

Northeastern Cave Conservancy News



The Northeastern Cave Conservancy, Inc. (NCC) is a not-for-profit corporation committed to the conservation, study, management, and acquisition of caves and karst areas having significant geological, hydrological, biological, recreational, historical or aesthetic features. To these ends, the NCC combines the resources and expertise of affiliated cave explorers, educators, scientists, landowners, and conservation officials.

Next Board Meeting

Sunday, October 3rd 10:00AM at the Synder Estate. (directions on last page)

Notes from the June Board Meeting

- 1) The new and returning trustee are Kevin Dumont, Paul Woodell and Mike Warner.
- 2) Thanks go to Peter Haberland for his time on the board.
- 3) Christine Young spoke about the easement for the Bentley Preserve.
- 4) Alan Traino will be the new Ella Armstrong Preserve Manager.
- 5) 2nd Annual Barn Dance set for Saturday 10/16/10.

Notes from the March Board Meeting

- 1) Kapper reports the VV totals for 2009: 1440.5 hours of work and 10442 miles driven for a total value of \$39,564.
- 2) Armstrong resigns from Board and also from his position as property manager of Ella Armstrong Preserve.

- 3) Board voted to provide a \$500 sponsorship for the NSS 2010 Convention.
- 4) Board voted to direct the Clarksville managers to remove the ladder from the ladder dig by 3/31/10. (Ladder removed 3/14/10).
- 5) The vote on adding a category for Life Membership passed, at a cost of \$300.
- 6) The board voted to appropriate \$27K of its current general funds towards the purchase of Merlin's Cave, with the stipulation that it be returned to the general fund if the purchase is unsuccessful.

In this issue

Notes from the June Meeting	Page 1
Notes from the March Meeting	Page 1
NCC Recent Activity	Page 2
2nd Annual Barn Dance	Page 4
Informational Items.....	Page 5
Cave Rights, What are they?	Page 5
Upcoming Events	Page 7

Northeastern Cave Conservancy, Inc.		
Officers		
President	Bob Addis	(518) 237-1165 raddis3@verizon.net
Vice President	Peter Youngbaer	(802) 454-7752 youngbaer4@aol.com
Treasurer	Bill Folsom	(845) 626-4220 rocketeer@mindspring.com
Secretary	Christa Hay	(518) 237-1165 c.hay@ctmale.com
Trustees		
Thom Engel		necaver@earthlink.net
Al Hicks		achicks@gw.dec.state.ny.us
Vince Kappler		(973) 579-2116 vkappler@nac.net
Michael Chu		chum2@alum.mit.edu
Kevin Dumont		kevindumont@yahoo.com
Paul Woodell		woodell@lgbny.com
Michael Warner		(518) 295-7978 mike@speleobooks.com
Alan Traino		PollackOpticians@aol.com
Bob Simmons		rwsimmons1@msn.com
Committee Chairs		
Acquisitions	Chuck Porter	(518) 274-4863 chuckporter@earthlink.net
Bylaws	Joe Levinson	(973) 208-9049 jlevinson@tellurian.net
Education	David Lyons	cavewin@hotmail.com
Finance & Investments	Joe Levinson	(973) 208-9049 jlevinson@tellurian.net
Fundraising	Alan Traino	PollackOpticians@aol.com
Legal	Mark Seltzer	legal@necaveconservancy.org
Membership	Sean Ryan	belloq@juno.com
Nominating	Mike Martuscello	mikemart@superior.net
Office	Mike Warner	(518) 295-7978 mike@speleobooks.com
	Emily Davis	(518) 295-7978 emily@speleobooks.com
Preserves	Thom Engel (Onesquethaw)	(518) 478-9664 onesquethaw@necaveconservancy.org
	Jay Simion (Sellecks)	(518) 928-4300 sellecks@necaveconservancy.org
	Emily Davis Jay Simion (Knox)	(518) 295-7978 knox@necaveconservancy.org
	Michael Chu Thom Engel Chuck Porter (Clarksville)	clarksville@necaveconservancy.org
	Alan Traino (Ella)	ella_armstrong@necaveconservancy.org
	Jonah Spivak (Bentleys)	bentleys@necaveconservancy.org
	Christa Hay	(518) 237-1165 c.hay@ctmale.com
Publications and Publicity	Michael Chu	michaelhkchu@gmail.com
Newsletter Editor	Michael Chu	michaelhkchu@gmail.com
Website	Michael Chu	michaelhkchu@gmail.com
Science Coordinator	R. Laurence Davis	(203) 932-7108 rldavis@Newhaven.edu
Special Use Coordinators	Amy Cox	(203) 426-4602 specialuse@necaveconservancy.org

The Northeastern Cave Conservancy News is published quarterly by the Northeastern Cave Conservancy, Inc. The Northeastern Cave Conservancy promotes the study and preservation of speleologically significant properties in the Northeastern United States. Annual membership is \$15 (Regular), \$5 addtl. (Family), \$10 (student), \$50 (Benefactor), \$100 (Institutional), and \$300 Lifetime. All checks made payable and sent to:

Northeastern Cave Conservancy, Inc.
P.O. Box 254
Schoharie, N.Y. 12157

www.necaveconservancy.org

NCC Recent Activity

by Bob Addis

Merlins Cave: Chuck Porter and I presented an informational session to the Town of Canaan Planning Board on 9/20/10 and it went very well. We came away with the positive feeling that everybody wanted this project - Mike Belknap the owner, the Planning Board, and Joel Nisson.

We had a pre-meeting with Mike Belknap & Joel Nisson, the adjacent property owner of the development above our proposed preserve, and rehearsed our roles. We had a tasty power point about the NCC & its Preserves and impressed their board. Chuck spoke on the discovery & importance and fielded questions, and Mike came back with a display board presentation on the subdivision question. After some discussion & Mike pointing out his interpretation of the town regulation, the Planning Board acknowledged that they will accept a survey of our 34 acres by an LLS as an overlay to the whole parcel as shown on the tax maps - Major victory & result we wanted. So Mike is probably getting surveyor's quotes today to start as soon as possible. No need to survey the entire ~150 acres including costly railroad frontage.

Joel Nisson has named his private road into the development, Marble Ridge and put up a street sign only a week ago! This was done in honor of our discoveries and he was quite proud of it.

We danced around the idea of cavers parking on Marble Ridge near the cul de sac, but this has serious problems. There's a "roadway association" of owners to cover the upkeep of Marble Ridge and we're betting preserve visitors don't get to park in there. Only Lots 1 & 2 have been sold to one family but there's a vote on who gets to use Marble Ridge and it's probably not positive. It wouldn't surprise me to see it become a gated community in the future.

Parking on Vandenberg Hill Rd. in either direction for some distance is nearly impossible although the NCC & Mike previously thought it might happen. It's a steep bank dropping into a deep ditch, one set of wheel tracks in gravel and an abrupt dropoff the other side. Beyond Marble Ridge the road deadends at one house - Merlin's

- and a faint possibility exists of getting a small legal parking lot on his property, walking back up Vandenberg, into Marble Ridge and finally onto our property.

Parking appears to be the main issue and we don't know how much of a stink the Planning or Zoning Boards could put up on this. I think it would be a better solution that everybody would approve if we parked down on the Belknap side. I guess Chuck & I have to convince Mike of this. And soon.

Surprise Cave: A letter was sent on 9/8/10 to Commissioner Alexander Grannis of the NYDEC with regards to our offer to manager Surprise Cave. The contents of the letter are reprinted below:

Dear Commissioner Grannis:

The Northeastern Cave Conservancy, Inc. (NCC) is a not-for-profit corporation committed to the conservation, study, management, and acquisition of caves and karst areas having significant geological, hydrological, biological, recreational, historical or aesthetic features.

For many years our members have been visiting Surprise (Mystery) Cave in Ulster County, NY utilizing the DEC's procedures for gaining access – permits and keys to the cave gate. As you know, the cave is currently managed by NYDEC's Region 3 office as part of the Bashakill Wildlife Management Area.

Over the past several years the NCC has had discussions with the Region 3 Manager, Pat Vissering, about our concerns how the cave was being managed as a natural resource and in particular the frequent breaching of the cave gate. At the initial meeting with the region manager over three years ago, the NCC offered to manage the cave while the State of New York would retain ownership, and a letter formally making this offer was prepared and sent to her.

What has happened to the resource since that first meeting? Nothing positive. White Nose

Syndrome (WNS) was discovered in 2007 and it has spread throughout the State's hibernating bat population, decimating an estimated 1,000,000 bats to date. The gate on Surprise (Mystery) Cave has been broken and left open on many occasions to unregulated traffic. The same individuals who break cave gates show a similar attitude to the preservation of the cave, a valuable underground resource.

The Northeastern Cave Conservancy is one of the premier cave conservancies in the nation. We are a specialized land trust with extensive cave management skills as evidenced by our 32 years of experience. (www.necaveconservancy.org). We believe we can offer experienced and active conservation management of this cave resource for the betterment of the citizens of the state of New York.

Presently we own five Cave preserves and manage a sixth for the Mohawk Hudson Land

Conservancy, totaling 12 caves. We have nearly completed negotiations for a seventh Preserve, a remarkable new marble cave discovery in an area of Columbia County not known for caves.

The NCC is registered as a foreign corporation in Vermont and Connecticut in preparation for expanded opportunities in cave conservation.

The NCC continues to be instrumental in the cooperation between cave owners, governmental agencies, research scientists and cavers to study WNS. For example, when volunteers supplied their own cars and laptops, the NCC coordinated several teams to assist the Endangered Species Unit of DEC with their acoustic bat surveys under Al Hicks and Carl Herzog.

As President of the Northeastern Cave Conservancy I am writing you as an appeal for action on Surprise (Mystery) Cave. We have felt that the severe fiscal crisis that

cripples the State has crippled all branches of governmental, which has resulted in a bad situation for this prime NY cave resource. We offer solutions to a losing situation – the degradation of Surprise (Mystery) Cave – and we can do it at no cost to the State. We will, with DEC's approval on each step if they so desire to:

- *draft the memorandum of agreement*
- *prepare a comprehensive management plan reflecting all needs for the property*
- *select and have Board approval for cave manager(s) who live locally*
- *solicit volunteers for work weekends*
- *finance all improvements & maintenance, (donations will not be refused!)*
- *issue periodic status reports*
- *Encourage scientific research on premises with reporting*

Commissioner Grannis, please do not let another hibernation season go by, particularly with the need to protect any surviving bats. We have time this fall to prepare a draft management plan and fix the gate; the other details can be worked out over the winter. Who is better suited to do this than a dedicated group of organized volunteers with a passion for cave conservation?

Thank you for your time and the Northeastern Cave Conservancy will be looking forward to hearing from you.

Yours truly,

Robert P. Addis, President

2nd Annual NCC Barn Dance

by Bill Folsom

Come and partake of the fun that you missed last year! Note the price has been lowered due to feedback received last year -- only \$15/person or \$30/family. See details below. And whoever has interesting caving esoterica for the Silent Auction, please contact Emily Davis <speleobooks@speleobooks.com>

RSVP on Facebook:

<http://bit.ly/9wy2M8>

Who: Northeastern Cave Conservancy

What: 2nd Annual NCC Knox Barn Dance

Where: Octagon Barn, Knox, NY (NOT Speleobooks -- directions below)

When: Saturday, October 16, 2010 6:00PM until 10:00 PM

Why: To Raise Funds for the Purchase of Merlin's Cave, A New Bat Hibernaculum (last push, we promise!)

How: Live Music by Paul Rosenberg & Tamarack, Refreshments, Silent Auction, Cave Photos, and More!

Price: \$15 adults; \$30 family; children under 12 free when accompanied by a paying adult.

Raffle ticket with each entry fee. Over \$500 in prizes!

Paul Rosenberg & Tamarack -- Fun-filled community tradition, handed down through generations. Easy to learn step-by-step contras, squares and folk dances. No experience necessary, all dances are taught. Live fiddle band playing traditional early American, Celtic, French-Canadian, Old-time and original fiddle tunes (jigs, reels, waltzes). Caller: Paul Rosenberg, with Jim Mead (guitar), Sue Mead (fiddle/mandolin/djembe), Patricia Kernan (flute/pennywhistle/fiddle).

The Octagon Barn: 588 Middle Road, Knox, New York 12107

Directions: From the hamlet of Knox, which is up the hill from Altamont on Route 156, go North on Knox Cave Road and then West on Middle Road. The Barn is close to the corner of Middle and Beebe Roads. If you are arriving by driving south on Knox Cave Road, Middle road is just past route 146.

Informational Items

by Bill Folsom

Join the NCC as a Life Member

Recently the NCC Board approved a new category of membership that several folks have already taken advantage of: Life Membership, very economically priced at \$300. Pay once and never again be hounded for dues! The next time your dues are due, please consider this category of membership should you be able to afford it.

Remember the NCC in Your Will

Bequests are a popular way to donate to your favorite charity after you no longer need an income stream. The NCC recently researched this option, so please consider a bequest should you be in a position to do so. Taken from the NCC website's Donate page:

Thank you for considering a planned gift to the Northeastern Cave Conservancy, Inc. The NCC can accept donations in various forms such as land, or through various mechanisms such as wills and trusts.

A bequest translates your commitment to conservation into a lasting legacy. A simple provision in your will, such as the following, will enable you to provide for the NCC in your estate plans:

"I give \$_____ [a specific amount, or alternatively, "_____ percent of the residuary of my estate"] to the Northeastern Cave Conservancy, Inc., a nonprofit corporation incorporated in the Commonwealth of New York and having its principal offices at P.O. Box 254, Schoharie, NY 12157, for its general purposes."

The Northeastern Cave Conservancy's tax ID # is 13-4043653. Be sure to consult with your attorney on the language and tax effect of any charitable bequest. Tax implications for your state of residence may be found here: <http://www.landtrustalliance.org/policy/taxincentives/state>

For more information on making a planned gift, please contact the Northeastern Cave Conservancy via e-mail at treasurer@necaveconservancy.org

Cave Rights – What are they, where are they? by Bob Addis

A bit of history: The late Jim Gage was quite a guy – a very successful and colorful Schoharie County attorney often compared to Clarence Darrow, an early NSS member, NSS Legal Committee Chair, a great friend to cavers, and an eclectic collector. He collected stock car racetracks and caves! I declare him a collector because he had more than one of each – the Fonda and Richfield Springs tracks, Schoharie and Gage caverns and others.

About 1991 he donated to the NSS what we now know as the Barton Hill Karst Preserve with the Gage Cabin and passed away shortly after he was honored at the 1991 Convention in Cobleskill. By 1995 his heirs, following his wishes, donated Schoharie Cave and The Cabin to the NSS along with the \$5,000 insurance proceedings from the original cabin's fire. (Paralegals take note: I know that it was not a simple Gage to NSS transfer; he was a lawyer/businessman and very skillful in shading his tracks, so to speak! Would you expect anything different?)

Jim Gage and his family were good friends with the late Russ Gurnee and his family, and the bond between Jim and Russ was powerful. They were both very intelligent men and undoubtedly talked about the concept of cave rights. Jeanne Gurnee suggested that I research Jim's records because he kept such good notes, but I am embarrassed to say I haven't opened the one or two sealed cartons yet. I will soon as this project grows.

When Jim purchased the two cave properties in the late 1950s he got what he fashioned as cave rights under adjacent lands. They appear to be legal since Jim had paid money, wrote them in all of the deeds, and they have been carried forth on affected landowners' deeds through the years. My initial thoughts are that this could have been Jim's most brilliant and important work, as we shall see later.

I've known about the cave rights for years and encouraged Joe Levinson to spend time in the Schoharie courthouse researching the current landowners near the Barton Hill Karst Preserve. Joe found the work very confusing and didn't have time enough to really get far with it.

In early 2010, the current Chair of the committee, Christa Hay, received

communications from an attorney representing a new set of landowners purchasing the lands over Schoharie Cave from the Cook farm. They want to build a house near the cave and the lawyer had discovered the encumbrance of cave rights on the Cooks' property. It was refreshing to find that they wanted to work with the NSS in getting a mutually agreeable solution without affecting the cave and I predict that the Plues will become good neighbors.

Elsewhere in this issue I write about the radio location of five points in Schoharie Cave done to determine if adequate cover of dirt and bedrock existed over those high domes we see in the cave. The answer is yes and we were happy to trace the cave on the surface and confirm the accuracy of Kastning's 1969 map of the cave.

At the Schoharie Cave Preserve the cave rights statement in all deeds reads as follows:

"The part of the first part also grants and conveys to the party of the second part, its successors and assigns forever, all the cave, caves, caverns or underground rights, together with the exclusive and perpetual possession and right to occupy, utilize, use, excavate, enlarge, or alter, the said cave, caves and caverns or surrounding earth, rock or substance under the remaining premises of Cook and others in the Town of Wright, County of Schoharie, State of New York, which premises are generally bounded as follows."

(Then follows legal descriptions of the abutting properties in the 1950s. This appears to become the limitations of the cave rights at Schoharie.)

"This conveyance is made together with and subject to the covenants and agreements heretofore contained in the deed from Cook to

... (paraphrasing) Gage ... at Deed Book reference _____, providing as follows:

- That the owners of the surface rights agree not to destroy, damage or permit to be destroyed or damaged or made less usable, the cave, caves or caverns under said premises; and

- The owners of the cave, caves or caverns agree not to destroy, damage or permit to be destroyed or damaged or made less usable, the surface rights, i.e. the remaining farm lands, buildings, fences, poles, located above the caverns."

(Then follows two paragraphs of rights of way mostly for access of farming for the Cooks and a paragraph allowing Gage to erect and maintain

a lighted billboard presumably for a commercial cave operation! This is a story for another time!) "And the party of the second part hereby covenants and agrees with the grantor that the premises hereby conveyed, including the caves, the cave rights, and access rights shall forever be preserved in their present natural state, to be used and managed by the grantee and its successors and assigns as a natural preserve for the study, enjoyment and preservation of the caves and karst features located thereupon and therein, and that, consistent with sound management and preservation practices to be determined from time to time by the grantee, said premises shall be open for the use and enjoyment of caving enthusiasts and the general public."

Wow, is that powerful or what?

At the 2010 Convention, Christa Hay and I went before the NSS Board and received up to \$3000 for legal studies of Schoharie and Barton Hill Karst cave rights. Specifically we are requesting a local attorney to research and issue a legal opinion on cave rights. (They are worded the nearly same on both Preserves.) Then, or concurrently with that, our lawyer will have paralegal research done on the adjacent lands at Barton Hill to discover who are the current owners 50 years after the cave rights were purchased by Gage. The Committee will distribute the legal opinion to all of the affected landowners under whom we believe that we have cave rights, both at Schoharie and Barton Hill. The Committee will also distribute this information to all governing bodies such as the Towns of Wright and Schoharie since their Planning Boards have expressed curiosity about cave rights.

My personal belief is that cave rights will take on increasing importance as residential development slowly creeps into cave areas and that we as cavers may wish to seek cave rights as a method of preservation for the future. The Northeastern Cave Conservancy, along with all of the other cave conservancies and the NSS, has seen how difficult it is becoming to acquire caves and karst—few owners want to sell, fewer want to donate. If the legal opinion supports it, perhaps it is now time to buy the actual hole in the ground with an easement for access and leave the surface rights with owner. This is precisely the situation with oil and gas rights although most of the rights were sold to the companies more than 100 years ago.

A strong argument in favor of acquiring cave rights is that landowner liability is transferred to the new owner, leaving no liability with the previous owner. This is not the case with caves managed or leased; the landowner remains the same and may be held liable for actions of others. Another way is to equate the buying and selling of cave rights to that of other kinds of property transferred, say an automobile. If I buy a car from you, you are not liable for anything I do with that car—the ownership has transferred.

The Committee will keep the caving community informed as this work progresses.

Upcoming Events

October 3, 2010: NCC quarterly board meeting at the Snyder Estate in Rosendale, NY.

Directions:

From the North: I-87 exit 19, then Rt-209 south to Rt-213. Go through town of High Falls (you are on Rte 213) and through the road closed/local traffic barrier which brings you to Snyder Estate which is as far as you can go!

From the South: I-87 exit 18, then Hwy 32 north to Rosendale: Go down Main Street Rosendale (actually Rte 213) and under Rail Road Trestle turn right (up Binnewater Road) at the Road Closed sign then make left at 4 way intersection

onto Sawdust Road, then First left down Cottekill Road (you are then back on Rte 213!). You will then turn left and go through "Road Closed Local Traffic Only" which bring you to the Snyder Estate which is as far as you can go!

October 16, 2010: 2nd Annual NCC Barn Dance, Octagon Barn, Knox NY.

July 18-22, 2011: 2011 NSS Convention, Glenwood Springs, CO.

June 25-29, 2012: 2012 NSS Convention, Greenbrier Valley, WV.