Risk Management Strategies

for Cave Conservancies (Part 2)

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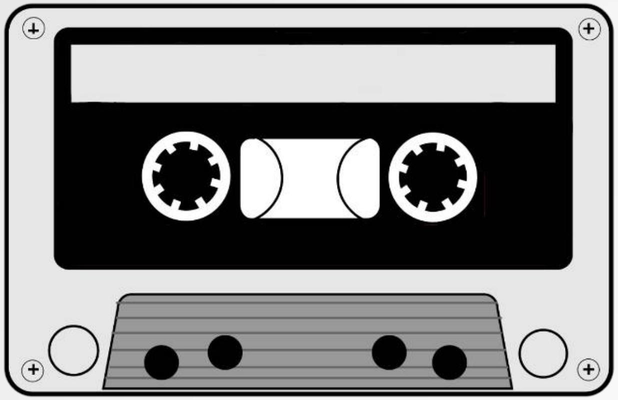
Part 2



You are now on Side B

Last time in Part 1:

- How the NCC came into existence
  - How its risk profile changed as it grew
- Obvious risks
  - Premises liability
    - What it is
    - Ways to protect against it

Risks of owning caves and karst

- Serious damage to your land and/or your caves

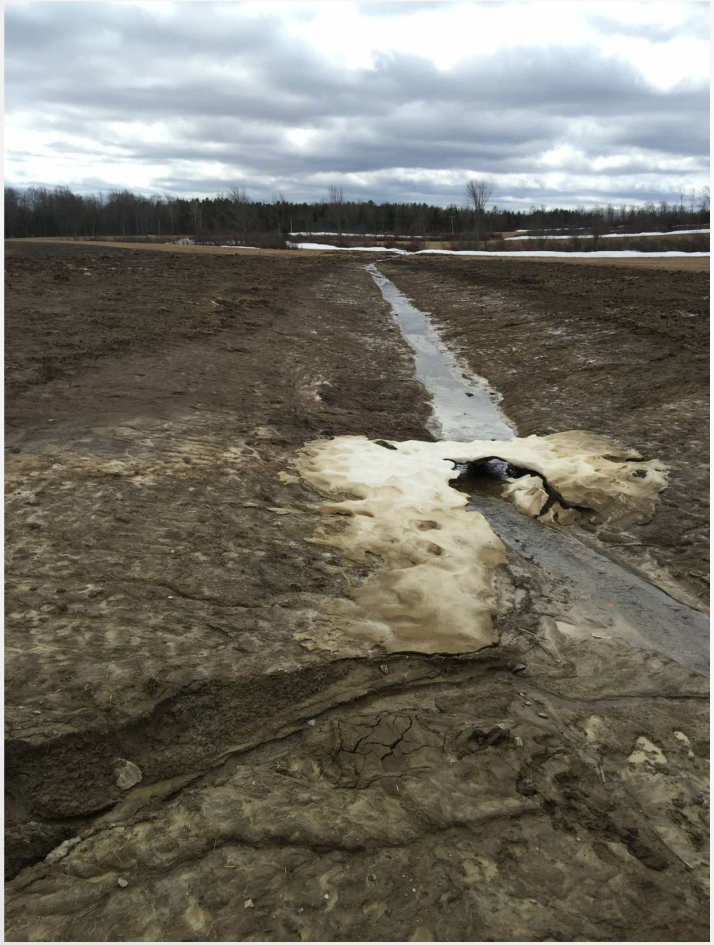
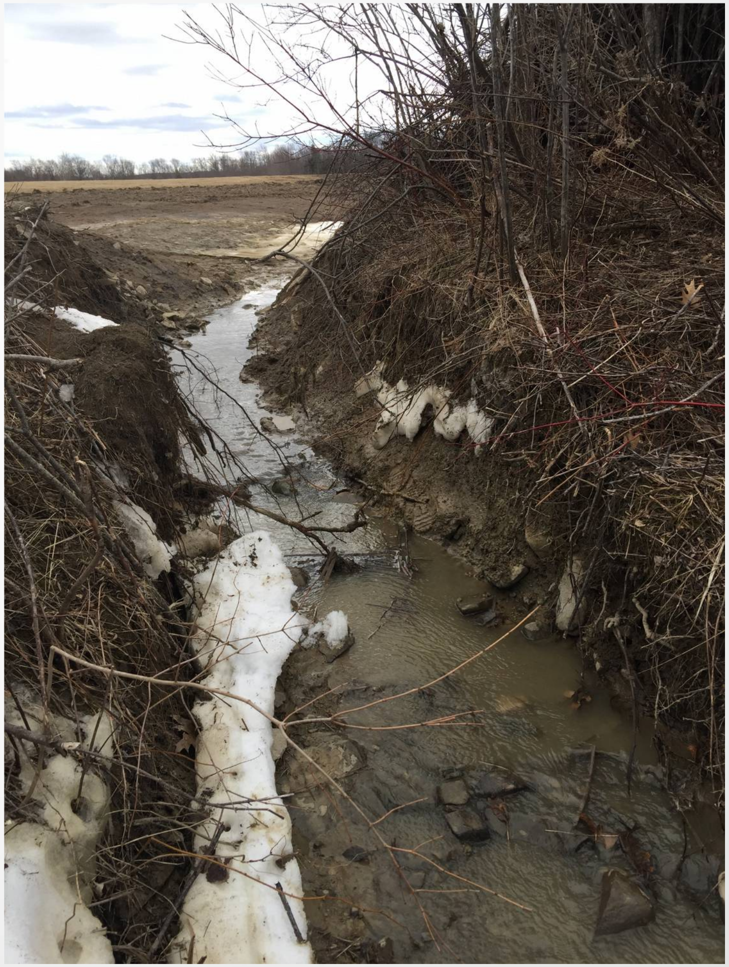



Photo credits: Lance Dickey

Risks of owning caves and karst

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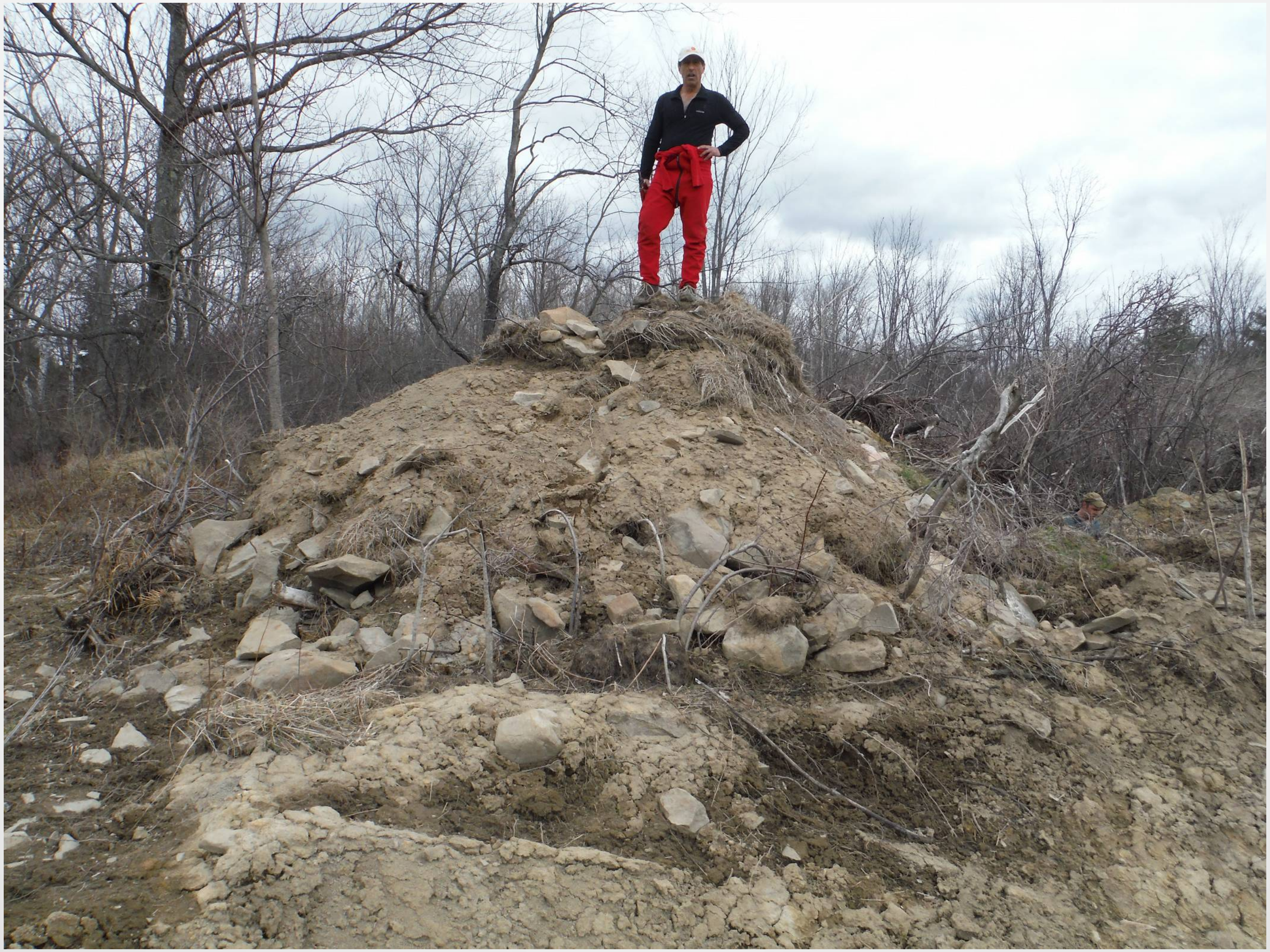

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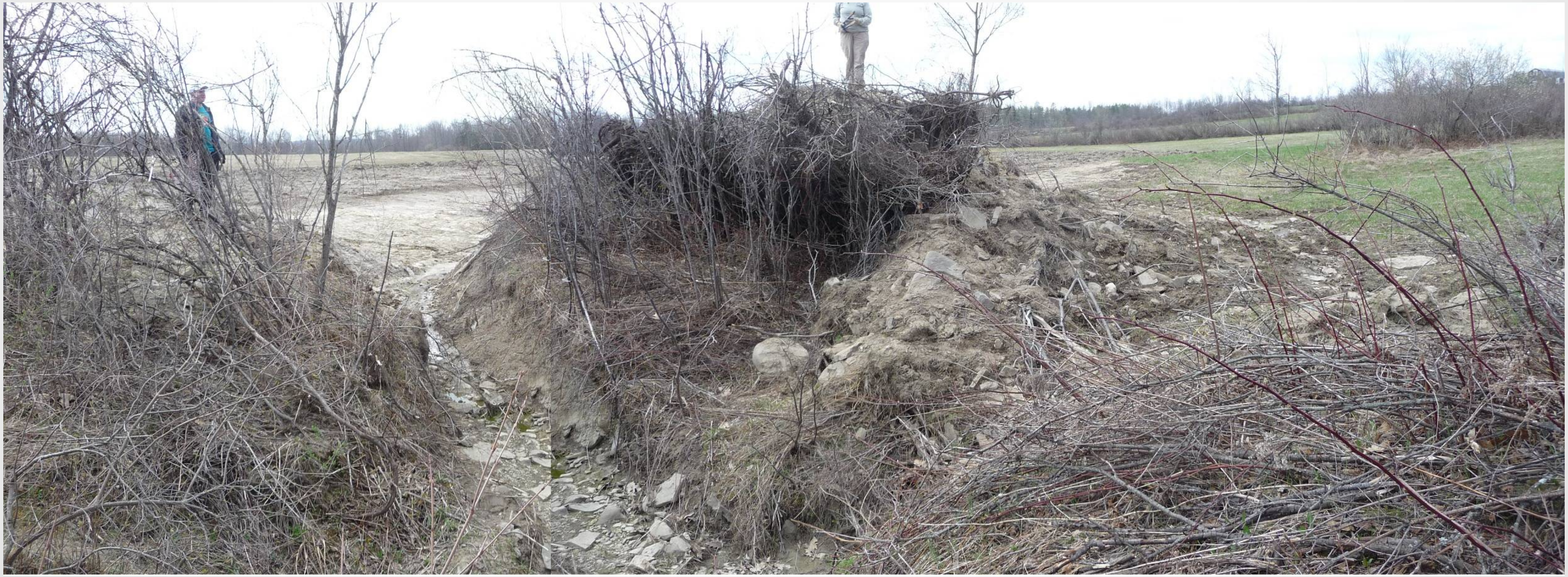

Photo credit: Thom Engel

Risks of owning caves and karst

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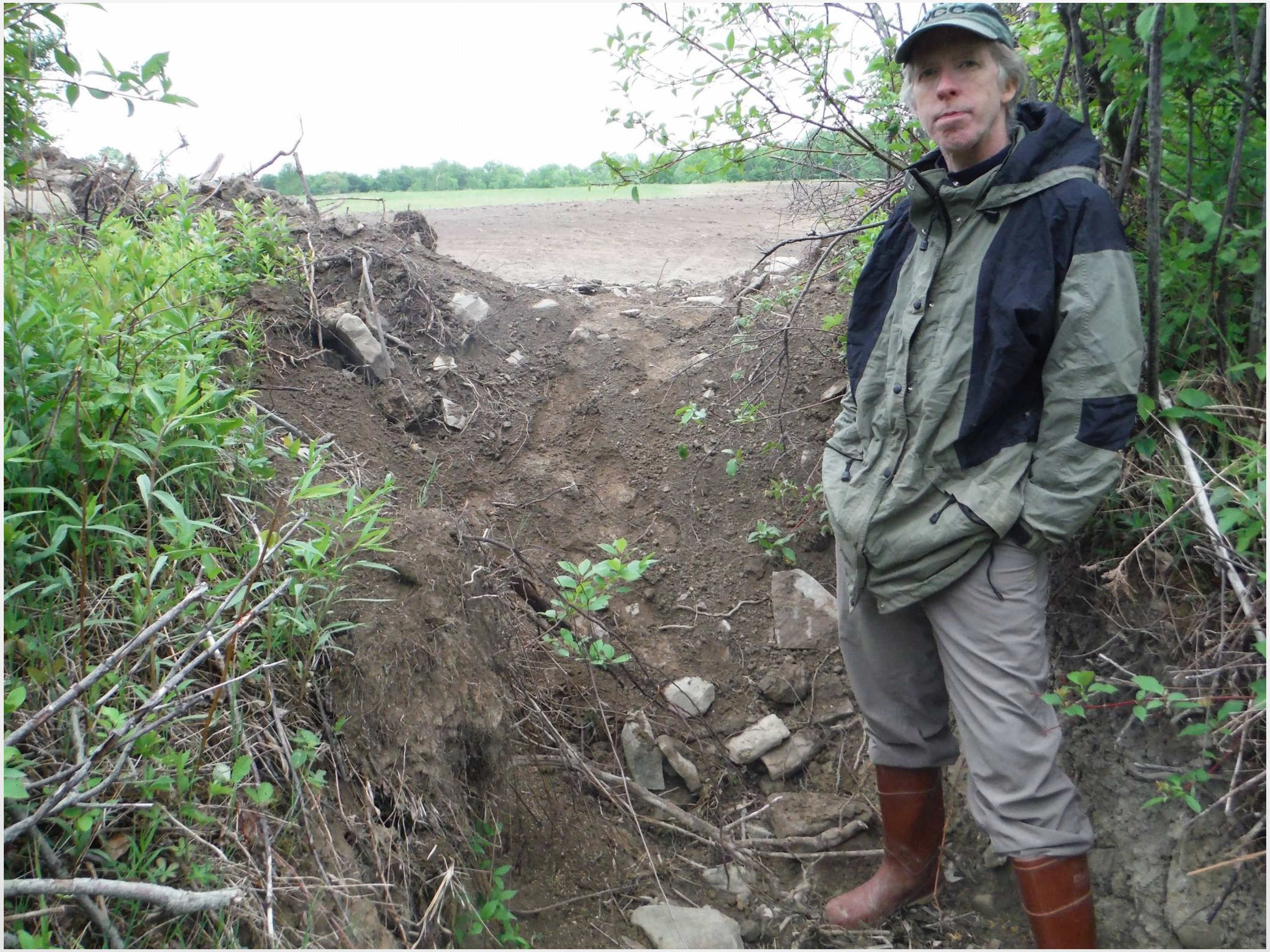


Defending conservation

- **Terrafirma Risk Retention Group, LLC**
  - Unique insurance program protecting its members from the legal costs of conservation defense
  - Owned and managed by its insured member land trusts
  - Has fixed premiums
  - Trains and educates on risk management
  - Members must also be members of the Land Trust Alliance and carry general liability insurance

TERRAFIRMA RRG LLC

Land Trust Alliance
Together, conserving the places you love

Risks of owning caves and karst

- **Business-related problems**
  - Accusations of mismanaging funds
  - Accusations of discrimination
  - Accusations of harassment
- **Directors & Officers insurance**
  - Not just for directors and officers: good “association-style” policies also protect your volunteers and committee members
  - Not just for organizations with employees

How the NCC used to manage risk

- Up until 1997, we only had one property to worry about
  - We knew of the “sportsman's law” in New York
  - We collected waivers
- By 2011, we had 7 preserves, all potentially at risk if an accident at any of them resulted in losing a lawsuit
  - A search for liability insurance coverage revealed:
    - Many insurers think caves are too dangerous
    - Many don't see the difference between us and commercial caves or amusement parks
    - Many are way too expensive for a small volunteer organization to afford
  - We purchased a policy we were able to afford
  - One property had a conservation easement on it, and we were in negotiations for easements on two other properties

Learning about liability exposures

- **Ask a lawyer for advice!**
  - The NCC applied for and reveiced a grant that awarded pro-bono legal services
  - Used those services to conduct a study of statutes and case law history about liability exposures to cave owners in New York and Vermont
  - Asked questions about several topics (mostly the ones discussed in this presentation)
  - End product was a pair of memos explaining risks and protections specific to our organization and the jurisdictions we owned or expected to own land in, along with recommendations about what to do.

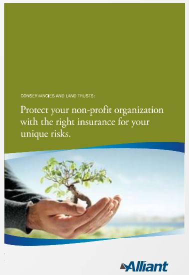
How the NCC manages risk today

These choices may not be the right ones for your organization's current needs!

- We carry insurance (Gen. Liability and Directors&Officers)
- We're a proud member of Terrafirma RRG, LLC
- We no longer collect waivers
- We post an “Assumption of Risk” statement at the kiosk at all our preserves, and on paperwork for “Special Use” groups
- We've discontinued looking to place additional preserves under conservation easements
- We participate in LTA risk management training, and attend conferences like this one to share with and learn from our karst management colleagues across the country

Resources to learn more

- Land Trust Alliance
  - Vast amounts of information useful to all aspects of running a land trust http://www.landtrustalliance.org/
- Terrafirma Risk Retention Group, LLC
  - Insurance for conservation defense http://terrafirma.org/
- Conserve-A-Nation insurance program
  - Insurance for conservation organizations
  - http://www.alliant.com/



- NSS Cave Conservancies Roundtable
  - Each year at NSS Convention http://caves.org/
- NCKMS
  - You're already here! http://nckms.org/