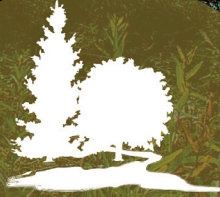


CONSERVATION OPTIONS

FOR NEW BRUNSWICK
LANDOWNERS



NATURE TRUST
of NEW BRUNSWICK

Fondation pour la
PROTECTION DES
SITES NATURELS
du NOUVEAU-BRUNSWICK

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COVER PHOTO: Caughey-Taylor Nature Preserve - Nadia El-Khoury

THIS PHOTO: James C. Yerxa Nature Preserve - Dutch Elm Studios

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THE NATURE TRUST OF NEW BRUNSWICK

The Nature Trust of New Brunswick was founded in 1987 as an incorporated, charitable land trust active in establishing and maintaining nature preserves for the benefit of present and future generations of New Brunswickers. The Nature Trust also engages people about the significance of conservation to the future well-being of the community.

Since its founding, the Nature Trust has protected many unique natural areas in New Brunswick, spectacular places of scenic beauty, pristine places untouched by saw or plough, and quiet places that shelter rare and endangered species.

By acquiring conservation lands and by working with landowners and government agencies to encourage responsible stewardship, the Nature Trust is helping to establish a network of protected natural areas in New Brunswick.

OUR MISSION

- **CONSERVE** areas in New Brunswick that are ecologically significant, establishing nature preserves that remain protected forever;
- **STEWARD** the nature preserves through a network of volunteers who care for the land;
- **ENGAGE** with the public about the importance of land conservation, New Brunswick's natural heritage, biodiversity, and species at risk.



WHY WE CARE (AND WHY WE HOPE YOU WILL TOO)

It's hard to put a dollar value on the **benefits** that open space and unspoiled natural places bring to our communities or on the worth of property that houses wildlife and plant species that may be found nowhere else in the province or country. Protected natural areas that are in public and private hands **enhance** the well-being of society as a whole. They provide nesting grounds for birds; serve as seed sources for plant species which may be of limited range; and **contribute** to the quality of our groundwater and river systems.

As more land in New Brunswick is given over to development, pressure increases on undisturbed natural areas to become sites for human activity. It is clear that government cannot protect all the important areas and their adjacent lands that together form natural systems. There is an increasing need for citizens and groups like the Nature Trust to keep the natural fabric of New Brunswick viable for future generations.

Ultimately, the success of the Nature Trust's protection efforts will depend on the generosity and participation of individual landowners like **you**.

A LAND TRUST:

- Is a non-profit, non-governmental charity working to permanently conserve private land;
- Is directly involved in land transactions to protect the ecological, recreational, scenic, or heritage values of properties;
- Uses a variety of methods to achieve its protection goals, including direct purchases, donations, leases, conservation easements, and voluntary stewardship agreements;
- Is generally supported through membership, donations, bequests, and volunteer efforts;
- Is a relatively new concept in New Brunswick; however there are over one hundred land trusts operating in Canada. The number is growing in the province since the establishment of the Nature Trust as the first New Brunswick land trust.



*James C. Yerxa Nature Preserve
Photo: Dutch Elm Studios*

YOUR OPTIONS

As a landowner, you may wish to conserve for the future the qualities that make your property **special**. The method you choose to do so could depend on many things, including the type of property you own, your tax situation, and the extent to which you want to continue to be directly involved in taking care of your land.

The following are some **options** available to property owners for creatively protecting New Brunswick's landscapes. Representatives of the Nature Trust will be pleased to speak with you in more detail about any of these options.



YOUR OPTIONS (CONTINUED)

Donating land to a conservation organization such as the Nature Trust may be something that you have considered. If so, please contact the Nature Trust to discuss the details of your proposed gift. If accepted by the Nature Trust, your property will be **managed** with special regard for the natural values that make it significant. You will also receive a tax receipt for the full market value of the property (**for more information about Ecological Gifts, please refer to page 9**). Your accountant can advise you of the full impact of your donation.

When donating property, it is important to bear in mind that owning property costs money. For this reason, the Nature Trust encourages donors, if possible, to consider providing a **stewardship endowment** to be set aside for the future management and maintenance of the land. This may seem like a great deal to ask. After all, you are donating your land—a generous gift by any measure. However, the Nature Trust must **ensure** it has the resources to properly maintain the values that make your natural area special. The amount will depend on the characteristics of the land and the management demands anticipated.

Donors may also want to consider donating lands that can be sold by the Nature Trust to **raise funds** for acquiring more ecologically significant natural areas. In these cases, it may be possible for the Nature Trust to retain a **conservation easement** on the property to ensure a measure of continuing protection of natural and open space values, where justified. Of course, these gifts would also be eligible for a charitable tax receipt.

THE NATURE TRUST WELCOMES ALL PROPOSALS FOR LAND DONATIONS

Our resources are limited; therefore we must carefully evaluate every potential donation. The Nature Trust will give priority to protecting lands as nature preserves if they contain **one or more** of the following features:

- Rare or endangered plant or animal species or habitat;
- Undeveloped coastline;
- Environmentally significant status as identified by conservation agencies;
- High quality, unusual, or representative hardwood forest stands;
- Sites with high species diversity like Provincially Significant Wetlands;
- Sites with outstanding aesthetic appeal;
- Sites with significant natural heritage and/or;
- Land near or adjacent to already protected lands.

It is **less likely** that the Nature Trust will be able to accept a donation for a nature preserve if the property has the following characteristics:

- It is a remnant left over from a development;
- It is a predominantly working farmland more suitably left in the hands of another land trust;
- It contains contamination from industry or other sources;
- It is already securely protected by other means not requiring the Nature Trust's involvement.

GIFTS OF LAND IN A WILL

If you wish to retain ownership of your property during your lifetime and also ensure its protection for the future, you may wish to name a conservation organization such as the Nature Trust in your **will**. If you are considering this, we request that you discuss your possible bequest with us before including it in your **estate planning**.

This way, the Nature Trust will be able to ensure any express wishes can be fulfilled in respect to the land and its management.

If you are making decisions about your will, you should know that it may be possible to **bequeath** your property to your heirs, yet ensure that the land is permanently **protected** according to your directions. The Nature Trust can be your partner in attaching a conservation easement to your deed and in overseeing its enforcement (**for more information about conservation easements, please refer to page 12**).



Cape Enrage Nature Preserve
Photo: Nature Trust

CASE STUDY: CAPE ENRAGE NATURE PRESERVE

Cape Enrage Nature Preserve near Alma, New Brunswick, was a gift to the Nature Trust by Bill and Sharan Ayer of Fredericton.

The 26 hectares of cobble beach, woods, and salt marsh captivated the Ayers the first time they saw it.

“It’s probably some of the most spectacular scenery anywhere in Canada or even in North America,” says Bill Ayer, reflecting on their motivation to make such a generous gift.

The land had been identified as an Environmentally Significant Area. It has in the past been home to the rare Adder’s tongue fern, and is a stopover point for an array of waterfowl and songbirds. The Ayers purchased the property and, in 1996, turned it over to the Nature Trust.

As on all properties, the Nature Trust creates and implements a management plan to ensure the land is used solely for scientific research and nature appreciation. Generations to come will benefit from the property being kept in its natural state.

LIFE ESTATES

Life estates are different from gifts in a will and are a creative option if you wish to **continue to live** on your property while at the same time ceding it for conservation purposes.

Also called “**remainder interests**”, life estates are arrangements whereby a landowner may give his or her property to an organization such as the Nature Trust, while retaining the right to live on or use the property for the balance of his or her lifetime. There are potential **tax advantages** to this arrangement, but they will generally be smaller than with an outright donation of land.

BARGAIN SALE

Occasionally, the Nature Trust **raises funds** to purchase lands it wishes to protect. In these cases, the Nature Trust may seek to buy a property at a bargain sale price (**below market value**).

The balance of the price is “**paid**” in the form of a tax receipt, valid for the difference between the appraised market value of the property and the actual price paid. For some individuals, this can be an attractive option, as landowners can protect their land and also realize both income and a tax advantage.

THE NATURE TRUST AS A LAND STEWARD

To ensure the **continued health** of the many nature preserves established and maintained throughout the province, the Nature Trust has established **local stewardship groups** and individual volunteers as custodians to monitor the nature preserves.

The land stewards provide the Nature Trust with feedback on the state of the preserves with annual monitoring trips. In turn, the Nature Trust lends its resources to enforcing the terms of protection.

Land stewards report to the Nature Trust on changes that have taken place and on any man-made or natural disturbances. Species lists are kept and significant observations are recorded.

Some preserves require annual cleanups and hands-on attention such as signage, trail building, and access control. These efforts are organized by the land stewards in concert with the Nature Trust.



GIFTS BY NON-RESIDENTS

It is possible for non-residents to make gifts of land or conservation easements in New Brunswick to a land trust.

Under certain circumstances, there can even be **tax benefits** for donors, although this is usually not the main motivation for the gift.

The Nature Trust is recognized by the Internal Revenue Service as a **publicly-supported foreign charity**. This means that US taxpayers' gifts to the Nature Trust are deductible to the extent that the donor has **Canadian-source income**.

Gifts made through a will (bequests) are deductible in calculating US estate tax because of the Canadian-US Tax treaty, even if the donor has no Canadian income.

In the past, groups like the Nature Trust have relied on an intermediary, such as the **American Friends of**

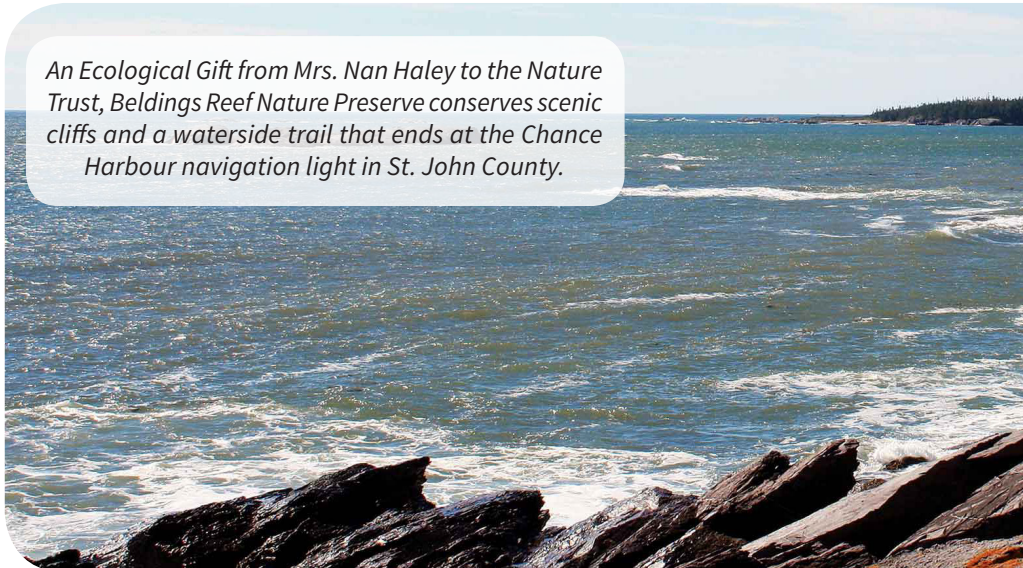
Canadian Land Trusts, a US charity, to facilitate land donations by non-residents. Donations of land are made to that group, a tax receipt is issued for use against the donor's US income and no Canadian capital gains tax is levied.

The US intermediary later transfers the land to the Nature Trust, which owns and manages the property well into the future. For more information, visit: www.afoclt.org

While the process can be long and complex, do not let that discourage you. **Many non-residents** have successfully completed land donations to Canadian land trusts—the Nature Trust has one of such gifts so far.

Feel free to speak with us about your situation and the land you wish to protect.

An Ecological Gift from Mrs. Nan Haley to the Nature Trust, Beldings Reef Nature Preserve conserves scenic cliffs and a waterside trail that ends at the Chance Harbour navigation light in St. John County.



ECOLOGICAL GIFTS (ECOGIFTS)

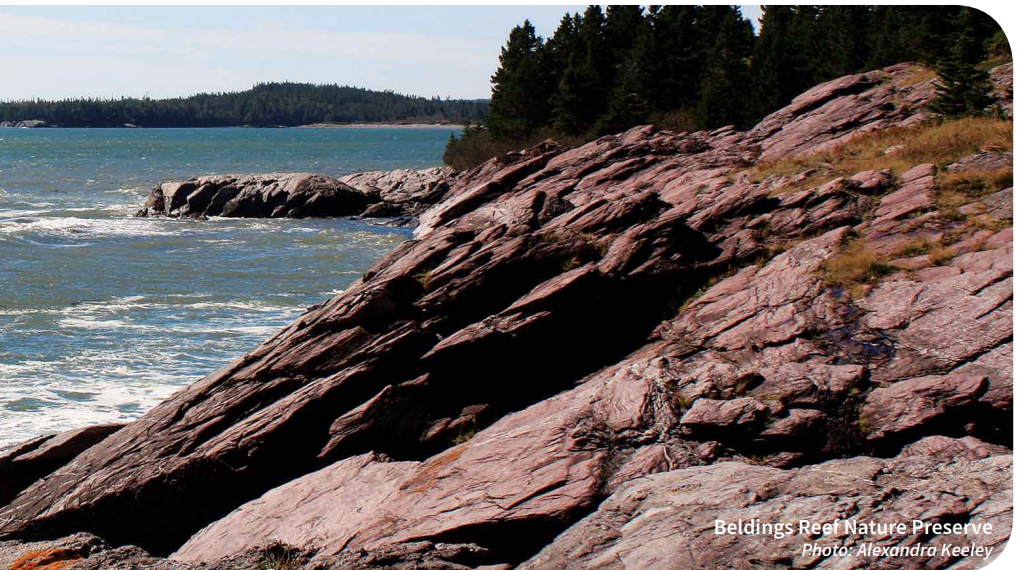
Sometimes land offered to a land trust for donation can be demonstrated to be **ecologically sensitive** (due to the presence of rare species or unique habitats, for example). Environment Canada's Ecological Gifts program uses provisions of the Income Tax Act to provide donors of such "Ecogifts" with **enhanced tax benefits**.

The program's requirements may be more complex than for a regular donation of land. Ecogifts require certification of ecological sensitivity. The appraisal report must also be reviewed by a panel before Environment Canada will certify the donation's fair market value. Once certified, donors can rest assured that the market value of their donation has been accepted by Environment Canada, and, more importantly, they end up with more money in their pockets than if their gift had been a regular gift of land.

Donors of certified Ecological Gifts **do not** pay capital gains tax (zero per cent of the gift's value is taxable, compared to 50 per cent for regular donations). Also, the restrictions on the amount of the gift that may be used in a given year are lifted for Ecogift donations. That is, the entire value of the gift may be used against the donor's income tax. This value may be carried forward for up to **10 years**.

The Nature Trust handles the Ecogift application process for donors, but we may ask for help with appraisal and ecological certification costs. As with any potential donation, we strongly advise landowners to seek professional tax advice before embarking on this process.

For more information on the Ecological Gifts Program, visit:
<http://www.ec.gc.ca/pde-egp/>



Beldings Reef Nature Preserve
Photo: Alexandra Keeley

CONSERVATION DEVELOPMENT OR LIMITED DEVELOPMENT



This refers to the practice whereby a conservation agency such as the Nature Trust accepts property with the intention of **setting aside** the ecologically sensitive portions of the property, while **providing** for a limited amount of development on the less sensitive portions.

Working closely with the donor, the Nature Trust would identify the most important site attributes (**wildlife habitat and corridors or scenic vistas, for example**) to be protected, and other portions of the site that might support a limited amount of development. Generally, this will require **careful analysis** of the site and creation of a detailed plan.

The plan would denote the extent of ecologically significant areas to be protected through means such as a **conservation easement** or outright ownership by an agency such as the Nature Trust. Areas slated for limited development could then be sold to raise revenue for conservation projects in other areas.

Although this method can be rather complex, it may be valuable in urban fringe settings where land prices make management for conservation and open space values an expensive proposition.

LEASES

Leases have been used by the Nature Trust in the past to protect an important fen and bog area, as well as an urban wetland home to an uncommon species of tree frog. If you choose not to make a commitment to donate a piece of property to the Nature Trust at this time, a lease may be a good option.

Lease arrangements can give the Nature Trust exclusive access rights to properties for the terms of the lease, which can mean that a certain amount of protection is provided to sensitive aspects of the site. This approach may also be used by the Nature Trust when there is no need or possibility for a more permanent arrangement to ensure protection.

CASE STUDY: HYLA PARK—A LEASING SUCCESS STORY

When Don Vail first ventured into the old borrow pit on Fredericton's north side, he hoped to find some interesting species of amphibians and reptiles. He was not disappointed.

The 8.6 hectare site, owned by the City of Fredericton and housing several small ponds, had formerly been used for stock car racing, elm tree disposal, unauthorized dumping, and as an ATV playground.

However, much to Don's pleasure the site proved to be a diverse habitat not only for amphibians and reptiles, but also for

*birds, butterflies, and rare wild flowers. The uncommon gray treefrog (*Hyla versicolor*) was there in abundance.*

The Nature Trust quickly recognized the value of this area for an urban wilderness park and nature sanctuary. In 1995, the Nature Trust negotiated a long-term lease for the property and organized a committee to oversee project activities.

The network of trails constructed now takes visitors through a cattail swamp and along the edge of small ponds where observation of the gray tree frog in several life stages is possible.



Hyla Park Nature Preserve
Photo: Dutch Elm Studios

CONSERVATION EASEMENTS

A conservation easement is a **legal agreement** between a landowner and a third party (e.g. the Nature Trust) whereby certain rights (such as the right to harvest or subdivide the property) are relinquished for the purpose of ensuring the future protection of the land. The land remains in private ownership.

A conservation easement is worked out between the landowner and the organization that will hold the easement. The easement is officially registered on the title and, thus, ensures that future owners will be bound by the provisions it contains. The holder of the easement must **monitor** and, if need be, enforce the provisions of the easement agreement.

The landowners retain the title to their land, and may bequeath it or sell it, knowing it will still be protected when it passes from their ownership. They can also continue to **live on the land** and **use it**, within the legally defined terms of the easement. Also, easements may help prevent potential disagreements when the property is passed to heirs because they provide a clear definition of conservation goals and desired uses of the land.

Conservation easements are flexible and can be tailored to meet the particular requirements of each property and owner. Some easements allow for limited development and/or resource management; others require that the land be held “**forever wild**” or be open for limited public access.

The Nature Trust can provide examples of typical easements for your examination, and would be pleased to discuss the options with you. For more information, you may also refer to the Nature Trust’s Conservation Easements booklet.

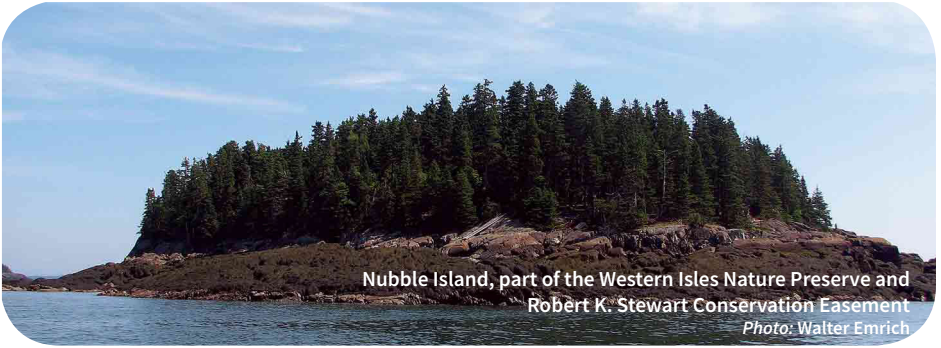
CASE STUDY: CONSERVATION EASEMENTS AT WORK IN THE BAY OF FUNDY

It was the wildness of the four islands off the coast that drew Robert Stewart to try to preserve them in conjunction with the Nature Trust. The compact group of islands he enjoyed exploring as a sea kayaker feature rugged shoreline, spectacular cliffs, beaches, and bald eagle nesting sites.

In 1990, Robert Stewart donated Little Mowat Island to the Nature Trust to forever protect the birds and marine species found there. At the same time, conservation easements were set up by an agreement between the Nature Trust and Mr. Stewart, affecting the three remaining islands in the group.

Under the agreement, the Nature Trust is responsible for monitoring and enforcing the conditions set out in the conservation easements. Very limited development is permitted and that which does go on must respect and maintain the integrity of the island ecosystem.

Now these islands, Barnes, Mowat, Little Mowat, and Nubble are protected in perpetuity, for the benefit of migrating birds and other marine wildlife.



LANDOWNER STEWARDSHIP PROGRAM

If you want to ensure that your land is protected, but you do not want to donate your property or use other options for formal protection, you can act on your own to practice good land stewardship.

Part of being a good steward of your land is protecting sensitive habitats and helping wildlife find refuge on your property. With forethought and understanding, landowners can care for, enhance, and even rehabilitate their property. Sometimes the best approach is to let natural processes occur with as little interference as possible.

The Nature Trust's Landowner Stewardship Program helps to support people who want to do their part to improve New Brunswick's natural areas. The Nature Trust can provide information about how to care for your wetlands and woodlots or give important tips to ensure that endangered species can thrive on your land.

The Nature Trust can also identify the critical areas for conservation on your property and suggest management plans to keep a balance between protecting the land and using it respectfully. Many New Brunswickers are working with us by making a **Stewardship Pledge** - their family's commitment to being good land stewards and protecting the land they love so much.

GOOD LAND STEWARDSHIP

Every property is unique. As an individual landowner, stewardship activities you might contemplate could include such things as:

- Planting native trees, shrubs, and flowers that attract and shelter wildlife;
- Opting for selective cutting programs that promote wildlife survival and maintain forest cover;
- Protecting wetlands by leaving buffer strips and maintaining existing drainage patterns;
- Developing a stewardship pledge with the Nature Trust for your property.

CASH DONATIONS AND BEQUESTS

Some people may prefer to give donations of cash or securities to the Nature Trust to help the organization continue its land conservation and stewardship work. These gifts enable the Nature Trust to protect unique natural areas, which may be in your community.

As the focus of the Nature Trust is on lands with rare or significant natural assets (**and we have identified many of these in the province**), your gift will assist us in securing targeted properties. It will also allow us to undertake the ongoing monitoring and management needed for good stewardship of the land once secured.

If you would like to direct a cash or securities donation toward a particular goal, we would be very willing to discuss your desires and try to coordinate our activities with your interests. For more information on how to donate to the Nature Trust, please refer to the **Planned Giving** booklet.

YOUR DONATION WILL HELP SUPPORT:

- Maintenance and stewardship of Nature Trust properties;
- Purchase of new preserves;
- Annual monitoring;
- Ecological inventories;
- Clean-up activities;
- Legal costs of land acquisitions;
- Surveys and appraisals;
- Access control (where required);
- Interpretive signage;
- Educational activities;
- Management of special projects;
- Program administration.



Ministers Face Nature Preserve on Long Island
Photo: Ron Garnett



Caughney-Taylor Nature Preserve
Photo: Sara Bakker

SOME TAX IMPLICATIONS

Donating a piece of ecologically sensitive land to a qualified charity like the Nature Trust may result in **considerable tax savings** to you as a donor. The actual amount of tax benefit will depend on several things, including:

- Your personal income level and tax status.
- Whether the property is your principal residence.
- Confirmation that the property in question is, in fact, “ecologically sensitive” according to Revenue Canada’s definition.
- What capital gains may be deemed to have accrued to the property since you acquired it.

Under the best circumstances, donations of qualified ecologically sensitive land to a group like the Nature Trust could result in a tax receipt for the full market value of the land, which the donor may use against 100 per cent of his/her income in the first year, and, if the gift is of some magnitude, up to ten years, following the donation. **Capital gains tax** may still be applicable. However, under recently announced tax changes, donors will rarely, if ever, be in a net tax payable situation (**please refer to Ecological Gifts, page 9**).

Conservation easements also have the potential to yield tax benefits. Because awareness of the value of protecting natural areas on private land is growing, Revenue Canada recognizes easement donors as deserving of tax relief.

It should be noted that the rules governing taxes are complex and subject to change without notice. Individuals contemplating a land donation should consult their own lawyer or accountant on the full implications to their taxes before entering into any transaction.

FOR MORE INFORMATION

The Nature Trust will be pleased to assist any landowner to plan for the permanent protection of natural lands in New Brunswick. Should the Nature Trust be unable to accept responsibility for your land, we will endeavor to find a suitable organization that may do so or help you seek suitable protection using different methods.

There are other educational materials that could be helpful to guide your donation of land, including the **Conservation Easement** and **Planned Giving** booklets.

For more information about the Nature Trust of New Brunswick, please contact our Fredericton office:

Mailing Address:

P.O. Box 603, Station A
Fredericton, NB
E3B 5A6

Physical Address:

649 Queen St., 2nd Floor
Fredericton, NB
E3B 1C3

Email: naturetrust@ntnb.org

Website: www.naturetrust.nb.ca

Phone: (506) 457-2398

Fax: (506) 450-2137





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