

LEGAL RISK SPECTRUM

	LOW RISK		MORE RISK		HIGHEST RISK
IRC/Reg Concerns: impact on conservation purposes	Amendment does not affect conservation purposes protected in perpetuity or affects in positive ways only		Amendment affects conservation purposes protected in perpetuity both positively and negatively	Amendment might harm conservation purposes protected in perpetuity	Amendment definitely harms or negates conservation purposes protected in perpetuity
IRC/Reg Concerns: impact on conservation values	Amendment has a beneficial effect on conservation values of the CE land	Amendment has a neutral effect on conservation values of the CE land			Amendment has a negative effect on conservation values of the CE land
IRC/Reg Concerns: commitment and resources	LT clearly has both commitment to protect conservation purposes and resources to enforce restrictions				LT lacks commitment to protect conservation purposes or resources to enforce restrictions
IRC/Reg Concerns: extent of language change	Amendment corrects a scrivener's error	Amendment makes de minimis changes or clarifications			Amendment alters basic provisions and protections
Private Inurement	No LT insider is involved at all	LT insider involved but receives no benefit at all		Amendment might benefit LT insider modestly/remotely	Amendment clearly benefits LT insider
Private Benefit	No financial benefit at all to any private party	"Incidental" private benefit to unrelated parties; risk grows by liberal construction of "incidental"	No net financial benefit to any private party; any benefit is offset by detriment	Possible financial benefit to a private party	Clear financial benefit to a private party
Private Benefit/Appraisal	Full independent appraisal shows lack of private benefit	Appraisal to confirm lack of private benefit is clearly unnecessary	No consideration of appraisal to assess possible benefit to private party	No appraisal despite possible benefit to private party	No appraisal despite clear benefit to a private party or amendment when appraisal reveals private benefit
State Nonprofit Law Requirements	Amendment furthers or is consistent with LT's mission		Amendment is not inconsistent with LT's mission	LT's mission is not clear; difficult to see whether amendment furthers mission	Amendment is contrary to LT's mission
State Easement Enabling Laws	State law permits easement amendment			State law is uncertain	State law forbids easement amendment or this type of amendment
State Charitable Trust Requirements	CE cannot be considered a charitable trust	CE is or might be a charitable trust; requirements are satisfied		CE might be a charitable trust; requirements are not satisfied	CE is a charitable trust; requirements are not satisfied
Compliance with State Fraudulent Solicitation Laws	Amendment is consistent with LT solicitations for fee land, CE or funds				Amendment is contrary to LT solicitations for fee land, CE or funds
Compliance with Local Ordinances	Amendment is not contrary to local law and meets current zoning/similar requirements				Amendment is contrary to local law or inconsistent with current zoning/similar requirements

RISK SPECTRUM ON CONTRACT AND POTENTIAL CONTRACT ISSUES

	LOW RISK		MORE RISK		HIGHEST RISK	
Compliance with Conservation Easement	CE expressly permits this amendment	CE expressly permits this sort of amendment	CE expressly permits amendments in general	CE is silent but state law clearly permits CE amendments	CE is silent and state law is uncertain	CE expressly forbids this amendment or all amendments
Complexity	Simple amendment easily understood				Multi-part complex amendment	
Violation of Third-Party Rights Created by CE	Amendment protects third-party rights in CE and is approved by those third parties		Amendment is not inconsistent with third party rights		Amendment abrogates third-party rights	
Donor/Grantor Approval	Donor/heirs/grantor approves this amendment	Donor/heirs/grantor approves this sort of amendment	Donor/heirs/grantor knows and is unconcerned	Donor/heirs/grantor does not know/is not consulted	Donor/heirs/grantor opposes this amendment	
Direct Funder Approval	Funders fully approve this amendment	Funders approve this sort of amendment	Funders know and are unconcerned	Funders do not know/ are not consulted	Funders oppose this amendment	

RISK SPECTRUM ON OTHER ISSUES

	LOW RISK		MORE RISK		HIGHEST RISK
Neighbors/LT Members/Community Approval	Neighbors/members/ community approve this amendment	Neighbors/members/ community approve this sort of amendment	Neighbors/members/ community know and are unconcerned	Neighbors/members/ community are unaware/ not consulted	Neighbors/members/ community oppose this amendment
Media Attention	Amendment likely to receive positive or no media attention			Adverse media attention is likely	Adverse media attention is certain
Degree of LT Review and Analysis	Amendment is fully reviewed by LT staff and/or knowledgeable committee, full board and qualified attorney			Amendment is minimally reviewed by LT staff and/or committee or board without qualified attorney	Amendment is minimally reviewed by LT staff and/or committee without qualified attorney or full board review
Degree of Expert Consultation	Relevant expert scientific or other advice is obtained, or it is clearly not needed and documented				No expert scientific or other advice is obtained but clearly needed
Degree of LT Effort and Expense in Amendment	LT staff time and expenses will be fully paid by requesting party or will be minimal				Amendment will impose heavy financial and time burdens on LT with little or no hope of payment
Effect on LT Stewardship Capacity	Amendment imposes no new or unendowed stewardship obligations; or amendment improves CE enforceability		Amendment does not improve enforceability of CE		Amendment adds new, unendowed stewardship obligations
Tradeoffs Four Corners Rule	Straightforward amendment that simply adds acreage, adds restrictions, extinguishes reserved rights, and the like (i.e., no tradeoffs)	Amendment involves no tradeoff or simple tradeoffs of conservation values on only one CE parcel	Amendment involves simple tradeoffs of conservation values; more than one CE property	Amendment with complex financial outcome or tradeoffs of conservation values or among multiple CE properties or new land added to original CE	Highly complex and/or controversial amendment; likely to require review by public entities, to be out-side Amendment Principles and to fail some screening tests