

Easement Stewardship
White Paper Prepared by
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for
Easement Stewardship Systems Roundtable
American Farmland Trust, Washington, DC
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BACKGROUND

Ag Districts

An ag district is a voluntary agreement to use land only for agriculture for at least a ten year period. Land must meet certain minimum standards and go through a review and approval process. There is **no payment to the landowner** for creating the district.

However, there are several benefits to landowners in an ag district. The unimproved land in the district is exempt from real estate transfer, county, school and *ad valorem* taxes. There are significant protections against nuisance suits for land in the district. Landowners are permitted limited residential uses on the farm for family members and farm labor. Under hardship conditions owners are permitted to transfer limited acreage to third parties.

Purchase of Development Rights

In order to permanently preserve farmland, the Foundation purchases development rights from landowners and imposes a permanent easement on the land. Land **must first be in an ag district** before the owner can apply to sell the development rights. The sale of development rights is a three step process.

1. Selecting Farms

Since the requests to sell development rights outstrip the available funds, the Foundation must prioritize requests. The Foundation has developed a ranking system that “scores” farmland based on a variety of factors like type of farm, soils and yields. The most important factor is the location of land on the Farmland Preservation Strategy Map. Once ranked, the highest scored farms are selected for appraisal. This insures that the Foundation preserves the best quality farms.

2. Appraising Farms

In order to set the market value of the development rights for each farm, the Foundation pays for an appraisal, with two parts. The first is the full, fair market value of the farm. This standard approach is based on sales data for comparable farms in the area. The second part sets the “agriculture only” value of the farm based on agricultural rent values and current rates of return on investments. The difference between fair market value and agriculture only value is the **appraised value of the development rights**.

3. Final Price for Farms

The Foundation delivers final appraisals to farmland owners. An owner can choose to have a second appraisal completed at his own expense. Once there is an agreement on the appraised value, the owner then makes an offer to the Foundation. Using the funds available, the Foundation selects from

STEWARDSHIP SYSTEM

Our Structure

Delaware contracts with the National Agricultural Statistics Service (NASS) of USDA for monitoring services in the field. The enumerators that work for NASS under a contract with the NASDA organization (National Association of State Departments of Agriculture) are in the field doing farm surveys, crop estimates and census work on a regular basis. It appeared to us that a natural “blend” would be to use these trained people who know all the farms in the state, talk to farm owners on a regular and are knowledgeable about farming as the staff to do monitoring of easements. The partnership has been a good one.

a. Our Practices

We have “charted” this process. (see the attached Adobe file: *Monitoring Process.pdf*) We have also developed statewide maps with “monitoring zones” so that we can organize, geographically, the work of the NASS enumerators. (See the attached Adobe file: *Monitoring Zones.pdf*)

In the course of monitoring we collect information on site about any apparent changes in the property. Enumerators have previous monitoring reports “in hand” when they visit the farm. We take digital photos of each farm from the same locations on each visit. Our law office conducts a title search on each property up for monitoring so we can detect any changes in ownership, subdivisions, etc. All of this data is entered into our data base and is recorded in our file imaging system which allows us to digitally access every paper file in our records, *e.g.* field notes, photos, etc.

Our planners review all incoming reports and data from the field for quality assurance. Currently, we perform “check visits” on 10% of all cases, selected randomly. In those instances a Planner re-visits the property, completes a separate monitoring report and compares all results reported by NASS. This QA process has revealed few, if any problems with the current system.

b. Our Policies

Delaware monitors our easements (and ag districts, by the way) at least every two years. In the case of properties where there was Federal cost share on the easement we monitor every year.

RATIONALE FOR CURRENT SYSTEM

a. Staffing Issues

The NASS contract has resolved our staffing issues. The NASS contract provides for staffing as required for monitoring. The flexibility of the arrangement means that we can increase commitment of staff as monitoring demands increase. Our management of the workload through an online database allows for resource “leveling” in concert with our mandated monitoring frequency.

- b. Funding Issues
The NASS contract has made the whole process affordable. Currently, for all new “baseline” monitoring visits and about 400 monitoring visits per year our annual costs are \$20,000. To us that is reasonable!
- c. General Philosophies
We need an efficient, cost-effective system that thoroughly reviews every district and easement on a regular basis. The NASS contract approach is the answer, in our view.

SYSTEM ASSESSMENT

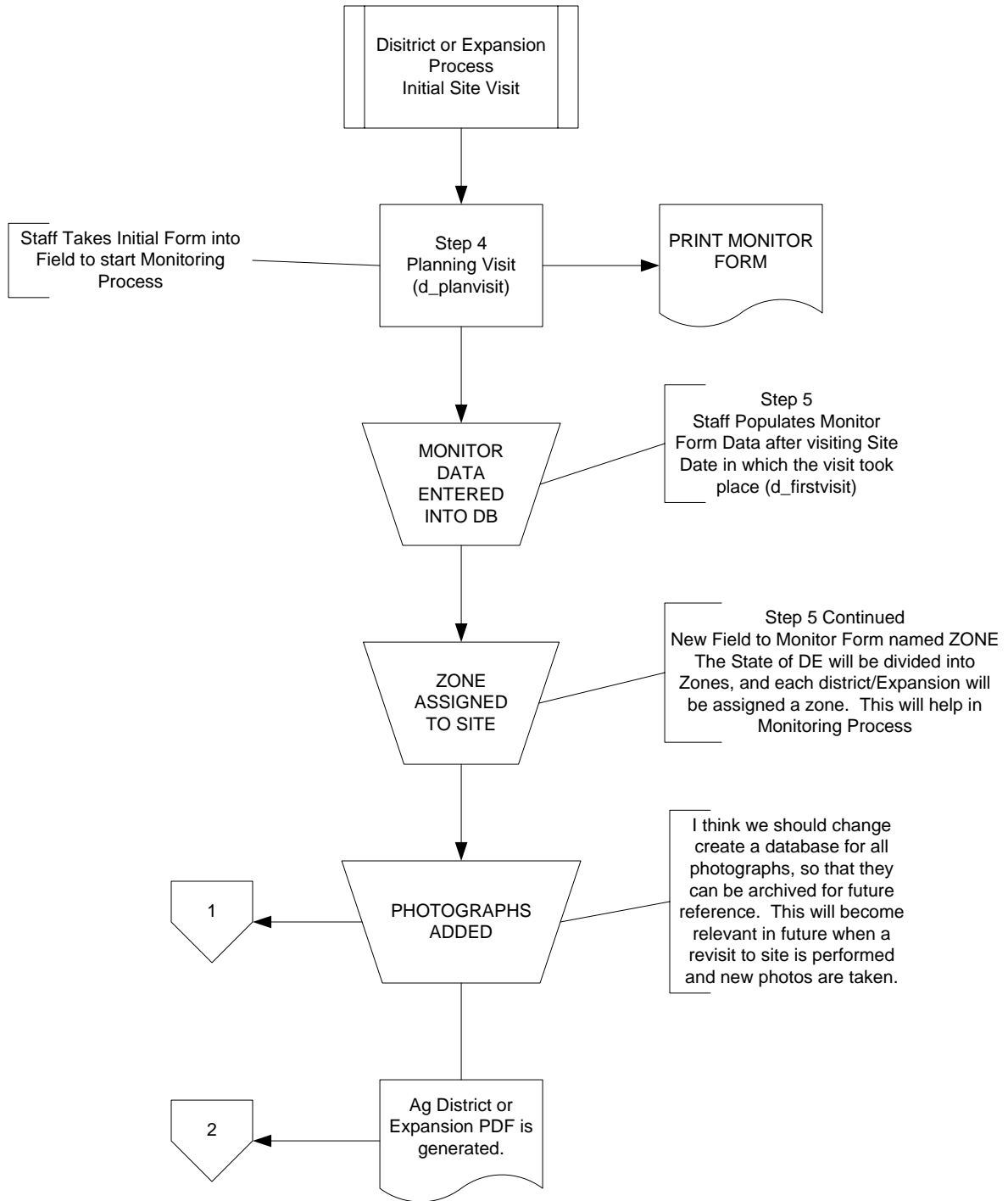
- a. Rate of Violations
Violations have been minimal. Our analyses of monitoring reports show less than one-half of one percent problems with compliance on properties, including both Districts and Easements. All cases, to date, have been amicably resolved with compliance. Our attorneys have been effective!
- b. Landowner Satisfaction
We recently completed a customer satisfaction review by the University of Delaware. Rates of client satisfaction were over 95%. We place a high priority on resolving client concerns and issues. I can think of no monitoring disputes that have not been resolved to the mutual satisfaction of the parties. In fact, some of the few monitoring issues resulted in the owner’s understanding the requirements better and “going above and beyond” to make the easement property a model one.
- c. Costs
Again, our NASS contract has been extremely cost-effective. Total costs for field monitoring are \$20,000 per year. Title searches are currently averaging \$90 per property. Overall, we believe costs are low and certainly lower than staffing to do these tasks in-house.

SIGNIFICANT CHANGES

- a. Recent Changes
The automation of our database and the concomitant improvements in business process handling for monitoring have been major. These changes, coupled with the digital file system, have significantly reduced staff time spent on monitoring. The refinement of workload management with NASS will continue to hold costs down.
- b. Future Changes
Our next major effort in FY 2006 will focus on taking digital capacities to the field. We are currently scoping programming changes to our database system that will allow field staff to digitally complete monitoring forms on Tablet PCs. This innovation should eliminate keyboard transcription of field notes and findings into the database. Coupling this with cell system-based modems would mean that enumerators could download workload schedules, and pre-formatted input forms, and then upload field work on, at

least, a daily basis. Work could then be QA'ed in our office and entered to the database in virtually real time. This could eliminate typing, errors and the need to travel to the office to deliver paper forms. The Tablet PCs will be linked to the digital photo media which we now use so that field notes and photos could be one, seamless file. The ultimate goal, as always, will be more accurate monitoring and lower costs. We believe we can accomplish both.

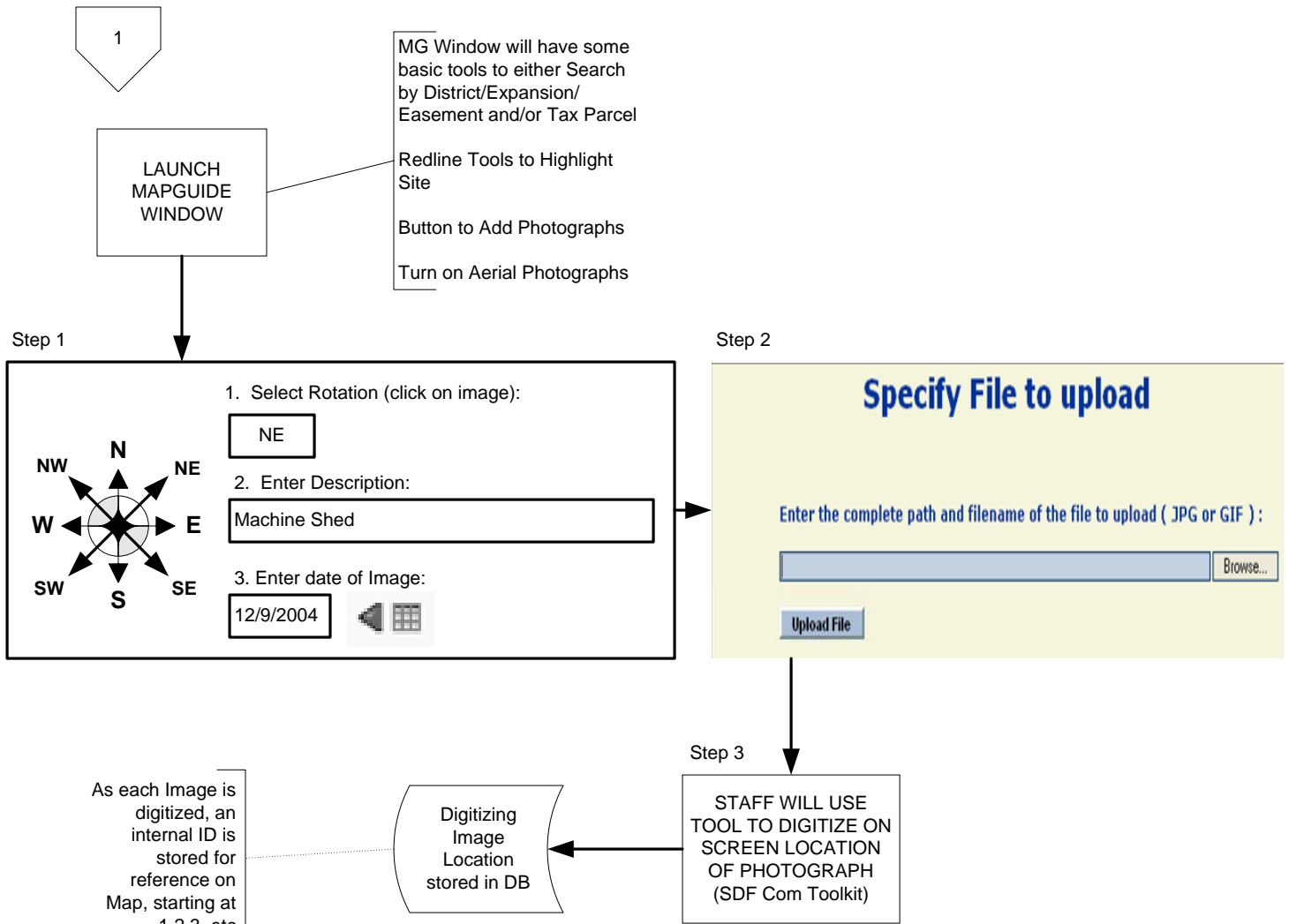
MONITOR PROCESS INITIAL VISIT



NOTES:

First Quarter, Second Quarter etc will no longer exist. Everything is driven from the Date in Step of Process for Future visits.

ADDING NEW PHOTOGRAPHS/MAINTAINING IMAGE COLLECTION



NOTES:

Create System to Maintain Images, including existing images

Images Stored in database for archival purposes and for easy retrieval, maintenance in Reports and displayed on Ag Web Site. I think Liteview must be used in order to save Maps for use in Reports. (see application Report page)





Ag District Application Report Initial Site Visit Performed by Staff

ZONE 3

Color Photo's: 11/16/2004 Aerial Photo's: 2002

Application Type: DISTRICT
 Easement: NO

Name: Clyde Betts & Son Expansion # 2
 County: Sussex
 Group ID: 045
 Tax Parcel: 8765654444349877

Owner's Name: Milton Melendez
 Total Acres: 400 ac.

- Cropland: 250
- Forest: 145
- Residential: 5
- Other:
- Dwellings: 1

LESA TOTAL: 220
LE =100
SA=120

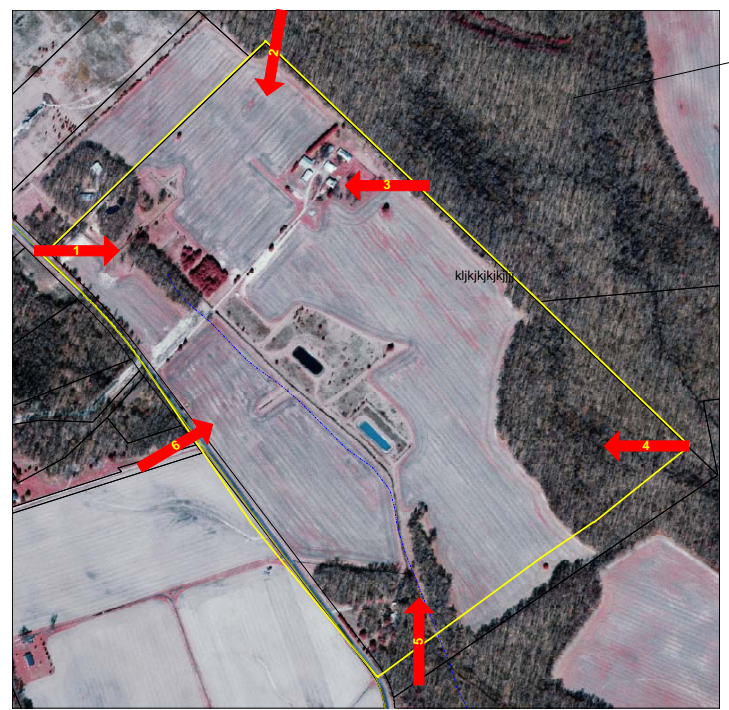
Waiting for LESA Tables from AG

Image Generated in Liteview showing District (redlined on map), and Image Locations (arrows are symbols inserted using Rotation)

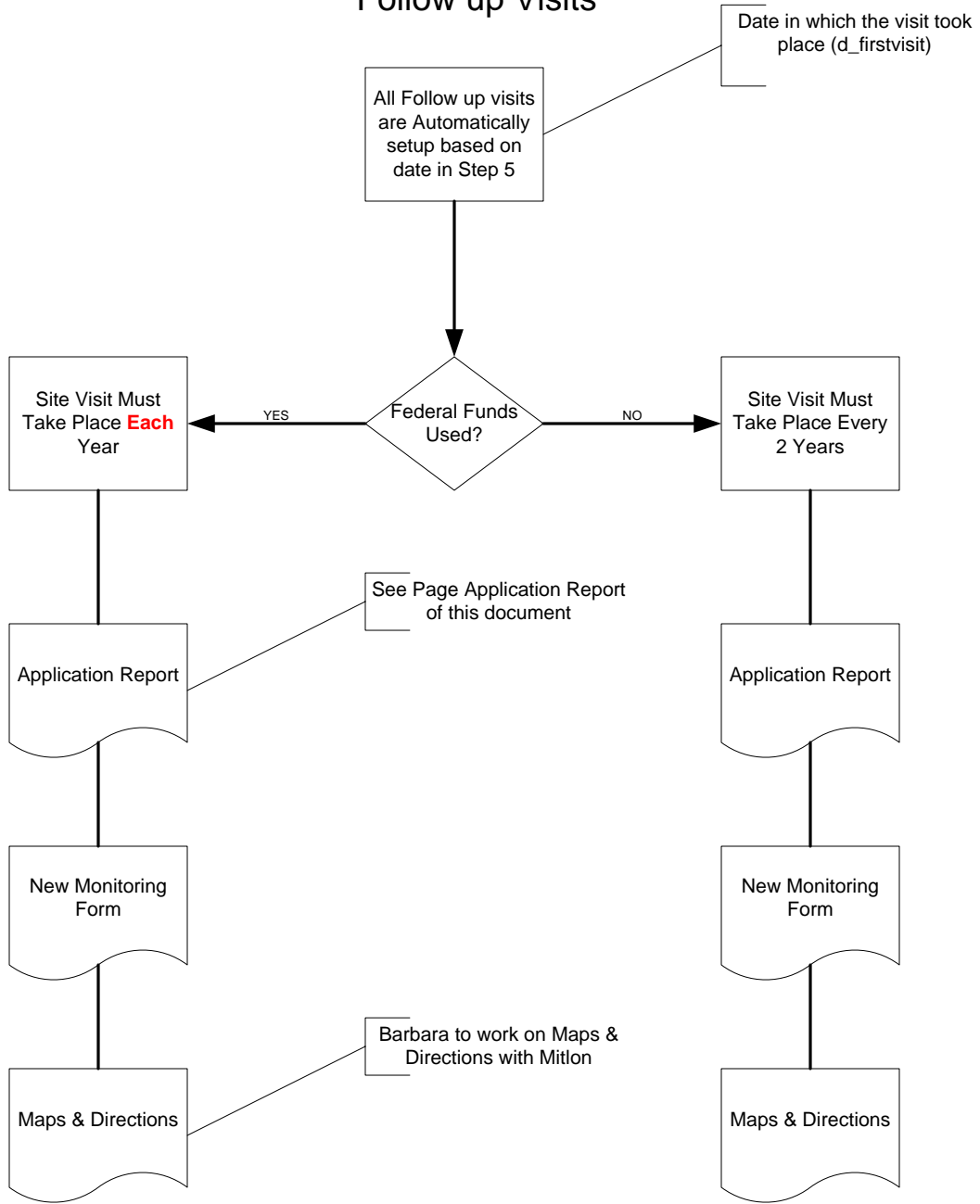
Image showing Image ID and Description

If more than 8 Images are available for a district, a 2nd page is generated with images only

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Monitoring Process Follow up Visits



MONITORING ZONES

FEBRUARY 2005

