____     | _____                                      |
|              | <b>Total</b> ..... <b>Line B</b>           |

\$ \_\_\_\_\_, **Gift/bargain sale amount (Line A – Line B)**

If you received compensation from a state or federal agency, was the sale amount paid by the agency based on an appraisal at the time, and if so, was the sale; (please check one)  
 full fair market value       a bargain sale

I, have \_\_\_\_\_, have not \_\_\_\_\_, (check or circle one) been the recipient of a Mass. Conservation Land Tax Credit within the last 3 years.

\_\_\_\_\_  
Print Name      Signed under pains & penalties of perjury this \_\_\_\_\_ day of \_\_\_\_\_ in the year \_\_\_\_\_.

COMMONWEALTH OF MASSACHUSETTS

\_\_\_\_\_, 20\_\_

Then personally appeared before me the above-named \_\_\_\_\_ and proved to me through satisfactory evidence of identification, which was ( \_\_\_\_\_ ) to be the person whose name is signed on the document and acknowledged the foregoing instrument to be his/her free act and deed, before me.

\_\_\_\_\_  
Notary Public  
My commission expires:

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## Part 3

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### Prior to recording, optional DCS review

- Title Exam and/or Certification of Title
- Subordination items
  - Mortgage
  - Home Equity Loan
  - Homestead
  - others
- Ownership in trust (options for receiving credit)

# “Trust” options

- CLTC to the Trust
  - Tax Credit can be received by the Trust. Will be claimed and paid through the Trust state tax filing for that year.
- CLTC directly to the beneficiaries
  - A notarized letter from and signed by all the Trustees of the Trust stating that they are in fact the trustees and directing the CLTC program to issue the tax credit directly to each and all of the beneficiaries.
  - They then must provide the list of beneficiaries including their; full names, mailing addresses, and percentage of beneficial interest in the trust. The percentages must add up to 100%.



## Certification of Title

- Full legal name of each owner
- Percent of interest in the ownership
- Mailing addresses
- Marital status for married owners of same gift





## Part 3

Prior to recording options for review

Title Exam

Certification of Title

Subordination items

Ownership in trust (options for receiving credit)

## Receiving the tax credit

- I send letter and certificate to each owner
- Certificate includes unique number specific to that owner. (we no longer do the LIN)
- I also send information to DOR
- Owner will use the certificate number on their taxes



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 Executive Office of Energy and Environmental Affairs  
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John J. & Ann M. Smith  
 65 Riverside Road  
 Gloucester, MA 01931

March 21, 2019

Re: Conservation Land Tax Credit  
 EEA Application # 0257  
 60 Riverside Road, Gloucester  
 2015 Tax Year Gift/Bargain Sale  
 Tax Credit: \$75,000

Dear John and Ann:

We are delighted to provide you with your unique Conservation Land Tax Credit – Certificate Number for the above referenced tax credit application. You will use the certificate number in your contacts with the Department of Revenue and on your 2018 tax return. (This certificate number replaces the LIN used earlier in the CLTC program)

Attached is the *Form CLTCC Conservation Land Tax Credit Certificate*, which contains the number as well as the other pertinent information that we are transmitting to the Department of Revenue. If you believe any of this information is incorrect you must notify us immediately so that we may make the correction both in our records and DOR's. The Certificate Number is unique to you as a tax payer and can only be used by you on your state tax returns. For security purposes, we recommend you keep a copy in a safe place and do not share the Certificate Number with anyone.

If you have questions you can contact me at (617) 626-1013 or [Thomas.anderson@state.ma.us](mailto:Thomas.anderson@state.ma.us). Thank you for your participation in this program and for your demonstrated commitment to land conservation in Massachusetts.

Sincerely,

Thomas C. Anderson  
 Program Coordinator

Cc: Essex County Greenbelt w/o encl.



Form CLTCC  
 Conservation Land  
 Tax Credit Certificate

|   |                         |                         |              |
|---|-------------------------|-------------------------|--------------|
| Taxpayer name<br>John J. & Ann M. Smith   |                         |                         |              |
| Street address<br>65 Riverside Road   | City/Town<br>Gloucester | State<br>MA             | Zip<br>01931 |
| Address of donated certified land<br>60 Riverside Road  | City/Town<br>Gloucester | State<br>MA             | Zip<br>01931 |
| Type of entity:<br><input checked="" type="checkbox"/> Individual <input type="checkbox"/> Corporation <input type="checkbox"/> Trust <input type="checkbox"/> Partnership <input type="checkbox"/> S corporation <input type="checkbox"/> Estate <input type="checkbox"/> Other: |                         |                         |              |
| Certificate number issued by EEA. Note: You must enter this certificate number on your tax return.<br><b>8019C15428</b>   |                         | Tax year<br><b>2015</b> |              |

1 Amount of Conservation Land Tax credit eligible for use or refund ..... 1 **\$75,000**

# Understanding & Applying the Conservation Land Tax Credit

Tom Anderson, Program Coordinator

(617) 626-1013

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