

Public Policy Update

Massachusetts Land Trust Coalition (MLTC)

Steering Committee Meeting

June 9, 2023

Healey Administration Updates

Since our last update, the Healey Administration has filled additional key environmental leadership positions with appointments of former Revere Mayor [Brian Arrigo](#) as Commissioner of DCR, [Bonnie Heiple](#) as Commissioner of DEP, and [Tom O'Shea](#) as Commissioner of DFG. (Commissioner O'Shea comes to the Administration from The Trustees, where he served as Vice President of Conservation and Resilience.)

In a May 25th meeting coordinated by Mass Audubon and attended by MLTC, TNC, The Trustees, ELM and AMC, Climate Chief Melissa Hoffer and EEA Secretary Rebecca Tepper indicated a strong commitment to the critical role natural and working lands play in climate resiliency, in addition to the myriad other benefits they provide. They previewed a number of important announcements to be made in coming weeks on issues including the FY24 capital spending plan and a new commission on land use related to energy facilities siting. On June 7th, the Administration announced a new [Climate-Focused Forestry Initiative](#) to ensure Massachusetts' forests are managed to optimize carbon sequestration and mitigate climate harms as part of meeting the state's aggressive climate goals. Plans include increasing investment in land conservation to prevent forest conversion; convening a forest reserves group to establish new goals for forest reserves on public and private lands based on the potential to absorb carbon and support biodiversity; creating new incentives for private woodland owners and municipalities to optimize climate resilience and carbon storage in forest management practices; and pausing new forest management work on state lands for six months while a committee of scientific experts develops new climate-oriented management guidelines for state property.

2023-2024 State Legislative Priorities

MLTC's Policy Committee has agreed to support a limited list of priorities this session in order to maximize impact of our resources. As the session progresses, the Committee will monitor other bills relevant to our primary strategic objectives (increasing state investment in land conservation and the work of land trusts, and maximizing the integrity and natural resource value of both protected and unprotected lands of significant conservation value) and take action accordingly.

Top MLTC Priorities

An Act relative to the conservation land tax credit ([H.2839/S.1940](#))

This bill is MLTC's top legislative priority this year. Attempts to have provisions of the bill attached as an amendment to the FY24 state operating budget this spring were not successful. A hearing on the bill was held June 6th before the Joint Committee on Revenue. Linda Orel (The Trustees) coordinated submission of [joint testimony on behalf of 21 organizations](#) and MLTC coordinated live testimony from a panel including Robb Johnson, Tara Christian (TNC), Alain Peteroy (Franklin Land Trust) and Jessica Whritenour (The 300 Committee Land Trust). This bill would raise the annual cap under the Conservation Land Tax Credit (CLTC), the state income tax credit for donations of conservation land, from \$2 million to \$5 million - phased over

three years. The program cap would revert to \$2 million after 10 years. The bills also amends the definition of a "public or private conservation agency" that may receive donations of land to include all land conservation trusts regardless of their corporate structure. (The current statute inadvertently excludes land trusts that are chartered as charitable trusts rather than non-profit corporations.) Passage is a recommendation of the Resilient Lands Initiative. MLTC will continue to work closely with coalition partners including The Trustees and TNC on strategies to move this forward. **Thanks to all who contacted their legislators to request co-sponsorship. Stay tuned for our next ask!**

Environmental Bond

The Commonwealth issues bonds to fund capital spending on the land acquisition and restoration programs that are critical to our work. According to latest information from the Administration, spending authority from the 2018 Environment and Climate Bond is not yet depleted, so action on the next Bond bill is unlikely before 2024. As action on that becomes timely, MLTC will be working closely with our conservation partners to advocate for the bill to authorize investments that expand and create new programs in alignment with our priorities.

State Operating Budget

Under ELM's Leadership, [a broad coalition of our partners advocates for "Green Budget Priorities"](#) in the state's operating budget. The operating budget for FY24 will be finalized only after a conference committee resolves differences between versions passed by the House and Senate this spring. Most of our priorities fared well in the House and Senate versions, so we are cautiously optimistic that come July we will be pleased with the final outcome.

In 2022, as the legislature appropriated the balance of federal funding received through the American Rescue Plan Act (ARPA), it put \$1.74 billion in budget surplus operating funds into escrow. We have joined statewide partners to encourage equitable investment of a portion of these funds in land conservation, parks, and natural climate solutions, and are cautiously optimistic that the Administration's FY24 Capital Spending Plan will reflect such investments.

Other Bills MLTC Supports

An Act relative to uniform partition of heirs property ([H.1744](#), Rep. Roy.)

This bill has been assigned to the Joint Committee on the Judiciary. As of June 7th, no hearing date has been set. Heirs property is real estate owned by the legal heirs of a previous owner when there is no will. Under state law, multiple heirs take ownership as tenants-in-common, an unstable form of ownership that too often results in the heirs losing their land through a forced partition sale. The bill would institute new process protections for heirs in such situations by requiring that co-tenants receive fair market value in any partition sale, and generally providing that co-tenants have an option to buy. With endorsement by the Uniform Law Commission, provisions of this bill have already been adopted in 22 states and districts. Millions of dollars of inherited wealth have been lost nationally by families who were vulnerable to real-estate speculators, disproportionately impacting low-income property owners without resources for estate planning. Nationally, forced partition sales have been cited as a significant factor in conversion of agricultural property. MLTC joins a coalition including American Farmland Trust, The Northeast Farmers of Color Land Trust, Mount Grace Conservation Land Trust, The New England Land Title Association and the Greater Boston Real Estate Board in favor of this legislation.

An Act investing in natural and working lands ([SD.2261](#), Sen. Comerford)

This bill has been assigned to the Joint Committee on Environment and Natural Resources. As of June 7th, no hearing date has been set. Meeting the natural and working lands goals in the Clean Energy Climate Plan (CECP) will require new tools. This bill would create a local opt-in program under EEA called “Farm and Forest Friendly Communities,” to incentivize municipalities to make land use and planning decisions that reduce loss of farmland and forests. Communities would receive technical and financial assistance and increased payments in lieu of taxes on state-owned land. Consistent with CECP recommendations, this bill would also direct DEP to set a MEPA review threshold for projects that involve certain levels of forest clearing or farmland conversion, and recommend a successor to the SMART solar siting incentive program that would minimize impacts to priority forest and farmland.

An Act to encourage solar development on buildings and disturbed land ([H3225](#), [S2150](#), Reps. Lindsay Sabadosa & Sean Garballey/Sen. Mark)

A hearing on this bill is scheduled for June 20 at 10 AM before the Joint Committee on Telecommunications, Utilities and Energy. Massachusetts has committed to deploying solar energy that maximizes clean energy generation, avoids impacts on humans and natural communities, and connects efficiently to the grid. This bill would help achieve these goals by encouraging installation of solar panels on buildings and disturbed sites, such as parking lot canopies, brownfields, and roadway cuts. It would require the Department of Energy Resources to make change to existing policies and programs, such as net-metering and SMART, to increase incentives for generation and siting of solar projects in the built environment. Sierra Club is leading the effort on this bill.

An Act to create a commission to determine the feasibility of voluntary acquisition of flood risk properties ([H.876](#), [S.557](#)) (Rep. Sarah Peake, Sen. Marc Pacheco)

A hearing on this bill was held May 17th before the Joint Committee on Natural Resources. The Trustees is leading the effort on this bill, and [submitted testimony on behalf of a coalition of 12 organizations](#), including MLTC. This bill would create a new commission to bring together agency officials, legislative leaders, and expert stakeholders to study the feasibility of a voluntary acquisition program for properties that are subject to risk of catastrophic flood damage --- helping owners and renters move out of harm’s way while conserving land and restoring wetlands to increase climate resiliency. The commission would be tasked with making concrete recommendations to lawmakers for how to address this difficult and pressing issue, especially for Massachusetts’ most vulnerable residents. Learn more about the bill [here](#).

Outdoor Recreation Act ([H.757](#), [S.488](#) Rep. Natalie Blais & Sen. Paul Feeney)

This bill has been assigned to the Joint Committee on Environment and Natural Resources. As of June 7th, no hearing date has been set. This bill would create a statewide dedicated fund to ensure the success of the newly created Massachusetts Office of Outdoor Recreation and provide grants for outdoor recreational purposes, with priority given to projects that benefit underserved and Environmental Justice populations. There would be no increase in sales tax, but existing sales tax revenues received by the Commonwealth from the sale of sporting goods would be placed in the Outdoor Recreation Trust Fund for the purposes of conservation, creation, preservation, and restoration of natural resources for recreational use. The Trustees and Charles River Watershed Association are leading the effort on this bill.

Additional State Administrative and Regulatory Updates

The Department of Energy Resources is continuing its [Technical Potential of Solar Study](#). Mass Audubon is developing its own independent study on solar siting that will include policy recommendations designed to

deploy solar to meet our decarbonization goals and to avoid and minimize impacts to important and sensitive natural resources.

Federal Updates

On Thursday, May 26th the [Supreme Court ruled to limit the authority of Environmental Protection Agency](#) (EPA) Agency's ability to regulate wetlands under the Clean Water Act. In short, the court ruled that Clean Water Act now applies only to wetlands directly connected, via surface water, to bodies that are considered "waters of the United States." In the absence of federal protections, state and town governments can enforce their own wetlands protection laws that are more stringent than national laws in order to safeguard local resources. This ruling will have particularly adverse impacts on wetland resources in about half of all US states that lack strong wetlands laws. Fortunately for Massachusetts, our state regulations are in many cases already more stringent than federal regulations. The state Wetlands Protection Act has established a 100-foot buffer zone around any wetland and a 200-foot buffer zone from any riverfront, limiting activities in these buffer zones to protect our water bodies. Even here, it remains critical to advocate for diligent enforcement of existing wetlands regulations, and to monitor opportunities to make them ever stronger.

Land Trust Alliance Policy Update Prepared 5/31/2023

Note from the March update: In January, the Alliance released its 2023 policy agenda. It reflects the priorities and input of the national land trust community. This year's focus areas include seeking resources to assist land trusts, engaging in the 2023 Farm Bill negotiations, implementation of the Charitable Conservation Easement Program Integrity Act, ensuring the integrity of conservation donations, advancing natural climate solutions and guiding sound energy siting policies. The entire agenda can be [found here](#).

Congress

Congressional leadership and President Biden reached agreement on legislation, H.R. 3746, the Fiscal Responsibility Act, to increase the debt ceiling to pay for already incurred expenses of the federal government.

The House voted the package out May 30th on a 314 to 117 bipartisan vote. The Senate is expected to take the bill up quickly and if it passes it should reach the President's desk prior to the June 5 deadline for catastrophic risk set by Treasury Secretary Janet Yellen. [June 7 update: it was signed as expected.]

it would rescind unspent COVID funds from the U.S. Department of Agriculture, which members of the agriculture committees had hoped to use to pay for additional funding for various parts of the Farm Bill including the Commodity title and crop insurance.

Thankfully, the legislation did not touch the nearly \$20 billion in Inflation Reduction Act funding for Farm Bill conservation programs. However, I think we should anticipate a stronger push to try and reallocate some of that funding to other parts of the Farm Bill.

It does include work requirement provisions for some able-bodied adults to access the Supplemental Nutrition Assistance Program (SNAP). In voicing that she will vote for the bill, Senate Agriculture Committee Chair Debbie Stabenow (D-MI) said this takes SNAP off the table for the 2023 Farm Bill negotiations. This could help move the 2023 Farm Bill negotiations along as it takes one of the big potential sticking points off the table.

The bill also includes limited changes to the National Environmental Policy Act –NEPA – by limiting most environmental reviews to no more than one year and complicated reviews to no more than two years. It also gives Secretaries the authority to determine what triggers NEPA and would designate one federal agency to develop and schedule reviews for each project. In addition, the requires a two-year study into energy infrastructure permitting issues.

On May 18, the House Appropriations Committee Subcommittee on Agriculture released its draft FY24 appropriations bill which would make deep cuts to the USDA agriculture programs. The proposal would fund the Department of Agriculture at the lowest spending level since 2006. The cuts would undermine its ability to implement Farm Bill conservation programs and other USDA programs.

This is just the first step in the appropriations process and it's highly unlikely the Senate would support the cuts. Congress has until September 30 to pass funding bills and it's likely they will pass a continuing resolution (CR) to keep the federal government funded as appropriations negotiations continue.

Farm Bill

The Farm Bill negotiations are well underway and the House and Senate Ag. Committees are hoping to pass a strong, bipartisan bill by the end of the calendar year. The 2018 Farm Bill expires at the end of September, but because the majority of programs we care about enjoy mandatory funding, we do not anticipate any problems if the bill is not reauthorized by the end of the federal fiscal year.

We anticipate the Senate Agriculture Committee will release language early to mid-Summer. The House Agriculture Committee is drafting as well, but behind the Senate and it's not likely language will be introduced before late summer or early fall. There are many factors that could cause this estimated timeline to slip, and we will keep people up to date.

The Alliance continues to refine our Farm Bill recommendations and to advocate on behalf of our members. We had about 110 people come to DC for Advocacy Days and the 2023 Farm Bill was our top priority. Overall, the feedback on our recommendations was positive – but our community will have to advocate strongly to ensure these provisions end up in the final bill.

Good news in regard to our recommendations – H.R. 3424, Forest Conservation Easement Program (FCEP) was introduced in the House by Reps. Trent Kelly a Republican from Mississippi and Annie Kuster a Democrat from New Hampshire. We anticipate a bipartisan companion bill will be introduced in the Senate next month. This is a marker bill with the goal of having FCEP incorporated into the conservation title of the 2023 Farm Bill. Please contact your representatives and urge them to sign onto this important legislation, which will put into place a comprehensive easement program that will fill the gap in the conservation of working forested lands.

Regional Conservation Partnership Program/Agricultural Conservation Easement Program

On May 19, the Natural Resources Conservation Service announced a \$500 million funding opportunity through the Regional Conservation Partnership Program (RCPP). This funding is possible thanks to the Inflation Reduction Act and available for RCPP Classic and Alternative Funding Arrangement (AFA) projects.

The announcement included administrative changes to the program to improve implementation of the program. As you are likely aware, earlier this year the agency convened several stakeholder meetings to receive input on ways to improve the program and also set up an internal team to review input to identify changes.

1. Simplifying and Reducing the Number of Agreements
2. Reducing Lengthy RCPP Easement Transactions
3. Improving the RCPP Portal
4. Consistent Guidance and Training for Employees and Partners
5. Simplifying the Technical Assistance Structure
6. Improving the Conservation Desktop
7. Simplifying the Partner Reimbursement Process

The deadline for applications is August 18, 2023.

In addition, the agency announced changes to improve the implementation of the Agricultural Conservation Easement Program (ACEP) including increasing the threshold for national review of ACEP appraisals from \$1 million to \$3 million and working to expand the number of certified entities.

We were very pleased to see that many of changes reflect recommendations from the Alliance based on input from our Farm Bill Working Group. Thanks to all of you who participate in our working group – it does make a difference.

If you have questions, please contact Lori Faeth at lfaeth@lta.org.