

# Basic Information About Land Trusts

Across America, thousands of people are determined to conserve the places they value. Landowners have a deep connection to their land and know the gifts undeveloped properties provide their communities: clean air and water, fresh food, timber, wildlife habitat, and sheer scenic beauty. All too often these special places disappear forever. Americans who want to protect their land are turning to land trusts – non-profit organizations that hold land and conservation easements for conservation purposes.

**What Does a Land Trust Do?** Land trusts protect land directly by buying or accepting donations of land or conservation easements. Once a land trust owns land or a conservation easement, they become responsible for protecting it. This is accomplished through annual monitoring of easements and through annual stewardship activities on land that is owned. This ensures that the promises to protect are kept. Land Trusts also educate the public about local land protection, potential benefits of protecting land, and about the importance of caretaking our lands. Land trusts can help landowners tailor a conservation plan to their individual situation and financial circumstances, and determine the property's conservation values.

**What types of land can be protected by land trusts?** Land trusts protect a variety of lands, the Siskiyou Land Trust concentrate its efforts on:

- Working landscapes like farmland, ranchland, and forest lands have special significance for growing food and for wildlife
- Natural habitat for wildlife, fish and plants such as river corridors, forests, bluff lands, or wetlands
- Watershed areas like lakeshores, rivers, streams, and other natural features
- Scenic landscapes, particularly those with local community, cultural or historic significance

**How Does a Land Trust Conserve Land?** Land trusts have many options available to them in order to conserve land. Two of the most popular options are fee simple and conservation easements.

**Fee Simple** A land trust can conserve land through an outright purchase or donation, in which the landowner sells or grants all rights, title and interest in the property to the land trust. The land trust maintains perpetual stewardship and management responsibility for the land. It owns the land and may grant conservation easements on land it owns in fee to another conservation organization, agency or town.

**Conservation Easement** A conservation easement (or conservation restriction) is a legal agreement between a landowner and a land trust or government agency that permanently limits uses of the land in order to protect its conservation values. It allows the landowner to continue to own and use the land and to sell it or pass it on to heirs.

A landowner may sell a conservation easement, but usually easements are donated. If the donation benefits the public by permanently protecting important conservation resources and meets other federal tax code requirements, it can qualify as a • tax-deductible charitable

donation. The amount of the donation is the difference between the land's value with the easement and its value without the easement. Placing an easement on property may or may not result in property tax savings.

Perhaps most importantly, a conservation easement can be essential for passing land on to the next generation. By removing the land's development potential, the easement lowers its market value, which in turn lowers estate tax. Whether the easement is donated during life or by will, it can make a critical difference in the heirs' ability to keep the land intact.

### **What Are a Land Trust's Responsibilities Regarding Conservation Easements?**

The land trust is responsible for enforcing the restrictions detailed in the easement document. Therefore, the land trust monitors the property on a regular basis, typically once a year, to determine that the property remains in the condition prescribed by the easement document.

### **What are some of the Other Methods Land Trusts use to Protect Land?**

- Planned Gifts
- Mutual Covenants
- Deed Restrictions
- Rights of First Refusal
- Conservation Buyer Program
- Registry Programs
- Limited Development
- Like-kind Exchanges

**Where Do Land Trusts Get Funding to Conserve Land?** Land trusts draw upon a variety of sources to buy land, or interests in land, using a unique and proactive method called conservation financing. Conservation financing utilizes local, state, federal and other funding sources to protect open space and manage growth.

Since the amount of federal funding available for conservation fluctuates annually, local funding is the key to effective, long-term conservation financing. It is important to have local commitment and control. Local funds also help leverage federal, state and private dollars, establishing a predictable and sizable conservation funding stream. State and local governments continue to fund open space acquisition, viewing parks, recreation and habitat as "green infrastructure" important to the quality of life and the economy.

**What are the Advantages of Working with a Land Trust?** Land trusts have many advantages as land protection organizations. One advantage of working with land trusts is that they are very closely tied to the communities in which they operate. They can draw on community resources, including volunteer time and skills. Their community orientation is also helpful in selecting and negotiating transactions. They are familiar with the land in the area and often have the trust and confidence of local landowners who may not want to work with entities from outside the area.

Moreover, the nonprofit tax status of land trusts brings them a variety of tax benefits. Donations of land, conservation easements or money may qualify for income, estate or gift tax savings. Properly structured land trusts are exempt from Federal and state income taxes and sometimes from local property and real estate transfer taxes as well.

Additionally, due to the fact that land trusts are private organizations, they can be more flexible and creative than public or government agencies, and can often act more quickly. They can hold and manage land and other assets as a corporation, and are able to negotiate with landowners discreetly.

## **Frequently Asked Questions**

### **CONSERVATION EASEMENTS<sup>1</sup>**

#### **What Is A Conservation Easement?**

A conservation easement is a legal agreement between a landowner and an eligible organization (such as a land trust) that restricts the activities that may take place on a property in order to protect the land's conservation values.

When land is protected by a conservation easement, the promise to protect the land and the conservation values attached to that land last forever. A conservation easement remains in place regardless of who owns title to the land. Land that is protected by a conservation easement is monitored by the land trust on an annual basis to ensure that the land owners are following the terms agreed to in the easement.

#### **Why Do Conservation Organizations Acquire Easements?**

Easements are used as a conservation tool because they allow landowners in the community to protect land without giving up the land, and they allow conservation to occur without the land trust having to own the land or take direct responsibility for its management. If preservation of the land is primarily for agriculture, scenic, or water protection purposes, its resources can often best be protected through a conservation easement and continued private ownership. The upfront cost of acquiring a conservation easement can be significantly less than purchasing the fee title interest, although the long-term costs of managing and enforcing an easement must be taken into consideration.

#### **What Kind of Property Can be Protected by an Easement?**

Properties with significant conservation or historic preservation values can be protected by an easement, provided an organization is willing to accept the easement. This includes tracts of forest, wetlands, farms and ranches, wildlife habitat, scenic areas, historic buildings, gardens, landscapes, and more. Easements can also be used to protect lands that will be restored for conservation purposes.

#### **What Can an Easement Grant?**

Any owner of property with conservation or historic resources may grant an easement. If the property belongs to more than one person, all owners must grant the easement. If the property is mortgaged, the owner must obtain a consent letter from the lender so that the lender cannot extinguish the easement in event of foreclosure. The consent, called mortgage subordination, is

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<sup>1</sup>This information is provided by The Conservation Easement Handbook by Elizabeth Byers and Karin Marchetti Ponte. 2005. Published by Trust for Public Lands and Land Trust Alliance.

a requirement and is essential is the easement donor wants to qualify for a federal income tax deduction. The Siskiyou Land Trust was established in 1993 to accept conservation easements.

### **Who Can Accept the Grant of an Easement?**

Public agencies or non-profits whose purposes include conservation or historic preservation can hold conservation easements. State conservation easement statutes have varying provisions on the types of entities that may hold a conservation easement.

Holding an easement is a substantial, long-term responsibility. As such, land trusts that hold easements must make sure they have the ability to carry out that responsibility. IRS regulations specify that easement holders must have a commitment to protect the conservation purposes of the donation and have the resources to enforce the restrictions. An organization that accepts the donation of an easement typically asks the landowner to make a contribution toward the costs of monitoring and enforcing the easement over time. The Siskiyou Land Trust follows this practice, and puts those funds into a Stewardship Fund.

### **How Restrictive Is An Easement?**

An easement generally restricts activities or development to the degree necessary to protect the significant historic or conservation values of the property. An easement may cover all or part of the property, and can restrict areas of the property differently. Some easements prohibit all activities except for the continuation of current uses; these restrictions are based on the wishes of the owner and the sensitivity of the resources. Other agreements allow for a variety of uses that have been determined to be appropriate by both the landowner who grants the easement and by the land trust that is accepting the easement. All easements must provide some documented public benefit.

Easements typically permit landowners to continue their responsible management of the land. If the goal is to preserve a pristine natural area, an easement may prohibit all construction and mining activities, and all other uses that would harm the land's natural condition. If the easement protects farm- or ranchland, it may limit subdivision and development while allowing for structures and activities necessary for agricultural operations.

### **How Long Does The Easement Last?**

Conservation easements are intended to last forever – these are known as perpetual easements. Only gifts of perpetual easements qualify a donor for income tax or estate tax benefits. A perpetual easement runs with the land – that means that the owner granting the easement and all subsequent owners are bound by easement terms.

Because an easement is a partial interest in real estate, it must be recorded at the Siskiyou County Recorder's office where deeds are filed. When an easement is recorded, all future owners and

lenders have the opportunity to learn about the easement restrictions when they examine the property's title.

### **Does An Easement Require Public Access?**

Landowners who grant conservation easements choose whether or not to open their property to the public. Some landowners grant public access rights with their easements, such as allowing fishing or hiking in specified locations or to permit periodic guided tours. Many landowners decide not to include public access provisions in their conservation easements.

A conservation easement requires public access only if the primary conservation value of the property is public recreation or educational use. IRS regulations specify *how much* public access is necessary for a public recreation easement to meet the IRS conservation purpose. A scenic easement requires that much of the property be visible to the public, but physical access is not necessary. Access is generally not required for easements that protect wildlife or plant habitats, open space, or working lands such as agricultural or forest lands.

### **What Purpose Can Easements Serve?**

Easements may serve a variety of conservation purposes, and may be called by specific names according to the primary resource they protect. Easements used to preserve farmlands may be called agricultural easements. When the resource being protected is primarily scenery and viewshed, easements may be called scenic or scenic conservation easement. Working-forest conservation easements protect forests that continue to be managed for timber production, and working-ranch conservation easements are used on lands managed for grazing. Trail easements typically cover only a corridor through which the trail passes and public access is allowed.

Whatever they are called, the legal concept is fundamentally the same: certain land use designations or restrictions are imposed by the landowner, and the holder of the easement is granted the right to protect these important resources by enforcing those restrictions and designations in the future.

In many cases, easements can serve multiple purposes. For example, an easement seeking to preserve an estate may include aspects of historic preservation, scenic easement, a working forest easement, and agricultural easement.

# Siskiyou Land Trust's Conserved Lands

## Hammond Pond



*Acres:* 70

*Conservation Values protected:* wetlands, wildlife habitat, open space, (especially migratory birds/Sandhill Crane),

*Land Trust Ownership Interest:* Fee title

*Year Acquired:* 1993

*Means Acquired:* by Donation

*Location:* Hammond Ranch approximately 2.5 miles from the city of Weed, CA, Siskiyou County

*Access:* Limited public access

*Stewardship:* Over 2 dozen volunteers conduct annual maintenance and monitoring activities led by John Brennan & the Outdoor School

## Trinity River Easement – Ward Family

*Acres:* 70

*Conservation Values Protected:* Wildlife migration, river corridor, salmon spawning and rearing habitat, historic Native American site, open space

*Land Trust Ownership Interest:* Conservation Easement

*Year Acquired:* 1998

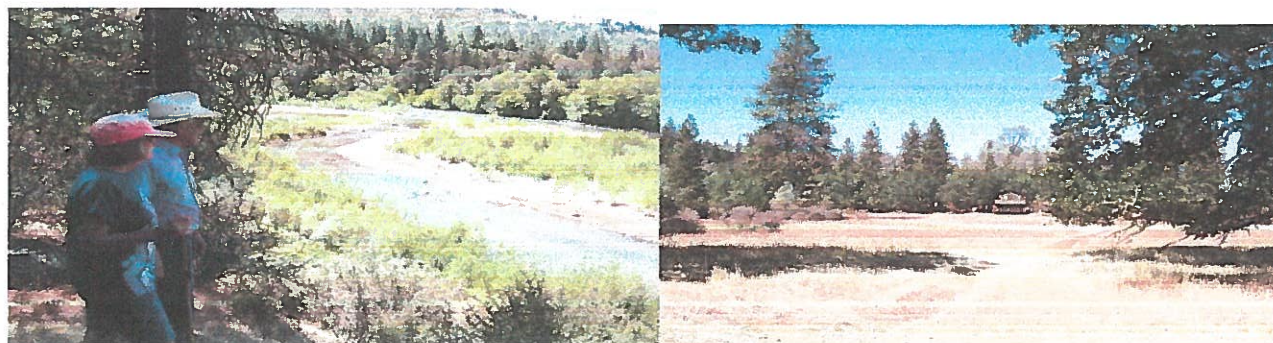
*Means Acquired:* Donation

*Location:* Salt Flat near the town of Lewiston, Trinity County

*Landowners:* John & Evelyn Ward

*Access:* No public access. Access allowed to SLT annually for easement monitoring.

*Stewardship:* 2-4 volunteers conduct annual easement monitoring and reporting led by Jess Ward & Kathleen Hitt



## Sisson Meadow



*Acres:* 7.5

*Conservation Values Protected:* historic wetland, wildlife habitat, open space, viewshed of Mt. Shasta and surrounding mountains

*Land Trust Ownership Interest:* Fee title ownership

*Year Acquired:* 2003

*Means Acquired:* Purchased with California State grant funds (Proposition 50 – State Parks)

*Location:* Mount Shasta, Ca – Accessed at end of Castle Street or via path behind Mt. Shasta Library, Sisson School, and ball fields

*Landowner:* Siskiyou Land Trust

*Access:* Public access

*Stewardship:* Over 50 volunteer stewards participate in meadow up-keep, restoration and enhancement, and education projects led by Sam Baxter, Dennis McFall, Sandra Walters and Rebeca Franco

## Scott River Conservation Easements - Plank, Whipple & Spencer families

*Acres:* 6,700+

*Conservation Values Protected:* Agriculture, rangeland, wildlife habitat and migration corridors, 3.75 miles of Scott River riparian corridor, salmon spawning and rearing habitat, open space

*Land Trust Ownership Interest:* 6 Conservation Easements

*Year Acquired:* 2010 & 2016

*Means Acquired:* Purchased with grant funds via Department of Conservation's California Farmland Conservancy Program, Wildlife Conservation Board's Grass, Grazing, and Ranchland Protection Program (Proposition 84), and NRCS Agricultural Land Easement Program

*Location:* Scott Valley – Etna, CA

*Landowners:* Keith and Harrie Whipple, Melinda Whipple-Smith-Plank, Jennifer Whipple, Whipple Inc., E. Gareth Plank, John and Carol Spencer.

*Access:* No public access. Access to SLT annually for easement monitoring and special events

*Stewardship:* 2-4 volunteers conduct annual easement monitoring led by Kathleen Hitt (staff)



## Garden Greenway



*Acres:* 2.9

*Conservation Values Protected:* Agriculture (community and school garden and future orchard site), soil, viewshed, wetlands, wildlife habitat, trails, and open space

*Land Trust Ownership Interest:* Fee title

*Year Acquired:* 2014

*Means Acquired:* Purchased with community campaign. Payment of landowner loan to be completed by 2019 with grant funds.

*Location:* Mount Shasta, CA

*Landowner:* Siskiyou Land Trust

*Access:* Open daily and year-round for public access

*Stewardship:* 15 garden volunteers, building stewards, trails stewards, and community advisory group. Community garden area is shifting focus to educational community garden in partnership with local schools and Boy & Girls Club. *Trails lead steward*—Jack Moore.

*Office building steward* – Rod Myers. *Educational Program Development* – Renee Casterline

## Mt. Shasta City Park to Downtown Trail and Greenway

*Acres:* 5 acres of land and approx.. 1 mile of trail

*Conservation Values Protected:* viewshed, wetlands, wildlife habitat and open space, trails

*Land Trust Ownership Interest:* Fee title and trail right-of-way easement

*Year Acquired:* 2014

*Means Acquired:* Land purchased with community partner funds (Mount Shasta Trail Association, Mount Shasta Rotary, Mountain Runners, Mountain Wheelers); donated trail easement (Crystal Geyser Co.)

*Location:* Mount Shasta, CA

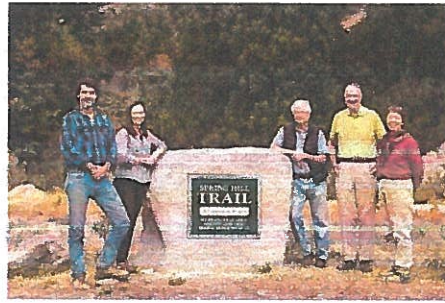
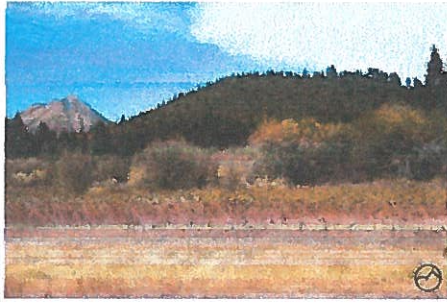
*Landowner:* Siskiyou Land Trust (Kingston Meadow) & Crystal Geyser (Connector Trail)

*Access:* Public access

*Stewardship:* Mount Shasta Trail Association, Mount Shasta Rotary, , Mt. Shasta Recreation and Parks District, and Siskiyou Land Trust. *Lead Steward for SLT:* Glenn Harvey. *Lead trail development stewards:* Mount Shasta Trail Assoc.



## Spring Hill Trail



*Acres:* trail right of way from Ski Village Road parking area to top of Spring Hill with loop trail  
*Conservation Values Protected:* viewshed, wetlands, forest, wildlife habitat and open space, trails

*Land Trust Ownership Interest:* trail right-of-way easement

Previous public access was acquired by the Land Trust and MS Trail Assoc. through a lease agreement with Coca Cola that expired.

*Year Acquired:* 2015

*Means Acquired:* Donated by Crystal Geysers Co.

*Location:* Mount Shasta, CA

*Landowner:* Crystal Geysers Co.

*Access:* Open daily with year-round accessibility for the general public. Completed trail in partnership with Mt. Shasta Trail Association.

*Stewardship:* Conducted entirely through volunteer efforts by Mount Shasta Trail Association, Mount Shasta Rotary, and Siskiyou Land Trust .

## Rainbow Ridge – Wherrit Conservation Easement & Stewardship

*Acres:* 600 acres

*Conservation Values Protected:* working forest (FSC certified tree farm) viewshed, wetlands, wildlife habitat and open space

*Land Trust Ownership Interest:* facilitated conservation easement. Easement held by State of California. Stewardship of easement in cooperation with Siskiyou Land Trust – future fee title acquisition via landowner’s Charitable Trust donation.

*CE To be Acquired:* December 2017

*Means Acquired:* sale of conservation easement via Forest Legacy Program and California Greenhouse Gas Reduction Fund

*Location:* Mount Shasta, CA adjacent to the Shasta-Trinity National Forest

*Landowner:* Tamar Wherrit

*Access:* Access for education and stewardship granted to SLT by landowner on project basis. Future public access trail proposed along ridge top to connect to existing recreational trails.

