

Risk Management Strategies

for Cave Conservancies (Part 1)



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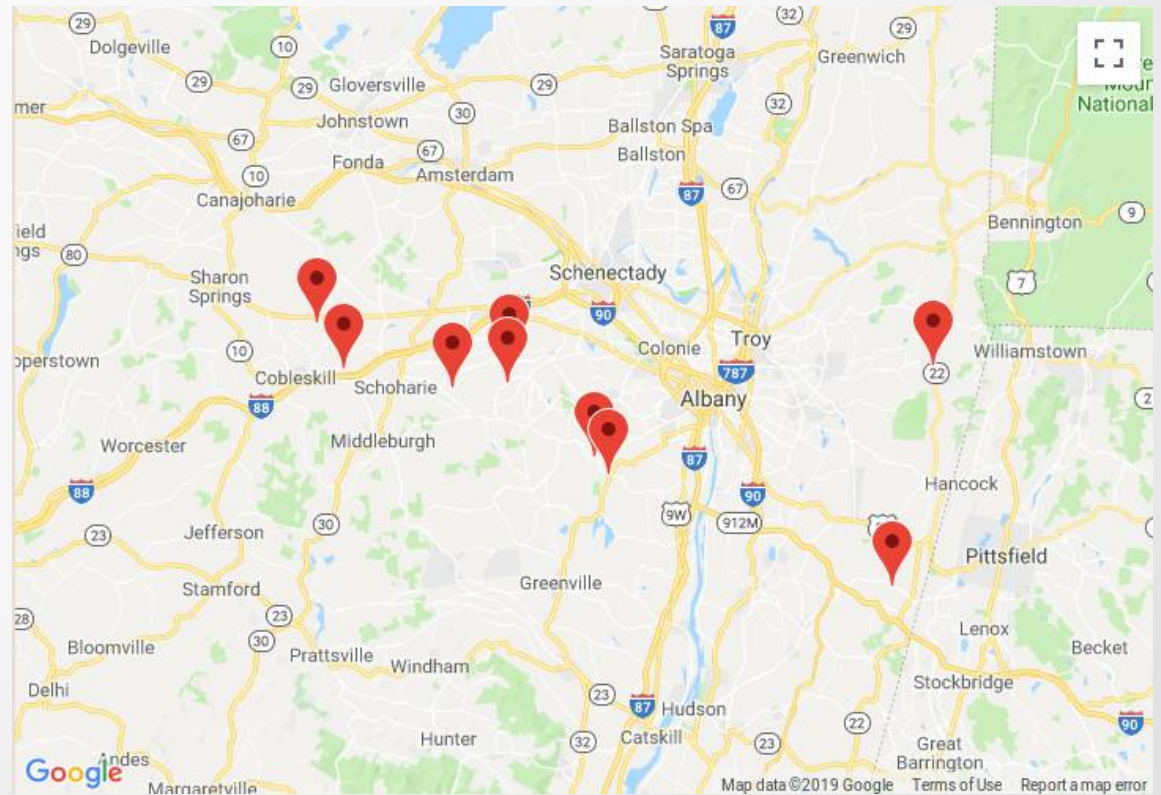
The NCC – then and now

- Formed in 1978 to accept the donation of Knox Cave
- Spent its first 20 years with just that one cave preserve, run by 3 people
- In 1999, became a membership organization, run by a Board of Directors



Today

- **9 cave preserves**
- **16 caves**
- **90+ acres**
- **175 members**



Risks of owning caves and karst

- The obvious one – someone gets hurt or worse



Photo credit: Mark Dickey

... and you get sued

Liability – what it is

- **Premises liability**

- What duty you have to someone on your land
- Laws vary by jurisdiction
- May depend on what type of person was visiting
 - Trespasser? Licensee? Invited party?
- Likely depends on what services you do or have provided
 - Safety training, guided trips, etc.
- Almost certainly depends on whether you charge a fee

- **Assumption of risk**

- Adjusts how much of the liability is yours

Liability – ways to protect against it

- **“Sportsman's laws”**

- Generally free landowners of some or most of the duty they would otherwise have to a visitor, if they allow recreational use of their land
- Typically only apply if no money is collected
- Vary state-to-state as to which recreational activities are included
 - New York: “speleological activity”
 - Vermont: “caving”
 - West Virginia: “spelunking” (also Cave Protection Law)
 - Virginia: “for any other recreational use” (also Cave Protection Law)
 - your state: ???

Liability – ways to protect against it

- **Insurance**

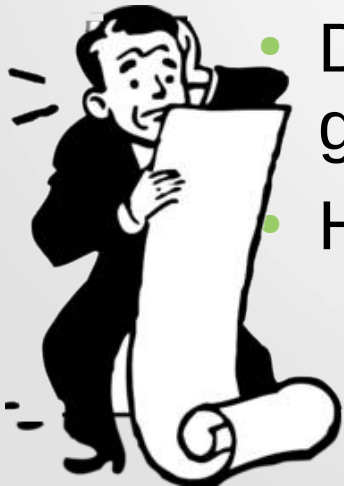
- General Liability (G/L)

- Insurance company provides and pays for legal representation if you get sued for something covered by the policy
- Pays for damages awarded if you lose a case
- You can *always* be sued, even if you're not liable
 - This costs money even if the outcome is known

Liability – ways to protect against it

- **Waivers**

- Visitors sign an agreement to give up some rights (typically including the right to sue you)
- Assumption of risk by the visitors
- Challenges to enforcing a waiver in court
 - How old is it?
 - Did the visitor *truly* understand what they were getting themselves into?
 - How much choice did they really have in signing it?

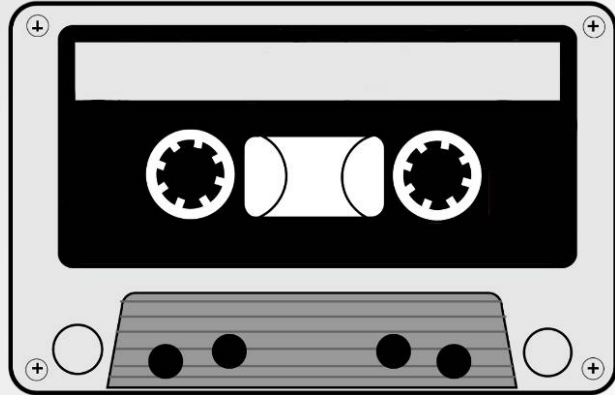


Liability – ways to protect against it

- **Conservation easements**

- Landowner gives up a subset of their rights to a different conservation organization
- Structured such that neither the owner nor the easement holder can damage the land (or caves)
- Decreases the value of the land to most other entities by eliminating its development potential (makes your organization a less attractive litigation target)
- Managing the easement costs real money
 - Easement holder does inspections, recordkeeping, etc.
 - Landowner often pays for this up-front or by encumbering the land at sale time

End of Part 1



Please turn the deck
over to Side B
(Friday morning)

Coming up in Part 2:

- Some less obvious types of risk
 - and ways to deal with them
- What the NCC does to manage risk
 - and how we learned what was right for us
- Resources you can use to put together a plan for your conservancy