



STATEWIDE PROGRAM OF ACTION TO CONSERVE OUR ENVIRONMENT

SPACE NEWSLETTER

SUMMER 2009 VOLUME 2, ISSUE

Letter from the Chairman:

UPDATING YOUR PROPERTY- The SPACE telephone is a good a barometer of what concerns landowners about current use. This spring, phone calls tell us that municipalities are asking landowners to update their Current Use information now on file in town offices. We have confirmed with the DRA (Department of Revenue Administration) that they are recommending that towns update all tax records, particularly Current Use records. So you may be asked to do one or more of the following:

- Review and update as necessary the current use information in your file;
- Meet with selectmen and/or assessors in the town office to review your file on current use;
- Provide a forest management plan if you are claiming the stewardship tax rate. This may require the signature of a licensed forester.

That towns are asking for an update should come as no surprise. Many of us enrolled our land in the Current Use program decades ago. Now things have changed. On many farms, some buildings have gone up, some have come down; some land has been cleared for agricultural uses or has reverted back to forest. Decades ago, selectmen often had close ties to the working landscape; today, many do not have that connection with forestry and farming. Many towns have contracted assessing to outside firms.



Photo courtesy-NH Farm Bureau- by Maureen Duffy

You may have a strong urge to “just say no” to a request from your town on the basis that it is the assessing officials’ job to update their files. This does happen in all other classes of real estate, but land is different. My feeling is that you as a landowner are best qualified to draw a map delineating all of the features of your property that pertain to Current Use.

Where can you get the information for this map? Some sources include:

- Your forest management plan;
- A conservation plan;
- As a start an aerial photo;
- Ask you County Extension Forester or Agricultural Educator for help;
- Call SPACE about the requirements for Current Use forms.

THE BOTTOM LINE: I believe that you, the landowner, will benefit from being the one providing update information to town officials. If it is accurate and documented, I believe they will be grateful for making their job a little bit easier. Selectmen have a thankless job. It takes up increasing amounts of what is essentially volunteer time. The alternative is that someone without knowledge of your property makes incorrect judgments that appear on your tax bill. The process to correct these mistakes is long and can be costly.

And finally, it becomes easier to defend Current Use when we can demonstrate that Current Use landowners are pulling their weight and more in helping their towns — and showing that current use property is a net tax gain.

I strongly recommend that landowners comply with this request

Chuck Souther, Chair

Frequently Asked Questions:

1. IS IT TRUE THAT WETLAND OF ANY SIZE CAN BE PLACED IN CURRENT USE? *Yes. A tract of unimproved wetland of any size can be enrolled in current use. However, it must meet the requirements as defined in RSA 79-A:2, XIV that state: 'By its nature is incapable of producing agricultural or forest crops; and by reason of wetness is being left in its natural state.' If you have further questions on qualifying for wetland, please contact: Wetlands Program –NHDES Wetland Bureau- 29 Hazen Drive- Concord, NH 03301 or email wetmail@des.nh.gov or call (603)-271-2147.*

2. HOW MUCH TIMBER CAN I CUT OFF MY PROPERTY WITHOUT HAVING TO PAY A TIMBER TAX? *You are allowed to have (1) 10 MBF saw logs and 20 cords fuel wood for personal use by owner; (2) 10 MBF saw logs and 20 cords of wood for land conversion purposes when all permits for the conversion have been received; (3) shade and ornamental trees, usually considered to be trees within striking distance of a building; (4) Christmas trees, fruit trees, and nursery stock and short rotation tree fiber; (5) any amount of firewood for maple syrup production; and (6) government and utilities not selling the wood. No Intent to Cut is required and no tax is assessed for any of these six conditions. **IF I PLAN TO SELL MY TIMBER WHAT AM I REQUIRED TO DO BY LAW AND WHAT WOULD MY TAX LIABILITY BE?** *Timber is considered to be real estate in the State of New Hampshire and therefore, taxable. Timber is only taxed at the time it is cut and at a rate which encourages the growing of timber. You must notify your town assessing officials and file a Notice of Intent to Cut Timber. IT IS REQUIRED BY LAW. Town officials have 30 days to sign off on your Intent to Cut form but can withhold approval ONLY if any of the following apply to your original application: (1) form not filled out properly; (2) land is enrolled in the unproductive current use category that does not allow timber harvesting; (3) a timber tax bond is required but has not been posted, or (4) all owners of record have not signed the intent to cut (owners' name(s) that appear on the property tax card).**

*The responsibility for the timber tax depends on the type of ownership and must be one of the following: (1) Landowners with timber rights on their own land; (2) Person(s) with deeded timber rights on land they previously owned; or (3) Person(s) purchasing timber on public lands-Federal, state, county, town, etc. Timber on all land ownerships is taxable at 10% of the stumpage value at the time of cutting. (*NH Timber Tax Law- RSA 79:10)*

3. IF I HAVE ALWAYS MANAGED MY FORESTLAND AND HAVE BEEN DOCUMENTING THAT MANAGEMENT FOR

YEARS, WHY DO I NOW NEED A LICENSED FORESTER TO SIGN OFF ON MY MANAGEMENT PLAN IN ORDER FOR ME TO RE-QUALIFY TO REMAIN IN DOCUMENTED STEWARDSHIP? *According to the Cub 304.09 – any landowners applying (reapplying) for documented stewardship shall submit Form A-10 accompanied by the following documentation at the time of application for open space assessment, and periodically thereafter at intervals of 5 or more years. You will need to provide: (1) A statement of past forestry accomplishments, including an explanation of deviations from the objectives of past plans submitted; (2) an update map as required by CUB 309.01 (b)(1); and (3) one of the following: (a) A letter from the NH Tree Farm Committee confirming certified tree farm status; or (b) a forest stewardship plan that includes: (1) A statement of forest stewardship objectives; (2) current forest stand descriptions; (3) current management prescriptions that address: (i) timber; (ii), fish and wildlife habitat; (iii) soil; (iv) water quality; (v) recreational resources; (vi) aesthetic values; (vii) cultural features; (viii) forest protection; (ix) wetlands; and (x) threatened an endangered species and unique natural communities; (4) a boundary maintenance schedule; (5) an access development and road maintenance plan, and (6) the signature of: (i) a NH licensed forester; or (ii) a person exempted from licensure under RSA 310-A:98, II or (c) a completed Form CU-12, "Summary of Forest Stewardship Plan for Current Use Assessment". (*CUB Booklet- 2008-2009) **WHEN DID THIS LAW TAKE EFFECT?** *It was enacted on July 23, 1996.**

4. I OWN 50 ACRES OF FORESTLAND AND NOW WANT TO CLEAR 10 ACRES OF THAT FORESTLAND TO MAKE A PASTURE. WHAT DO I NEED TO DO, AND WILL I BE CHARGED A LAND USE CHANGE TAX? *You will need to notify the town that you are changing from one qualified category to another so they can assess the property based on these changes. In your particular case, you would be leaving 40 acres in forestland and transferring 10 acres to farmland for your 10-acre pasture. Because both still qualify to remain in current use, there would be no penalty assessed; however, your current use assessment would be reassessed the 2009 assessment rates for each category: forestland (40 acres) at one rate; farmland (10) acres at a range between (\$25- to \$425.00) per acre based on your pasture's soil potential capability. You may wish to contact your County Conservation District Office to have them prepare a SPI (Soil Potential Index) report which, if under 100%, can lower the assessment the town assigns without one on file. The town is required to apply it if you provide them this report. To contact NRCS/ Conservation District Office visit: www.nh.nrcs.usda.gov*

Frequently Asked Questions: *continued from page 2*

5. WHERE CAN I FIND MORE INFORMATION ON

EASEMENTS? *There are several types of easements you may wish to research: (1) CONSERVATION RESTRICTIVE EASEMENTS (fall under RSA 79-B) Its intent is to provide for a fair, consistent and equitable method for municipal assessment of conservation restriction land which provides a demonstrated public benefit, based upon the conservation uses to which the land is perpetually limited. In addition, it is the declared intent of this chapter to further assist in the preservation of open space in this state in the public interest by promoting the granting and acquisition of permanent conservation restrictions on such open space land which provides a demonstrated public benefit; (2) DISCRETIONARY EASEMENTS (fall under RSA 79-C) Its intent is to encourage the preservation of open space which is potentially subject to development, thus providing a healthful and attractive outdoor environment for work and recreation of the state's citizens, maintaining the character of the state's landscape, and conserving the land, water, forest, agricultural, recreational, and wildlife resources; and (3) DISCRETIONARY PRESERVATION EASEMENTS (falls under RSA 79-D) Its intent is to encourage the preservation of historic agricultural structures which are potentially subject to decay or demolition, thus maintaining the historic rural character of the state's landscape, sustaining agricultural traditions, and providing an attractive scenic environment for work and recreation of the state's citizens and visitors. **AND IS IT TRUE THAT SOME EASEMENT ASSESSMENT RATES ARE THE SAME AS CURRENT USE ASSESSMENT RATES?** (1) CONSERVATION RESTRICTION EASEMENTS currently are assessed at values based upon permanent restrictions, and in no case greater than those determined to be the fair market value for open space land determined by the board. Should RSA 79-A (Current Use) no longer be in effect, the basis for restricted land assessment shall be upon the permanent restrictions on the land; (2) DISCRETIONARY EASEMENTS – excluding any buildings, their curtilage, appurtenances or other improvements shall be included as a term of the agreement in any discretionary easement acquired by a municipality, and shall fall within a range of values as follows: (i) One end of the range shall consist of the value such land would have been assigned under the current use values established pursuant RSA 79-A, if the land met the criteria for open space land; (ii) the other end of the range shall be determined by multiplying 75% of land's fair market value by the current equalization rate; and (iii) the local governing body shall have the discretion to set the value of the discretionary easement at a level within this range which it believes reflects the public benefit conferred by the property, under the criteria set forth in RSA 79-C : 3 and RSA 79-C:5, I. (3) DISCRETIONARY PRESERVATION EASEMENTS- structures shall be included as a term of the*

*agreement of discretionary preservation easement acquired by a municipality. (i) Assessment shall fall within a range, one end of which shall be 75% of the full value assessment; the other end of the range shall be 25% of said full value assessment; (ii) The local governing body shall have the discretion to set the value of the discretionary preservation easement at a level within this range which it believes reflects the public benefit conferred by the property under the criteria set forth in RSA 79-D: 3, II (*RSA 79-B; RSA 79-C; RSA 79-D- available at www.nh.gov). * Please note that even though SPACE receives many inquiries about conservation easements, that they are not part of the current use law or program. (RSA 79-A).*

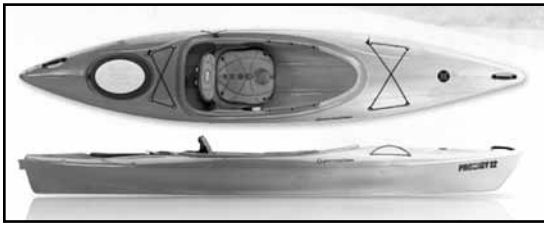
6. IF I WISH TO BUILD A HOUSE SOMETIME IN THE FUTURE, SHOULD I LEAVE THAT LAND OUT OR

ENROLL EVERYTHING IN CURRENT USE? *When asked, we always encourage people who are considering putting their newly acquired land into current use to review their short-term and long-term plans for the property. **SHORT-TERM:** If you purchased 20 acres of forestland and are planning to set aside (2) acres for a house lot for yourself or relatives, etc., and you plan to build within a year, then if the land is not already listed in current use, you SHOULD only place 18 acres in current use in the proper land-type category and leave (2) acres out for your new home. The reason is, if in one year you do start building and HAD PLACED ALL 20 ACRES IN CURRENT USE AT THE TIME OF PURCHASE, you would then be assessed an additional 10% land use change tax (LUCT) penalty at the current market value of a (2) acre house lot in your municipality. If the market value in your particular town for a (2) acre house lot was \$200,000, then you would be liable for a \$20,000.00 PENALTY. Whereas, if you had never put those (2) acres in current use and a year later you did build, you would still get a market value assessment of \$200,000.00 but taxed only at the current town tax rate (17.35/\$1,000) and your taxes would be approximately \$3,470.00 (any equalization ratio not factored in on this example) and receive no penalty.*

LONG-TERM: *If you purchased 20 acres of forestland and are NOT planning to build within a 10- year period, then if the land is not already listed in current use, you SHOULD place all 20 acres in current use in the proper land-type category and NOT leave (2) acres out for your future dream home. Yes, in the 10th year in which you build, you are going to get hit with a 10% LUCT penalty on the fair market value for a (2) acre house lot and if the values on the land have only increased slightly (\$250,000.00) your penalty tax would be \$25,000 at the time any physical changes were made to the property. But, take those same (20) acres that had been enrolled in current use for*

2009 Second Appeal-Special Promotional Challenge:

A little extra incentive to help you enjoy current use!



SPACE is pleased to announce that all donations of \$100.00 or more received between **May 1, 2009 and August 30, 2009** (we need at least (20) donations) will automatically be entered to win our **Kayak 2009 second appeal challenge prize package**. Included: (one) Prodigy –Perception 12.0 ft kayak (featured above); (one) PFD; and (one) paddle. (Total package estimated value is \$850.00.) Winner will be notified by phone or email (please be sure to include one or the other), and the winner's name will be

posted on the SPACE website— **the drawing is September 4, 2009**. ** The winner is responsible to claim and pick up their **kayak second appeal challenge prize package** within (30) days of notification or no later than October 10, 2009. Once the winner's name has been posted, the winner will be able to choose pick up at Eastern Mountain Sports- at either the Concord, NH or Portsmouth, NH store. ** *All proceeds from this special promotion will be considered contributions towards SPACE's second annual appeal.* If this promotion is as successful as we hope, look for more in the near future! **THANK YOU FOR YOUR CONTINUED SUPPORT AND GOOD LUCK TO ALL!**

Letter From Editor: *Recreational Discount Value to All:*

It's that time of year when outdoor recreation is at its highest demand...



Photo by Ciege Richardson- Merrimack River

A sure-fire way to help maintain support for the Current Use program in the State of New Hampshire is to utilize the recreational discount. We'd like to thank the 48% of Current Use landowners who already have this recreational discount and enable the public to access their property. The six activities they must allow include: hunting; fishing; hiking; snow shoeing; skiing, or observing nature for twelve months a year. This represents over 1,424,110 million acres of prime farmland, forestland, and wetland and unproductive land — left open and available to be enjoyed and explored by others. In return, these landowners are given a 20% recreational discount on their Current Use assessment. It is a myth that **all** Current Use land is or should be open to the public and entitled to be trespassed upon. **This is not true!** People who do not have the recreational discount — **do not have to allow the public on their property**. Many do as a courtesy to neighbors and friends, or allow by permission only, but it is still only a privilege. When properties are trashed or vandalized, or other than the six required activities take

place, it can deter others from allowing or wanting the public on their property. Just because it was your grandfather's favorite hunting grounds does not mean that the current property owner wants you traipsing through their property and trespassing. Trespassing on property that is posted for all non-recreational properties is a crime. It also shows a lack of respect. And... it certainly doesn't mean that the public can just come onto the property, ignore your no trespassing signs, run their motorized vehicles through, set up a temporary camp site, cut wood, destroy paths and roads, or leave their trash on your private property without repercussions. They wouldn't be allowed to do this in a State forest, and I seriously doubt that any general public landowner would allow it on their own personal property or back yard. Can you just imagine if someone's in-town neighbor just randomly decided to chop down a favorite shade tree because it blocked the sun from warming their pool, or if they would allow strangers to traipse through their back yard just where they planted a flower bed or new grass seed? They don't need signs and even if they do, common courtesy and respect is given to most of them.

It is important to note that in the State of New Hampshire, hunting is allowed on all properties if they are not strictly posted against this specific activity. The hunter(s) still must abide by the 300- ft. safety zone surrounding your dwelling. However, if you are among those who have the Current Use recreational discount, you must allow this activity twelve months a year and cannot charge someone with trespassing for hunting or any of the six approved activities.

Letter From Editor: *continued from page 4*

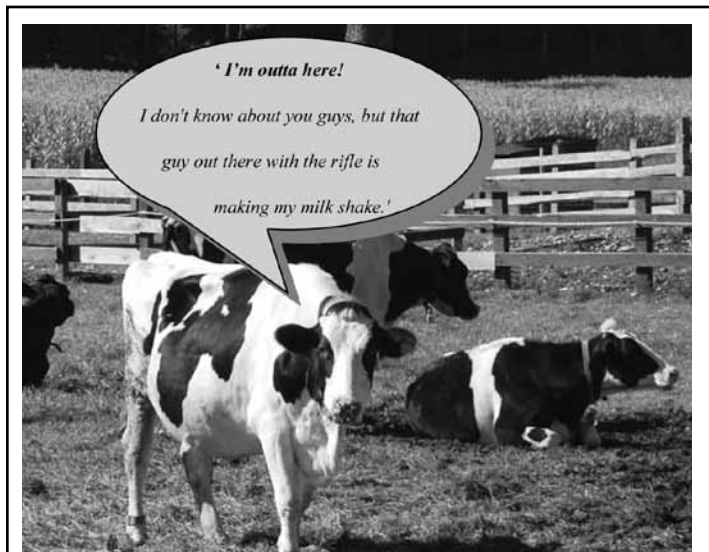


Photo: courtesy - NH Farm Bureau - Cows at Alvirne High School - Hudson, NH - taken by Maureen Duffy

But, the general public needs to observe these postings and when in doubt, they are always welcome to check at any town office to see which properties have a recreational discount and allow the six approved activities. Certainly, one might question why a fisherman was walking on property that didn't lead to or contain a drop of water, nor would one want nature observers picking prime blueberry crops if you owned a blueberry farm, or a hunter standing in your pasture as your cattle grazed nervously nearby. Some areas can be zoned for safety reasons or crop protection and retain the recreational discount if all other areas are left open twelve months of the year.

From the public's perspective, it can be frustrating if they know you are receiving an additional tax incentive for allowing public access and then you post your property because you don't particularly like one of the six approved activities. You can be reported and, if in violation, face losing the recreational discount for up to three years. I think it would be nice if there were some kind of universal sign system that readily identified recreational and non-recreational land. Then, people would be apt to think twice about trespassing or asking permission to be on your property. If you already have this discount and you are sick and tired of the few who come in and trash and vandalize your property, then you still have the option to remove the recreational discount and the small extra savings and go back to posting your property. We would hate to lose this valuable property, especially living in a state so rich in landscape and beauty. I commend those of you who share your piece of heaven and can relate with the 52% that just what to keep a place of their own. Knowing which property is which would help eliminate some of the harassment and time the NH Fish & Game conservation officers must spend when called in to assess a trespassing. Sometimes it all comes down to how

you say something, but in the end —no trespassing, still means you are not welcome here—certainly not a sign the State of New Hampshire wants to be known for, especially a state that thrives on tourism and outdoor activities. It would be a shame to lose any of these recreational discounted properties or discourage people from visiting and enjoying the beautiful state of New Hampshire! People need to be aware, though, that while many of you continue to open up your properties to them, it is still merely a **privilege** extended to them and it is still **their responsibility** to respect it as if it was their own.

Summer's here — get outside and enjoy your beautiful properties and state. Have a safe and healthy summer!

Donna Marie Robie, *Executive Director and Editor*

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Legislative Update: How We've Fared in Legislation this Year

Prepared by Tim O'Connell, SPACE Lobbyist

As of this writing in mid-May, all legislation of interest to SPACE has been acted on by the New Hampshire General Court. There were three House bills specifically pertaining to the Current Use law. After consulting with the House Deputy Speaker, all three bills were assigned to the Environment and Agriculture Committee. Subsequently in January, SPACE conducted an orientation session on Current Use for members of the E&A Committee.

A wrap-up of 2009 legislation follows:

HB 235-Relative to the seller's liability for land use change tax assessments

SPACE opposed this bill emphasizing that current law and rules serve the best interest of all parties concerned. The E&A Committee on a 16-0 vote recommended the bill be killed. The full House concurred on the Consent Calendar.

HB 385-Relative to the placement of personal wireless service facilities on land in current use

SPACE strongly opposed this bill as it not only violated the spirit of the Current Use law but also opened up the opportunity to dissect what is or is not considered a structure. The House E&A Committee unanimously recommended Inexpedient to Legislate. HB 385 was killed in the House also appearing on the Consent Calendar.

HB 424-Relative to the land use change tax

This bill was filed as a result of the 2007 Supreme Court decision on the Formula Development vs. Town of Chester.

It was intended to clarify exactly when and how building lots and designated open space in cluster-type developments would be removed from current use and the land use change tax applied. SPACE coordinated with numerous stakeholders to come to consensus on an amendment proposal to further detail and make clear the legislative intent of applying the Land Use Change Tax in such situations. Working with the E&A Subcommittee on Current Use, the amendment, with some wordsmithing, was accepted and forwarded for passage by the full committee.

The 16-0 committee recommendation of Ought to Pass as Amended passed the House again on the Consent Calendar. HB 424 as amended subsequently has passed the Senate and has been forwarded to the Governor for signature.

HB 107-Making technical corrections to the law on taxation of farm structures and land under farm structures

Such corrections in the bill, of a minor nature, have passed the House and Senate.

SB 151-Relative to quorum requirements for public bodies for which a quorum is not expressly declared

The bill, at the request of the Department of Justice, provided that, unless otherwise specified, a quorum would be based on a majority of the number of filled positions, rather than on the number of positions created by statute. The bill, with a clarifying amendment, has passed both the Senate and House.

Frequently Asked Questions: *continued from page 3*

*10 years at a current use assessment of (\$100.00 per acre) or a current use total assessed value of \$ 20,000 (less 18.50/per \$1,000) * average tax rate in the past ten years, your annual current use taxes would be approximately \$370.00 a year and total taxes paid in those 10 years for 20 acres would be around \$3,700.00. If you had only enrolled 18 acres and used this long-term planning and had left (2) acres out you would have paid out almost \$34,700.00. (one average year's (2) acre house lot assessment times 10 years). * **Note: This example is on a hypothetical piece of property. Your own situation may or may not be similar.***

THANK YOU TO ALL CONTRIBUTORS THAT HAVE MADE A DONATION THUSFAR THIS YEAR. WE ARE NOW AT 65% OF OUR ANNUAL GOAL. IN ORDER TO PROTECT AND SERVE YOUR CURRENT USE INTERESTS, WE NEED

YOUR DONATIONS. IF YOU HAVEN'T ALREADY CONTRIBUTED THIS YEAR, WON'T YOU PLEASE NOW CONSIDER?

HOW TO MAKE AN ONLINE DONATION: It's simple and easy and helps support current use! Go to www.nhspace.org opening webpage. Click on left-side section **ABOUT SPACE**. Once the drop down menu appears, select **ONLINE DONATIONS**. The next screen that appears only will ask for the amount you wish to donate. Once you enter an amount and enter, then you will be transferred to the SSL-protected eProcessing menu where you will finish making your online donation and enter your personal credit card information. Please note that SPACE does not store any credit card information and SPACE only receives a confirmation email from eProcessing when a donation has cleared.



Growing Leadership for New Hampshire's Forests

Economics for Forest Landowners

NHTOA and UNH Cooperative Extension Services will provide valuable information for landowners who are interested in the economics of owning timberland. This session will be presented on a working woodlot with tours, discussions and supporting materials. Learn how one owner was able to nurture, sustain and bring a timber crop to market while battling wind and ice storms, insects, rising capital & other costs in the midst of uncertain markets. Because we will be on a private woodlot participation will be limited.

Please call to reserve your space.

**Canterbury, NH
October 17, 2009
8 am to Noon**

For more information call (603) 224-9699 or
email offmgr@nhtoa.org

54 Portsmouth St., Concord, NH, 03301

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Once again, SPACE would like to thank the management team of the Concord, N.H. EMS store and all their employees who assisted SPACE in fundraising for the awareness of Current Use to the general public this past April.



Concord, N.H. Eastern Mountain Sports (EMS) crew at work within the local community
Photo: Conservation Center- Portsmouth Street-Concord, NH taken by: Ciega Richardson

SPACE AVAILABLE FOR WINTER 2010 EDITION

*Also looking for business or corporate sponsors.
Please contact: Donna Robie
at (603-224-3306), or donna@nhspace.org*



STATEWIDE PROGRAM OF ACTION TO CONSERVE OUR ENVIRONMENT

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YES! I WANT TO HELP SPACE PROMOTE AND DEFEND CURRENT USE! ENCLOSED IS MY CONTRIBUTION FOR FISCAL YEAR 2009
DOLLAR PER ACRE: I AM ENCLOSED \$1 FOR EVERY ACRE OF CURRENT USE LAND OWNED.

100 CLUB: YES, WE MUST KEEP CURRENT USE STRONG! ENCLOSED IS \$100 OR MORE FOR MEMBERSHIP IN THE 100 CLUB.

OTHER: MY CONTRIBUTION TO SPACE IS FOR \$ _____.

NAME _____ EMAIL _____

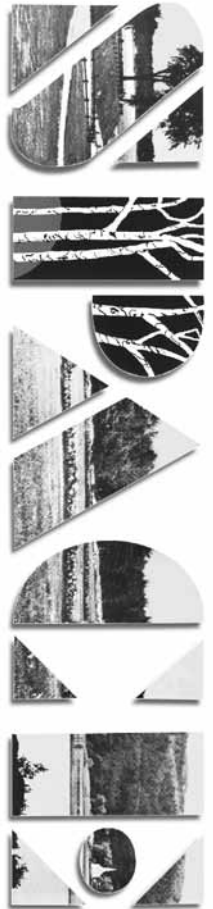
ADDRESS _____

TOWN _____ STATE _____ ZIP _____

AMOUNT OF CURRENT USE ACREAGE: _____ IN TOWN(S) OF _____

THANK YOU FOR SUPPORTING NEW HAMPSHIRE'S CURRENT USE COALITION!

Please make checks payable to SPACE. SPACE is a 501 (c) 4 non-profit corporation. Because of our emphasis on legislative advocacy, gifts to SPACE may not be tax deductible. Please check with your tax professional for IRS deductibility in your situation.



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