



GUIDE

CONSERVATION EASEMENTS

TEXAS LANDOWNERS



TEXAS
LAND TRUST
COUNCIL

TABLE OF CONTENTS

Introduction	3
Part One: What is a Conservation Easement?	4
Part Two: Questions About Conservation Easements	5
Part Three: Financial Benefits of Conservation Easements	9
Part Four: Conservation Easement Profiles	13
Part Five: Land Trusts	34
Part Six: What Next?	35
 Appendix	
Contents of a Conservation Easement	36
Resources and Publications	37
Texas Land Trusts	37

Original preparation and distribution of this Guide was funded through a Wetlands Protection State Development grant made by U.S. EPA Region VI to the Texas Parks and Wildlife Department. Updates and reprinting provided by the Texas Parks and Wildlife Department and the Texas Land Trust Council. Written by Jeff Francell; 2000 revisions by Maria Lane; 2002 revisions by Sarah Timmer; 2003 and 2009 revisions by Tommi Ferguson.

Special thanks to the landowners profiled, and all those who reviewed and commented on this Guide.

Legal consultation provided by Stephen J. Small, Esq., A. Ryland Howard, Esq., David D. Braun, Esq., Burgess Jackson, Esq., Jerry Webberman, Esq., and Susan Armstrong, Esq.

For copies of Conservation Easements:
A Guide for Texas Landowners, contact:

Texas Land Trust Council
P.O. Box 40505, Austin, Texas 78704-0505
Phone: (512) 236-0655
info@texaslandtrustcouncil.org



Mixed Sources

Product group from well-managed
forests and other controlled sources
www.fsc.org Cert no. BV-COC-080317
© 1996 Forest Stewardship Council



Introduction

BECAUSE OF ITS SIZE AND UNIQUE GEOGRAPHY, TEXAS IS BLESSED WITH A RICH NATURAL HERITAGE.

From the mountains in the west to bottomlands and bayous in the east, from the high plains in the north to the brush country down south, Texas private landowners manage more than 95 percent of the state's land. But the Texas landscape is changing. Today, about 80 percent of all Texans live in cities, compared to about 25 percent 50 years ago. As Texas cities grow, they are steadily displacing natural habitats and scenic open spaces.

The Texas countryside is changing too. One of the most significant factors affecting Texas' landscape is the continued breakup (or fragmentation) of family-owned property. Family-owned farms, ranches and recreational lands are affected by changing economics and the increasing tax burden of owning property. Passing on a family farm or ranch to the next generation is a time-honored tradition in Texas. However, estate taxes, which can be as high as 45 percent of an estate's total value, may force heirs to sell all or part of a family property.

For many Texas landowners, their property is more than a financial asset; it is part of the history of their family, their community and their state.

This guidebook is intended to help Texas landowners understand one of the most flexible and effective means available to conserve and protect

private property – the conservation easement. A conservation easement is a voluntary legal agreement that ensures a property will be maintained according to the landowner's wishes for years into the future and may also qualify the landowner for tax benefits. Every conservation easement document is individually crafted and reflects the special qualities of the land protected and the needs of the landowner. Conservation easements can assist landowners in protecting their farm or ranch land, wildlife habitat, open spaces, water resources, a scenic vista, historic buildings, or archaeological sites. Conservation easements can be tailored to meet a landowner's specific needs, whether he or she owns 5,000 acres in South Texas or five acres in the Texas Hill Country.

This guidebook also profiles nine landowners (including several individuals, a large cattle ranch operator and a residential real estate developer), each of whom has used a conservation easement to protect something the landowner values. These profiles illustrate how conservation easements can help people conserve wetlands, habitat for rare plants and animals, urban open space and family traditions. In all cases, the specifics of the conservation easement document are unique to the property and the landowner.

Part One: WHAT IS A CONSERVATION EASEMENT?

A **conservation easement** is a written agreement between a landowner and the “holder” of the conservation easement under which a landowner **voluntarily** restricts certain uses of the property to protect its natural, productive or cultural features. The holder of the conservation easement must be a governmental entity or a qualified conservation organization. With a conservation easement, the landowner retains legal title to the property and determines the types of land uses to continue and those to restrict. As part of the arrangement, the landowner grants the holder of the conservation easement the right to periodically assess the condition of the property to ensure that it is maintained according to the terms of the legal agreement.

Many rights come with owning property, including the rights to manage resources, change use, subdivide or develop. With a conservation easement, a landowner limits one or more of these rights. For example, a landowner donating a conservation easement could choose to limit the right to develop a property, but keep the rights to build a house, raise cattle and grow crops. The landowner may continue his or her current use of the property, provided the resources the conservation easement is intended to protect are sustained.

Texas’ landscape and its people are diverse. Because every landowner and every property is unique, a conservation easement agreement can be designed to meet specific, individual needs.

Why Use a Conservation Easement?

Landowners interested in conservation generally have two principal concerns. First is the desire to protect the natural or productive qualities of their property. The landowner is interested in conserving special features such as fertile soil, mature trees, wildlife habitat or a piece of history – even after his or her ownership comes to an end.

Along with conservation, landowners are also concerned about maintaining their property’s productivity. The economics associated with land ownership are changing and fewer family-owned properties are the primary source of a family’s income. Along with maintaining productivity, Texas landowners must also contend with the increasing tax burden associated with property ownership. Estate taxes, property taxes and the financial incentive to sell or develop are all economic factors that affect land use decisions.

Conservation easements enable landowners to protect resources they value for their children and future generations while maintaining private ownership. In Texas, conservation easements are generally donated to nonprofit conservation organizations, commonly known as **land trusts**. The donation of a conservation easement can have potentially significant tax benefits, which are discussed later in this guidebook.

Conservation easements are recognized for legal and tax purposes by the State of Texas (Chapter 183, Texas Natural Resources Code) and the Internal Revenue Service (Internal Revenue Code, Section 170(h)). This guidebook will answer general questions that a landowner might have about conservation easements. Before completing a conservation easement agreement, landowners should consult with their legal and tax advisors.

Part Two: QUESTIONS ABOUT CONSERVATION EASEMENTS

Does every conservation easement qualify for an income tax deduction?

No. To qualify as a charitable contribution, conservation easement donations must:

- be perpetual, meaning continuing forever;
- be donated to a qualified organization (a land trust or governmental entity); and
- be donated exclusively for recognized “conservation purposes,” as set out in the Internal Revenue Code.

Does every conservation easement have to be perpetual?

For the donation to qualify for income and estate tax benefits, the conservation easement must be perpetual and apply to all future owners. Some organizations, however, may be willing to purchase or otherwise accept conservation easements that are designed for a period of years. For example, the Wetlands Reserve Program administered by the Natural Resources Conservation Service (NRCS), pays landowners for limited-term conservation easements on restored or existing wetlands that provide significant habitat for birds and other wildlife. However, these term conservation easements do not qualify for federal tax benefits.

Can conservation easements be purchased?

Yes, conservation easements can be purchased. Purchased conservation easements are sometimes referred to as “PDRs,” which stands for “purchased development rights.” Often the amount available to purchase the conservation easement is less than the value of the conservation easement. In such cases, the transaction may qualify as a “bargain sale” transaction that can also result in a tax benefit to the



landowner. The amount of the benefit generally will be the value of the conservation easement. In such cases, the transaction may qualify as a “bargain sale” transaction that can also result in a tax benefit to the landowner. The amount of the benefit generally will be the value of the conservation easement less the amount paid. How conservation easements are typically valued is discussed later in this guidebook. In 2005, the Texas Legislature established the Farm & Ranch Lands Conservation Program which is housed in the Texas General Land Office. This program is intended

to facilitate the purchase of development rights (as funds are available) for eligible properties. (Interested landowners can contact the Texas Land Trust Council regarding program developments). Moreover, some Texas cities have passed local bond issues to buy conservation easements. Currently, the United States Department of Agriculture, through the Natural Resources Conservation Service (NRCS), has two programs – the Farm and Ranch Lands Protection Program and the Wetlands Reserve Program, through which the agency buys development rights or provides monetary matches to local governments and land trusts.

What are the “conservation purposes” recognized by the Internal Revenue Code?

The Internal Revenue Service Code Section 170(h) requires that conservation easement donations meet one or more of the following conservation purposes:

- preserves land for public outdoor recreation or education;
- protects relatively natural habitats of fish, wildlife or plants or similar ecosystems;
- preserves open space – including farms, ranches, pasture land or forests – either for public scenic enjoyment or in keeping with a clearly delineated federal, state, or local governmental policy; or
- preserves historically important land or certified historic structures.

Each conservation easement must meet at least one, but not all, of these recognized purposes. The conservation purpose of most conservation easement donations in Texas is derived from the protection of open space or wildlife habitat.

Can a conservation easement protecting open space in a real estate development qualify for an income tax deduction?



No tax deduction will be allowed if the donation is made under compulsion (e.g. required mitigation for a legal violation). If a donation of a conservation easement is made in exchange for a benefit that the landowner receives, the amount of the charitable donation (and resulting tax benefit) will be reduced by the value of the benefit or may be negated entirely depending on the nature of the benefit (e.g. required mitigation to receive a permit or other entitlement). Also, charitable income tax deductions for real estate developers are generally limited to the tax basis of the property. In some cases, the donation of a conservation easement as part of a

development can make economic sense for a developer who is motivated by conservation objectives. The developer is encouraged to begin conservation planning as early in the development process as possible in order to preserve the voluntary or charitable aspects of donating a conservation easement and the resulting charitable tax deductions.

Does a conservation easement grant public access to my property?

No. Landowners retain control of access to their property. They may choose to allow access to specific groups or the general public in their conservation easement agreement, but are not required to do so.

Can I still sell my property?

Yes. Property with a conservation easement can be bought, sold and inherited. However, the conservation easement is tied to the land and binds all present and future owners to its terms and restrictions.

What will a conservation easement mean for my children?

A conservation easement may reduce estate taxes paid by heirs. Future landowners, including family members, must abide by the terms of the conservation easement agreement and will continue the relationship with the organization that “holds” the conservation easement. Families should consider the trade-off between immediate tax benefits resulting from reduced property value and permanent restrictions on land use. Professional assistance is available and recommended for families considering this option.

What if the property is owned by more than one person?

All owners of a property must agree to the terms of the conservation easement before it can be legally granted.

Can I still build on my property?

The landowner may retain specified development rights in a conservation easement agreement. For example, a conservation easement protecting a farm or ranch may allow construction compatible with agricultural operations as well as changes in crop selection or management practices. A conservation easement can specify the location, size and type of one or more residences, barns or other development on a property.

What if my property is mortgaged?

If land is encumbered by a deed of trust, mortgage or other lien, the lien must be subordinated to the terms of the conservation easement in order for the donation of the conservation easement to qualify for federal tax benefit. Under a subordination agreement, the lienholder agrees to follow the terms of the conservation easement in the event of foreclosure.

What if I don't own the mineral rights to my property?

This is a complicated issue that should be discussed with professional advisors. However, a landowner who does not own the mineral rights to his or her property can qualify for income or estate tax benefits if:

- owners of the mineral rights waive their right to utilize the surface of the land to develop the minerals; or
- the owner proves that the probability of surface mining occurring on the property is “so remote as to be negligible.” Such proof may require a report from a qualified geologist based on an evaluation of the potential for mineral development on the land.

Where are conservation easements recorded?

Like a deed or other types of easements, conservation easement documents are recorded with other land records in the county in which the property exists.

Can conservation easements be changed or revoked?

Because conservation easements qualifying under IRS regulations are designed to be permanent, landowners should assume that it will not be possible to revoke a conservation easement. However, conservation easements can be amended if:

- both the conservation easement holder and the landowner agree to the terms of the change; and
- the IRS recognized “conservation purposes” of the conservation easement are not affected.

When a tax deduction has been received by a landowner, special care should be taken in amending the conservation easement to ensure that the value of the conservation easement is not reduced. Otherwise, the amount of the landowner’s tax deduction could be affected, requiring the filing of an amended tax return and the payment of additional taxes.

Can a conservation easement be donated by will?

Yes. The landowner must contact the intended conservation easement holder before conveying the conservation easement by will to ensure that the organization will accept the donation. If the conservation easement qualifies under federal tax law, its value is subtracted from the landowner’s taxable estate, reducing estate taxes for heirs. Also under Federal law, the executor or heirs of an estate can donate a qualified conservation easement after the death of the landowner, even if the landowner’s will does not donate a conservation easement. A landowner who might want their executor or heirs to be able to make this donation should clarify the intent on this matter by stating in their will that the executor and heirs have this power.

How is a conservation easement enforced?

The land trust or conservation organization that holds the conservation easement bears the responsibility of enforcing its terms. Typically, this means that the conservation easement holder will schedule a property visit with the landowner at least once a year to document any development or changed uses. Unless the landowner and conservation easement holder specifically agree to give enforcement rights to a third party, no outside group can enforce the terms of a conservation easement (other than possibly the Attorney General).

Is a conservation easement appropriate for every landowner?

Conservation easements are designed to meet the site-specific needs of the individual landowner and conservation easement holder. They may not, however, be appropriate for every situation. Landowners considering a conservation easement should consult with family members, professional tax and legal advisors, and a representative of the prospective conservation easement holder to determine whether this tool will help accomplish one’s long-term conservation and economic goals.

Part Three: FINANCIAL BENEFITS OF CONSERVATION EASEMENTS

Both federal and Texas laws provide tax benefits to landowners who protect natural or historic land with qualifying conservation easements. Conservation easements are not suited for every situation; it is important that landowners consult tax professionals for more specific information.

A conservation easement donation can qualify as a charitable contribution if:

- A. it is granted in perpetuity;
- B. it is granted to a qualified organization, either:
 - 1. a nonprofit, 501(c)(3) charitable organization (i.e., a land trust) with a conservation purpose and the means to enforce the conservation easement, or
 - 2. a local, state or federal governmental entity empowered to hold real property interests;
- C. it achieves at least one of the following conservation purposes:
 - 1. preserves land for public outdoor recreation or education,
 - 2. protects relatively natural habitats of fish, wildlife or plants,
 - 3. preserves open space, either for scenic enjoyment or in keeping with a clearly delineated public policy (such as a local open space plan), or
 - 4. preserves historically important land or certified historic structures.
 - 5. following the gift, the land trust must provide the landowner a letter of substantiation documenting the charitable gift.

For a conservation easement donation to qualify for a federal income tax deduction, the following items usually need to be prepared:

- the conservation easement document;
- a baseline inventory (including photographs) of the property's condition at the time of donation listing man-made structures, water resources, agricultural and ecological features; and other conservation values
- a qualified appraisal of the conservation easement prepared by an independent real estate appraiser working for the landowner, completed no more than 60 days prior to the donation and no later than the time the tax return claiming the deduction is filed;
- a title report, copy of the deed and copies of any title exceptions, including mortgages with subordination agreements from the mortgage holder;
- a legal land survey;
- a mineral remoteness report (if ownership of the surface and minerals are severed and the mineral owners do not waive their surface rights); and
- IRS Form 8283 (an attachment to the federal income tax return of anyone claiming charitable contributions of more than \$5,000).

Federal Income Tax Deduction

The federal income tax benefits of donating a conservation easement are similar to those of making other charitable contributions. A landowner may be able to deduct up to the full value of the conservation easement from his or her federal income taxes.

Tax laws require that the value of the conservation easement be determined by a qualified real-estate appraiser. The value of the conservation easement is generally the difference between the value of a property with the restrictions of a conservation easement in place and the same property's value without these restrictions. In general, the value of a conservation easement donation is greatest in areas where development pressure is most intense and lower in remote areas. Likewise, a conservation easement that prohibits any development will have a higher value than an easement that permits a property to be divided or developed.

For example, a tract of land may be worth \$120,000 as a potential residential development, but only worth \$20,000 as open space or recreational property. If a landowner donated a conservation easement to a land trust that prohibited new construction on his property and restricted its use to open space, the value of the conservation easement and charitable contribution would be \$100,000. The landowner may then be eligible for up to \$100,000 in federal income tax deductions.

If the conservation easement meets IRS criteria, the landowner may deduct the full value of the conservation easement donation from his or her adjusted gross income, up to 30 percent of the landowner's income for the year of the gift. If the donation exceeds this amount in the year of the donation, the excess balance of the donation may be deducted for up to five (5) succeeding years, subject to the same 30 percent limitation.*

A landowner with a \$60,000 adjusted annual income donates a conservation easement worth \$100,000 to a land trust. The landowner can deduct 30 percent of his \$60,000 income, or \$18,000, in each of Years 1-5 and the remaining \$10,000 in Year 6.

Should the value of the charitable donation exceed a landowner's ability to use the income tax deduction over the allowed six years, the landowner may consider donating the conservation easement in phases over different portions of the property. However, such phasing could reduce the overall value of the conservation easement and, as with all conservation easement transactions, tax and legal advisers should be consulted. Subject to certain limitations, some of the expenses incurred by a landowner in the donation process, including the cost for appraisals, surveys, tax advice, legal review and title insurance, can also be tax deductible.

** NOTE: Congress temporarily enacted an expanded tax incentive for donated conservation easements that expired in December 2009. The conservation community is working with Congress to make the expanded tax benefit permanent. Consult with your tax advisor for the most up-to-date conservation easement tax provision.*

Estate Taxes

Estimated federal estate taxes for an individual (Year 2009*)

Value of the Estate	Total Estate Taxes Paid
\$3,500,000	\$0
\$4,000,000	\$225,000
\$5,000,000	\$675,000
\$7,500,000	\$1,800,000
\$10,000,000	\$2,925,000

To calculate the value of inherited property for estate taxes purposes, federal law requires that the value of the land be based on that property’s “highest and best use,” instead of actual use. For example, a landowner owns a small family ranch near a growing city that might be more valuable as a residential development. When the landowner dies, taxes on the property will be based on the land’s value as several potential homesites, even if the heirs do not intend to develop.

A conservation easement can place restrictions on use of a property that limit its “highest and best use.” Because the property’s “highest and best use” is restricted, its value and the estate taxes are reduced accordingly. If the landowner in the example above donates a conservation easement on the family ranch that prohibits the construction of new homesites, estate taxes on her land would be based on the land’s value as a ranch, rather than a potential residential development. As noted earlier, there are limits on the income tax deduction for a conservation easement donation, but there are no such limits for estate tax purposes, so the savings can be substantial.

To realize estate tax benefits, landowners should donate the conservation easement during their lifetime, or in a legal will, or they should specify in their will that their heirs or estate executor has the power to donate an conservation easement after their death. Under federal law, in certain circumstances, executors or heirs can donate an conservation easement within a period after a landowner’s death and qualify for land value reduction. A landowner intending to convey a conservation easement by will should contact the potential holder to ensure that the organization will accept the donation.

** NOTE: The federal estate tax was repealed for the 2010 calendar year. Because of a provision in the bill repealing the tax, the federal estate tax is automatically reinstated on January 1, 2011 at a significantly higher rate and much lower exemptions. Many practitioners anticipate that the 2009 rates will be reinstated.*

For example, a widowed landowner purchased a property 30 years ago that has appreciated significantly. The property, which is located near a growing suburban community, has a current fair market value of \$1,200,000. The landowner donates a conservation easement to a local land trust that reduces the property’s value to \$700,000. Assuming the landowner has \$3,500,000 in taxable assets in addition to the property and that no prior taxable gifts have been made, the effect of the conservation easement on estate taxes for heirs would be as follows.

	Without Conservation easement Donation	With Conservation easement Donation
Value of the land	\$1,200,000	\$700,000
Other valuable assets	\$3,500,000	\$3,500,000
Total taxable estate	\$4,700,000	\$4,200,000
Total federal estate taxes	\$540,000	\$315,000

A conservation easement can also qualify an estate for an additional exclusion of land value up to the lesser of 40% of the remaining value of the land or \$500,000.

With the additional Exclusion:

Exclude 40% of Conservation easement Land Value \$700,000	(\$280,000)
Leaves Total Taxable Estate	\$3,920,000
Total Federal Estate Taxes - With exclusion	\$189,000
Tax Savings	\$126,000

Local Property Taxes

Conservation easements may reduce property taxes. However, property taxes on agricultural land in Texas are often already reduced based on a property’s productivity rather than fair market value. Conservation easements on land not classified as agricultural may reduce property taxes to the extent the value of the land is reduced. But it is important to remember that property taxes are determined by the county tax appraiser and, therefore, differ from county to county.

The Texas Comptroller of Public Accounts has recently advised Texas county appraisal districts to be prepared to answer landowners’ questions about the effect of conservation easements on agricultural-use status and taxable value.

Part Four: EASEMENT PROFILES

The ten landowners profiled in the next pages have used conservation easements to accomplish their land use objective for years into the future. The properties described in these profiles vary from a 71 acre county nature preserve to a 70,000-acre ranch with 29 miles of river frontage in the Texas Panhandle.

Any tax benefit associated with the use of a conservation easement is unique to the terms of the agreement and the landowner's tax situation. Landowners should discuss the benefits of conservation easements with professionals to determine their impact on specific tax situations.



SHIELD RANCH



When Fred and Vera Shield began buying land along Barton Creek in 1938, they had no idea that their 6,700 acres would become a prized conservation project within 50 years. The San Antonio couple was looking for a place to run livestock and create a peaceful family retreat. With six miles of Barton Creek, spectacular views and several historic pioneer structures on the property, Shield Ranch was a slice of heaven.

“The bottom line is that we love the ranch, and really didn’t want to see it developed in a traditional way, ever.

We knew the ranch was special to us, but we also started to realize how important the ranch was ecologically.”

The Shields cleared pastures, drilled wells and built fences to establish their modest livestock operation, but otherwise minimized their impact on the land. They began managing cedar, eventually clearing enough of the invasive trees that a mature plant community of oak, hackberry and cedar elm groves began to thrive. A low-impact grazing regimen preserved the ranch’s high quality native grasslands. Family members enjoyed hunting, fishing and exploring their rural ranch.

But as time went by, development started to creep toward the Shield Ranch. “I remember even when I was in high school, we could see the development coming out our way,” says Bob Ayres, Fred Shield’s grandson who now owns and operates the property with his mother Patricia Shield Ayres, father Robert M. Ayres and his sister Vera Ayres Bowen. “We’ve been watching Austin’s development move toward us since the 1970s.”

Sprawling development in the Barton Creek watershed prompted the Ayres family to start planning for the future in 1987. “The first thing we came to as a family is that we wanted to protect the features of the ranch that we valued, but also protect the land value as an economic asset,” Ayres said. “The question was – how can we do both?”

Over the next 10 years, the Ayres met with land planning consultants, financial advisers, the Texas Parks and Wildlife Department, the Natural Resource Conservation Service and the Nature Conservancy. They commissioned a study of the entire ranch, catalogued all of its natural and manmade features, and continued to manage the livestock and wildlife habitat according to their strong conservation ethic.

In researching the family's options, Ayres learned about conservation easements, and started talking to advisers about how conservation easements might work for their ranch. The Nature Conservancy was very interested in a donated conservation easement on the property because it is directly upstream from its Barton Creek Habitat Preserve.

"This is the largest private property in western Travis County – only 20 miles from downtown Austin, and it has lots of wildlife habitat and open space. Development of the Shield Ranch would impact (TNC) property downstream and Barton Creek all the way to Barton Springs," said Jeff Francell, of the Nature Conservancy. "This is one of few properties this size in this area that isn't cedar choked, not overgrazed and has a high diversity of trees and shrubs – it's in excellent condition."

The City of Austin was also interested in protecting water quality in Barton Creek. When city voters passed a bond initiative in 1998 to raise money for conservation easements in the watershed, the Ayres realized that the time was right. "We knew the ranch was special to us, but we also started to realize how important the ranch was ecologically," Ayres said. "It is in the exact center of the Barton Creek watershed, and has a great contribution to water quality in Barton Springs."

The Ayres family negotiated a conservation easement purchase with the City of Austin

on 1,600+ acres, donated a conservation easement to the Nature Conservancy on 4,700+ acres, and retained 300 acres along highway frontage for potential future development. By being able to sell the smaller conservation easement to the city, the family realized part of the development value of land, but without the development. Their other financial goal, reducing estate taxes for their heirs, was accomplished through the lowered fair market value of the property subject to a conservation easement. In addition, the donation to the Nature Conservancy qualifies as a charitable contribution for federal income tax purposes.

The family retained rights to continue operating the ranch as they had been: running cattle, operating deer leases and using it for family recreation. They also retained limited development rights for family members to build home sites, establish a youth camp and possibly even a non-profit retreat center. Each of these development possibilities was clearly spelled out in the conservation easement, along with a map of development areas and no-development zones. Both the City of Austin and the Nature Conservancy required that any development conform to impervious cover restrictions and creek setbacks, to protect water quality.

The Ayres family is pleased with the arrangement of the two conservation easements. "We all feel very excited, both to have it done and how it worked out," Ayres said. He admitted, however, that it was not easy for the family to reach the decision they made, just because it required a lot of soul searching and communication about the family's long-term desires for the ranch. "The bottom line is that we love the ranch, and really didn't want to see it developed in a traditional way, ever. We extinguished the possibility of any masterplanned community, residential subdivisions or retail development."

ALBERT & WILDA PECORE FARM



In 1955, Native Houstonian Albert Pecore was only 30 years old, fresh out of the University of Texas architecture program, and just beginning a lifetime career in both commercial and residential architecture.

But Bert had grown up sailing in Galveston, hunting in Rockport and fishing the streams and waterways of the Gulf Coast. He longed for a piece of the country to call his own. His dad and friends thought he was nuts: the city was the place to be. One college friend told him that a fellow who owed him some money had tried to sell him a farm hoping to get the commission to repay the debt. It turned out to be a bleak, forlorn looking place. Bert remembers, “There was little grass and two midsize hackberry trees near the house. There were two acres of broken down pens and out buildings, a small barn and an abandoned house built in 1857. But I spotted two very old live oak

trees as I walked around the farm. I knew they were significant and today they measure 15’ in circumference.”

The Texas Veteran’s Land Board was in turmoil at the time, but after a year finally processed his loan. In 1955, Bert became the proud owner of 85 acres in Fayette County, Texas. That same year, green hay stored in the barn combusted and burned down the barn. The farm was expanded to 196 acres in 1961 when a neighbor sold Bert his farm. That year Hurricane Carla blew down the barn on that tract.

Haw Creek is an intermittent stream comprising one boundary of the farm, but old timers say it used to flow all the time. There were once water wells on the place, but they collapsed or dried up. There was one small tank on the new acreage when Bert purchased it. “During the drought of the late 50s,” Bert remembers, “the tank

went dry and I couldn't find anyone to drill a well. So I hired Sears & Roebuck. The driller quit when he hit a gas pocket and never came back to finish. I had to sell my cows because there was no water. Then Sears sent me a big bill for the well."

Now there are five surface water tanks on the place and a pipeline system for watering the livestock and house. The tank in front of the house is the most impressive. "It was muddy and chocolate brown for years. I did a lot of work and research and found out the problem was the pH levels. I fixed that and the water is now crystal clear. The pond has never dried up since it was built."

The farm is home to about 25 head of cattle. Bert and his wife Wilda are strong advocates for the preservation of ecosystems and they maintain the health of their grasslands with deferred grazing. Their cross fences and watering facilities enable the cattle to be moved more frequently, resulting in longer periods of rest for the pastures. As we walk through chest high grass, Bert proudly acknowledges that the area is now full of forbs and grasses. "Good soil is everything when it comes to farming. I'd like to raise the percentage of organic matter in the soil, so I keep as much vegetative cover on the place as I can."

The farm features two pristine, never-plowed blackland prairie pastures that are productive in good times and bad. "In a drought, these fields keep on growing," Bert said. The conservation easement that the Pecores donated to Pines and Prairies Land Trust (PPLT) strongly protects these 17 acres of rare prairie. Tom Dureka, Executive Director of PPLT, explains, "We were lucky to assemble a great team of botanists and biologists to inventory these remnants of a vanishing ecosystem. There's no doubt it was our most thorough and exciting baseline study to date."

Ribbons of forest meander through the farm, and the current home is surrounded on all sides by massive live oaks. It's hard to imagine that when the house was built there, on the highest point on the land, there were no trees. Bert started the trees as acorns in coffee cans and carefully transplanted them around the yard. Now taller than the two-story house, they provide highly-coveted shade. But the land keeps offering new surprises. Bert says, "I stumbled onto a native plum orchard two years ago when clearing around big live oaks. The trees bear a sweet yellow fruit."

In 1973, Bert designed the two-story pavilion-style home on the Pecore Farm in the fashion of historic southern Louisiana Pavilion-style homes. They fit the climate and had a lot of common sense, with large porches, breezeways and high-pitched roofs. The house was built in stages from 1974 to 1996. Bert himself did much of the work.

The Pecore's conservation easement prohibits any subdivision of the property. They love the land too much to ever want it cut into 10-acre ranchettes that are increasingly common as the Round Top, Texas area becomes "discovered". Their easement donation also allowed them to take advantage of the enhanced IRS tax incentives in place at the time.

"One of the things we enjoy the most about the farm is watching our kids and grandkids here," said Wilda. Bert agrees, "My wife and I have the vision of a family homestead that will be held in trust for future generations. In the future it will be a privilege to live in an area with such natural beauty. We want our vision to pass down through the years."

ROBERT ‘BOB’ MOORE WILDLIFE SANCTUARY

During 2007, Galveston Island was undergoing a period of unparalleled development and growth. Its sensitive west end was a primary focus for this growth. So when Jeff Blackard, the principle for a development company called Blackard Pirates LP, approached the Galveston Bay Foundation about donating an easement on some valuable coastal property, the organization jumped at the chance to discuss the benefits of a conservation easement with him.

Blackard Pirates LP has undertaken some successful housing development on the Island, but had also gotten bogged down in some wetland permitting matters that slowed its efforts. It was left with an undeveloped island tract of approximately 32 acres. Blackard had initially considered building a short bridge to the island and developing estate lots on the tract. But he realized both the complexities of such an effort and the value in maintaining the sensitive area in its pristine condition. Rather than moving forward with development plans, Blackard decided to donate a conservation easement on the property to the Galveston Bay Foundation and at the same time donate the fee rights to the property to a local land trust called the Cabeza de Vaca Center.



“The island is particularly valuable from a conservation standpoint because there is very little undeveloped island habitat like it adjacent to Galveston Island,” stated Galveston Bay Foundation President Bob Stokes. The island provides important natural habitat, and includes a number of important features, including coastal prairie, estuarine marsh, and a tidal sand flat complex. It also has significant value because the island is adjacent to a large scale marsh restoration project led by the Texas Parks & Wildlife Department. The Delehide Cove Marsh Restoration and Protection Project received a National Wetland Conservation Award from the United States Fish and Wildlife Service in June 2005. Over eight thousand feet of breakwater was constructed in close proximity to the island to simulate the functions of the spits and reefs that existed in the area prior to subsidence. The marsh restoration utilized a hydraulic dredge to pump sand into marsh mounds around the island. The constructed breakwater protected those restored marsh mounds, as well as over 200 acres of existing salt marsh and estuarine habitat including the island itself.

The conservation easement, signed and recorded on December 21, 2007, ensures that this island, now known as the “Robert ‘Bob’ Moore Wildlife Sanctuary,” will exist as part of this complex and remain undeveloped in perpetuity.



CANADIAN RIVER CATTLE RANCH



Attorney, cattle rancher, avid hunter and philanthropist David Nutt has donated one of the largest conservation easements in Texas history to the Parks and Wildlife Foundation of Texas, Inc. to protect the Canadian River Cattle Ranch. The conservation easement, located in Oldham County on the Texas/New Mexico border, contains 29 miles of Canadian River frontage and tens of thousands of acres of native prairie. The 70,000-acre ranch is over a tenth of the size of Rhode Island! The native plant communities on the property, particularly grasslands, are only marginally represented in existing public parks and wildlife areas in the Panhandle region.

The region where the property lies, known as the Canadian River Breaks because of the rough terrain along the river, is sparsely populated and thus remains largely the same as the first European settlers found it centuries ago. The region was identified as an area of unique natural and cultural significance in a series of natural area surveys done in 1973 by the LBJ School of Public Affairs in Austin.

The property also contains prehistoric and historic artifacts that tell the stories of successive waves of human cultures. A Texas Parks and Wildlife Department report says the region's earliest human inhabitants hunted bison, camels and mammoths about 12,000 years ago. Later came mesa-dwelling American Indians, followed by Spanish explorers in the 1600s who found nomadic Apache, Comanche and Kiowa living symbiotically with

bison herds. In the mid-1870s, colonizing Spanish sheepherders moved their flocks into the region from New Mexico. By 1887, barbed wire, windmills and the railroad put an end to the open range.

By choosing to give a conservation easement rather than donate the property outright, David Nutt was able to specify not only how the landscape would be protected, but also how he can continue to use it. He will continue to own and maintain the land and raise

“I am very proud to be an environmental partner with the Parks and Wildlife Foundation of Texas in the preservation of one of the premier ecologically rich areas in Texas,” says David Nutt. “I am particularly pleased to be able to assure the perpetual protection of this landscape for future generations.”

cattle there, plus he retains rights to maintain and improve fences and existing structures. The area will not be open to the public or be used for any public hunts. He will also have the right to build new structures on two smaller areas within the property. “This donation means the land will be permanently protected against development and can never be subdivided,” said Andrew Sansom, former Texas Parks and Wildlife Department executive director, who personally handled final negotiation of the donation. Nutt will also realize tax benefits. Texas Parks and Wildlife Department Executive Director Carter Smith says all of these are reasons why owners of rural land are increasingly eyeing the sale or donation of conservation easements as a way to protect a landscape’s wildlife, environmental values and views while retaining ownership and use rights.

The Parks and Wildlife Foundation of Texas, a private nonprofit foundation, was set up in 1991 to seek private donations for conservation work in Texas, and works closely with the Texas Parks and Wildlife Department.

The Foundation has been a partner in numerous private lands conservation efforts with the Texas Parks and Wildlife Department. “We’re pleased to have played a part in this historic conservation agreement,” said Paula Peters, president of the Parks and Wildlife Foundation. “In addition to the conservation easement, Mr. Nutt has also made a sizeable donation to endow the operating costs associated with administering the conservation easement.”

THE MONTGOMERY COUNTY PRESERVE

The dawn of March 2, 2002 awoke to see not only Texas Independence Day unfold, but several hours later the grand opening ceremony celebrating Texas' first conservation easement in partnership with a county. About one hundred and thirty Houston area residents braved the frigid weather to be among the first to set foot in the new 71-acre Montgomery County Preserve, protected by a conservation easement held by Legacy Land Trust. Snuggled in the confluence where Spring and Panther Creeks converge, the Preserve is home to numerous species of wildlife, including many birds, deer, opossum, butterflies and even rare species of violets.

"The special thing about the vegetation in Montgomery County is that many plants here are actually the farthest west that you find them... that's why people call it 'the Little Thicket,'" said April Proudfit, Native Plant Society of Texas member. Special flowers found on the site include the rare Walter's Violet as well as Green Dragons. The Preserve is also speckled with Sassafras trees, the very tree from which Indians and pioneers made tea long ago.

The land previously belonged to The Woodlands Land Development Company, who had set it aside as a flood mitigation site. In an exchange of four different properties, in January of 2002, Montgomery County became the owner of the 71-acre tract, with the intention of preserving the land for its flood protection benefits, its wildlife habitat and the opportunity to open it to area residents as a hiking trail.



Connected to this preserve, Legacy Land Trust, in partnership with Montgomery County Precinct 3, now staffs the Montgomery County Nature Education office. LLT's Environmental Education Coordinator is based there and runs daily as well as weekend naturalist programs. LLT's "No Child Left Inside" program puts the "field" back into field trips and helps pay for bus trips for Houston area middle schoolers for trips to this 72-acre preserve. There have been numerous boy scout troops and girl scout troops who have used the site and area residents are able to tour the property at any time of day, including early morning and dusk to better identify the numerous wildlife species. Area birder Damien Carey said, "Having access to the site at all times

is a rare treat... most public parks are only open at specific times and if you're trying to identify certain birds, you'll never see them during regular 'opening hours'." The eco-tourism boost for the area is already evident as planned group tours include the statewide Native Plant Society as well as area hiking groups.



“Setting aside land permanently for wildlife habitat as well as for low-impact public access is critical. Having a public entity agree to do this is an important conservation step for Texas.”

Jennifer Lorenz, the executive director of Legacy Land Trust, said the precedent of a conservation easement with a Texas county is an important one. “Setting aside land permanently for wildlife habitat as well as for low-impact public access is critical and having a public entity agree to do this is an important conservation step for Texas. Cities, counties and other public entities need to realize that a conservation easement is an available option for their use.” Public entities who agree to preserve lands with their local land trust also can receive benefits for what are usually low-funded parks departments. Legacy Land Trust provided volunteers for numerous functions at the Preserve, as well as carving a two-mile long hiking trail through the wooded wilderness of the Preserve.

Besides assisting with maintenance of the trail, Legacy Land Trust has also provided naturalist guides for events. For the grand opening event LLT tour guides led the way throughout the trail – providing birding, mushroom, native plant and animal expertise. Local natural historian Carmine Stall shared his knowledge of the interesting natural history of the Spring Creek area.

Legacy Land Trust will be helping to “preserve the Preserve” by performing its annual survey to ensure that no degradation is taking place. The land trust will be working with the county to guarantee that the integrity of the land will be preserved forever, as well as continuing to provide critical volunteer help for events and maintenance of the trail.

MONTGOMERY FARM CONSERVATION DEVELOPMENT



The City of Allen understands that a conservation easement affords the opportunity to retain a visible landscape feature to help preserve its rural identity – its ‘sense of place.’

MONTGOMERY FARM, ON THE BORDER OF ALLEN AND PLANO IN NORTH Texas, is an example of how thoughtful design and planning can result in a conservation development that creates a sense of place and ensures the protection of natural resources while meeting the needs of a rapidly growing community.

The Williams family has owned the farm since the 1940's. When it became necessary for various reasons to begin commercial development of the property, the family wanted to preserve the heritage of the farm while developing it in a sustainable way. The family recruited a planning team including a collection of leading national experts in land planning, architecture, landscape design and conservation development.

Philip Williams, one of the family members, owns Emerson Partners, which is developing the property. His mother, Frances Williams, believed passionately in land conservation. Under her leadership along with her daughter, Amy Monier, the Connemara Conservancy Foundation, one of the state's first land trusts, was created in 1981.

"At the time, our farm was surrounded by thousands of acres of undeveloped land and people wanted to know why there was a need to protect open space," says Philip Williams. "But my mother understood that development was moving north and she was concerned that an entire generation would be raised thinking that open space was a parking lot at a shopping mall."

The property features woodland habitats, prairie uplands, and Rowlett Creek that wind throughout the property. Approximately half of the 500+ acres have been set aside as open space and 140 acres were put into a conservation easement called Gardens of Connemara, held by Connemara Conservancy. Just across Rowlett Creek is the Connemara Meadow Preserve, a seventy-two acre permanently protected nature sanctuary owned by Connemara Conservancy. Both properties are part of a seven-city trail system that runs along Rowlett Creek. Between the Gardens of Connemara and the Connemara Meadow Preserve, over 225 acres are permanently protected in the midst of one of the most populated areas of North Dallas.

The conservation development appeals to people of all ages and at various stages of life. Homes include traditional single family, lofts, town homes, patio-style homes, and estates. A walkable retail and restaurant setting with natural spaces is also incorporated, as is a office complex, complete with a luxury spa, being designed for Platinum LEED certification. Homeowners are encouraged to visit and participate in Connemara Meadow Preserve activities and join Connemara Conservancy.

More than 2,000 trees in the line of construction were moved and replanted in an onsite tree farm. Trees have also been rescued from other construction projects throughout Dallas and brought onto the Farm. Wood, recycled from the demolition of a Dallas shopping mall, was used for bridges, signage and other structural and decorative needs. Fourteen acres of water storage ponds were created to collect runoff and for use and irrigation. The family worked extensively with City of Allen, the Allen Economic Development Corporation, and others to create the city's first Tax Increment Finance (TIF) district and help shape new zoning ordinances that did not previously exist before this development. What did the Williams do when the City's rule books did not include the conservation development model they hoped for? They helped write a new set of rules that will be used for similar future projects throughout Allen.

"We are very proud of this center of conservation located right in the heart of North Dallas. We hope to use this conservation development as an example for other North Texas landowners interested in this model," says Luanne Samuel, Executive Director of Connemara Conservancy.

The result is a landmark development exemplifying how developers, a land trust, and communities can work together to create a legacy for future generations while conserving a community's resources and heritage.

THE BAIRD FAMILY PRESERVE



The concept of a conservation easement was just what the Bairds had been looking for; it would ensure that their property remained in the family in the future, and would offset the rising property values affecting other Hill Country landowners.

When Faye and Roland Baird bought their Blanco County ranch in 1952, they wanted a place to care for and enjoy in their retirement. Mr. Baird was an avid outdoorsman; he loved to hunt and fly-fish. Mrs. Baird, who grew up in rural northwest Texas, loved the plants, birds and other wildlife of the Texas Hill Country.

Mr. and Mrs. Baird spent the next 35 years together enjoying their Hill Country ranch. When they bought the land, it had been noticeably over-grazed and was thick with Ashe juniper. The Bairds went to work clearing juniper on the flats of the property, but kept the deeply rooted trees on the hillsides to prevent erosion.

The Bairds ran cattle on the ranch, but limited the number so that native plants could recover. Roland Sr. built a low head dam on Miller Creek to improve the fishing on the property. Hardly anyone fishes the pond anymore, but the clear water betrays the size of its bass and catfish.

The Bairds had four children, and, so far, 12 grandchildren, 15 great-grandchildren and 4 great-great grandchildren. Over the years, the Baird kids' house, about 400 yards from the main house, has seen much use. The Baird family has spread out across the country, but all occasionally return to the Blanco County ranch to recharge their batteries. There is even a reservation system for the kids' house, which is full of sleeping bags and young children during the holidays. As Mr. and Mrs. Baird grew older, they began to realize how much the ranch meant to their entire family.

When Roland Baird, Sr. died in 1988, Mrs. Baird started looking into methods of preserving the family ranch into the future. She enlisted the help of her son, Roland Jr., who talked to people at both Texas A&M and the University of Texas about donating his mother's property as a place for agricultural research or as a writer's retreat. A year later, a member of the now Texas Land Conservancy told Roland Jr. about conservation easements. The concept of a conservation easement was just what the Bairds had been looking for; it would ensure that their property remained in the family in the future, and would offset the rising property values affecting other Hill Country landowners.

In 1990, Mrs. Baird donated a conservation easement to the Texas Land Conservancy. The entire family is aware of the restrictions that protect the family property. If they have any questions, the terms of the conservation easement are posted on the door in the kids' house.

The Baird's conservation easement prohibits most commercial activities on the property. The conservation easement restricts new construction, but allows for the maintenance and upkeep of existing roads and buildings. The two houses on the ranch can be rebuilt and added to, but they cannot be enlarged more than 50 percent. The Bairds have reserved the right to graze cattle, but any sheep, goat or exotic animal grazing on the ranch is prohibited. The conservation easement prohibits recreational hunting and tree cutting except for ongoing Ashe juniper removal necessary to maintain pasture land.

The conservation easement that Mrs. Baird donated to Texas Land Conservancy reduced the property value of the ranch because of these restrictions. The donation was eligible for a federal income tax deduction and, more importantly, the wishes of Faye and Roland Baird, Sr. are preserved in perpetuity.

Roland Jr. says that the family got their conservation interests from Faye Baird. He tells the story of a beautiful spring that flows in a far corner of their ranch. When Roland Sr. was alive, a fence was put up that accidentally placed the spring on a neighbor's property. After Roland Sr. died, Mrs. Baird told Roland Jr. to go talk to the neighbor about moving the fence so the spring would be back on Baird property. The fence was moved and Faye Baird was content knowing that the springs would be protected forever. The conservation easement that Faye Baird donated to Texas Land Conservancy protects not only that beautiful spring, but all of the special qualities of the ranch that Roland Sr. and Faye Baird cherished.

Conservation is important to the entire Baird Family. Roland Jr.'s sister, Dorothy Mattiza, has a 540-acre conservation easement on her property in Bandera County with Texas Land Conservancy and is also on Texas Land Conservancy's board of advisors. The conservation easement sits on the southern edge of the Balcones Escarpment in the rugged hill country of Central Texas. The purpose of Mrs. Mattiza's natural area conservation easement is to reintroduce and protect native plants, such as maple, beautyberries, spicebush and Texas styrax from brushfires and cattle grazing. With the help of a grant from the Texas Parks and Wildlife Department, plant pens were put up to help introduce native plants back onto the land where they had once thrived.

The conservation easement that Dorothy Mattiza donated to Texas Land Conservancy ensures that native plants will be able to survive and flourish eternally on the hill country property.

DR. YTURRIA'S HIDDEN PLACES

As a young man growing up on the Punta Del Monte Ranch, established by his great-grandfather, Dr. Frank Yturria was a first-hand witness to the clearing of native Rio Grande Valley brushlands. "I remember camps of men who cleared land by hand to make way for farms, livestock and people. My father and grandfather, who taught me the value of conservation, pointed out that after land was cleared, there were fewer dove, deer and other animals."

Like many South Texas ranches, Frank Yturria's San Francisco Ranch teems with white-tailed deer, wild turkey, javelina, waterfowl and neo-tropical birds. The ranch is home to predators like bobcats and mountain lions. But the San Francisco is different from most other area lands in two unique aspects. First, unlike most of the Valley, some parts of the ranch have never been cleared. On land he cleared, Yturria left many one to three-acre "mottes," or hidden places, as well as several hundred contiguous acres of virgin brush. Second, Yturria's ranch is home to more ocelot than any other privately owned property in the United States.

The ocelot is a small, native wild cat that lives in the thick brush of the Lower Rio Grande Valley. The numbers of this beautiful and rare animal have declined to possibly no more than 100 in Texas – largely because their habitat has been lost to agriculture and urban development. Ocelots survive in greater numbers in Mexico, Central and South America.

Seeing ocelot on his ranch had always been important to Yturria, who set out to ensure that he and his descendants would continue to have that opportunity. He entered into a cooperative research agreement with the Caesar Kleberg Wildlife Research Institute at Texas A&M University in Kingsville to study the animal's behavior on his ranch. Since 1982, fourteen San Francisco Ranch ocelots have been captured and fitted with radio collars. Still, Frank Yturria realized that providing sufficient habitat was the key to the ocelot's survival in South Texas.

The F. Yturria family, cooperating with the U.S. Fish and Wildlife Service, sold parcels of their land to help create the Lower Rio Grande Valley National Wildlife Refuge Corridor in the 1980s. Yturria's interaction with USFWS biologists during this process convinced him that he could secure the ocelot's habitat and its future on his ranch, with a conservation easement.

The decision to donate a conservation easement to The Nature Conservancy and fence 475 acres of prime brushland on the San Francisco Ranch was not an easy one for Dr. Yturria. The agreement with the USFWS would mean the loss of potential ranching income and perhaps a depreciation in the value of the entire ranch. But Yturria also realized that tax incentives and a natural progression from hunting to ecotourism in South Texas could offset the income loss. With the growing interest in endangered species, birds and other wildlife, Dr. Yturria believes that ecotourism could eventually bring in more revenue than cattle ranching. "I did not expect it at the time – I was only interested in protecting the ocelot, but the property I preserved with the conservation easement, along with the entire ranch, has income potential from ecotourism."

With the growing interest in endangered species, birds and other wildlife, Dr. Yturria believes that ecotourism could eventually bring in more revenue than cattle ranching.



LAREDO TOWN CENTER

In January of 2007, a representative from Merchants Holdings, LLC walked into the Valley Land Fund and asked Amy Spaulding, the Land Trust Director, about conservation options for wetlands near a shopping mall they were building. The building site was in Laredo, Texas and sat on Lake Casa Blanca.

After months of hard work, meetings and rough drafts, a conservation easement was granted by the Valley Land Fund to protect 42.2 acres of pristine wetland on Lake Casa Blanca. The main purpose for the conservation easement is to assure that the property will not be developed and will be perpetually preserved in its predominately natural, scenic, wet land, and open space condition. Other purposes of the Conservation Easement are to protect the property's natural resource and watershed values, biodiversity, relatively natural and high quality habitat for native plants and animals and to maintain and enhance the natural features of the property.

The land possesses natural, scenic, open space, scientific, biological, and ecological values of prominent importance to the owner, the Valley Land Fund and the public, and include the following: the land lies within an area of South Texas that is undergoing a rapid rate of land fragmentation due to an escalation of the subdivision and development of former ranch land, it provides relief from urban closeness, and lies adjacent to a State Park which contains a public water fresh lake. The land also contains significant natural habitat in which fish, wildlife, plants, or the ecosystems that support them, thrive in a relatively natural condition. The property contains and supports sustainable habitat for a biologically diverse collection of animals and plants, including rare, endangered or threatened species. The land has a significant amount of undeveloped frontage on or near the banks of Lake Casa Blanca, which is a State Park and public recreation area. The property contains additional natural wetland areas that provide habitat for aquatic invertebrates, reptiles, amphibians, and aquatic and/or emergent vegetation. Valued native forested wet land exists on the property, which includes diverse native species, and trees of varying age classes and structural diversity. The property also provides important natural land within the watershed and contributing area of the Rio Grande River, which is a source of drinking water for numerous communities between Laredo, Texas and the Gulf of Mexico.

The main purpose for the conservation easement is to assure that the property will not be developed and will be perpetually preserved in its predominately natural, scenic, wet land, and open space condition.



THE ROY E. LARSEN SANDYLAND SANCTUARY



At the beginning of the 20th century, the Pineywoods of southeastern Texas and western Louisiana supported a diverse network of forests and wetlands. At the heart of this network were longleaf pine forests and associated grasses, wildflowers and shrubs. Periodic fires enabled this ecosystem to thrive by limiting the encroachment of hardwood species and clearing open areas for longleaf seedlings to germinate. Many of the wildflower and grass species that lived on the forest floor also thrived on the light and space that fires created.

More than 98 percent of the original longleaf forests have been replaced, a process that began with clearing by the timber industry at the turn of the last century. Preferring faster growing trees, timber companies supplanted native longleaf pine habitat with slash and loblolly pine plantations. Fire suppression further hindered the ability of longleaf stands to regenerate naturally.

By the mid-1970's, longleaf pine forests were too fragmented and isolated to survive without intervention. In the absence of fire, the longleaf pine ecosystem was diminished in size and condition. Recognizing the need to preserve this system, The Nature Conservancy and Temple-Eastex (later Temple-Inland Inc.) joined forces in 1977 to create the 2,138-acre Roy E. Larsen Sandyland Sanctuary in Hardin County.

In 1994, Temple-Inland donated an additional 2,778 acres and a conservation easement on neighboring working forest lands, creating a 5,654-acre protected area.

The Sandyland Sanctuary is situated on alluvial sandhills and its dry, sandy environment supports widely-spaced longleaf pines and unique plants such as the scarlet catchfly, white firewheel and the endangered Texas trailing phlox.

Once a part of Temple-Inland's forest products operations, the Sanctuary's loblolly and slash plantations are now being restored to native longleaf habitat. With replanted trees now maturing, visitors to the Sanctuary's six-mile trail system can experience the rich natural heritage of the upland longleaf forest, as well as beech-magnolia forest, wet longleaf pine savanna, bottomland hardwood forest and bald cypress-water tupelo swamps.

Restoring longleaf forest is much as issue of economics as it is ecology. Wendy Jo Ledbetter, Southeast Texas Project director, explains, "We recognize that for public and private landowners to want to restore longleaf pine systems, there must be multiple benefits, including an economic incentive." Thanks to the conservation easement donation by Temple-Inland, the lands buffering the preserve serve as a demonstration site, where sustainable forestry practices and resource conservation are explored and balanced.

THE AGREEMENT CONSISTS OF THREE PARTS:

The Conservation Easement

The conservation easement protects the property and its bottomland hardwood forests by limiting commercial and residential development of the land.

The Management Agreement

The management agreement addresses mutual goals and defines policies that are both economically and ecologically beneficial. Existing loblolly and slash pine plantations are commercially harvested and replanted with longleaf pine seedlings. As they mature, longleaf forests will be managed for a variety of forest products.

The Management Plan

The five-year management plan is updated annually. Planned management activities for forest compartments are negotiated by both parties. The plan describes daily operations, including prescribed burning, timber harvesting, site preparation, reforestation, invasive species, hunt leases, rare species management and scientific studies.

Ledbetter offers that in order to achieve the best possible conservation outcome, a management plan should compliment a conservation easement. "A conservation easement's strength lies in the ability of both parties to work cooperatively toward mutually desired goals. A management plan is a flexible and practical tool that serves as a reference and guide for the best possible management actions on a particular property."

With the divestiture of Temple-Inland lands in 2007, the conservation easement lands are now managed by the Campbell Group. The Nature Conservancy continues to strive to maintain biological diversity and sustainable forestry practices in the Pineywoods of Texas. The Roy E. Larsen Sandyland Sanctuary and lands managed by the Campbell Group are now adjacent to lands managed by the National Park Service within Big Thicket National Preserve. This increase in land under conservation management increases the ability of future generations to enjoy the diverse and wonderful natural heritage of East Texas.

Part Five: LAND TRUSTS

To qualify for tax benefits, conservation easements must be granted to either a governmental entity empowered to hold real property interests or a charitable organization as defined by the Internal Revenue Code created for one or more conservation purposes, commonly called a land trust.

What is a land trust?

A land trust is a local, regional or national charitable organization that protects land for its natural, recreational, scenic, historic or productive value. Land trusts have varying conservation objectives; some work in specific geographic areas or concentrate on protecting different natural or cultural features. A directory of Texas land trusts and their contact information is maintained by the Texas Land Trust Council. The Texas Land Trust Directory is available online at <http://www.texaslandtrustcouncil.org>. Landowners should get to know the organizations that work in their area before making a conservation easement donation.

What does a land trust do?

Initially, the land trust works with the landowner to tailor the terms of the conservation easement to protect the land's conservation values and meet the landowner's personal and financial goals. Land trusts can also refer landowners to legal, tax or natural resource professionals familiar with conservation easements.

Land trusts that accept conservation easements are responsible for monitoring that property and ensuring that the terms of the conservation easement are followed. Representatives from the land trust make scheduled, usually annual, visits to the property to document the condition of the property and will notify the landowner of any potential violation of the conservation easement. If the terms of the conservation easement are violated, the land trust can take legal steps to stop or correct the violation.

The land trust is responsible for stewardship of the conservation easement for as long as the conservation easement exists. It is important that a landowner select an organization that can demonstrate that it has the financial resources and staying power to handle these responsibilities long-term. Because the stewardship responsibilities are perpetual, many land trusts request financial contributions (also tax deductible) to help defray some of the costs involved in administering a conservation easement agreement.

A land trust may also work with a landowner to develop a management plan as part of a conservation easement. Management plans include flexible goals and objectives relating to conservation of the property's natural and cultural features. Management plans, which should be updated periodically, are especially important for productive agricultural or recreational property or for property susceptible to invasive species.

Part Six: WHAT NEXT?

Landowners interested in learning more about conservation easements have several additional resources to assist them.

1. The land trust organizations in Texas can answer questions about conservation easements. A list of land trust contacts with phone numbers can be found on the land trust directory located on the Texas Land Trust Council's website.
2. The Texas Land Trust Council publishes the Texas Land Trust Directory, offers additional resources and can answer additional questions about conservation easements.

The Texas Land Trust Council hosts an annual statewide conference for landowners and land trusts every spring. Contact the Texas Land Trust Council for the date of its next conference.

Texas Land Trust Council
P.O. Box 40505
Austin, Texas 78704-0505
(512) 236-0655
E-mail: info@texaslandtrustcouncil.org
Web site: www.texaslandtrustcouncil.org

3. The Land Trust Alliance, a national organization for land trusts, publishes books and other materials related to private land conservation. A description of several of these publications is listed in an appendix.

The Land Trust Alliance
1660 L Street NW, Suite 1100
Washington DC 20036
(202) 638-4725
www.landtrustalliance.org

The Land Trust Alliance hosts an annual nationwide conference (Rally) for landowners and land trusts every fall. Please visit www.landtrustalliance.org for information about its next Rally.

4. Landowners should discuss the potential advantages and disadvantages of conservation easements with their own legal and tax advisors.

CONTENT OF A CONSERVATION EASEMENT

Parties – Grantor (landowner) and Grantee (conservation easement holder)

Date of Conveyance

Recitals (“whereas” clauses)

Title representation (assures that grantor owns the property)

Conservation values of the property

Legal description of property

Documentation of “pre-easement characteristics” of property (called a baseline inventory)

Continuation of existing uses

Conveyance of rights to protect conservation values to grantee

Qualifications of grantee to hold the conservation easement

Grant (transfer of property interest)

Consideration: nominal dollar amount or gift language

Citation of statutory authority (Texas Natural Resource Code Chapter 183)

Duration: perpetual

Provisions

1. Purpose: only uses consistent with protection of conservation values are permitted
2. Ingress and Egress: access to property by grantee as reasonably necessary for monitoring
3. Prohibited Land Uses: the three methods for defining prohibited land use are:
 - Exclusive: any land use not expressly prohibited is permitted
 - Unreserved: any land use not expressly reserved is prohibited
 - Inconsistent: any land use inconsistent with the conservation easements’ purpose is prohibited
4. Reserved Rights (the landowner’s rights which are reserved for possible future use)
5. Granted Rights (the conservation easement holder’s rights to inspect and monitor compliance with the conservation easement and enforce its terms)
6. Access (the public is typically denied access)
7. Amendment (if mutually agreeable between conservation easement holder and landowner at the time, certain provisions of the conservation easement may be modified in the future as long as the original intent is achieved)
8. Assignment (the grantee retains the right to transfer the conservation easement to another eligible holder)
9. Subordination (if property is mortgaged, the mortgage holder must guarantee that it will uphold the conservation easement provisions in the event of the foreclosure)
10. Subsequent transfers or Successors (the conservation easement “runs with the land,” i.e., the provisions bind all future landowners in perpetuity, even if the property is sold or inherited to another owner)
11. Recordation (the conservation easement documents recorded in the county in which the property is located)



RESOURCES & PUBLICATIONS

Available by request from the Texas Land Trust Council at (512) 236-0655 or online at <http://www.texaslandtrustcouncil.org>:

Conservation Easements: A Guide for Texas Landowners

Guidance on the Conservation Tax Incentive

A brochure from the Land Trust Alliance

Natural Resource Conservation Programs and Services for Texas Landowners

Protecting Open Space: Tools and Techniques for Texans

Available for purchase from the Land Trust Alliance online at <http://www.landtrustalliance.org>:

Conservation Options: A Landowners Guide

A Tax Guide to Conservation Easements by C. Timothy Lindstrom

Preserving Family Lands: Books I, II and III by Stephen J. Small

Working Forest Conservation Easements by Brenda Lind

Working Ranchland Conservation Easements by Brenda Lind and Marty Zeller

Available by request from Texas Parks & Wildlife Department at 1(800) 792-1112 or online at <http://www.tpwd.state.tx.us/publications/landwater/land/>:

Landowner Services (brochure)

Partners in Conservation (brochure)

TEXAS LAND TRUSTS

For a list of Texas Land Trusts, please refer to the Texas Land Trust Council's land trust directory, found on its website at www.texaslandtrustcouncil.org.

