

# protect your place

## Guide to Understanding Conservation Easements



TETON REGIONAL LAND TRUST



# To the Landowner

Founded in 1990, the Teton Regional Land Trust is a community-based non-profit conservation organization that works to conserve private land in Eastern Idaho through the acquisition and stewardship of voluntary conservation easements. Since 1990, the Land Trust has worked in partnership with private landowners to conserve farms, ranches, and wildlife habitat that are critical to the region's communities – both human and wild.

The Land Trust has partnered with over 100 families across Eastern Idaho. Although meaningful accomplishments have been made, thousands of acres of working land and critical wildlife habitat remain vulnerable to escalating development throughout the region. We know and love Eastern Idaho, and we understand that conserving your land is an important decision. We hope that this information helps to answer questions about how the Teton Regional Land Trust can help you achieve your conservation vision for your property.

Sincerely,

*Teton Regional Land Trust*

**The mission of the Teton Regional Land Trust is to conserve working farms and ranches, fish and wildlife habitat, and scenic open spaces in Eastern Idaho for this and future generations.**

**“Taking care of the land is important to me so it can be passed on to future generations, and so my grand kids will have a place to farm and enjoy.”**

**- Delbert Winterfeld, Swan Valley, Idaho**





“Because of Teton Regional Land Trust, we have been able to make needed improvements, which made the ranch even better. We’re so happy to be working with them. Having the ranch stay in operation and be a profitable and beautiful place to always be able to come home to is awesome. Thanks, Teton Regional Land Trust. “

- Angel Harris, Rexburg, Idaho

Jennifer Walton

# Table of Contents

Where does the Teton Regional Land Trust work?..... 3

What land qualifies? ..... 4

How the Land Trust keeps its promise to landowners..... 4

Ways to protect my family’s land ..... 5

Protecting my land: What I need to know..... 6

Conservation easement appraisals ..... 9

I protected my land: What happens now?..... 10

Contact information ..... 11



# Where Does the Land Trust Work?



The Teton Regional Land Trust serves the upper Snake River region of eastern Idaho including: Clark, Fremont, Teton, Madison, Bonneville, Jefferson and portions of Bingham, Butte, and Lemhi counties. We also serve portions of Teton County, Wyoming that lie on the western side of the Teton Range. While we work with landowners to protect many important properties across the Land Trust service area, we focus our land conservation efforts along the Teton, South Fork, Henry's Fork, and Main Snake rivers within critical wildlife migration corridors and in areas of community importance.





The Teton Valley and Henry’s Fork Region were ranked number one and two for the most irreplaceable (in terms of habitat and open space) and most vulnerable (in terms of threat of development and fragmentation) landscapes of the Greater Yellowstone Ecosystem.

- Reed Noss, et al. 2002

# What Land Qualifies?

Before approving a conservation easement, the Teton Regional Land Trust Board of Directors must determine if the project meets the mission of the Land Trust, the protection of the property will provide a significant public benefit, and the Land Trust is capable of carrying out the perpetual stewardship obligations for the particular conservation easement. Prospective lands must have significant value in one or more of the following categories:

- Property of significant size or connectivity to other public or privately-protected land
- Productive farm and ranchland that also provides significant open space
- Significant wetland and riparian habitats necessary for the protection of water quality, fish and wildlife
- Habitat for endangered, threatened or rare species
- Important wildlife habitat or migratory routes
- Open lands that remain in relatively natural, undisturbed conditions
- Preservation of historic lands or structures
- Protection of significant scenic views for the general public
- Maintenance of, or provision for new, public access

## Keeping our Promise

The Land Trust holds ultimate responsibility to ensure your property is protected in perpetuity. To ensure we have the financial resources to live up to our legal obligation into the future, the Land Trust has a Dedicated Stewardship Fund.

When you conserve your property, we deposit an amount, calculated specifically for your property, into this fund to ensure our ability to support and uphold your conservation goals and the resources of your land in perpetuity.

We ask landowners to share in the costs associated with granting a conservation easement to the extent they are able. In cases where these costs create a barrier to conserving important lands, we work with landowners to find funding.

# Ways to Protect My Family's Land

## *Conservation Easements*

### **Donating a Conservation Easement**

Donating a conservation easement allows landowners to retain ownership of their land while ensuring its protection in perpetuity. In this case, landowners may be eligible to receive a tax deduction for the value of the conservation easement. The value of the easement is based upon the difference between the appraised fair market value with and without easement restrictions.

### **Selling a Conservation Easement**

In cases where the land meets the Land Trust's conservation objectives and funding sources are available, the Land Trust may offer to purchase the easement. Like donating a conservation easement, landowners retain ownership of their land while ensuring its protection in perpetuity. The value of the easement is based upon the difference between the appraised fair market value with and without easement restrictions.

### **Bargain Sale Conservation Easement**

A bargain sale conservation easement is a combination of donating and selling a conservation easement. A landowner may choose to sell their conservation easement below the appraised value, as a "bargain sale". Under these circumstances, the Land Trust may offer to purchase the easement at a discounted rate, while the landowner may be able to utilize the remainder of the easement's value for a tax deduction. The value of the easement is based upon the difference between the appraised fair market value with and without easement restrictions.

## *Other Ways to Conserve Land*

### **Donating Land**

In some cases a landowner may wish to donate their land to the Land Trust outright for its protection. When title to the property is transferred to the Land Trust, we become responsible for its permanent protection. Landowners can do this during their lifetime or arrange to have it done after their estate is settled. If done during one's lifetime, the landowner or their estate may qualify for significant tax benefits. If done after the estate is settled (through a will), then a reduced, but still significant, tax benefit may accrue to the estate.

### **Donating Land with a Retained Life Estate**

Landowners can also transfer their property to the Land Trust while continuing to live on it for the rest of their lives. This retained life estate arrangement may also provide both the landowner and their estate with significant tax benefits.

### **Selling Your Land**

In certain situations, the Land Trust may be interested in purchasing title to your land. Depending on your preference, the Land Trust would own and manage the property or place a conservation easement on the property and sell to a conservation-minded buyer to ensure that it remains protected forever.

# Protecting My Land: *What I Need to Know*

## **What does a land trust do?**

A land trust is a service organization for landowners interested in permanently protecting their land. The Teton Regional Land Trust assists landowners with all phases of the conservation easement process. After a conservation easement is completed and recorded, the Land Trust is the entity responsible for monitoring and enforcing the restrictions the landowner chooses to place on the land. Ultimately the Land Trust is responsible for ensuring the terms of the conservation easement are upheld in perpetuity.

## **What is a conservation easement?**

A conservation easement is a voluntary, legal agreement between a landowner and a land trust that limits certain uses of the land – like large scale residential subdivision – in order to conserve the natural and traditional values of the land. Landowners grant conservation easements to protect the resources of their property, while retaining the rights of private ownership. The terms of the conservation easement represent a mutual agreement between the landowner and the Land Trust. We only work with willing landowners and do not ask the landowner to enter into an agreement if he or she is not satisfied.

## **Why do landowners protect their land?**

Landowners love their land. They also understand the challenges that threaten the integrity of their land. Many landowners are concerned that their family's home and way of life will disappear. Conservation easements can forever safeguard family land from being developed. Landowners may receive payment for their conservation easement or receive a tax benefit, including one that might aid in reducing estate tax liabilities.

## **Does the landowner give up ownership of the land?**

No. The landowner continues to own the property and may sell it or leave it to their heirs. However, the agreed-upon restrictions in the conservation easement document remain with the land forever.

## **Does the Land Trust work with other land conservation organizations?**

Yes. Collaboration is the core of the Land Trust's work. The Land Trust works in partnership with landowners, community members, state and federal agencies, local land trusts, and others to ensure success.



**"It would take a man down to see something like this destroyed. The river and the land are a part of our family. Conserving this land made a whole lot of sense to me and my family. The conservation payment our family received when we signed the conservation easement helped out tremendously when malt barley contracts, yields, and production were unstable for several years. And, by working with the Land Trust, we know that no matter what, this land will never be developed."**

**- John Nedrow, Ashton, Idaho**





# Protecting My Land: *What I Need to Know*

## **Can I still build on my land?**

Yes. Many landowners reserve the right to build additional homes and agricultural structures on their land. Typical conservation easements limit the amount and type of development permitted on the property.

## **Can I still work my land?**

Yes. Teton Regional Land Trust conservation easements encourage continued use for agricultural production, grazing, timber harvesting, and other uses consistent with the conservation and resource values being protected.

## **Does the Land Trust manage my property?**

No. The management of the property remains the responsibility of the landowner. The Land Trust is responsible for working with the landowner to ensure that the management of the property is consistent with the conservation and resource values protected by the easement. The Land Trust also strives to help landowners enhance the resources on their property and achieve their management goals through programs supported by grants and partners.

## **Can I lease my land even if I bring in substantial income?**

Yes. Farm leases are permitted but are also subject to the terms of the conservation easement.

## **Can I sell my property if it is under easement?**

Yes. The landowner retains title to the property and can sell it or gift it to others. The conservation easement “runs with the land,” meaning the conservation easement is recorded as a perpetual deed attached to the property, and a purchaser takes the title to the property subject to the restrictions and conditions of the conservation easement.

## **Do conservation easements require public access?**

No. Conservation easements do not require public access. While a landowner may choose to allow public access, there is no obligation to do so.



# Protecting My Land: *What I Need to Know*

## **Once a conservation easement is in place, can it be removed?**

No. Conservation easements remain in perpetuity. The Teton Regional Land Trust has a legal obligation to make sure the terms of the easement remain intact forever.

## **Are there tax or financial benefits for donating a conservation easement?**

Yes. The donation of a qualified conservation easement can be considered a charitable gift under federal tax law, potentially providing significant estate and income tax benefits. A donated conservation easement may also lower estate tax liability, financially enabling the passage of family lands from one generation to the next. Teton Regional Land Trust strongly encourages landowners to consult with their attorney or tax advisor to fully explore the potential estate and income tax benefits from the charitable donation of a conservation easement.

## **How is the value of a conservation easement determined?**

The value of a conservation easement is determined by a specialized appraisal completed by an independent qualified appraiser. The value of the easement is based upon the difference between the appraised fair market value with and without easement restrictions.

## **Are there costs associated with conserving my land?**

Yes. Conserving your family land typically involves some cost. Expenses can include title reports, surveys, baseline documents, appraisals, legal services, and financial advisor services. Additionally, we do ask conservation easement landowners to make a one-time contribution to establish a Dedicated Stewardship Fund for their property. The Dedicated Stewardship Fund ensures our ability to support and uphold the landowner's conservation goals in perpetuity. We ask landowners to share in the costs associated with granting a conservation easement to the extent they are able.

## **Do I need an attorney?**

Yes. It is important that landowners have an attorney review the conservation easement document on their behalf to ensure they understand the legal ramifications of such a long-term commitment.

**"The property is in our blood. We have a deep emotional connection with the river, the land, and the people up here. Recognizing the sacrifice and hardships experienced by those early settlers has given us deep feelings about the place that goes to the heart. We find the tranquility of our little place infectious and thrive on the air scented with sage. Though our perseverance is tried by arid summer days and biting white winters, our passion for our place remains genuine."**

**- Carma Lufkin, Heise, Idaho**



Photo Courtesy of Carma Lufkin

# Protecting My Land: *What I Need to Know*

## Is the Land Trust still involved after I place a conservation easement on my property?

Yes. In accepting the easement, the Land Trust assumes responsibility for assuring the IRS that the easement provisions will remain effective in perpetuity. The Land Trust has the responsibility of visiting the property annually to ensure that the easement terms are upheld. The annual visit provides a great opportunity for the landowner and the Land Trust to discuss easement terms, management challenges, and grant programs available to assist landowners. The Land Trust does not take part in the day to day management of easement properties.

## What are the advantages of working with the Teton Regional Land Trust?

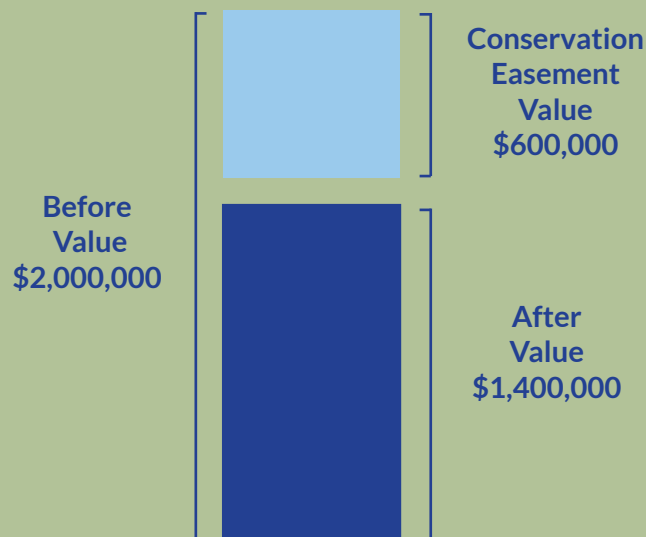
The Teton Regional Land Trust is very closely tied to the land conservation community in Eastern Idaho. We feel that we understand the concerns of the community and the needs of landowners. In addition, our nonprofit tax status can bring a variety of tax benefits. Donations of land, conservation easements, or money, may qualify you for income or gift tax savings. Furthermore, the Teton Regional Land Trust is a private organization; we are able to be more flexible and creative with our conservation options than public agencies.

## What happens if the Land Trust goes out of business?

Teton Regional Land Trust's bylaws state that if the Land Trust were to cease to exist, all assets of the organization, including conservation easements, will be transferred to another 501 (c) 3 organization with a similar mission or another qualified conservation easement holder. You can rest assured knowing that the longevity of your easement and its perpetual protection are intact.

## Conservation Easement Appraisals

When a conservation easement is granted, the restrictions on future development often reduce the market value of the property. The value of a conservation easement is generally estimated as the difference between the market value of the property unencumbered ("before") and the market value of the property subject to the easement restrictions ("after"), as determined by a qualified appraiser. For example, the "before" market value of a developable property is the amount a person would pay for the property at the current time with its development rights available. The "after" market value is the amount a person would pay for the property, knowing that it is permanently restricted from some or all development. The difference between the before and after values is the value of the conservation easement.





# I Protected My Land: *What I Need to Know*

## **What is stewardship?**

Private land stewardship encompasses the responsible management of your property's resources. As a steward of the land, you are ensuring the protection of the natural resource values your property provides, as well as simultaneously promoting the long-term sustainable uses of these resources.

## **How does the Land Trust ensure the land is protected in perpetuity?**

Working with willing landowners to complete a conservation easement on private land is the first step to lasting protection. With each conservation success comes a deep and permanent responsibility. To make sure the conservation vision of the easement is being honored, members of our stewardship staff visit conserved properties annually. Building relationships with landowners by walking their land with them and working to address common concerns helps ensure conservation easements are upheld.

## **What are the landowner's obligations?**

The landowner has an obligation to uphold the terms of the conservation easement agreement. Although the landowner retains ownership of the land, certain development rights may be restricted. It is the obligation of the landowner to give the Land Trust proper notification before exercising rights reserved in the conservation easement or transferring ownership of the property. This notification gives the Land Trust staff the opportunity to ensure that the activity will not affect the conservation values of the property.

## **What are the Land Trust's obligations?**

The Land Trust's stewardship obligations for conservation easement properties include annual site monitoring visits, responding to landowners' questions about easements, maintaining positive relationships with landowners, building relationships with new landowners, ensuring easement terms are upheld, and responding to landowners' requests to exercise property rights reserved in the conservation easement.

## **What does stewardship cost?**

To ensure we have the financial resources to live up to our legal obligation into the future, the Land Trust has a Dedicated Stewardship Fund. When you conserve your property, we deposit an amount calculated specifically for your easement into this fund to pay for costs associated with supporting and upholding your conservation goals. We ask landowners to share in the costs associated with granting a conservation easement to the extent they are able. In cases where these costs create a barrier to conserving important lands, we will work with landowners to find funding.

## **What resources are available?**

There are numerous resources available to support landowners in accomplishing their long-term stewardship goals for their land. The Land Trust is here to answer questions and provide contacts for agencies, non-profits, and other special programs to support management efforts and habitat restoration projects on your property, including noxious weed control. We are here to support you!



The mission of the Teton Regional Land Trust is to conserve working farms and ranches, fish and wildlife habitat, and scenic open spaces in Eastern Idaho for this and future generations.



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Photos: Land Trust staff unless otherwise noted