

*A Land Protection Strategy for the New England  
National Scenic Trail in Massachusetts  
Final Report*



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***Executive Summary:***  
***A Land Protection Strategy for***  
***the New England National Scenic Trail***  
***in Massachusetts***

This report outlines a strategy and guide for the Appalachian Mountain Club, the National Park Service, and multiple other state, municipal, land trusts, and other partners to identify clear criteria for protecting the New England National Scenic Trail in Massachusetts and engage key collaborators within the region in efforts to protect the New England National Scenic Trail.

The New England National Scenic Trail (NET) is a 215-mile trail that traverses southern New England from the Long Island Sound in Connecticut to the Massachusetts-New Hampshire border. The NET is administered by the National Park Service (NPS) and managed by the Appalachian Mountain Club (AMC) in Massachusetts and by the Connecticut Forest & Park Association in Connecticut in cooperation with many other partners.

The NET in Massachusetts is approximately 98 miles long. The current route of the NET in the state crosses lands administered by local, state, and federal land-managing agencies and land trusts for approximately 66 miles. The remainder of the NET is located on private lands or along public roads and highways. Without a permanent, off-road, protected corridor of land, the NET is at risk of being broken into short, disconnected segments of trail interspersed with long, potentially hazardous road walks between protected lands that do not provide the public with a safe, high-quality outdoor recreational experience as envisioned in its creation as a National Scenic Trail.

In 2021, the NET's *Blueprint for Management* was updated through a formal vote of the NET Stewardship Councils in Massachusetts and Connecticut, in part to establish a land protection plan for the trail.

From January to May 2022, the Appalachian Mountain Club (AMC), the National Park Service, and other agencies and land trusts worked together to develop a strategy for protecting the remaining portions of the NET, with the intention of securing a continuous, permanently protected corridor of land in Massachusetts from the Connecticut border to the New Hampshire border.

This report summarizes the partners' recommendations for action, anticipated outcomes, and the steps needed to achieve the long-term goal of protecting the NET in Massachusetts.

*Cover photo caption: New England National Scenic Trail*  
*Cover photo credit: Ryan Smith*



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**Introduction**

This report summarizes the results of a five-month-long process to develop a strategy and guide for the Appalachian Mountain Club, the National Park Service, and multiple state agencies, municipal governments and commissions, land trusts, and other partners that will:

- Identify clear criteria for protecting the New England National Scenic Trail in Massachusetts; and
- Engage key collaborators (*e.g.*, land trusts, other federal and state agencies, and municipal and regional governments and planning agencies) within the region in efforts to protect the New England National Scenic Trail.



*Photo caption: Whiting Street Reservoir, Mt. Tom Reservation  
Photo credit: Don Owen*

## **Background**

The New England National Scenic Trail (NET) is a 215-mile trail that traverses southern New England from the Long Island Sound in Connecticut to the Massachusetts-New Hampshire border. Designated as one of the nation's 11 National Scenic Trails in 2009, the NET consists of trails previously known as the Metacomet-Monadnock, Mattabassett, and Menunkatuck trail systems in west-central Massachusetts and central Connecticut. More than 95% of the NET is located in the Connecticut River watershed.

The NET is administered by the National Park Service (NPS) and managed by the Appalachian Trail Club (AMC) in Massachusetts and by the Connecticut Forest & Park Association in Connecticut in cooperation with many other partners.

The Appalachian Mountain Club was founded in 1876, and now has twelve chapters stretching throughout northeastern and northern mid-Atlantic United States. AMC fosters the protection, enjoyment, and understanding of the outdoors, and today maintains over 1,800 miles of trail, including the Massachusetts portion of the NET.

AMC also was one of the primary advocates for designation of the NET as a National Scenic Trail. Prior to the NET's designation as a National Scenic Trail, trail protection occurred primarily through the efforts of AMC's Western Massachusetts Chapter in partnership with local land trusts and municipalities. The NET has since become one of the organization's most important programs.

The NET in Massachusetts is approximately 98 miles long. The trail winds through a large working landscape of classic New England farms, forest lands, and small towns, roughly following the more mountainous and ridgeline topography of the region and providing visitors with numerous opportunities to enjoy and experience the great outdoors. Although the trail is used primarily for hiking and walking, other non-motorized uses are permitted when allowed by the owners of the land being crossed by the trail.

The current route of the NET in Massachusetts crosses local, state, and federal lands for approximately 66 miles. In addition, the trail also crosses several parcels of land protected by conservation restrictions held by state agencies, land trusts, and conservation organizations. AMC and its partners maintain the NET on these lands and keep the trail treadway open and passable for the public, in cooperation with public and private partners under formal agreements or unwritten understandings.

In addition, AMC volunteers maintain sections of the NET across private lands under simple handshake agreements or previous understandings that continue a long tradition of New England neighborliness and access to the woods. And in a few cases, AMC has entered into short-term revokable license agreements that can be terminated by either party on 30- to 60-days notice. Massachusetts recreational land use laws ("Recreational Use Statute" (M.G.L. Chapter 21 Section 17C) provide protection from liability for landowners who allow use of their land without charge.

As time passes, however, more and more sections of the NET have been relocated onto public roads and highways because long-term agreements have not been secured. At this point in time, approximately 13 miles of the trail consist of road walks along local roads

and state highways, a potential safety hazard for both motorists and trail users. This issue is perhaps the most significant challenge facing AMC and its partner organizations and agencies. Without a permanent, off-road, protected corridor of land, the NET is at risk of being broken into short, disconnected segments of trail interspersed with long, potentially hazardous road walks that do not provide the public with the outdoor recreational experience envisioned in its creation as a National Scenic Trail.

In 2021, the NET Stewardship Councils in Massachusetts and Connecticut updated *the New England National Scenic Trail Blueprint for Management* and the National Park Service formally recognized that change, in part to initiate a land protection planning process and establish an avenue for land protection for the trail when no local entities were able to partner on a land protection project.

### **Process**

In December 2021, AMC contracted with Lands Trails and Parks LLC to develop a trail protection planning analysis for the NET. The scope of work for the contract described the following deliverables (a brief summary of the completed work also is provided in the discussion following each deliverable):

- Conduct a series of one-on-one interviews with representatives of AMC, NPS, and key collaborators to determine perspectives and potential involvement of respective agencies and organizations in protecting the NET. In February 2022, Lands Trails and Parks LLC conducted a series of 14 interviews with key representatives. A detailed summary of these interviews is provided in Appendix B.
- Conduct three virtual meetings with representatives of AMC, NPS, and key collaborators to review the scope, outline a process and timetable, conduct research and discovery, and review progress and outcomes. Virtual meetings were held in January, February, and April 2022. The first meeting, which was held virtually on January 31, 2022, served to introduce the project to representatives of agencies and nongovernmental organizational partners. The second meeting, which was held virtually on February 17, 2022, provided participants with a review of the process and progress to date, an analysis of the research and discovery, and a more detailed summary of the results of the interviews. Following the in-person meeting and distribution of the draft report, the third virtual meeting was held on April 28<sup>th</sup>. Agendas and background materials for these meetings are on file with AMC.
- Conduct an in-person, all-day workshop and networking event with representatives of AMC, NPS, and key collaborators to develop criteria for prioritization and other recommendations regarding land protection for the NET. On March 17, 2022, Lands Trails and Parks LLC and representatives of AMC and NPS hosted an all-day workshop with representatives of key agency and land trust partners. The outcomes of this workshop, including the results of the Paired Comparison Analysis and the small group meetings, are provided in Appendix C.
- Prepare a report summarizing the key findings of the interviews, virtual meetings, and all-day workshop, including:

- A proposed system of guiding principles for prioritizing parcels for protecting the NET;
- A summary of tools and techniques that can be used to protect the NET in Massachusetts, including a review of different types of right-of-way easements and conservation restrictions;
- A summary of key regional partners and collaborators that might play a role in acquisition, management, or funding for trail-protection projects; and
- If time and capacity allow, recommended trail-wide protection criteria for prioritizing parcel acquisition across states and identification of specific land protection focus areas along the NET.

This report, *A Land Protection Strategy for the New England National Scenic Trail in Massachusetts*, includes key findings, guiding principles, a list of potential regional partners, and a summary of tools and techniques for protecting the NET.



*Photo caption: Farley Ledges, on the New England National Scenic Trail  
Photo credit: Debra Sayles*

## **Outcomes and Key Findings**

The following narrative summarizes the key findings of this five-month analytical process, including:

- A proposed planning process for protecting the NET in Massachusetts
- Final design criteria for prioritizing parcels of land;
- A proposed ranking system or process for prioritizing parcels, based on the results of a “Paired Comparison Analysis”;
- A set of guiding principles for trail protection; and
- A summary of trail protection tools and techniques.

Additional details are provided in Appendices A through D.

### **A Proposed Planning Process for Protecting the NET in Massachusetts**

AMC and the National Park Service should adopt (and refine with input from their partners as necessary) a strategic and tactical planning process consisting of the steps outlined below. This process will provide AMC and the National Park Service with a framework for coordinating the collective efforts of multiple agencies and organizations involved in protecting the NET.

1. Develop an over-arching strategy for protecting the NET (this report, combined with the *2021 New England National Scenic Trail Blueprint for Management*, accomplishes much of this step).
2. Develop a GIS-based Decision Support Tool for the NET that identifies, within a planning area approximately two miles wide (one mile each side of the current route of the NET)<sup>1</sup>, the following attributes:
  - a. the existing route of the NET
  - b. known conservation values (natural heritage data, *etc.*) along the NET
  - c. existing developed residential, commercial, and industrial areas
  - d. linear transportation and utility transmission routes
  - e. topography
  - f. surface water resource features
  - g. land ownership, and particularly the public land base and interests owned by land trusts
  - h. jurisdictional boundaries, including municipal government boundaries
3. Add a desktop overlay to the GIS Decision Support Tool that identifies:

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<sup>1</sup> **Note:** In some areas, the planning area may need to be narrower or significantly wider to reflect constraints (such as highly developed residential areas) and opportunities (such as potential routes for the NET around opposite sides of a large water body).



- a. Existing portions of the NET that are already in an optimal location on public lands or lands, right-of-way easements, and conservation restrictions owned by land trusts or agencies that provide for public access.
- b. Keystones<sup>2</sup>, or locations that are the highlights or points of interest along the NET, such as mountain summits, viewpoints, and vistas.
- c. Linchpins, or locations along the NET where acquisition of one or two tracts will connect two larger blocks of public lands or provide access from a public road to a longer reach of the NET on a larger block of public land.
- d. Other control points, where existing developed areas, linear transportation features such as railroads or interstates highways, geographic features, or natural or cultural resource constraints limit available options for locating the NET.
- e. Long road walks or “gaps” in conserved lands.
- f. Important or desired amenities for trail visitors, including key access points, trailhead parking locations, drinking water sources, overnight use sites, universally accessible segments, and trail spurs to communities along the NET.
- g. Any other data that can be readily quantified and mapped in GIS and contribute to decisions about protecting the NET.

#### 4. Conduct a Rapid Assessment/Desktop Optimal Location Review

Using the data developed in the GIS Decision Support Tool as a baseline and other criteria outlined in the Paired Comparison Analysis (see Appendix C), conduct a Rapid Assessment/Desktop Optimal Location Review to define an approximate location for the trail treadway and a preliminary outline of a corridor of protected lands in any location where the NET is not already located on conserved lands.

As part of this exercise, AMC and the National Park Service (with input from partners, as appropriate) should identify parcels that best meet the criteria outlined in the Paired Comparison Analysis. Recommendations for weighting or scoring of trail protection project-selection criteria are provided in the Appendix C, Outcomes of the Paired Comparison Analysis.

5. Identify partners, their service areas, and their level of interest and willingness to accept specific roles and responsibilities within defined geographic areas or in specific circumstances (including landowner and community outreach, acquisition, and long-term management of acquired interests, the trail itself, and public use thereof):
  - a. Identify potential partners.
  - b. Identify each agency’s and each nonprofit organizational partner’s service area, mission, and criteria for land conservation.

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<sup>2</sup> Note: Keystones, linchpins, and control points are discussed in more detail in the narrative beginning on page 13.

- c. Determine potential funding sources available to each partner, including both federal and stateside Land and Water Conservation Fund programs, wildlife conservation funds, transportation funds, and rolling land conservation funds.
  - d. Initiate a formal or informal Regional Conservation Partnership for the NET.
  - e. Share information on potential projects and funding sources (Land and Water Conservation Fund, foundation funding, revolving conservation funds and loans, transportation funds, *etc.*), so that partners are not competing for specific projects or funding.
  - f. Identify which agency or organization is willing to serve as the responsible party for long-term management for lands and less-than-fee interests in a given location, under what circumstances.
6. Conduct community outreach
- a. Develop relationships with additional local government conservation boards, councils, and committees to identify areas of common interest for trail access and protection.
  - b. Publicize the New England National Scenic Trail and build support and community enthusiasm around use of and protection for the NET.
  - c. Emphasize “Access for All.”
7. Conduct, as necessary, formal Optimal Location Reviews (OLRs) where needed to identify more precise locations for the NET.
- a. Identify logical partners for key sections of the NET, and initiate OLRs where necessary, with AMC staff taking a leadership role in driving the OLR process
8. Contact individual landowners to determine whether they would be interested and willing to consider selling or donating fee properties, conservation restrictions, or right-of-way easement interests.
9. Initiate formal negotiations with landowners who indicate a willingness to sell or donate land or interests in land for the protection of the New England National Scenic Trail.
10. Complete internal agency or land trust processes to ensure that all necessary planning and due diligence steps are undertaken for each parcel of land or less-than-fee acquisition.
11. Monitor progress and revise and update the Optimal Location Review/Rapid Assessment overlay as necessary. Trail protection planning and design is a fluid process, constantly changing in response to new information – especially new information about land ownership status.

## **Final Design Criteria**

Designing a protective corridor of land for a National Scenic Trail involves a multitude of factors or “design criteria.” During the interviews, participants identified more than 40 different criteria that could be considered in designing a protective corridor of land for the NET. These criteria consist of (a) quantitative data, or information that can be captured, displayed, and analyzed in a geographical information system (GIS), and (b) qualitative variables, such as community relationships and perceived landowner willingness to sell land, that cannot be quantified but that are equally if not more important than quantifiable data.

Paired Comparison Exercise: The relevant design criteria were “weighted” through a “Paired Comparison Analysis” to identify priorities and the relative importance of various factors in determining the location of a permanently protected off-road corridor of land for the NET. (“Paired comparisons” are used frequently in business strategy and negotiations as a means of comparing disparate concepts or alternative courses of action.)

Participants in the in-person workshop hosted by AMC on March 17, 2022 compared seven overarching categories of specific trail-protection criteria against each other. In addition, participants ranked these specific criteria within each category against other criteria within the same category.

The outcomes of the “Paired Comparison Analysis,” which are shown in Table 1 below and in Appendix C, closely paralleled (but did not duplicate) the results of the one-on-one interviews. Participants in the “paired comparison” exercise identified “working with private landowners willing to work with us” as the most important category. In essence, the outcomes duplicating the results of the interviews, which indicated that working with willing landowners was a “given.” Closely following this category were “protecting natural and cultural resources,” “ensuring public access,” and “protecting the recreational experience.”

Table 1: Ranking of Categories of Factors to Be Considered in a Trail Protection Strategy for the New England National Scenic Trail, in order of importance:

1. Working with landowners
2. Protecting natural and cultural resources
3. Ensuring public access
4. Protecting the recreational experience
5. Separating the trail from incompatible uses
6. Ensuring consistency with local, state, and national planning
7. Avoiding difficult trail construction and maintenance

Rankings of criteria within each category also closely paralleled the findings from the interviews. The following discussion describes the most important criteria in each of the seven categories. (The specific numerical value for each criterion is shown in Appendix C.)

Working with landowners: The responses under the category of “working with landowners” revealed a solid consensus for “working with landowners who are willing to work with us” as the highest priority. Participants also felt it important to “contact landowners before properties go on the market” and acquire entire tracts when offered.” Participants additionally identified a preference for acquiring a fee interest over a less-than-fee interest, and for acquiring a less than optimal route when available.

Protecting natural and cultural resources. Under the next highest-priority category, “protecting natural and cultural resources,” respondents identified protecting rare plants, animals, and exemplary natural communities and providing for habitat connectivity as the most important criteria, followed closely by protecting water quality in springs, streams, rivers, lakes, and reservoirs and protecting important Native American sites.

Ensuring public access. Under the category of “ensuring public access,” participants identified access for all, environmental justice, and protection of a continuous, connected, publicly accessible route as the highest priorities. Providing for trailheads and parking lots was the next priority, followed by providing for multiple access points and access for people with disabilities.

Protecting the Recreational Experience. Participants identified the highest priorities under this category as avoiding roadwalks and other unsafe trail conditions and providing a sustainable trail location, closely followed by conserving significant features and highlights of the trail.

Separating the trail from incompatible uses. Under this category, avoiding transportation infrastructure, avoiding existing residential, commercial, and industrial development, and avoiding incompatible recreational uses (ATVs, 4WD parks, and motorized bikes) were identified as the most important criteria.

Ensuring consistency with local, state, and national planning. Four criteria – meeting the intent of Congress and the National Trails System Act, ensuring consistency with state environmental planning documents, ensuring consistency with local government planning documents, and identifying properties that score well for agency priorities – were identified by participants as being of approximately the same importance.

Avoiding difficult trail construction and maintenance. Participants thought that the most important considerations under this category were avoiding manmade constraints such as highways and railroad crossings, followed closely by avoiding trail construction in wetlands.

## **Using the Results of the Paired Comparison Analysis as a Ranking System**

The end result of the Paired Comparison Analysis exercise provides a ranking system that can be used to approximate a “ballpark” priority for each parcel. If consistently applied, this system is accurate enough to separate the highest priority parcels from medium or low priority parcels, but not necessarily precise enough to determine priorities between two or more parcels with similar rankings. In short, this system should provide some idea of the relative importance of a property and provide the basis for a more detailed analysis or justification for acquiring the property.

By developing a spreadsheet or checklist that includes the above criteria, AMC and its partners should be able to develop a preliminary list of the most important properties for potential acquisition.

## **Guiding Principles for Protecting the NET**

AMC and NPS staff also should take the following principles into account when designing a potential location for a protective corridor for the NET.

Identify public access as the #1 criterion for protecting the NET, above all other conservation values. Establishing priorities for protecting a linear trail across multiple jurisdictions and extended distances is a significantly different exercise than a typical GIS-based conservation value analysis. The key element is a contiguous, protected corridor that allows for public access.

Unless a public agency or private entity holds a legal interest in the land (whether fee, conservation restriction, or right-of-way easement), organizations like AMC that maintain and manage a public access trail for the benefit of the public have no assurance whatsoever that the trail will be open tomorrow or ten or twenty years from now.

As a result, the paramount criterion for a publicly accessible trail is public access, and ultimately, continuous public access across multiple contiguous properties. A property may have outstanding conservation values and be significant for biodiversity, water quality, viewshed, historical significance, or any combination of these values. If, however, a public agency or private entity such as a land trust does not hold an interest in the land that provides for public access, extended portions of the trail are vulnerable to closure at any time.

Proactively identify “keystones” and “linchpins” along the NET. One of the biggest challenges AMC and its partners face is prioritizing land protection efforts. Faced with potentially more than one hundred conservation projects, AMC and its partners should seek to identify the comparatively few essential properties – properties that contain resource values that make the NET unique, or that provide the “missing link” to a particular trail section. By identifying and promoting the protection of essential “keystones” and “linchpins” as defined below, AMC and its partners can focus available resources on securing the most critical properties along the NET.

*“Keystones” can be defined as the locations that contain highly significant components of the NET – dramatic overlooks, stunning viewpoints, rock ledges, riverside paths, historic sites, or whatever resource values are present that make the trail uniquely suited for designation as a National Scenic Trail.*

*“Linchpin” properties are the essential missing pieces of a puzzle – the last property to secure a trail segment between two public roads, the last available parcel to secure access to a larger tract of existing public land, or the only available location for a stream or river crossing.*

Ideally, “keystones” would be acquired in fee, with all appurtenant legal access, water, and timber rights. However, AMC and its partners need to recognize that the interests that can be acquired for a particular property are entirely dependent on the outcome of negotiations with an individual landowner or landowners. Greater flexibility can be used in negotiations to acquire less-than-fee interests in “linchpin” properties, since the primary objective is to acquire contiguous, continuous access.

AMC and the National Park Service could initiate this effort by identifying “keystones” and “linchpins” along each segment of the NET using the criteria derived from the Paired Comparison Analysis and data derived from a GIS-based Decision Support Tool, and seeking additional input from land trust staff, agency professionals, and volunteers who have an intimate knowledge of a particular trail section.

Seek to accomplish multiple conservation goals. In addition to ensuring public access to the NET, an ideal trail-protection project would protect important natural and cultural resource values, provide protection for the scenic and recreational experience offered by the NET, separate the NET from incompatible uses, avoid difficult trail construction, and be consistent with local, state, and national planning (and, as a “given,” be a transaction between a willing seller and a willing buyer).

Each potential transaction should be analyzed and prioritized accordingly, preferably using a narrative analysis or checklist that identifies the significant attributes of a proposed project (the criteria outlined in Appendix C, Outcomes of the Paired Comparison Analysis, could be used as a basis for such a document). Projects that protect wildlife habitat, water resources, watersheds, occurrences of rare plant or animal species, unfragmented forest habitat, migration corridors, and cultural resources may be important considerations for another agency or land trust partner interested in taking the lead on a particular project. Native American tribal concerns also should be taken into consideration.

Agencies and land trusts also should focus on large parcels that provide for the greatest extended linear protection for the NET, and seek to acquire whole tracts when offered by the landowner. Acquiring larger parcels typically provides greater protection for the NET and other conservation values, and is usually a better use of limited funding for land acquisition services. Finally, agencies and land trusts should prioritize parcels of land that

would provide public access to existing public lands (this is a particularly important consideration for the Massachusetts Department of Conservation and Recreation.)

Recognize that the optimal location may not always be available. AMC, the National Park Service, and their partners should seek to protect the optimal location for the NET, but recognize that securing the best location may not be possible in the near term. In many cases, a “next-best” alternative may be acceptable, and should be carefully considered and evaluated if available.

As a practical matter, AMC, the National Park Service, and their partners should also seek opportunities to relocate the NET onto publicly owned lands where such options exist. As noted previously in this report, trail construction is usually easier and less expensive than access acquisition (with notable exceptions being wetlands or other topographic features that require extensive boardwalks, bridges, or major trail construction projects).

Strengthen partnerships with local, regional, and national land trusts, as well as municipalities, state agencies, and other partners. One of AMC’s first courses of action should be to strengthen existing partnerships and build new partnerships with land trusts and towns, state parks, state forests, and other partners that have service areas that overlap the NET in Massachusetts, and encourage these partners to acquire fee or less-than-fee interests in land crossed by the NET. AMC should also consider making the NET a key topic for advocacy by the Friends of Silvio O. Conte National Fish and Wildlife Refuge to secure capacity to protect the continuity and quality of the NET.

A partnership approach has a number of advantages over the other logical alternative, which would be to build internal capacity within AMC for a major land conservation program. AMC would not have to acquire land or easements, nor would AMC have to build a large land trust program or secure technical assistance from appraisers, lawyers, surveyors, and resource professionals. And finally, AMC would not have to invest significant resources in perpetual stewardship of interests in land.

AMC could initiate the land trust portion of this effort by coordinating directly with local, regional and national land trusts, either informally or more formally through creation of a Regional Conservation Partnership. Convening a meeting of organizations such as the Mt. Grace Land Conservation Trust, the Kestrel Land Trust, the Franklin Land Trust, The Trustees of Reservations, the Massachusetts Audubon Society, The Trust for Public Land, the Friends of Silvio O. Conte National Fish and Wildlife Refuge, and The Conservation Fund would provide for a more coordinated focus on protecting land for the NET.

In addition, AMC should consider making regular presentations at the annual Massachusetts Land Trust Coalition Conference, and should actively promote these presentations in advance to encourage land trusts to attend.

AMC also should be prepared to provide good information to land trusts on what the NET’s needs are. This information should include:

- a brief description of the importance of the NET;
- GIS-based mapping and data on the location of the NET within land trust service areas;

- a description of the interests in land that AMC would like to secure (carefully worded, with an explanation that AMC is willing to work with land trusts and property owners on any negotiated agreement that will secure permanent access for the NET);
- an offer that AMC staff are willing to meet and work with land trust representatives, and property owners as appropriate, to ensure that the NET's interests are considered when a land trust acquires a fee or less-than-fee interest in a property on which the NET is or could be located;
- an offer to enter into a long-term agreement with a land trust that would commit NET to managing and maintaining the NET across lands acquired by the land trust;
- a summary of tax benefits and other benefits that landowners may realize from a conveyance to protect the NET;
- a statement to the effect that protection of a segment of the NET can offer a guaranteed "gold star" conservation value: outdoor recreation access, which is a significant conservation value under both federal and state criteria for conservation restrictions (IRC § 170 and the Massachusetts State Comprehensive Outdoor Recreation Plan).

This type of partnership also utilizes the strengths of multiple partners. It would engage many more co-aligned organizations, with combined staff and financial resources that far exceed AMC's staff and financial resources, in conserving the NET in Massachusetts. Secondly, local land trusts typically have strong relationships with municipal governments and conservation commissions, and are often in a better position to address local concerns.

AMC may also wish to explore developing its own land conservation program for the NET, for several reasons. Some land trusts may wish to co-hold interests in land with AMC. Others may request assistance in technical aspects of an acquisition, or in stewardship of acquired interests. Perhaps most importantly, AMC and the NPS may need to build their capacity to act as a "last resort" in instances where an essential property is on the market or otherwise available, and no partner can be found to pursue the acquisition.

Utilize both proactive and reactive approaches to land acquisition. A proactive approach is essential. One of the most significant challenges facing agencies is the length of time required to complete appraisals, environmental reviews, property descriptions, surveys (if necessary), title investigations, and other internal processes. Federal agency processes can take six to twelve months, or more. State and local government agencies can move more quickly. However, even if these agencies are able to complete their internal processes relatively quickly, securing approvals for funding may be drawn out over an extended period of time.

Fortunately, land trusts can and often do play a critically important role, serving as an intermediate entity that acquires the necessary interests from a landowner and then holds them until such time as the agency completes its processes and/or secures the necessary funds to purchase the land from the land trust. There is some risk involved on the land trust's part, in that an agency cannot guarantee that it will ultimately be able to acquire the property.



Still, even land trusts may not be able to move quickly enough in a hot real estate market. As a result, it would benefit agencies and land trusts alike to develop a pro-active approach, reach out to landowners, and express interest in acquiring interests to protect the NET.

As part of this outreach effort, agency and land trust representatives can emphasize many of the benefits of working with their agency or organization, including the agency's or land trust's ability to:

- accept less than the full acreage of the property (and in many cases, the lands needed for protection of the NET are undevelopable woodlands located near the back of the property);
- accept a right-of-way easement or conservation restriction, with the landowner retaining all of the current rights of use and any other potential rights of use that don't conflict with the NET;
- pay full fair market value for the interests that are conveyed, as determined by an independent professional appraiser;
- agree to a term or life estate for the landowner, allowing the landowner to "cash out" on a significant portion of the value of the property, while still being the "owner" for the duration of the term or life estate.

A reactive strategy also is critically important. If an agency or land trust is unable to move quickly when a key parcel comes on the market, that opportunity is likely to be lost forever.

Alternatively, if an agency or land trust is able to move quickly and efficiently, the ideal time to secure an interest in a property along the NET may be when that property is actively being marketed for sale. AMC and the National Park Service should discuss this issue with interested land trusts and develop a pre-acquisition strategy for properties that come on the market.

According to National Association of Realtor statistics, a residential property owner lives on a residential property for six years, on average, and residential properties change hands every seven years, on average. Rural properties are typically held longer. Rural property owners retain ownership of their property for approximately ten to 14 years on average. This means, inversely, that anywhere from 7 to 10% of the properties along the NET – a dozen, or more – are potentially for sale at any given time.

On-line real estate marketing tools like Zillow can be used to identify properties that are on the market along the NET, by comparing maps of these properties to centerline data for each section of the NET. A GIS specialist may be able to identify a methodology for conducting this task and quickly identify all properties along a given section of the NET or within a given geographic area. If this isn't possible, AMC staff or volunteers could conduct this exercise for a given pilot area by reviewing Zillow maps online and comparing these data to the centerline of the NET.

Allow for a variable width of the protective corridor. A design width of 200 to 1,000 feet for the NET corridor (100 to 500 feet either side of the treadway) should provide sufficient protection for the NET in most circumstances. In highly developed areas, an adequate right-of-way for the corridor may be significantly less. In more remote, pristine settings, a wider corridor of land may be desirable.

Focus on mechanisms that secure a permanent interest in land, and avoid the use of license agreements. Ideally, lands should be acquired in fee. Management of fee lands is less complicated, and more management options are available to a trail manager on fee-owned lands. Trail right-of-way easements and conservation restrictions are acceptable alternatives in many cases, provided they include provisions for management, maintenance, and public use in a location acceptable to both parties.

License agreements require a substantial investment of staff time and energy for little return. A license agreement lasts at best only as long as the current property owner holds the property. Moreover, license agreements can be – and frequently are – terminated unilaterally by the owner for due cause or not. Frequently, license agreements contain term limits that expire within a short period of time – the life span of a license is often 10 or 20 years, and may or may not be subject to renewal. Regardless, any license agreement includes a provision for termination by either party, typically with 30 or 60 days’ notice.

Landowners often request license agreements to establish the rights and responsibilities of the trail-maintaining organization. AMC should not reject any requests by landowners to establish a license agreement out-of-hand. However, AMC and its partners would be best served by directing available resources towards acquiring fee, trail right-of-way easements, or conservation restrictions that provide permanent access, and only consider temporary license agreements as an absolute last resort when no other alternatives exist (which is sometimes the case with large corporate entities).

Develop a revolving fund, matching funding, funding to offset due diligence costs, and/or other funding mechanisms to generate incentives for protecting the NET. Funding is often a major challenge for agencies and land trusts pursuing land conservation projects. If AMC and the National Park Service, or other key partners could providing financial incentives such as a revolving fund, matching funds, or a program to cover out-of-pocket costs for land acquisition, it would encourage partners to prioritize NET protection projects.

### **Summary of Tools and Techniques that Can Be Used to Protect the NET**

Although the land protection planning process for the NET needs to take the full range of options into account, an initial step is for AMC, the National Park Service, and their partners to determine which type of instrument is best suited for acquiring each parcel of land, recognizing that landowner preference will be a key consideration. While each agency and land trust typically will use its own templates for land transactions, these are the primary types of instruments used to convey lands and interests in land:

- A fee transaction will provide land managers with the most control and greatest flexibility for protecting trail resources and providing for the public to access, experience, and enjoy the NET. A conveyance of a property in fee may be subject to pre-existing rights held by others, or rights that are reserved by the landowner conveying the fee title to the property.

- A trail right-of-way easement typically provides the holder with the ability to provide for public access, as well as the rights to construct and maintain a trail treadway. The title to the property, and all rights of use not conveyed in the easement, are retained by the private property owner. A trail right-of-way easement can be “layered” with a conservation restriction (either in the same deed, or in separate deeds), to provide for public access as well as protect the recreational experience and natural, cultural, and scenic conservation values.
- A conservation restriction in Massachusetts prohibits uses that conflict with the protection of conservation values, and may or may not allow public access (depending on the specific wording of the document). The title to the property, and all rights of use not conveyed in the document, are retained by the private property owner. A conservation restriction is normally perpetual, and gives the agency or organization holding it the rights to protect conservation values for public benefit.
- Reserved rights. AMC, the National Park Service, and their partners need to consider whether to allow the current landowner to reserve any rights in a fee transaction, such as access rights, water rights, hunting and fishing rights, or rights to graze livestock. The agency or organization acquiring the property may agree to specific reserved rights if the exercise of them does not conflict with the purpose for which the property is being acquired.
- Life estates and term estates. Providing for life estates and term estates can provide ideal outcomes for both sellers and purchasers. Landowners may wish to reserve a term estate (such as a right to remain on the property for 10 or 20 years) or a life estate (which would allow the landowners the right to live on the property for the rest of their lives). In these types of real estate transactions, landowners can benefit by receiving immediate payment for the value of the property that is conveyed (minus a small percentage for the continued use of the property), a reduction in property taxes, and the ability to continue to enjoy the use of the property for the length of the life or term estate. The land trust or agency benefits by acquiring the long-term interests needed to protect the NET (and, if agreed to in the conveyance, the ability to locate the NET across the property in the short term as well).
- Façade easements, historic preservation easements, and other types of interests in land. In addition to fee, right-of-way easements, and conservation restrictions, there are dozens of other ways to describe legal interests in real property. Although they are a challenge to manage and enforce, façade and historic preservation easements can be used to ensure that historic properties retain their historic appearance. Water rights, timber rights, and grazing rights may be severed from the fee estate, and may need to be acquired separately to ensure that trail lands and resources are not compromised. Deed restrictions and mutual covenants, while similar to conservation restrictions, can restrict incompatible uses. However, without some entity to enforce them, these instruments often do not have the same legal effect as conservation restrictions do and are often more difficult to enforce in the event of a violation.
- Other temporary agreements. Finally, many other options, including leases, rental agreements, license agreements, certifications, and “handshake” agreements exist that

may provide some limited temporary protection for Trail resources in the short term. In a “willing seller” environment, one of these options may be all that an agency or organization is able to secure. However, none of these agreements provide permanent protection for a National Scenic or Historic Trail, and should only be considered as a last resort or “stop gap” measure after all other alternatives have been thoroughly explored.

Four basic options exist for compensating a landowner in whole or in part. Any of these options may be utilized by agencies, organizations, and land trusts, depending on the circumstances:

- Purchase. A purchase is an outright acquisition of land or interest in land at an agreed-upon price. For most purchases by government agencies, conservation organizations, and land trusts, the compensation paid for land or an interest in land is established by an appraisal conducted by an independent appraiser in accordance with specific appraisal requirements.
- Bargain sale. A bargain sale is the sale of land or interest in land to a governmental body or conservation organization at a price less than the fair market value. In other words, a bargain sale is partly a sale and partly a charitable gift. The difference between the fair market value and the bargain sale price is tax-deductible as a charitable contribution. Appraisals are still needed to establish fair market value and the value of the charitable gift.
- Donations. A donation is a transaction in which landowner willingly gives a full or partial interest in land to a public agency or private land trust. For the receiving agency or land trust, the benefits are the same as for a transaction via purchase, but at less cost. As noted previously, however, the agency or land trust (the “donee”) and the landowner (“donor”) must meet IRS requirements for a landowner to qualify for tax benefits associated with donating a conservation restriction, right-of-way easement, or fee property. If carried out in accordance with state law, the donor may be entitled to federal and state tax deductions (and in some states, state tax credits). A note of caution: a landowner may not realize significant tax benefits because of their limited income, or because the value of the donation is small (which is often the case if only a narrow corridor or small portion of the property is being donated).
- Exchanges. Although exchanges are done infrequently, federal agencies can exchange land or interests in land with a private landowner or other party. The National Trails System Act provides the Secretaries of Interior and Agriculture with the authority to exchange any lands under their jurisdiction that may be needed for national trails within a given state for land of approximate equal value or, if the values of the two properties are different, to make up the difference in cash. Private land trusts and Massachusetts state agencies rarely exchange property, as most of their land holdings are held in perpetuity for a specific conservation purpose.

#### Develop templates for trail access right-of-way easements.

The Pennsylvania Land Trust Association (PALTA) has developed long-form and short-form templates for trail right-of-way easements that are provided under separate cover. The short-form template is far simpler and less legalistic than the long-form template.

These templates, which have been adopted by many land trusts, are designed for donated right-of-way easements. Both documents would require substantial modification if compensation is provided to the landowner<sup>3</sup>.

### **Conclusion: The Long Game for Funding Trail Protection**

It is readily apparent that protecting the NET in Massachusetts will be a long game. Securing protection for more than 30 miles of a National Scenic Trail, across more than a hundred individual properties, will take decades – and a significant investment of capital and human resources.

As such, AMC and its organizational partners should consider building support for a long-term effort to secure expanded tax incentives for public recreation access to trails in Massachusetts. The Commonwealth Conservation Land Tax Credit, which is administered by the Massachusetts Executive Office of Energy & Environmental Affairs, is capped at \$2 million annually. It also is significantly over-subscribed, and limited to a \$75,000 maximum per donation. The current program allows for conservation restrictions or fee donations that conserve drinking water supplies, wildlife habitats and biological diversity, agricultural and forestry production, and scenic and cultural values in addition to outdoor recreational opportunities.

In the late 1990s, the Commonwealth of Virginia, which at one time was considered to be one of the weakest states for conservation, generated sufficient enthusiasm for conservation to create what is undoubtedly the strongest state incentive for conservation in the nation: a 40% tax credit for conservation easements, with an allowance for tax credits up to a cap of \$100 million annually. Initially approved by near-unanimous vote of the Virginia General Assembly in 1999, the Virginia Land Preservation Tax Credit Program has resulted in the conservation of more than 800,000 acres in Virginia and has survived and been expanded through both Republican and Democratic administrations. Colorado, New Mexico, and several other states also have enacted laws that provide for state tax credits for conservation purposes. Connecticut enacted a law in 1999 (P.L. 99-173, CSA § 12-217dd) that provides for a non-transferable tax credit for corporations that donate land for conservation purposes.

AMC's ongoing advocacy for an expanded Commonwealth Conservation Land Tax Credit (CLTC) could be focused on ensuring that all Massachusetts residents – indeed, all Americans – have access to trails and the great outdoors near where they live. If successful, the result of such an expanded tax credit program could be similar to Virginia's conservation success. Private landowners would have a far greater financial incentive to voluntarily protect the NET, and AMC, local land trusts, and local governments would be far more successful at providing trails for the public.

Absent a tax credit or other public incentive (or at least until such time as an enhanced tax credit program is created), another potential source of funding is fundraising – and

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<sup>3</sup> Author's note: The author is not offering legal advice. All templates and conveyance documents should be reviewed by a lawyer.

specifically endowment fundraising. Although plenty of crossover exists, some donors who are not interested in contributing to support other AMC programs or general purposes will readily give money to a specific land conservation effort. Additionally, one of the attractive features for a donor donating to a land conservation effort is that he or she can leave a legacy that has a sense of permanence: the donation helps conserve a piece of land forever. This can be particularly important consideration for prospective donors who are considering bequests or planned gifts.

If AMC could develop and promote a matching or revolving fund for protection of the NET, it could be used to leverage land trust and agency acquisition projects. As recognition for gifts to the fund, AMC could consider a program to “name” specific properties that land trusts acquire in partnership with AMC in honor of a major donor or contributor to the acquisition of that property. This official recognition may also be an important consideration for the actual landowner of a property as well, in instances where the landowner donates a fee or less-than-fee interest in his or her property.



*Photo caption: Representatives of key agency and land trust partners who participated in the all-day workshop (from left to right): Bridget Likely, Kestrel Land Trust; Kelly Fellner, National Park Service; Liam Cregan, Appalachian Mountain Club; Yoni Glogower, City of Holyoke; Jen Soper, Massachusetts Department of Conservation and Recreation; Heather Clish, Appalachian Mountain Club; Don Owen, Lands Trails and Parks LLC; Andrew Long, National Park Service; Aaron Nelson, Mount Grace Land Conservation Trust.  
Photo credit: Marilyn Castriotta*

## Appendices

### Appendix A: Key Regional Partners

The following organizations and agencies could serve as potential key regional partners and collaborators in a coordinated approach to protecting, maintaining, and managing the New England National Scenic Trail (partners that actively participated in the working group are identified in **bold-face type**):

#### State and Federal Agencies

##### **National Park Service, New England National Scenic Trail**

National Park Service, Northeast Regional Office (Interior Region 1)

National Park Service, National Trails Land Resources Program Center

##### **U.S. Fish and Wildlife Service, Silvio O. Conte National Fish and Wildlife Refuge**

U.S. Fish and Wildlife Service, Northeast Regional Headquarters

##### **Massachusetts Department of Conservation and Recreation**

Massachusetts Division of Fisheries and Wildlife

U.S. Department of Transportation/Federal Highway Administration

MassTrails

#### Trail Organizations

##### **Appalachian Mountain Club**

##### **Connecticut Forest & Park Association**

Partnership for the National Trails System

#### Land Trusts

##### **Mount Grace Land Conservation Trust**

##### **Kestrel Land Trust**

##### **Franklin Land Trust**

Pascommuck Land Trust

The Trustees of Reservations

The Trust for Public Land

The Conservation Fund

The Nature Conservancy  
Access Fund  
American Farmland Trust  
Massachusetts Audubon Society  
Mass Land Trust Coalition  
Land Trust Alliance

Municipality and Town Conservation Commissions

**Town of Northfield Conservation Commission**

**City of Holyoke Conservation Department**

Town of Southwick Conservation Commission

City of Agawam

City of Westfield

City of West Springfield

City of Easthampton

Town of South Hadley

Town of Hadley

Town of Granby

Town of Amherst

Town of Belchertown

Town of Pelham

Town of Shutesbury

Town of Wendell

Town of Erving

Town of Warwick

Town of Royalston

Regional Planning Agencies

Franklin Regional Council of Governments



Pioneer Valley Planning Commission

Foundations

Highstead Foundation

National Park Foundation

Other Organizations and Agencies

West Springfield Environmental Committee

Friends of the Mt. Holyoke Range

Friends of the Silvio O. Conte National Fish and Wildlife Refuge

**Appendix B: Summary of Interviews conducted with representatives of AMC, NPS, and key collaborators to determine perspectives and potential involvement of their respective agencies and organizations in protecting the NET**

Between January 10, 2022 and February 15, 2022, Lands Trails and Parks LLC researched and catalogued trail protection data from the following resource documents:

- The New England National Scenic Trail (NET) Blueprint for Management (2021)
- The Appalachian Mountain Club – National Park Service Memorandum of Agreement (draft 2022)
- The Connecticut Forest and Park Association Protection Plan for Blue Blazed Trails (2018)
- The Silvio O. Conte National Fish and Wildlife Refuge Comprehensive Conservation Plan (2017)
- The Massachusetts Statewide Comprehensive Outdoor Recreation Plan (2017)
- The Appalachian Mountain Club – Massachusetts Department of Conservation and Recreation Memorandum of Understanding (2012, to be updated in 2022)
- Public Law 111-11, Section 5202 (2009)
- The National Park Service MMM Trail System National Scenic Trail Feasibility Study (2006)

Based on the data accumulated for these sources, Lands Trails and Parks LLC developed a series of interview questions focused on potential criteria that might be considered as decision factors in developing a plan to protect the NET. Interviews were conducted with 14 representatives of key partner organizations and agencies between February 4 and February 16, 2022.

A detailed description of the interview responses is provided in Appendix A. The following narrative summarizes the issues that were raised and the outcomes of these discussions.

**Support for Protecting the New England National Scenic Trail:** Without exception, all of the agency and nonprofit organization representatives expressed interest in protecting the NET. AMC staff identified the NET as one of their highest priority programs. Other nonprofit organizations see the NET as an important part of the west-central Massachusetts landscape and an important conservation value worth protecting. State and local government representatives also view the NET as an important recreational asset that overlaps areas conserved by the Commonwealth of Massachusetts.

Several land trusts, state agencies, and local government agencies have conserved – and currently manage – lands, right-of-way easements, and conservation restrictions along the route of the NET. The Kestrel Land Trust, the Mt. Grace Land Trust, and the Holyoke Water Department all own key properties along the NET. In addition, the NET crosses numerous state lands, including Robinson State Park, Mt. Tom State Reservation, Mt. Holyoke Range State Park, Quabbin Reservoir and Watershed, Shutesbury State Forest, Wendell State Forest, Warwick State Forest, Erving State Forest, Northfield State Forest, and Mt. Grace State Forest.

AMC representatives advised that AMC does not currently own any land or hold any right-of-way easements or conservation restrictions along the NET. However, AMC does manage and maintain the trail, manages landowner relationships on the trail, and enters into formal agreements with land-managing agencies and organizations to provide these services on the NET and on other trails it maintains. AMC also advocates for federal and state funding for land and trail protection, and its Western Massachusetts Chapter has provided matching funds for trail land protection projects..

To date, the National Park Service and the U.S. Fish and Wildlife Service have not acquired any lands or less-than-fee interests to protect the NET. National Park Service representatives have indicated that they are open to acquiring lands from willing parties to protect the trail, provided other partners, such as AMC, are willing to manage and maintain any parcels or less-than-fee interests that have been acquired. The U.S. Fish and Wildlife Service’s priority is protection of fish and wildlife habitat in the Silvio O. Conte National Wildlife Refuge. To the extent that protecting the NET co-aligns with this priority, the Service is very supportive.

Goal for Protecting the New England National Scenic Trail: Representatives of all of the parties who participated in the interviews expressed support for a collective long-term goal of conserving a continuous, permanently protected corridor of land for the public to access and enjoy the natural, cultural, scenic, and recreational resources of the New England National Scenic Trail in Massachusetts.

Overarching Categories for Protecting the New England National Scenic Trail:

Respondents prioritized the following major categories of criteria for protecting the NET as follows:

<u>Category</u>	<u>Priority</u>
Working wherever private landowners are willing to work with us	a given
Ensuring continuous public access	#1
Protecting the recreational experience	#2
Protecting natural and cultural resources	#3
Ensuring consistency with local, regional, state, and national planning	#4
Separating the trail from incompatible uses to the greatest extent possible	#5
Avoiding difficult trail construction	#6

Respondents also had the following comments and recommendations for criteria within each major category.

### Working wherever private landowners are willing to work with us

Without exception, all respondents agreed that it was essential to work only with willing sellers (or willing donors, in the case of a donated property, right-of-way easement, or conservation restriction), consistent with the *New England National Scenic Trail Blueprint for Management*. When a willing seller or donor is identified, it should be a priority. As expressed by one respondent, “We want our relationship with a landowner to be a positive experience, even if things don’t work out for some reason.”

### Ensuring continuous public access

Most respondents felt that ensuring a continuous, off-road route that was open for public use was the highest priority for protecting the NET. Provisions for trailhead access and parking, accessibility, and environmental justice all were considered to be important contributing factors. Some locations along the NET may also be suitable for constructing and maintaining universally accessible trail. Other uses on the NET may be allowed in some locations, when permitted by the land-managing agency (for fee-owned land) or private landowner (for right-of-way easements and conservation restrictions).

### Protecting the recreational experience

Respondents expressed consistently strong views on conserving significant features or highlights (i.e., mountain summits, views) and avoiding road walks and unsafe trail conditions. Ideally, the route of the NET would provide visitors with scenic vistas and views of New England rural landscapes, as well as opportunities to experience historic, natural, scenic and recreational points of interest.

### Protecting natural and cultural resources

Interviewees expressed strong support for a trail route that would also provide some level of protection for wildlife, water sources and resources, watersheds, occurrences of rare plant and animal species, and unfragmented forest habitat. Several respondents noted the importance of protecting a linear corridor that may provide for some localized species migration and opportunities for adaptation in response to climate change.

Interviewees felt that it was essential to consult with Native American tribes to determine whether or not trail conservation in a specific area would be a benefit to, or in potential conflict with, Native American heritage and culture. Several respondents expressed reservations about protecting important historic resources such as historic buildings, landmarks, or districts on or eligible for the National Register or State Register of Historic Places, particularly historic structures located on lands being considered for conservation that would then become part of the land manager’s responsibility.

### Ensuring consistency with local, regional, state, and national planning

All respondents agreed that federal agencies must meet the intent of Congress and ensuring consistency with the National Trails System Act. One respondent noted the provision of the National Trails System Act that requires the federal agency assigned

administration of a National Scenic Trail to seek Congressional approval for a major relocation of the route of the trail.

Respondents noted the importance of involving municipalities in conserving land for the NET, both in terms of seeking their support for trail conservation and seeking their actual participation in conserving land. Local land trusts are well-attuned to local government support for conservation, and may be able to offer guidance in engaging local government officials.

Agencies and organizations seeking to protect the NET also should be cognizant of where funding may come from. Federal funding sources include Land and Water Conservation Fund (LWCF), funding for wildlife habitat, transportation funds, and other sources. Stateside LWCF funding is prioritized in the Massachusetts State Comprehensive Outdoor Recreation Plan, which is currently being updated. Massachusetts Department of Conservation and Recreation representatives noted that land acquisition projects need have many natural resource protection benefits in addition to protecting the NET to compete for funding, and that one of the most important criteria is that a parcel be adjacent to or provide access to state lands.

#### Separating the trail from incompatible uses to the greatest extent possible

Respondents identified a number of uses that they felt should be avoided if possible. While these uses may take place on adjacent lands, the following land uses should be avoided to the extent possible:

- Existing residential, commercial, and industrial uses
- Imminent residential, commercial, and industrial use
- Energy-related developments, including commercial solar arrays and wind farms
- Open pit mines
- Areas used by motorized recreational vehicles
- Co-alignments with major highways, railroads, and linear transmission lines and utilities
- Gun ranges
- Communications towers

#### Anticipated difficulty of trail construction

Interviewees expressed the importance of acquiring lands and right-of-way easements where a sustainable trail could be built. Ideally, the trail treadway will be constructed using best management practices and techniques for trail design and construction (such as moderate grades, minimal surface disturbance, side-slopes or ridgeline locations).

In some cases, steep slopes, extended water crossings, and other natural and manmade constraints may limit options for constructing a suitable trail treadway. In these instances, bog bridging, stone steps, trail surfacing and hardening, boardwalks, and other trail construction techniques can be used to provide a stable, durable treadway.

### Other important considerations

Several interviewees advised that it may be important to relocate the NET to take advantage of the existing public land base to the greatest extent possible, provided that the selected route protected key resources and provided a desirable outdoor recreation experience.

Many of the interviewees expressed a strong preference for a pro-active approach (*i.e.*, reaching out to and engaging property owners and communities) instead of a reactive approach (waiting for properties to come on the market). The rationale for this approach, as several respondents noted, is that a seller putting a property on the market is usually looking to sell as quickly as possible, and agency processes frequently take months or even years. Nevertheless, properties that come on the market should not be automatically discounted. Landowners should be approached and asked if they would be willing to consider an offer from a land trust or agency.

Most interviewees thought the NET would benefit from a landowner outreach program. Several respondents stated that AMC and involved land trusts would be particularly well-suited for such a role.

The majority of respondents indicated that, while they would prefer to locate the trail in an optimal or ideal location, it may not always be feasible. As one respondent noted, “We should seek the ideal location wherever possible, but understand that we work in reality. If the next-best alternative is available, we should consider it.” Others recommended that pursuing the next-best alternative when available in the short term and the best alternative in the long term as a means of providing the optimal route over the long term.

All respondents supported the concept of acquiring entire tracts when asked to do so by landowners, particularly when other conservation values are present on a parcel of land. In some cases, a whole tract purchase may necessitate bringing in additional management partners (such as a local government agency or land trust) to manage the property.

Most respondents indicated a preference for acquiring a fee interest, or even a fee interest subject to a term or life estate. Such an approach both simplifies trail management over the long term and contributes to over-all landscape-scale conservation.

Ideally, agencies and land trusts should focus on large parcels that provide for the greatest extended linear protection for the NET. Acquiring larger parcels builds momentum, provides a stronger selling point for more funding, is a better use of limited funding for land acquisition services, enhances public access opportunities, and simplifies management. Smaller parcels should be acquired when needed to provide a key link to other properties, when they would protect key resource values, and when they represent the last parcel (or one of the last parcels) in a lengthy stretch of the NET between two road crossings.

Interviewees provided a wide variety of responses to a query about the desired minimum and maximum width of a corridor of land for protection of the NET. A plurality of respondents thought that a minimum width should be 100 feet or more; and most felt that

the desired width should be 500 to 1,000 feet (with exceptions to accommodate existing and planned development and other constraints).

Respondents consistently stated that as many partners as possible should be engaged in protecting the NET, including local, state, and federal agencies, and local, regional, and national land trusts.

AMC representatives stated AMC's willingness to take responsibility for long-term maintenance and stewardship of the NET across lands conserved by other organizations and agencies. AMC staff also stated a willingness to enter into cooperative agreements and memorandums of understanding with land trusts and agencies to delineate and memorialize these arrangements.

Most representatives indicated their agency or organization would be interested in acquiring and holding property interests to protect the NET, provided they had the capacity to do so and funding was available, landowners were willing, and local governments were supportive. AMC representatives advised that their organization is not equipped to acquire or hold interests in land at this time, and NPS representatives emphasized that they would need some entity to commit to managing the land if the NPS were to acquire any land.

Several respondents noted that protecting the NET could make important contributions to the protection of the Silvio O. Conte National Fish and Wildlife Refuge, which was created in 1991 by act of Congress to provide opportunities for scientific research, environmental education, and fish and wildlife-orientated recreation and access to the extent compatible with other purposes.

**Appendix C: Outcomes of an in-person, all-day workshop and networking event to develop NET land protection criteria for prioritization and other recommendations regarding land protection for the NET.**

On March 17, 2022, a working group consisting of eleven representatives of agencies and nonprofit organizations interested in protection of the New England National Scenic Trail met at the Kestrel Land Trust offices in Amherst, Massachusetts, for a day-long workshop facilitated by the Appalachian Mountain Club and Lands Trails and Parks LLC.

After brief introductions, representatives from AMC, the National Park Service, and other agencies and organizations offered their perspectives on the group's purpose and goals, their "top of mind" agenda items, and their hopes for development of a trail protection strategy for the NET in Massachusetts. Participants and the agencies or organizations that they represent are identified on page 22 of this report.

Long-term Goal for Protecting the NET: The group reviewed and confirmed the following over-arching goal for protection of the NET:

"Our collective long-term goal is to conserve a continuous, permanently protected off-road corridor of land for the public to access and enjoy the natural, cultural, scenic, and recreational resources of the New England National Scenic Trail in Massachusetts from the Connecticut border to the New Hampshire border."

The participants also identified an ambitious but achievable goal for completing the protection of the NET by 2040; with a hard deadline of completing it by 2059.

Paired Comparison Exercise: Next, the working group, led by Lands Trails and Parks LLC's senior executive consultant, completed a "paired comparison" exercise to identify priorities and the relative importance of various factors in determining the location of a permanently protected off-road corridor of land for the NET. "Paired comparisons" are used frequently in business strategy and negotiations as a means of comparing disparate concepts or alternative courses of action.

In this exercise, participants compared seven overarching categories of specific trail-protection criteria against each other. In addition, participants ranked these specific criteria within each category against other criteria within the same category.

The outcome of the "paired comparison" exercise closely paralleled (but did not duplicate) the results of the one-on-one interviews. Participants in the "paired comparison" exercise identified "working with private landowners willing to work with us" as the most important category – in essence, duplicating the results of the interviews that indicated that working with willing landowners was a "given." Closely following this category were "protecting natural and cultural resources," "ensuring public access," and "protecting the recreational experience."



Table 1: Ranking of Categories of Factors to Be Considered in a Trail Protection Strategy for the New England National Scenic Trail, in order of importance:

1. Working with landowners
2. Protecting natural and cultural resources
3. Ensuring public access
4. Protecting the recreational experience
5. Separating the trail from incompatible uses
6. Ensuring consistency with local, state, and national planning
7. Avoiding difficult trail construction and maintenance

Rankings of criteria within each category also closely paralleled the findings from the interviews.

Work with landowners: The responses under the category of “work with landowners” revealed a solid consensus for “working with landowners who are willing to work with us” as the highest priority. Participants also felt it important to “contact landowners before properties go on the market” and acquire entire tracts when offered.” Participants additionally identified a preference for acquiring a fee interest over a less-than-fee interest, and for acquiring a less than optimal route when available.

WORK WITH LANDOWNERS	Prioritized Ranking in Comparison to Other “Working with Landowners” Criteria
A Focus on properties for sale	19
B Contact landowners before properties go on the market	37
C Seek the best location regardless of availability	6
D Acquire less than optimal route when available	25

E Acquire entire tracts when offered	39
F Acquire fee interests	30
G Acquire easements	22
H Work with landowners willing to work with us	60

Protect natural and cultural resources. Under the next highest-priority category, “protect natural and cultural resources,” respondents identified protecting rare plants, animals, and exemplary natural communities and providing for habitat connectivity as the most important criteria, followed closely by protecting water quality in springs, streams, rivers, lakes, and reservoirs and protecting important Native American sites.

PROTECT NATURAL AND CULTURAL RESOURCES	Prioritized Ranking in Comparison to Other Natural and Cultural Resource Protection Criteria
A Protect pristine natural areas	18
B Protect wildlife	9
C Protect rare plants, animals, and exemplary natural communities	41
D Protect water quality in springs, streams, rivers, lakes, and reservoirs	30
E Provide habitat connectivity	41
F Protect important Native American sites	27
G Protect historic sites and structures	6

Ensure public access. Under the category of “ensure public access,” participants identified access for all, environmental justice, and protection of a continuous, connected, publicly accessible route as the highest priorities. Providing for trailheads and parking lots was the next priority, followed by providing for multiple access points and access for people with disabilities.

ENSURE PUBLIC ACCESS	Prioritized Ranking in Comparison to Other Public Access Criteria
A Continuous, connected, publicly accessible route	35
B Environmental justice and access for all	38
C Access for People with Disabilities	17
D Provide for multiple allowable uses	0
E Provide multiple access points	17
F Provide for trailheads and parking lots	25

Protect the Recreational Experience. Participants identified the highest priorities under this category as avoiding roadwalks and other unsafe trail conditions and providing a sustainable trail location, closely followed by conserving significant features and highlights of the trail.

PROTECT THE RECREATIONAL EXPERIENCE	Prioritized Ranking in Comparison to Other Recreational Experience Criteria
A Conserve significant features and highlights (mountain summits)	23
B Conserve scenic and rural New England landscape	11

C Avoid roadwalks and other unsafe trail conditions	26
D Provide varied topography and setting	4
E Provide sustainable trail location	26

Separate the trail from incompatible uses. Under this category, avoiding transportation infrastructure, avoiding existing residential, commercial, and industrial development, and avoiding incompatible recreational uses (ATVs, 4WD parks, and motorized bikes) were identified as the most important criteria.

SEPARATE THE NET FROM INCOMPATIBLE USES	Prioritized Ranking in Comparison to Other Incompatible Use Criteria
A Avoid existing residential, commercial, and industrial development	26
B Avoid imminent residential, commercial, and industrial development	9
C Avoid open water crossings (rivers, major streams)	19
D Avoid wetlands	32
E Avoid manmade constraints (highways, railroads, developed areas)	42
F Avoid steep trail treadway grades	13

Ensure consistency with local, state, and national planning. Four criteria – meeting the intent of Congress and the National Trails System Act, ensuring consistency with state environmental planning documents, ensuring consistency with local government planning documents, and identifying properties that score well for agency priorities were identified by participants as being of approximately the same importance.

CONSISTENCY WITH PLANNING	Prioritized Ranking in Comparison to Other Planning Criteria
A Meet the intent of Congress and National Trails System Act	21
B Identify properties that score well for agency priorities	23
C Ensure consistency with Federal agency planning documents	1
D Ensure consistency with state environmental planning documents	24
E Ensure consistency with local government planning documents	21

Avoid difficult trail construction and maintenance. Participants thought that the most important considerations under this category were avoiding manmade constraints such as highways and railroad crossings, followed closely by avoiding trail construction in wetlands.

AVOID DIFFICULT TRAIL CONSTRUCTION AND MAINTENANCE	Prioritized Ranking in Comparison to Other Trail Construction and Maintenance Criteria
A Avoid steep slopes	6
B Avoid poor soils for building and maintaining trail	23
C Avoid incompatible recreational uses (ATVs, 4WD parks, motor bikes)	24
D Avoid energy infrastructure (pipelines, powerlines, commercial solar arrays)	2
E Avoid transportation infrastructure (highways, railroads, airports)	29

Small-group Exercise: Following a review of the results of the paired comparison exercise, participants broke into small groups to discuss several key questions and issues and questions:

➤ What should our short-term priorities be?

Small group participants felt that it was essential to start building awareness of the NET throughout the region. AMC could take the lead on a rebranding campaign, shifting the focus to the need for land protection. Such an outreach effort could include outreach to towns and neighborhoods along the NET, making sure that the NET is recognized as a recreational asset to communities and the public.

In addition, some participants felt that AMC, NPS, and their partners should consider creating a Regional Conservation Partnership (RCP) as a means of coordinating efforts and attracting funding.

Participants also listed the following steps that should be undertaken in the short term as soon as capacity permits:

- Complete planning and establish priorities
- Conduct a trail location analysis to identify a preferred location for the NET
- Identify potential partners and funding
- Begin proactive outreach to communities and landowners
- Identify projects that are best suited for stateside (municipality or state agency) Land and Water Conservation Fund vs. federal Land and Water Conservation Fund money
- Identify projects that may qualify for Massachusetts Department of Conservation and Recreation funding (which is prioritized for acquiring properties that abut existing state lands)
- Get priorities identified within key conservation partnership areas for the Silvio O. Conte National Fish and Wildlife Refuge
- Determine a long-term management structure for acquired interests

➤ What should our long-term priorities be?

The participants recommended that long-term priorities should focus on providing continuous public access to the NET, protecting natural resource values, and providing for trailheads and parking areas at intervals that would provide for day hiking and access to “keystone” features of the NET.

➤ Where are our focus areas?

Small group participants thought that focus areas should include projects that could be accomplished relatively quickly, so that efforts to protect the NET begin

to build momentum and establish a track record of success. Several participants suggested that AMC, the National Park Service, and their partners should begin to identify ideal and priority projects that would protect essential features and key access points, and initiate communications with landowners and communities about these sites. In addition, participants thought it important to identify road walks and “conservation gaps” along the Trail, so that opportunities to conserve land in these areas could be highlighted. Finally, participants proposed that AMC, the National Park Service, and their partners should focus on identifying potential projects where a clear long-term management partner exists.

➤ What challenges and opportunities do you see?

Participants suggested that the biggest challenges were funding for land acquisition, closing windows of opportunity, and limited capacity for planning and executing a trail protection strategy. National Park Service unit status for the NET could help address some of these issues.

There are some significant opportunities and advantages at this point in time as well. With the passage of the Great American Outdoors Act, both federal and stateside Land and Water Conservation Fund money is available for trail protection. The Silvio O. Conte National Fish and Wildlife Refuge just received a substantial amount of funding. Massachusetts state funding for land acquisition could be available as well. Finally, national nonprofit partners like The Trust for Public Land and the National Park Foundation have expressed a strong interest in protecting the NET – in fact, the Trust for Public Land is currently a key partner in an ongoing project to protect an important parcel along the NET in southern Massachusetts.

➤ What do you need from other partners?

Participants felt they needed other partners to identify their service areas and conservation priorities. They need to determine long-term management partners for lands, right-of-way easements, and conservation restrictions that are acquired and conduct outreach to landowners to determine if they would be willing to work with us. Several participants indicated that they needed partners who can match and leverage funding for land acquisition (including funding for due diligence services). Others stressed the importance of having a functioning Trail Stewardship Council, a NET Management Committee, and a cadre of active volunteers.

➤ What can you and your organization bring to the table?

AMC representatives said that AMC is committed to maintaining the NET and managing public use of it, and may at some point be willing to provide funding to leverage trail protection projects. AMC is not currently willing to consider

holding land or interests in land to protect the NET, but this may change at some point in the future.

Land trusts generally have the strongest relationships with local communities, and may be willing to become more actively engaged in protecting the NET. The Kestrel Land Trust has strong ties to the NET. Mt. Grace Land Conservation Trust has a revolving fund for key acquisitions in their service area. Mt. Grace also is comfortable pre-acquiring land for agencies, but needs funding on the back end to repay the revolving loan fund. The Franklin Land Trust developed a trail access easement program in the northwestern part of the state with the Natural Resource Conservation Service that may serve as an example of engaging local landowners.

State and federal agency representatives advised that their respective agencies may be able to acquire lands, provided projects met their criteria for acquisition.

➤ Who else should be involved and how should we engage them?

Foundations may serve a key funding role once priorities have been established. The Trust for Public Land, the National Park Foundation, and other national conservation organizations may be willing to invest some resources in protecting the NET, given its stature as a National Scenic Trail. The Highstead Foundation may be a valuable partner, particularly if AMC and its partners decide to create a Regional Conservation Partnership (RCP).

The Franklin Land Trust's service area overlaps some of the NET in Hampden County. Ideally, guidelines for protecting the NET in Massachusetts would be consistent with guidelines for protecting the NET in Connecticut, where the Connecticut Forest and Park Association and National Park Service manage the other half of the NET. Municipal staff and conservation commissions in West Springfield, Westfield, Agawam, Southwick, and Holyoke could play important roles. Finally, the Friends of the Silvio O. Conte National Fish and Wildlife Refuge could help promote protection of the NET, given that almost the entire length of the NET is located with the Connecticut River watershed.