



### Steering Committee Minutes (Hybrid)

Friday, September 23, 2022 10:00 AM – 12:15 PM

**In-Person: In the Auditorium at Arcadia Wildlife Sanctuary, 127 Combs Road, Easthampton, MA.**

**Virtual: Zoom link provided on website for members**

**Attendees:** On record (~ 50 virtual / 20 live)

**Staff Attendees:**

- Robb Johnson, ED
- Barbara Chrenko, Programs Manager
- Bujana Balla, Development and Operations Coordinator

**Hand Outs** (On website for members):

- Agenda for today's meeting ([https://massland.org/sites/default/files/files/mltc\\_steering\\_committee\\_2022-09-23\\_agenda\\_final.pdf](https://massland.org/sites/default/files/files/mltc_steering_committee_2022-09-23_agenda_final.pdf))
- Minutes of June 10<sup>th</sup> meeting (<https://massland.org/steering-committee-meeting-materials>)
- Quarterly Policy Update (Emailed to all Zoom registrants and provided onsite)
- Statewide Comprehensive Outdoor Recreation Plan (SCORP) survey for Land Trusts (Emailed to all registrants.) Link to survey for Land Trusts:  
<https://forms.office.com/pages/responsepage.aspx?id=Fh2GPrdIDkqYBowE2Bt7KiolZlxHLtRHmg3iOK3UbyBUOEK3NERHR1haWEQzUVlaNTQ4QTVNWEJKTi4u>

Kathy Orlando, Steering Committee Chair, called the hybrid meeting to order at 10:02AM.

1. **Welcome.** Kathy Orlando welcomed everyone, reviewed the hybrid meeting logistics and hand-outs.
  - a. Barbara Chrenko asked on-site attendees to sign in.
  - b. Both on-site and virtual attendees introduced themselves.
2. **Minutes of June 10, 2022 Steering Committee.** Janet Milkman moved and Kirsten Sykes seconded the motion to accept the minutes. Hearing no further discussion Kathy called the vote. **VOTE:** Unanimous
3. **Next meetings.** Friday, December 9th and Friday, March 10<sup>th</sup>. Both will be via Zoom. Next June may be live.
4. **MLTC Staff Report.** Robb Johnson, Executive Director provided the following updates. (See Attachment A)
  - a. *Introductions.* Robb introduced new board members Anna Wilkins (Executive Director of North County Land Trust) and Cormac Collier (CEO and President of the Nantucket Conservation Foundation). Robb also welcomed new Conservation Advisory Council members Julie Brandlen, Jared Chase, Ray Lyons, and Rob Warren.
  - b. *LTA and MLTC Learning Collaborative.* Being prepared for "What If" to ensure conservation permanence starts on October 4<sup>th</sup>. (See Attachment B).
  - c. *Land Trust/State Agency Retreat.* Agenda has been confirmed and registration is ready for use.
  - d. *2023 Mass Land Conservation Conference (MLCC).* Robb reviewed the basics for the MLCC
    - i. A live conference on Saturday, March 25, 2023 at Worcester Tech.
    - ii. Will include many topics of current interest including field trips to be held on Friday April 28.
5. **Land Trust Alliance (LTA) Report.** Jen Plowden, New England Program Manager provided the following updates (See Attachment B).

- a. Jen summarized the LTA Rally which was held in New Orleans last week and the strong presence from Massachusetts was recognized. Rally will be in Portland, OR in 2023 and in Providence, RI in 2024. Jen recognized the awardees for both Land Trust Excellence Award (Mount Grace Land Conservation Trust) and the Kingsbury Brown Conservation Leadership Award Recipient (Ebonie Alexander, Black Family Land Trust). (See Attachment B for video links.)
  - b. Jen noted the Upcoming Practical Pointer Series and Legal Symposium this summer and said that there is currently a shortage of conservation attorneys. Ray Lyons mentioned in the “chat” that the Rally crypto-currency attorney session was good and that each LT must think through its policy regarding crypto in advance. LTs should assume crypto currency donors will emerge.
  - c. Jen noted that encroachment disputes are increasing and that Terraforma placeholder claims should be filed immediately as issues become known. In response to Kathy’s question, the policy year runs from March 1 to March 1 and claims must be filed by April 30th.
  - d. Ensuring Conservation Permanence program will start on Tuesday the 4<sup>th</sup> of October.
  - e. LTA will be releasing a new Learning Center website which will include significant improvements in access and searching for topics.
  - f. Upcoming Webinars include: Indigenous Methods of Stewardship; Understanding Privilege and Advancing Equity; Reenergizing Your Board; and Preparing for Natural Disasters (See Attachment B for details).
6. **State Agency Updates.** Kurt Gaertner, Assistant Secretary for Environmental Policy and Bob Wilber, Director of Conservation Services (Executive Office of Energy and Environmental Affairs - EOEAA) provided the following updates.
- a. Kurt introduced Bob Wilber as the new DCS director. Bob noted that this site, Arcadia, was the site of the first Nature Preschool in the U.S. and he also recognized and thanked Loring and Henry for the Conservation Advisory Council (CAC) formation and thanked the CAC members for their work and participation.
  - b. Bob and Kurt summarized the current Conservation Restriction (CR) issues and concerns:
    - i. Massachusetts is the only state in the country with third party (both State and Local) review and approval of Conservation Restrictions (referred to as Conservation Easements elsewhere). This ensures legitimate public benefits from each CR, reduces incidence of fraud.
    - ii. Bob acknowledged that the Commonwealth’s CR review process has recently been challenged by staff vacancies, including the CR Reviewer position. Currently 169 CRs overall are in the DCS pipeline for review for conservation function and legal integrity. About ½ of these have 2022 tax implications, and desire to close before 12/31/22.
    - iii. The salary for the CR Reviewer position has been increased and has been reposted. Bob asked everyone to encourage qualified individuals to apply. Kurt noted that there are only nine applicants as of today. In response to questions, Kurt noted that the CR Reviewer can perform the majority of their work from home BUT generally needs to be in the Boston office one day per week – though there might be flexibility. Bob assured everyone he is fully committed to getting the position filled and the process repaired ASAP.
    - iv. EEA’s first priority is to complete the review and approval of all CRs with 2022 timelines in time for them to go to record by December 31st. A concerted effort is underway at EEA to do all that they can to ensure that this happens. Irene DelBono has been retained to work on this, 2-3 capable, qualified temporary, contract staff will also be retained by direct request to assist, and the legal team will also be enhanced to accommodate the backlog of time sensitive CRs. Bob requested that for CRs that have to go on record by 12/31/22, please communicate to Denise Pires immediately, if you have not done so already. Cynthia Henshaw asked for a process update for the CRs which were due for June 30<sup>th</sup> grant deadlines and Kurt said those were taken first with two pending. Bob emphasized that time sensitive CRs are being prioritized at this juncture.

- v. Conservation Land Tax Credit (CLTC) CRs are backlogged and Bob said EEA will look into it the issue of forwarding CRs associated with a 2022 calendar year tax credit to the following calendar year. [Note: This suggestion has since been explored; it is not possible to move 2022 tax credits to 2023.]
- vi. Rita asked if CR requests have increased and Kurt said no, that the annual volume is high with between 150 and 200 per year being normal. The issue is the pace of review which has been significantly compromised by staffing shortages, especially the open CR reviewer position. Robb noted the frustrations that have been communicated to MLTC staff over delayed CR reviews and perceived delays associated with filling the CR Reviewer position. He wanted to know what recourse an organization might have if their CR is delayed and is there anything MLTC or other stakeholders can do to assist with the solution. He also asked whether the change in administration over the next few months may affect the process. Kurt said that having Irene reviewing CRs has helped, but alone this has not proven sufficient to address the current CR review backlog. However, EEA senior staff have been briefed on the situation and they are very supportive of taking additional steps to resolve the problem. He believes there's been a "breakthrough" of sorts in regard to the bureaucratic process, and steps are being taken to move forward ASAP with additional contracted staff, and an increase in salary for the CR Review position as noted.
- vii. If anyone has a CR related issue please talk to either Kurt or Bob. Cynthia asked how to accelerate the delay with getting the EOEEA Secretary signatures. Bob noted that since the CR Reviewer position has been vacant, the CR database was not updated consistently. Bob again emphasized the need to communicate immediately to Denise Pires with any issues involving delay. Ray Lyons described a business approach to the process and Kurt will look into it [the information Ray provided has since been sent to EEA legal counsel for their consideration]. The permanent CR Reviewer application link will be posted on MLTC [see above].
- c. Paul Jahnige, the Director of DCR's Greenway and Trails Program, was introduced. Paul summarized the issues associated with trail maintenance when abutting wetlands. Having the state and municipal wetland bylaws followed may involve significant expense for land trusts. Paul is exploring models to streamline the process for improvement. Paul will be working with MLTC staff to conduct a survey to gather data to inform the process. Kristen Sykes noted that the AMC has been working with Paul et al on trail boardwalks that improve the habitat and reduce habitat violation. Kirsten asked everyone for their input on this topic to ensure the habitat is protected while allowing the public to enjoy nature.
- d. Bob summarized that the FY 2023 Land and Water Grant program will be posted in October, and Round 6 of the Outdoor Recreation Legacy Program (ORLP) for economically disadvantaged communities (with population threshold now lowered to 30,000) should be posted soon.
- e. Please respond to the ongoing SCORP to ensure good representation of demand in Massachusetts. A link to the survey was posted in the most recent Massland e-News. The link for Land Trusts listed above under Hand-Outs.
- f. Agency FY22 land protection summary given: >7,500 acres protected; >4,000 acres by DCR and nearly 3,000 acres by Fish and Game. MDAR is approaching the milestone of 1,000<sup>th</sup> APRs.
- g. Buzz Constable acknowledge gratefully Bob's and Kurt's efforts and work to solve the CR issues.

## 7. Committee and Working Group Updates.

- a. **Amicus Committee (AC).** Buzz Constable (MLTC Board) provided the following updates:
  - i. The Berkshire Natural Resources Council (BNRC) Trails case in Richmond: There are no significant updates for this case. The issue with this case concerns BNRC trail access from a currently zoned private road and he noted there's another similar case on the Cape. Jenny Hansell from the BNRC noted the issue hinges on the decision as to whether the specific road is legally public or private which may be resolved by a Special Town Meeting. There's a hearing in Land Court in about 2 weeks to review the issue and a decision on whether this road is public or private may resolve the issue. Buzz noted that if there is a private easement on private road,

access rights don't necessarily extend to "overuse" by the public. Be cautious if your organization has similar issues.

- ii. The Hopedale case concerns a dispute over the exercise of a Chapter 61 Right of First Refusal (ROFR) by the town to acquire the land under Chapter. However, the land owner is a realty trust and while the case was pending, a rail company that had acquired beneficial interest in the realty trust, proceeded to clear cut over 100 acres of prime conservation land for a warehouse campus. Do the landowners have a right to do this given that the Town had exercised its ROFR? Do Federal statutes pertaining to rail companies override state and local bylaws? Hopedale and Metacomet LT have been very active and have asked for a MLTC amici filing. The AC considered the request however without an attorney and a more specific land-trust related legal issue, they decided MLTC should not file one at this time. Kurt noted that the Commonwealth is aware of this case.
  - iii. The AC is considering whether MLTC should provide a vehicle for legal fee-for-services.
  - iv. Buzz congratulated Mt. Grace CLT on their LTA Excellence Award.
- b. **Young Land Professionals (YLP).** Stephen O'Grady (Orleans Conservation Trust) noted that SVT hosted an event at Horse Meadow Knoll in Harvard last month. YLP is looking for more state staff representatives who can get involved. Stephen asked that everyone invite their newer, younger staff to get involved. Upcoming events this winter will be around the state.
- c. **Agriculture.** Kathy Orlando (Sheffield Land Trust) noted that more cannabis growers are approaching agricultural land owners. Kathy recommended that LTs let all of their land owners know that if they allow cannabis use, they will not qualify for any federal assistance.
8. **Policy Update & MLTC Policy Committee Update.** Emily Myron (The Nature Conservancy), Linda Orel (The Trustees), Kristen Sykes (MLTC Board/AMC) provided the following updates (See Attachment C Policy Update).
- a. Emily Myron reviewed all the priority legislation and funding bills as summarized in the Policy Update and although the formal legislative session has ended, she anticipates some legislation will be passed in informal session before the end of the year.
    - i. Public Land Preservation Act. Robb and Dorothy (Dot) McGlincy (MACC) are continuing work as process continues to achieve legislation.
    - ii. Economic Development Bill. Bill was held up by the state's revenue which exceeded a limit in a 1980s tax rebate law; however, Emily is hopeful that conservation monies will be maintained.
    - iii. Remainder of bills that MLTC Policy Com had highlighted will most likely be re-filed next year and priorities will be re-evaluated.
  - b. The new state budget met or exceeded Green Budget asks.
  - c. Gov. Baker signed a Green Energy bill. Solar array siting on agricultural land has issues of concern but Emily anticipates there will be opportunities to address going forward. The Dept. of Energy Resources released a Solar Sighting Survey as part of their Technical Potential of Solar Study. Emily Myron noted that open land is "lumped" together and presumes productive agriculture under solar arrays which has not been proven and is being researched by UMass. One attendee commented that the survey seems to be biased towards the solar energy industry. A commission has been created to explore solar on both agricultural and Chapter 61 lands. Link to survey: <https://www.mass.gov/forms/technical-potential-of-solar-study-solar-siting-survey>
  - d. Kathy Orlando posted in the chat that the Dept. of Energy Resources will hold two virtual public input meetings, the Technical Potential of Solar Stakeholder Meetings on October 5th and 11th.
  - e. Policy priorities are currently being set for both the next legislative session and the incoming administration noting the process and partners and request for input.
  - f. Emily Myron thanked the EOEEA for their work to protect, manage, and restore natural and working lands.
  - g. EOEEA has started to work on a 2050 Clean Energy and Climate Plan. See link for public meetings which start in October: <https://www.mass.gov/service-details/the-global-warming-solutions-act-gwsa-public-meetings>

- h. Regarding Forest Landscape Designation, see DCR's website for taking public comments: <https://www.mass.gov/forms/dcr-public-comments>.
  - i. Emily Myron asked that all questions regarding the Mosquito Control Task Force please be directed to Heidi Ricci: [hricci@massaudubon.org](mailto:hricci@massaudubon.org)
  - j. Kristen Sykes thanked Melissa Cryan, EEA LWCF Stateside Coordinator, for her work, and then summarized the national funding available through the Land and Water Conservation Fund and how funding can be used. Applications tripled after AMC and TNC worked with EEA to host listening sessions and webinars about the program and how it can the funding can be used.
  - k. Kristen Sykes referenced the American Great Outdoors Act and the increase in funding coming to LWCF thanks to the passage of this bill She shared that AMC and others have developed a grant funding matrix for open space, trail and active transportation, which can be found at [https://docs.google.com/spreadsheets/d/1uRZEqc1ZFmrf\\_TIPXpUsf1p3yzoyJI7DOAFdt1ayoys/edit#gid=0](https://docs.google.com/spreadsheets/d/1uRZEqc1ZFmrf_TIPXpUsf1p3yzoyJI7DOAFdt1ayoys/edit#gid=0)
  - l. Melissa Cryan and Kristen Sykes presented a poster on the effort to expand use of LWCF Stateside in Environmental Justice communities in MA at the Society of Outdoor Recreation Professionals conference in Knoxville TN on 9/13. She also shared that the Department of the Interior is reevaluating the yellow appraisal requirement for LWCF projects. This requirement has been a barrier in LWCF money being effectively spent in MA and nationwide.
  - m. Kristen reminded everyone that the Statewide Comprehensive Outdoor Recreation Plan (SCORP) survey is available and encouraged everyone to complete it to enable the Commonwealth to update their SCORP which is required to assure eligibility for Land and Water Conservation Fund funding (link for Land Trusts survey listed under Hand-Outs). Emily Myron said to review and share with others to assure all priorities are represented. Kristen said she and the Friends of Conte are working on federal legislation to increase resources in the 4-state CT River Watershed where this meeting is being held.
  - n. Emily Myron noted that with the upcoming election a briefing book on conservation education was produced and shared with candidates prior to the primaries. The goal is to adapt that briefing as a new administrative policy document. Everyone was encouraged to engage their new legislators.
  - o. Kristen Sykes noted that Emily Myron will be the co-chair of the MLTC Policy Committee and Kristen thanked all of those who are on this Committee. She also noted Linda Orel hosted a recent meeting among several leading conservation organizations to identify policy priorities for the upcoming legislative session.
  - p. Kurt Gaertner noted that EOEEA is very interested in being engaged in the PLPA, , and next year's budget, and also noted EEA is planning to work on a revision to their Article 97 policy.
9. **Policy Priorities and MLTC's Partnerships.** Robb summarized the process underway to advance the shared priorities of all the conservation stakeholders. Robb's sense is that MLTC's priorities should be focused specifically on land conservation given MLTC's limited capacity for advocacy. He then asked for everyone's input on what matters most to them for both legislative and regulatory actions. Suggestions as follows:
- a. Kurt Gaertner agreed that the CLTC tax cap needs to be increased by legislative means.
  - b. Rita Grossman asked for more options so that permanent protection is assured in the future.
  - c. It was suggested that MLTC be on the newly elected governor's transition team.
  - d. Kathy Orlando noted dual use issues such as farms losing water resources based on her experience in western MA and said we need to look at the conservation issue holistically to maximize food production while addressing water and habitat to maximize all aspects.
  - e. Christa Collins noted that SVT has been asked to hold CRs on CPA acquired properties that are not CR compatible. Stuart Saginor is aware of this issue as CPA acquisitions are proceeding yet these issues need to be addressed as to what CPA was created to accomplish. Rita Grossman asked for clarification about what she meant, and the issue mostly concerned structures on properties that were not CPA compatible. Andy Magee noted that the three-fold goal of the CPA is admirable, however, there needs to be some clarification, especially with Town Managers who want flexibility and yet lack an understanding of the legal rules as to what is being acquired for what purpose. There needs to be significant, focused education on how to achieve all three of the CPA's goals.

- f. Anna Wilkins noted that across municipalities, DCR needs to review the processes for ROFRs for Chapter 61, 61A and 61B and to be specific as to what is needed for municipalities to be thorough and accurate and to note the opportunities for improvement. Janet Milkman said, based on her experience on the Cape, that towns may need assistance in that ROFR process is haphazard and cited some examples. She also noted that the development pressure is significant for all Chapter 61 lands.
- g. Bob Wilber said that the tax incentive category including the fee interest for enhanced federal tax incentives and that the CLTC with a 2 year backlog is making the CLTC irrelevant and this should be addressed ASAP. Speaking as a local land trust volunteer, Bob also said that invasive plants are impacting habitat at a rapid pace not anticipated and suggested there should be an option to make it easier for a local LT to have access to a licensed applicator.
- h. Kate Buttolph expressed appreciation for the meeting location enhancing access for western MA participants. She said improvements in payments to towns under the PILOT program is needed with more work on incentives for solar sightings and noted there is a land “gold” rush right now and there are not incentives to protect trees and working lands.
- i. Kristen Sykes thanked everyone for their input and said the Policy Com will keep everyone informed on progress on all of these issues and finally please reach out to your legislators, especially regarding to CLTC. The Policy Committee is working on a Lobby Day for 2023.
- j. Alain Peteroy expressed appreciation for the meeting location out west and noted the need to address the issues with elderly land owners who need income as CPA adoption is not as prevalent in W. MA.

**10. Announcements.** Kathy asked for announcements if any:

- a. Gerrit Stover offered to lead a short walk after this meeting.
- b. Kathy noted that Justine put into chat on private landowners and large solar installations with battery.
- c. Vanessa Farny, Forest & Land Program Manager for Division of Conservation Service said that the Water supply grant and conservation assistance grant for small communities (<= 7K) is about to be announced and funds may be available for due diligence.

12:16 PM Rita Grossman moved and Janet Milkman seconded the motion to adjourn. Hearing no further discussion, Kathy called the vote. **VOTE:** Unanimous.

Respectfully submitted,  
Rita Gibes Grossman, Clerk

# ATTACHMENT A

## Staff Report Slides



### Upcoming Meetings

- Friday December 9 via Zoom
- Friday March 10 via Zoom
- Friday, June 9 TBD

Locations TBD based on evolving public health guidance

### Welcome and thanks to new members of MLTC's Board & Conservation Advisory Council

- New Trustees
  - Cormac Collier Anna Wilkins
- New Advisory Council Members
  - Julie Brandlen Ray Lyons
  - Jared Chase Rob Warren



### Program Updates

#### Being Prepared for 'What If': Ensuring Conservation Permanence

- Our next multi-session learning collaborative starts October 4, with 11 Massachusetts land trusts signed up so far.
- Co-sponsored with LTA and MLTN.
- Cost per organization: \$50 LTA members; \$75 for non-members. 5 consecutive Tuesdays, 4:00 – 5:15 pm.

**Still time to sign up!**

### Land Trust / State Agency Retreat

- Wednesday November 9<sup>th</sup> – half-day, via Zoom  
Focus: **Innovative Land Management Projects**
- Thursday, November 10<sup>th</sup> full day, Harvard Forest, Petersham  
Focus: **Strengthening Conservation Collaborations with Municipalities**
- For Agenda and Registration: [Meetings & Retreats | MassLand](#)

### 2023 Massachusetts Land Conservation Conference

- A live conference: **Saturday March 25** – at Worcester Tech
- Call for proposals coming next week!
- Plenary panel on **Achieving Land Conservation While Addressing Other Community Needs**
- Thanks to our **Planning Committee Members!**

**Please share your expertise!**



### Listening Session: Policy Priorities

**What's getting in the way?**

**What could make it easier to do great land conservation work?**

- Expanding the land conservation tax credit
- Improved incentives for natural climate solutions
- PILOT payments to help towns with tax base
- Tools that balance housing/economic development needs with conservation
- Restrictions on siting large-scale solar projects – or mitigate them



# ATTACHMENT B

## Land Trust Alliance Updates

MLTC Steering Committee Meeting, September 23, 2022  
Jen Plowden, New England Program Manager

### 1. Land Trust Rally 2022

- a. We had 1,514 total attendees from 47 states and 7 countries, including 57 from Massachusetts. Thanks to everyone for making the trip!!
- b. Land Trust Excellence Award recipient was Mount Grace Land Conservation Trust (yay Massachusetts!) - View the video here: <https://youtu.be/5gpfbzSXqHA>
- c. Kingsbury Brown Conservation Leadership Award Recipient was Ebonie Alexander, Black Family Land Trust – Video is here: <https://youtu.be/-kUjJoduBic>
- d. Mark your calendars for Portland, September 7-9, 2023 and in 2024 we will be in our backyard – Providence, September 26-28, 2024

### 2. Conservation Defense

- a. Our team is continuing its Practical Pointer Series, which address legal considerations in land conservation. The most recent pointer is on navigating the waters of Crypto currency donations (attached) and stay tuned for the four-part series on carbon offsets and land trusts.
- b. Also, mark your calendars for the Virtual Legal Symposium to be held on June 8 & 9, 2023
- c. There is a qualified conservation attorney shortage – we are seeing a national decline of knowledgeable legal counsel in Conservation Law. Please share any thoughts or ideas to resolve this with us by contacting Ailla Wasstrom-Evans at [awasstrom-evans@lta.org](mailto:awasstrom-evans@lta.org)
- d. Terrafirma – Encroachment disputes are on the rise. Be sure to file Terrafirma placeholder claims immediately so you don't end up with a denial for failure to file a timely claim. The policy year runs from March 1 to March 1 and claims must be filed by April 31 to be timely.

### 3. Ensuring Conservation Permanence Program.

A program that we've partnered with MLTC and Maine LT Network- designed to help land trusts ensure the permanency of their work by understanding and identifying risks and assessing current risk management strategies – will be kicking off on 10/4 – 12 MA land trusts signed up. <https://www.landtrustalliance.org/conference/ensuring-conservation-permanence-maine-and-massachusetts>

### 4. New and Improved Land Trust Alliance Learning Center

to be released shortly making resource 'searchability' and access much simpler.

### 5. Upcoming webinars:

- a. Indigenous Methods of Stewardship | Sept 29 – Daisy Purdy, Tommy Rock, Jon Naranjo
  - i. <https://www.landtrustalliance.org/webinar/indigenous-methods-stewardship>
- b. Understanding Privilege and Advancing Equity – October 12 – Rebecca Rodriguez
  - i. <https://www.landtrustalliance.org/webinar/understanding-privilege-and-advancing-equity>
- c. Reenergizing Your Board | Oct 13 – Kevin Peterson
  - i. <https://www.landtrustalliance.org/webinar/reenergizing-your-board>
- d. Preparing for Natural Disasters | Oct 20 – Earnest Cook, Eric Letvin
  - i. <https://www.landtrustalliance.org/webinar/preparing-natural-disasters>



## ATTACHMENT C

# Public Policy Update

## MLTC Steering Committee Meeting

September 23, 2022

### End state legislative session round up (sort of)

What do you mean “sort of?” Despite the Legislature “finishing” its two-year session on July 31<sup>st</sup>, we may still have a chance to get some bills passed if legislators can reach consensus. The Legislature meets year-round in two phases: “formal” sessions, during which contentious issues can be debated for the first 19 months, and “informal” sessions, when it passes routine and local bills or ones on which consensus has been reached.

### Enacted into Law

#### FY23 Operating Budget

The Governor signed a \$52.7 billion budget, which included funding increases for all of the Green Budget Coalition priorities (see table below). In addition, for the second year in a row, language was included to reimburse the Inland Fish and Game Fund for the money lost by offering free licenses to certain demographics (~\$1M). These funds support fish and wildlife habitat protection, management, and restoration, and education and outreach. Unfortunately, an increase to the Conservation Land Tax Credit program’s annual cap was not included in the final budget.

	Line Item	FY22	FY23 Green Budget Ask	Final FY23 Budget
Div. of Ecological Restoration	2300-0101	\$3,250,000	\$4,000,000	\$4,300,000 *
Dept. of Env. Protection Admin.	2200-0100	\$33,434,358	\$45,000,000	\$45,400,000 **
Dept. of Conservation & Rec., Parks and Rec	2810-0100	\$50,500,000	\$83,000,000	\$85,021,706
EEA Climate	2000-0101	\$2,213,999	\$5,000,000	\$5,425,000 ***
EEA Environmental Justice	2000-0102	Not its own line item in FY22	\$1,300,000	\$1,333,014

\* includes \$300k in earmarks; \*\* includes 400k in earmarks; \*\*\*includes \$425k in earmarks

**Climate Change:** After some back and forth with the legislature, the Governor signed *An Act Driving Clean Energy and Offshore Wind* into law on August 11<sup>th</sup>. The Next Gen climate law passed in 2021 provided the goals and targets for the state to achieve net zero by 2050; this new law provides some of the funding, policies and programs to achieve those goals, particularly around a clean energy transition. The law includes a focus on deploying solar development on agricultural land by establishing a Commission to explore barriers and make recommendations and reforming siting criteria by allowing siting solar projects of unlimited size on farmland enrolled under Chapter 61A. MLTC and partners expressed opposition to these provisions due to their lack of balance of stakeholders and environmentally preferable criteria; however, we are hopeful that there will be future opportunities to resolve conflicts among stakeholders and siting reforms.

## STILL IN PLAY

**Public Lands Preservation Act (PLPA):** The PLPA was first introduced more than 20 years ago to strengthen the Commonwealth's long-standing "No Net Loss" policy. That policy calls for public open space protected under Article 97 of the MA Constitution that is converted to a different use be replaced with land of equivalent natural resource value. Despite the bill making it further this session than ever before, the Conference Committee was unable to resolve differences between the House and Senate versions before the formal session deadline. MLTC joined 10 other partners in calling on the Committee to continue working towards an agreement that can pass the Legislature during an informal session this year. The partners are working to support the Committee in crafting a bill that is true to the intent of Article 97, enhances transparency and accountability in the administration of the policy, and, most of all, and honors the public demand to protect precious parks and conservation land. See the latest partner letter [here](#).

**Economic Development Bill:** MLTC, along with a coalition of partners, advocated for an economic development bill, which included a tranche of American Rescue Plan Act (ARPA) dollars for conservation, outdoor recreation, restoration, and climate resiliency. Unfortunately, due to a 1980s-era tax rebate law, the Legislature failed to enact a final bill before the end of session. It is expected that the Conference Committee will continue to work on a slimmed down version of this bill. Partners continue to encourage the Committee to maintain funding for conservation and climate priorities and recently sent a [letter](#) to that effect to the Committee.

## STATE LEGISLATIVE UPDATE

In addition to the PLPA discussed above, the following other bills were selected as legislative priorities by the MLTC Policy Committee; however, it is very unlikely that they will move forward during the remainder of this session. Partners will be spending this fall conducting a postmortem and determining priorities for the next legislative session. It is likely that some of these bills will be refiled or updated/refiled in the new year.

- S.1986/H.2960, *An Act increasing the conservation land tax credit* (Sens. Tarr and Hinds; Reps. Jones and Pignatelli)
- S.603/H.4744, *An Act establishing a Massachusetts flood risk protection program* (Sen. Pacheco; Rep. Peake)
- H.2977, *An Act relative to the classification and taxation of urban public access land* (Rep. LeBoeuf)
- S.1875/H.2831, *An Act to reform payments in lieu of taxes for state-owned land* (Sen. Hinds; Rep. Blais)
- S.560, *An Act Establishing the Office of Outdoor Recreation* (Sen. Hinds)
- S.556/H.937, *An Act providing for the public health by establishing an ecologically based mosquito management program in the Commonwealth* (Sen. Hinds; Rep. Gouveia)
- S.2147 / H.3306, *An Act to Improve Outdoor Lighting, Conserve Energy, and Increase Dark-Sky Visibility* (Sen. Creem; Rep. Garbally)

## STATE ADMINISTRATIVE UPDATE

### MA Clean Energy and Climate Plan

The Executive Office of Energy and Environmental Affairs' (EEA) [Clean Energy and Climate Plan for 2025 and 2030](#) (CECP) was released on June 30<sup>th</sup>, outlining specific strategies, policies, and actions to achieve a 33% reduction in greenhouse gas emissions in 2025, a 50% reduction in 2030, and to maximize the Commonwealth's ability to achieve Net Zero in 2050. For the first time the CECP includes quantifiable goals for the natural and working lands sector and lays out actions to protect, manage, and restore nature both for immediate and future benefits.

At the [August meeting of the Implementation Advisory Committee](#), EEA announced that in September 2022 it is launching a new online dashboard (alpha version) to track key metrics for monitoring implementation progress of the 2025/2030 CECP, including: key metrics on transportation, buildings, electricity, non-energy and industrial sectors, and natural and working lands; links to key resources such as financial incentives and information for residents, municipalities, and businesses to decarbonize and to protect the carbon sequestration capacity of natural and working lands; regularly updated new/updated data and information as available.

EEA is now turning its attention to the 2050 CECP, which will be released by the end of the calendar year. EEA has announced it will conduct public hearings late September through early October on the proposed 2050 emissions limit and the plan and launch a stakeholder process to inform development of the natural and working lands plan.

## **DCR Landscape Designations Review**

DCR is in the process of reviewing their [2012 DCR Landscape Designations and Management Guidelines](#) as part of a 10-year review and are hosting series of public meetings in August and September to gather feedback on the review assessment, incorporate feedback on evolving climate concerns, and discuss designations for properties acquired since 2012. DCR encourages the public to share additional feedback, with a deadline for receipt of comments by DCR of **September 28, 2022**. Comments may be submitted online at [www.mass.gov/dcr/publiccomment](http://www.mass.gov/dcr/publiccomment). More information on the designations and the review process are available [here](#) and in [this story map](#).

## **Mosquito Control Task Force**

As previously reported, the Mosquito Control for the 21<sup>st</sup> Century Task Force finalized its [recommendations earlier this year](#). The Task Force overwhelmingly agreed that Massachusetts' mosquito management system needs to be overhauled, recommending that the legislation that created our current system be repealed and replaced with a more modern approach based on science and with public input. The Task Force also recommends enhancing coordination with wetlands restoration and stormwater systems design, streamlining opt-out that would make it easier for large landowners like land trusts to exclude their properties from routine spraying, and better monitoring the impacts of pesticide use. The [Mosquito Coalition](#) will be working to get reform legislation filed next session to put these recommendations into effect.

This year, EEA's program for [municipal opt-outs](#) was revised, making it much more difficult for communities to avoid spraying ordered by the state. Fortunately, the [risk of mosquito-borne disease](#) has been very low this year so the state has not spraying (other than the routine truck based spraying the districts conduct). The state's authority to spray without local approval expires 12/31/22, and advocates are watching for any provision inserted in a bill to extend that authority. Several pesticides used widely in the program are highly toxic to bees, fish, and many other beneficial species. See the [NOFA website](#) for more information on this effort and the reform bill.

## **Solar Energy Siting**

The Department of Energy Resources is conducting a [Technical Potential of Solar Study](#) at the urging of TNC, Mass Audubon, AMC, MLTC, and other organizations. The goal of the study and stakeholdering is to provide a detailed, statewide, hierarchical spatial analysis of solar siting suitability and to make policy recommendations designed to deploy solar to meet our decarbonization goals and to avoid and minimize impacts to important and sensitive natural resources. The study will also include a greenhouse gas analysis and a policy analysis and recommendations. **DOER's public survey on solar siting is now live**, and they have also updated their [website](#) with more information about the study and two upcoming virtual public meeting dates in early October (5<sup>th</sup> and 11<sup>th</sup>).

The MA Supreme Judicial Court issued a [decision](#) on a case (SJC-13195) in Waltham, ruling against the City and finding that municipalities need to be careful to firmly ground any solar siting restrictions in the protection of public health, safety and welfare under the zoning exemption codified in M.G.L. Ch. 40A S.3.

## LOOKING AHEAD

### Preparing for the next administration

This November 8th, a new governor will be elected to lead Massachusetts. We are preparing this fall so that we can hit the ground running in January. MLTC joined 27 other 501(c)(3) charitable organizations focused on energy, environment, and justice to produce a *Massachusetts Climate and Environmental Policy Briefing Book* for educational purposes. The briefing book was provided to all gubernatorial candidates, as well as lieutenant governor and attorney general candidates, and the group briefed interested campaign staff over the summer. The book may be adapted to be a transition document to be provided to the incoming administration after the election.

### New Legislators

We are in the thick of election season, and there is going to be a significant turnover in the legislature. According to State House News, “Five Senate districts and 19 House races have open races this year, enough to guarantee that roughly one in every eight lawmakers sworn in for the 2022-2023 term will be new.” Once the general election is over, it will be a great time to reach out to your new members, congratulate them, and set up meet and greets (like a site visit) to share your work and priorities.

## FEDERAL POLICY UPDATE

### Inflation Reduction Act

President Biden signed the *Inflation Reduction Act* into law on August 16<sup>th</sup>, taking a historic step forward for climate, clean energy, and conservation. This new law is expected to reduce carbon emissions by roughly 40 percent by 2030, putting the U.S. within reach of its international commitments. It provides \$370 billion for clean energy and climate investments over 10 years, which will not only advance clean energy and reduce emissions but will also support climate adaptation and natural climate solutions work. Of note, the law includes:

- \$700 million for the Forest Legacy Program;
- \$19.85 billion across EQIP, CSP, ACEP, and RCPP;
- \$1.5 billion for the Urban and Community Forestry Assistance program;
- \$450 million in competitive grants for underserved or small private forest landowners to carry out climate mitigation practices and participate in emerging private markets.
- \$2.6 billion for the conservation, restoration, and protection of coastal and marine habitats for climate resiliency; and more.
- \$3 billion to EPA for environmental and climate justice block grants to help reduce greenhouse gas pollution and/or mitigate climate risks in disadvantaged communities.

### Charitable Conservation Easement Program Integrity Act Amendment

On June 22nd, the U.S. Senate Finance Committee marked up the Enhancing American Retirement Now Act (EARN Act). As part of the mark up, Sens. Steve Daines of Montana, Chuck Grassley of Iowa and Debbie Stabenow of Michigan filed an amendment to advance the Charitable Conservation Easement Program Integrity Act. Near the conclusion of the hearing, the amendment was voted on and approved by the full committee, 23-5. This is a significant development in our efforts to halt, once and for all, the abuse caused by a few bad actors. However, it is far from being signed into law.

The EARN Act will be combined with the Rise and Shine Act, which passed out of the Senate Health, Education, Labor and Pensions Committee in June and become the Senate version of the SECURE Act. The House passed the SECURE Act earlier this year. Congress is expected to conference the bill and it is possible it will be acted on as part of a larger package during the lame duck session after the November 2022 General Election.