

New Rules, New Partners,  
New Solutions

Stewardship of Mitigation Banks

Presented by  
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Center For Natural Lands Management  
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# Discussion Topics

- Goals for successful mitigation
- Partnerships
- Due Diligence: PAR program, determining stewardship funding & managing endowments
- Examples highlighting partnerships
- In-lieu fees
- Solutions – What is needed to ensure long term success

# Center for Natural Lands Management

Founded in 1990

Mission: Perpetual Stewardship of Mitigation and  
Conservation Lands

Acres Under Mgmt: 58,000+

67 Preserves (3 acres to 29,000 ac.)

Fee title, Conservation Easements, Contract

17 Mitigation/Conservation Banks

Endowment Funds \$49,800,000

\*An additional \$15,800,000 (in-lieu fees)

# Goals for Successful Mitigation

- No net loss of species or habitats
- Sustainable functioning ecosystems
- Confidence of resource agencies and public
- Cost effective for project proponent/developer
- Efficient use of public \$
- Sound credible perpetual stewards of these lands

# Roadblocks...

Costs \$\$\$

Bidding process

Bureaucracy

Contracting with State

State may not be best habitat manager

Fluctuating State budgets

Example: California fiscal crisis = \$14.5 BILLION

State law regarding investment policies

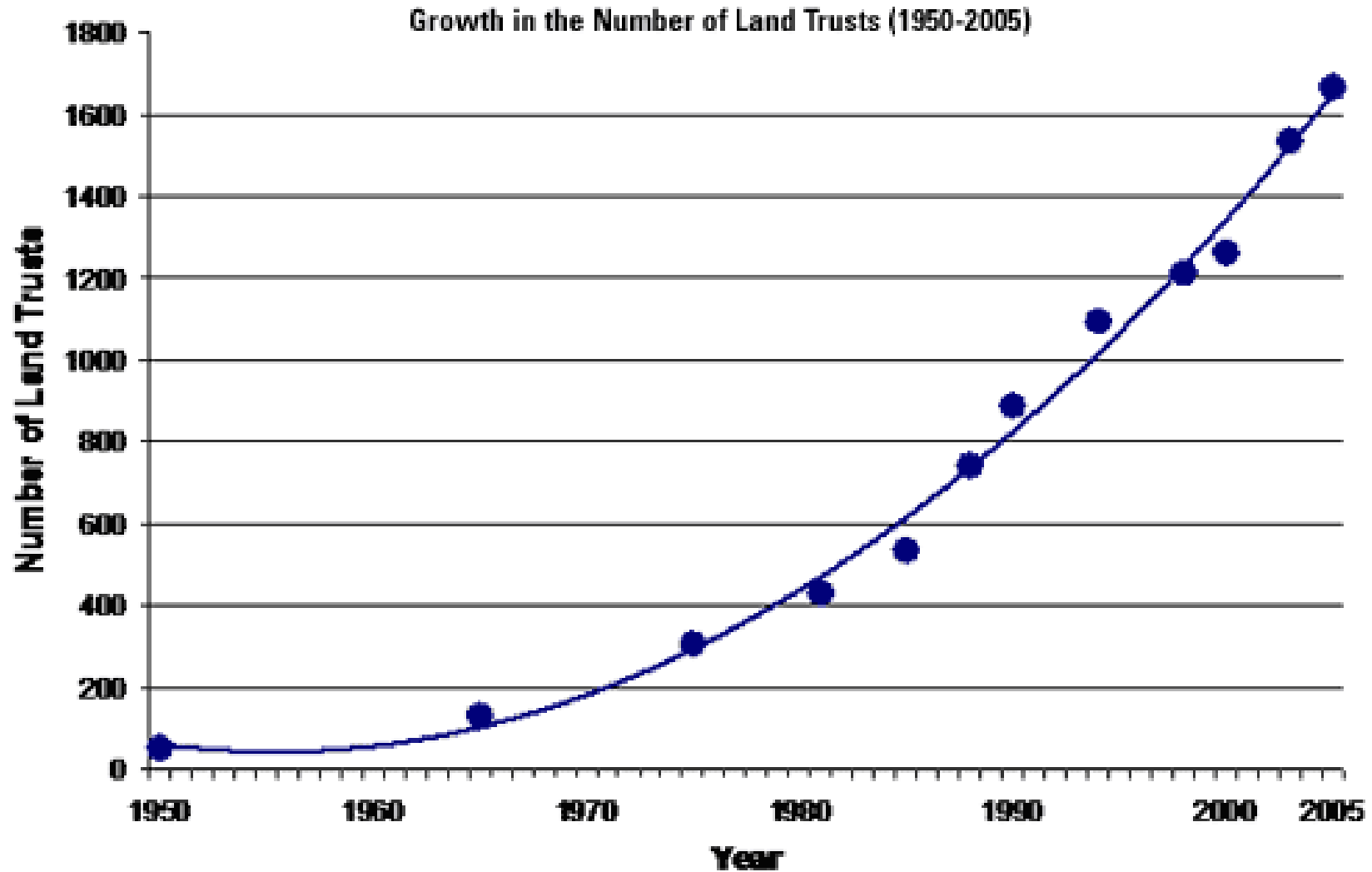
Negotiating agreements, CE's between multiple agencies

# Mitigation Banking Partner

## *Several Options for Stewardship Partnerships*

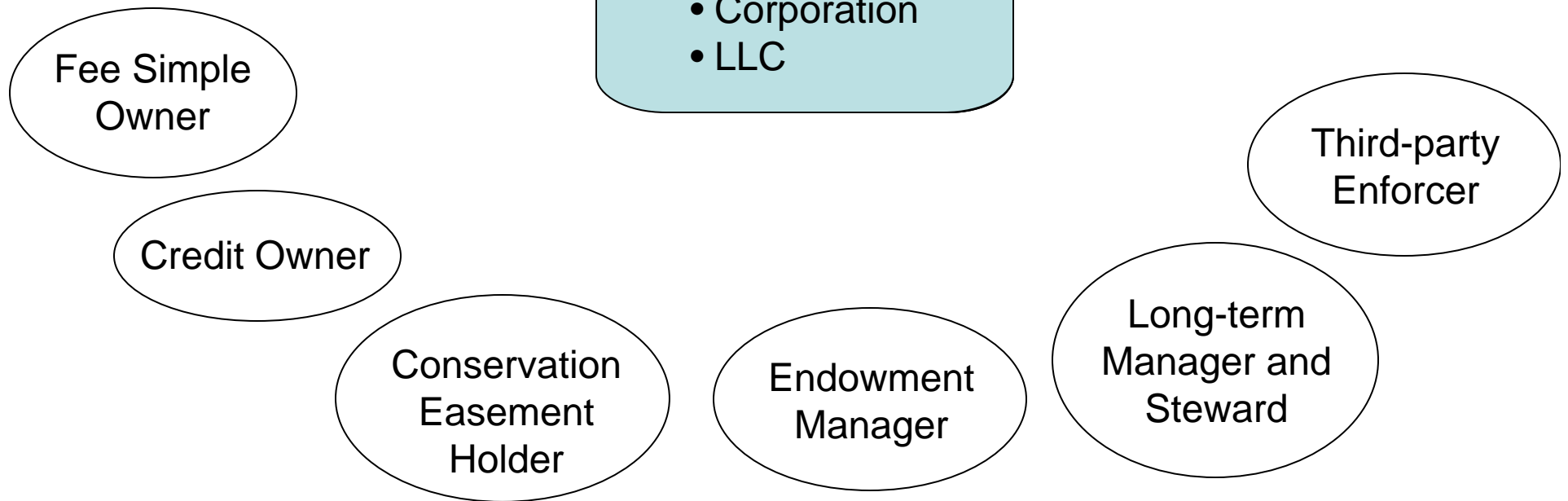
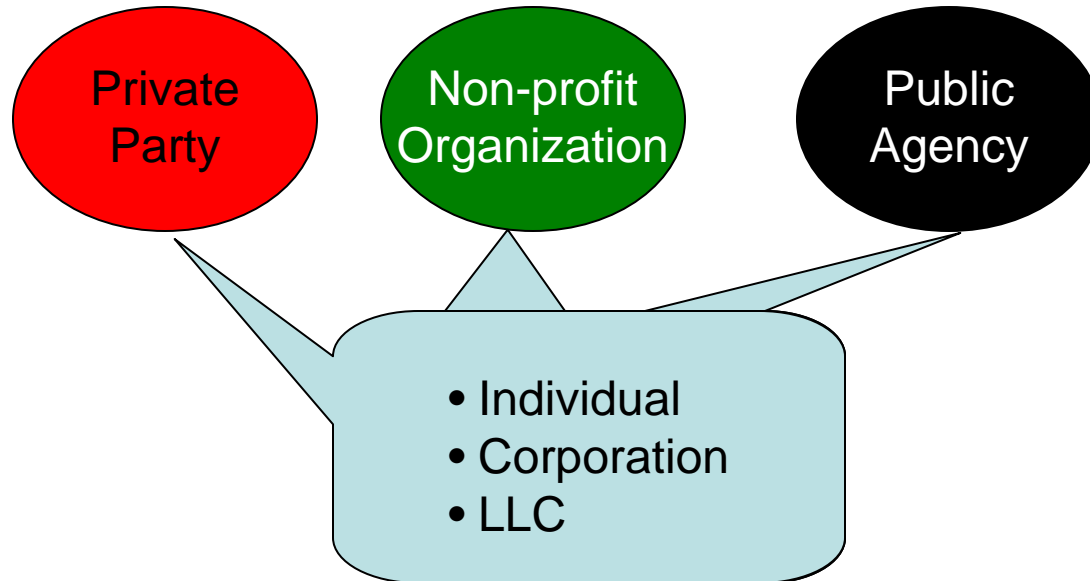
- Fee title holder
- CE – Compliance Monitoring only
- CE – with full/partial stewardship responsibilities
- CE – Compliance & Endowment holder
- Contract Manager-  
no title interest
- Banking Partner/  
Investor
- Endowment Manager

# Land Trusts 1950-2005



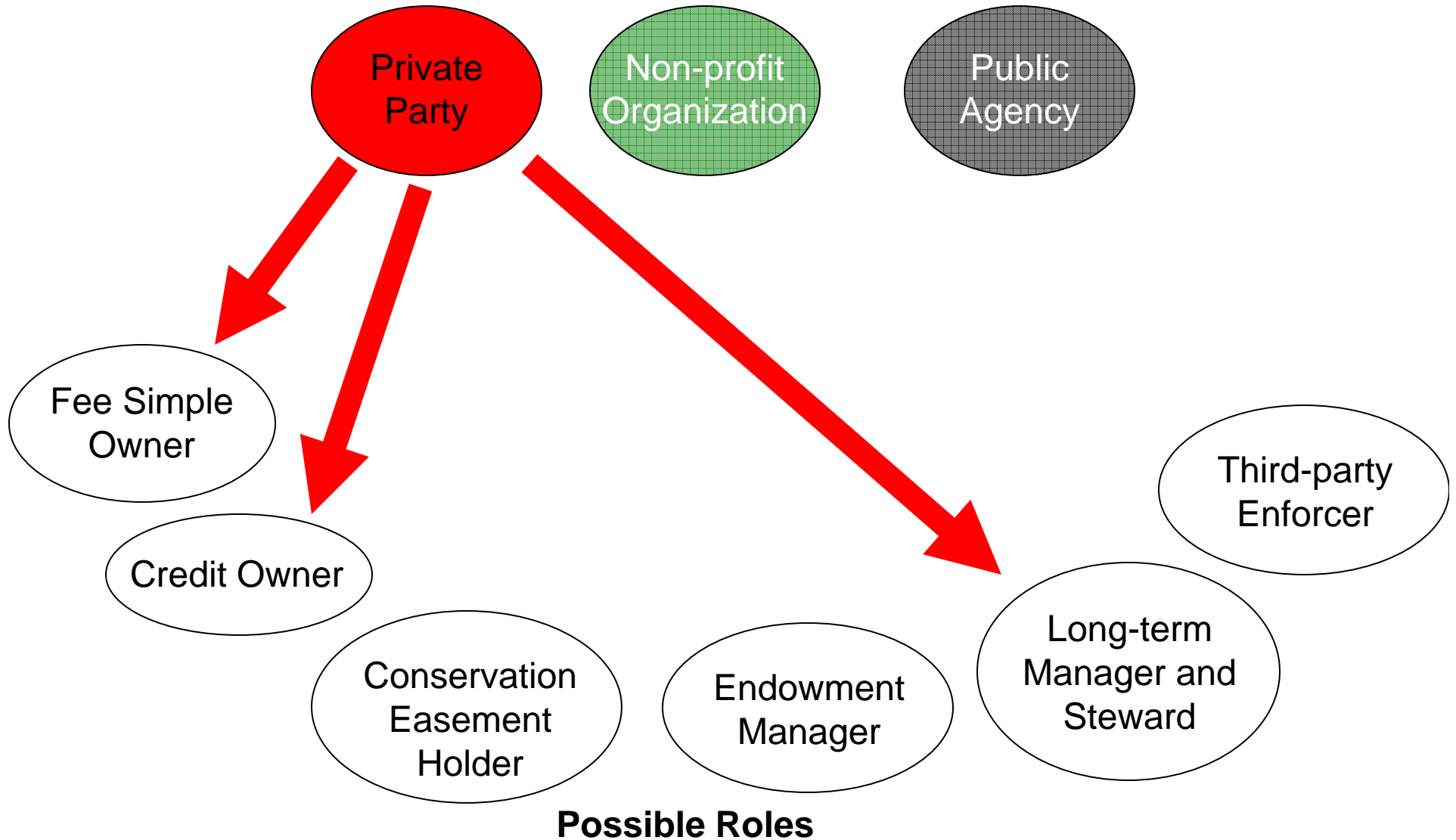
# Roles in Mitigation Banks

## Possible Agents

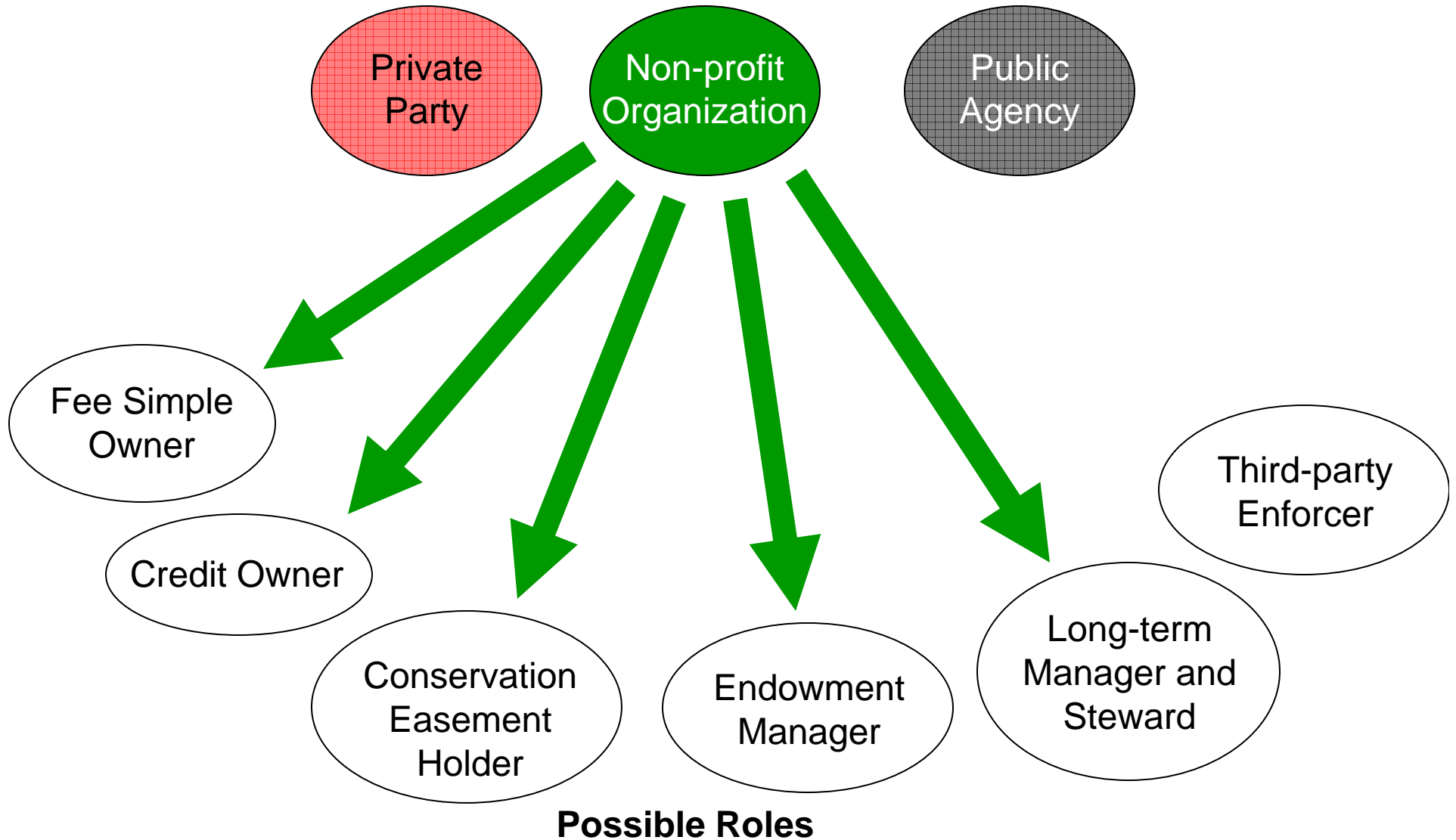


## Possible Roles

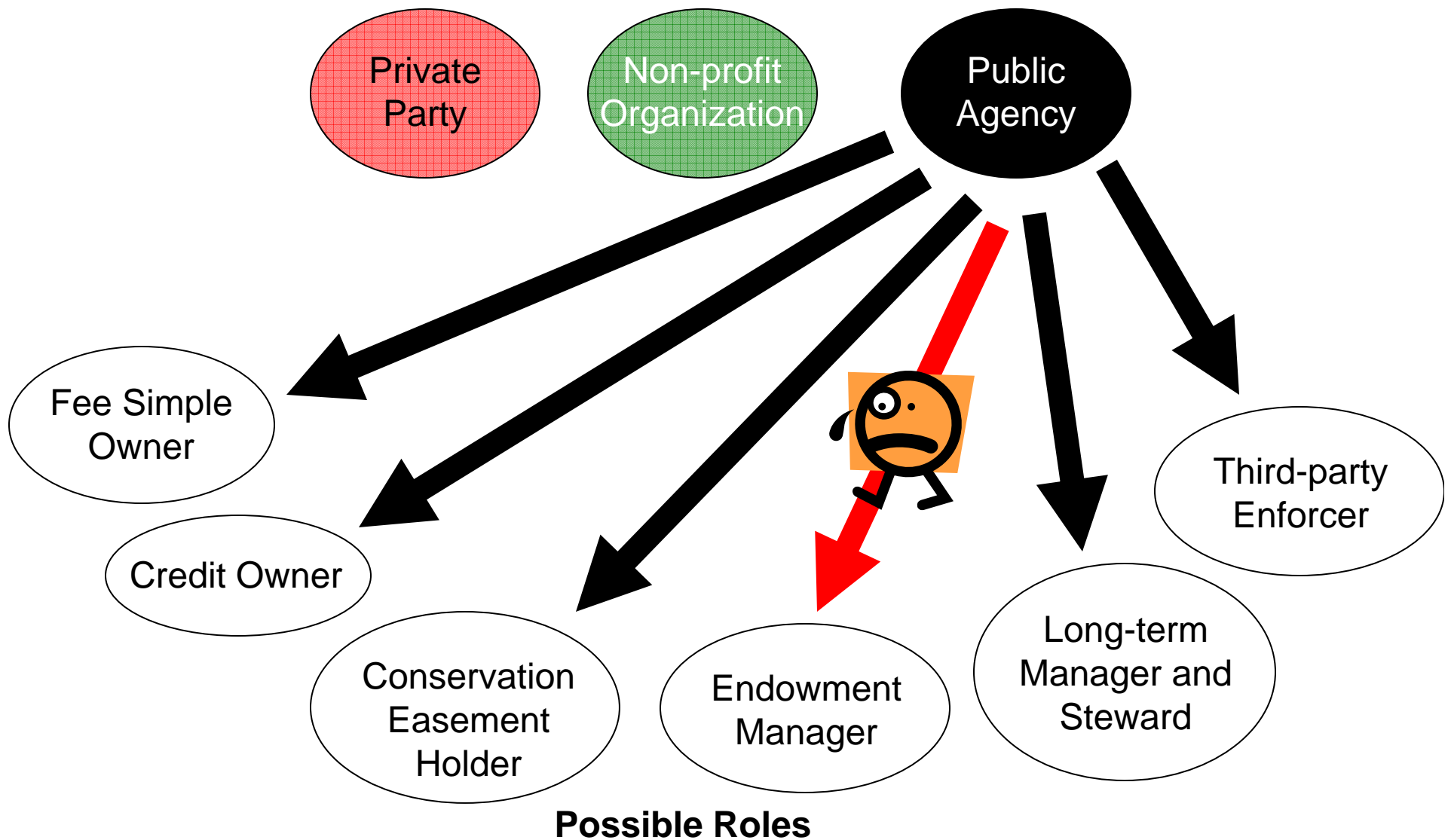
# Roles in Long-term Stewardship



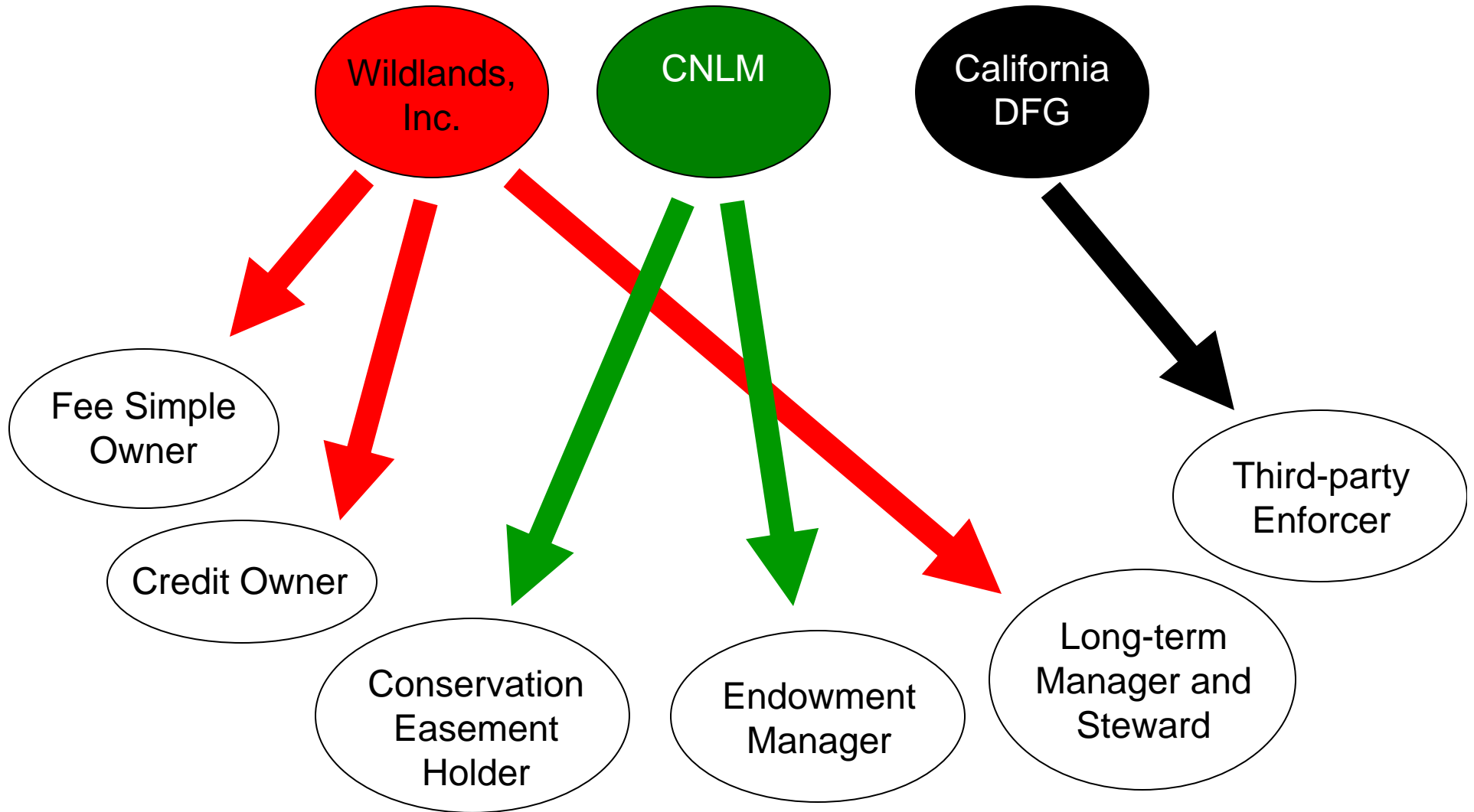
# Roles in Long-term Stewardship



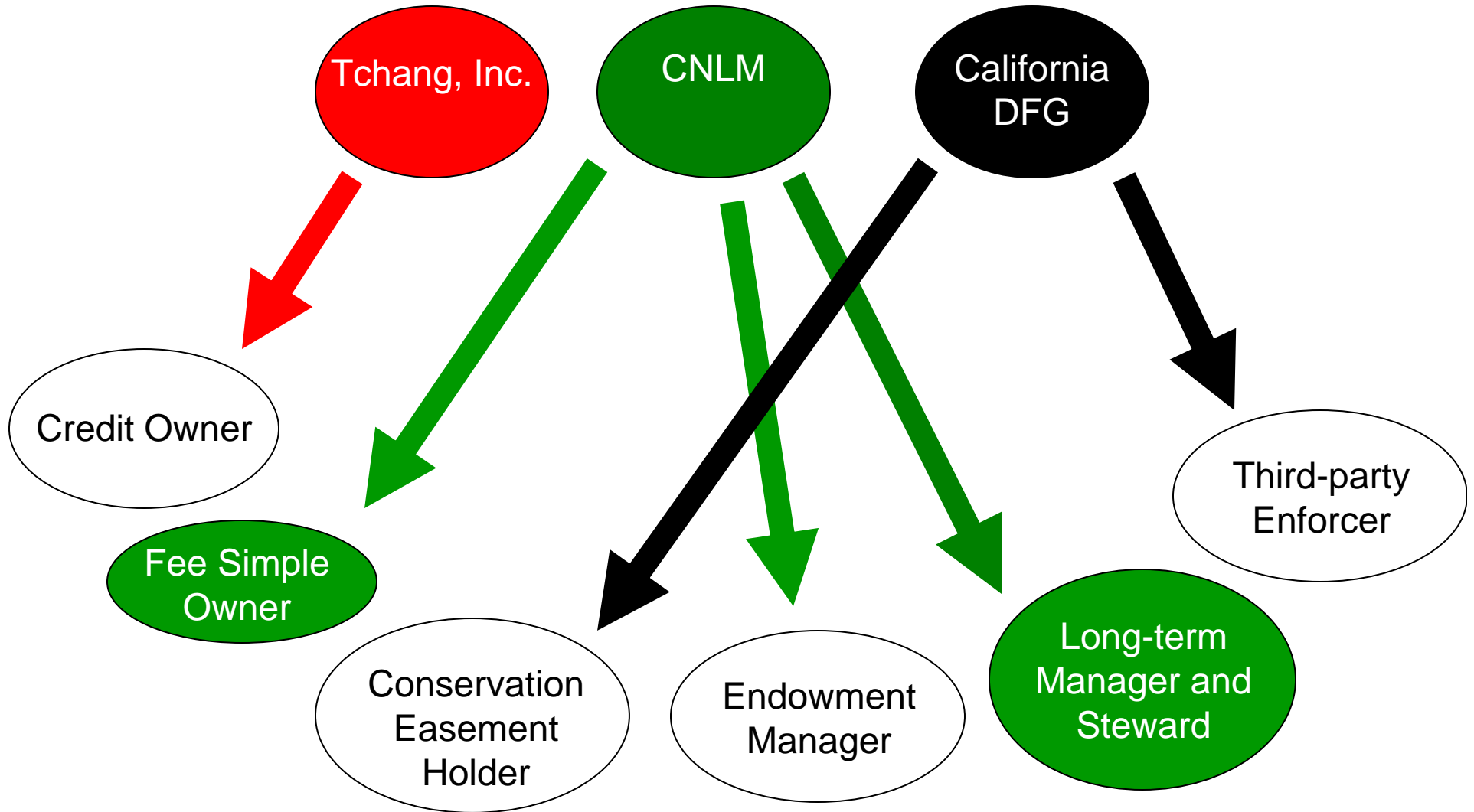
# Roles in Long-term Stewardship



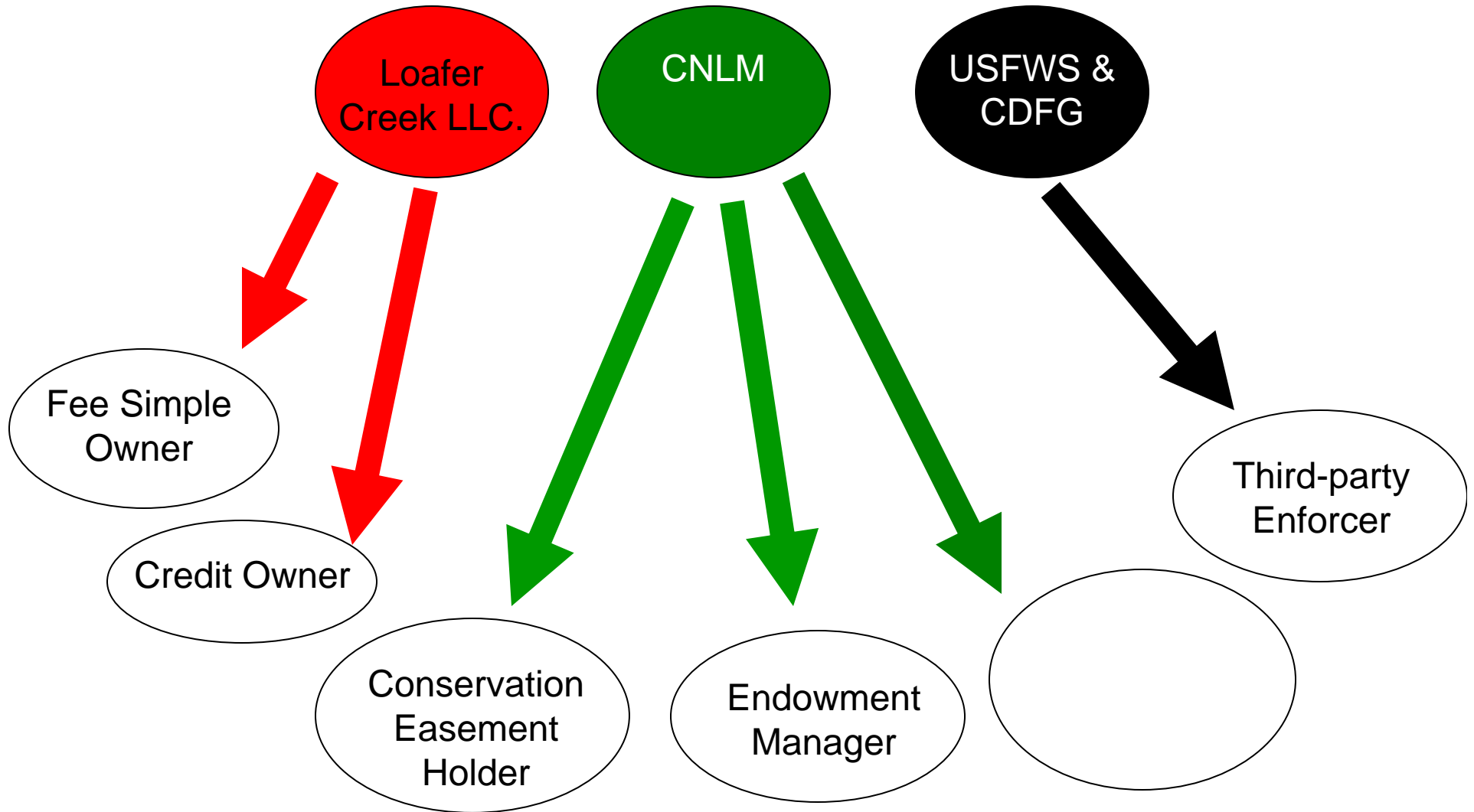
# Example: Krayenhagen Bank



# Example: Manchester Bank



# Example: Dove Ridge Bank



# Other Ways Non-Profits Assist with Mitigation Projects PG&E Example

- HCP mitigation for impacts to transmission towers
- Up to 30 years of mitigation needed
- CNLM hired to complete acquisitions for first 5 years
- CNLM can purchase credits in banks, buy fee or CE's, and manage with an endowment. \$2M to start
- PG&E has 7 days to respond to specific property or bank credits
- USFWS has 30 days to respond. If no answer, concurrence is assumed. Yes, it's in the permit!
- Some species mitigation extremely small: banks are best bargain. As little as \$6500/acre at banks (high \$324k/ac)

# CNLM Stewardship Model

- Perform due diligence before acquisition of property interests
- Consult with resources agencies on species/habitat requirements and transactional documents
- Prepare “Property Analysis Record” (PAR)
- Grant third party enforcement rights to resources agencies
- Document baseline habitat conditions at acquisition of property interest

- Establish stewardship fund:
  - pool funds for investment; preserve-specific accounting
  - legal fund, R&D fund
  - annual independent auditing of accounts
- Perform scheduled compliance monitoring and reporting
- Use best management practices
- Employ adaptive management methodology
- Prepare and implement five-year preserve management plans with annual work plans and reports
- Confer regularly with resources agencies
- Regularly test actions against CNLM mission statement

# Property Analysis Record - PAR

- Helps to plan management tasks and costs for individual projects
- Due Diligence
- Becomes the justification for long-term funding

The PAR facilitates  
communication by  
translating biological and  
protection requirements  
into the common language  
of currency

# KEY ISSUES

## For Entities Holding Endowment Funds

- Fund Accounting
- Segregation of Funds
- Inflation Adjusted Endowments
- Financial Controls and Audits
- Investment Policy
- Trust Docs as an Addendum to Banking Agreements
- Credibility of Investment Mgr
- Escrow Account for Credit Sales
- Conservation Easement
- Careful about use of bonds- too difficult to track/collect

Steward may have no financial investment or profit sharing in banks. Therefore, they have no incentive to assume financial risk.

# SOLUTIONS!

- National Standards and Guidelines for all bank stewards. Should be in the Rules!
- Consistent CE's, MOU's, Agreements amongst Agencies
- **The devil is in the details.** Get the deal and the documents right! No place for ambiguity
- Conduct an accurate and thorough due diligence
- Stewardship endowment must be adequate
- Have an experienced endowment manager

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Rise Early,  
Stay Late and  
Take Care of the Land