CONSERVATION EASEMENTS

Conserving working ag lands for future generations

WYOMING STOCK GROWERS LAND TRUST

Wyoming's agricultural working lands provide many public benefits, from food and fiber production to environmental benefits such as open spaces and wildlife habitat. Agricultural conservation easements provide a voluntary, perpetual mechanism for landowners to permanently restrict certain uses while meeting objectives for their land and livelihoods. Conservation easements provide certainty of purpose and place for future generations while protecting the intrinsic natural values.

WE CAN ASSIST YOU IN MEETING YOUR CONSERVATION GOALS.

The Wyoming Stock Growers Land Trust (land trust) is the only land trust in the state whose primary focus is to keep ag lands intact and productive for future generations.

We are able to partner with conservation organizations and governmental entities to purchase a portion of the conservation easement value. This provides the landowner with financial and, potentially, tax benefits to protect their property.

CONTACT US

307.772.8751

STEWARDSHIP@WSGLT.ORG

WSGLT.ORG

FREQUENTLY ASKED QUESTIONS

What are conservation easements? Voluntary, perpetual, individually tailored agreements that limit the amount and type of development on a property.

What are the benefits of placing a conservation easement on my land? In addition to potential tax benefits, landowners enjoy the assurance that their land will remain intact, preserving their hard work and legacy. Landowners may also be paid for a portion of the conservation easement value, which can support the financial health of the ranch. The general public benefits from open space, wildlife habitat, and other ecological benefits that are protected by working agricultural lands.

Is public access required? No.

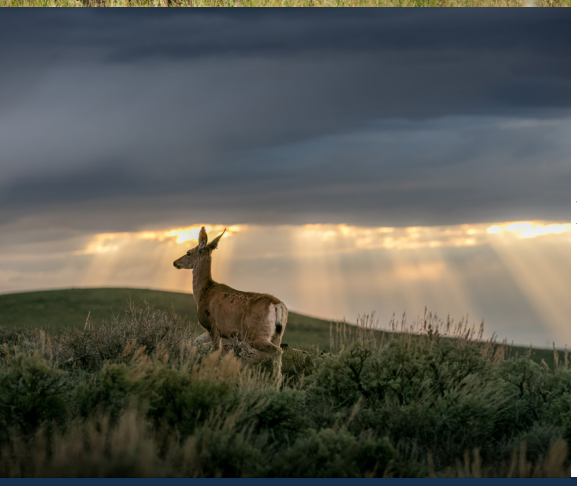
What restrictions come with a conservation easement? Generally, subdivision and residential development are restricted, in addition to other uses that are not compatible with agricultural and conservation values. All other uses (including grazing, recreation, leasing, agricultural improvements, etc.) of the property are kept by the landowner.

Do I still own my ranch? Absolutely. The conservation easement permanently restricts the use of the property for purposes not compatible with agricultural and conservation values. Ownership of the property remains with the landowner and is not transferred to the land trust.

What does it cost to place a conservation easement on my land? Based on the type and complexity of the project, landowners can expect to spend $60k - $90k. In the case of fully donated easements, funders may be able to support landowner costs.

What is the difference between fully donated and purchased conservation easements? Fully donated easements can be completed in less time at less cost than purchased easements. The landowner is not paid for the easement but can realize potential tax benefits from the full value of the easement.

PURCHASED CONSERVATION EASEMENT PROJECT TIMELINE: 3-4 YEARS



1 YEAR

PHASE 1 APPLICATION

- Application received and approved
- Title commitment
- Appraisal consultation
- Survey (if required)

1-2 YEARS

PHASE 2 FUNDRAISING & DUE DILIGENCE

- Grant applications: Natural Resource Conservation Service (NRCS) Agricultural Conservation Easement Program-Agricultural Land Easements (ACEP-ALE); Wyoming Wildlife and Natural Resource Trust; and non-government entities
- Baseline documentation report
- Deed of Conservation Easement drafting
- NRCS appraisal
- Minerals assessment report

6-12 MONTHS

PHASE 3 CLOSING

- Final land trust Board of Directors approval
- Funder approval and invoicing
- Mortgage subordination (if necessary)
- Signing and recording of the conservation easement
- Land trust transaction fees and stewardship contribution due
- IRS appraisal

How much is a landowner paid?

In the case of purchased easements, the land trust can pay up to 75% of the appraised value of the easement. A qualifying appraisal determines the loss of value, or diminution, caused by the proposed conservation easement based on comparable before and after sales.

PRICE OF THE PROPERTY
Unencumbered (BEFORE) Fair Market Value

25% DONATED

75% PURCHASED

ENCUMBERED (after) FAIR MARKET VALUE HYPOTHETICAL

HYPOTHETICAL CONSERVATION EASEMENT (CE) VALUE

Landowner makes a minimum 25% "in-kind" donation of land value

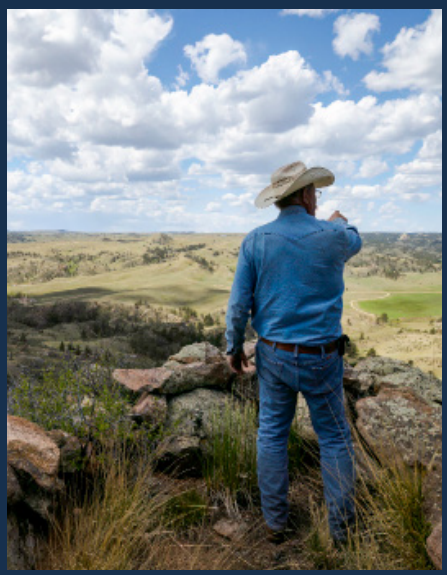
For fully purchased easements, the land trust may purchase up to 75% of CE value

In a fully donated easement, the entire CE value is considered a charitable contribution and may be available for tax benefits.

EXAMPLE

$3M BEFORE VALUE - **$1M** CONSERVATION EASEMENT VALUE ($250K - Landowner In-Kind (25%), $750K - Purchase Price (75%)) = **$2M** AFTER VALUE

DIMUNITION (LOSS OF VALUE)
Varie greatly depending on property



"The conservation easement helps with succession because it maintains the land for future generations."

Guy Landers

LANDOWNER

Wyoming Stock Growers Land Trust
Conservation Easement Information Packet

Contents

- Introduction
- Conservation Easement Process
- Estimated Timeline
- Frequently Asked Questions

The Wyoming Stock Growers Land Trust is dedicated to conserving Wyoming's working agricultural lands, which also provide open space, wildlife habitat, and other environmental benefits for future generations.

Introduction

The Wyoming Stock Growers Land Trust (Land Trust) is the first and only agricultural land trust in Wyoming. We work with landowners across the state to protect working lands; preserving our agricultural heritage and the multitude of public benefits that result from intact agricultural lands. Our mission is accomplished by partnering with willing landowners in voluntary, permanent agricultural conservation easements.

Farmers and ranchers across Wyoming have persisted through threats to their livelihoods and legacies – from drought and wildfire to challenging economic conditions and navigating changing policies. Responding to a growing communal need to preserve Wyoming's agricultural lands and heritage, the Wyoming Stock Growers Association founded the Land Trust in 2000. As an agriculturally focused land trust, we help farmers and ranchers preserve the legacy of their property. Our organization has partnered with 97 families to protect over 330,000 acres across the state, supporting landowners in their vision of securing their agricultural livelihood and legacy.

If you are interested in protecting and preserving your land, we invite you to consider the Land Trust as a partner in achieving your goals. Please carefully consider the information provided here and consult your legal and financial advisors. When ready, please contact us to discuss how partnering with the Land Trust can support you as you protect your land and legacy.

Steps and Costs Associated with Completing a Purchased Conservation Easement

Consultation and Approval

All conservation easement projects begin by contacting the Land Trust to discuss your conservation goals and provide preliminary information about the property under consideration. Staff will also provide details and answer your questions about the conservation easement process.

The Land Trust asks that you consult with your family, legal counsel, and financial advisor prior to applying for a conservation easement project. After determining that a conservation easement is an appropriate tool to accomplish your goals, you must submit an official application for consideration, along with a non-refundable application fee of $1,000. This application fee helps cover the initial costs of reviewing your property, including staff time and travel.

Application

Through the conservation easement application, the Land Trust will ask for key information about your property, agricultural operation, conservation values, and anticipated goals for the project. Specifically, you will need to provide:

- Proposed conservation easement acreage.
- Brief description of any home sites or development rights you wish to retain.
- Current uses and values of the property (agricultural, natural, scenic, historic, etc.).
- Financial expectations from sale or donation of a conservation easement.
- Your interest in pursuing a conservation easement.
- Contact information for you and your legal advisor.

It is important to provide an accurate legal description of the proposed conservation easement. The legal description you provide will be used in the initial due diligence process.

After receipt of the application, staff will determine if the project is suitable for further consideration. Staff will also schedule a tour of the property to aid in this determination and finalize the application.

Land Trust Board Review

The Land Trust Conservation Committee reviews all suitable projects. The Conservation Committee will recommend that the Board of Directors (Board) approve the most competitive projects. The Board has ultimate decision-making authority on which conservation easement projects the Land Trust will proceed with. Completing a conservation easement project can take substantial time and the number of projects the Land Trust can accept varies depending on capacity.

You will be contacted immediately following the Board's decision. If your application is approved, you will be requested to sign a landowner agreement formally engaging us in the project. The landowner agreement outlines the timeline of the project and the responsibilities for you and the Land Trust during project development.

Preliminary Title Commitment

Following your agreement to proceed with the project, the Land Trust will order a preliminary title commitment from a local title company. This title commitment is used to ensure there are no major issues with ownership or other burdens on the property that would compromise the conservation easement, now or in the future. Issues that typically arise in a preliminary title search may include lack of legal access, conflicting rights of way or leases, and other real property considerations. Title issues are typically benign and will be addressed with you and your legal counsel right away.

Appraisal

Prior to engaging in a conservation easement project, you should seek independent legal and financial counsel regarding the tax benefit qualification and valuation of conservation easements.

Following Board approval and landowner agreement, a qualified appraiser will be engaged for the conservation easement project. The Land Trust maintains relationships with qualified appraisers in our region and will work with you to match the best appraiser to your project.

The appraiser will provide an initial estimate of the conservation easement's value, which is necessary as the project matures. Once fundraising is nearing completion, the appraiser will provide a qualifying appraisal to meet funder requirements. If you intend to use potential tax benefits gained from the conservation easement, a final IRS-qualified appraisal will need to be completed at or shortly after closing.

All appraisal costs are paid by you. These costs will be incurred over the duration of the project as the appraiser completes their work. Appraisal costs vary based on conservation easement terms, property, and your landholdings. Generally, total appraisals costs can range from $20,000 to $30,000. In the case of fully donated easements, the Land Trust may be able to fundraise to assist landowners with this cost.

Due Diligence and Fundraising

Funding Partners

Most purchased easements are funded by the Natural Resource Conservation Service (NRCS) through its Agricultural Conservation Easement Program-Ag Land Easements (ACEP-ALE) funding program. The Land Trust also relies on funding from the Wyoming Wildlife Natural Resource Trust (WWNRT). Other funding partners may be brought to the project based on conservation easement value and government funding partner capacity. Every funding partner has different requirements, timelines, and funding capacity. The Land Trust manages all aspects of project funding, keeping you regularly updated on fundraising progress and actions you need to take.

Deed of Conservation Easement

The Land Trust uses a template from which the deed of conservation easement will be individually tailored. A pro forma template will be provided to you and your legal counsel at the onset of the project. It is critical to address any concerns with the template language at this phase.

Once the project is fully funded, the Land Trust will construct an initial draft of the deed of conservation easement to you and your attorney for consideration. Deed language will be finalized following any negotiation of deed terms. It is important to note that the Land Trust is represented by its own, separate legal counsel. You are encouraged to seek your own legal counsel throughout the duration of the project, but especially in considering the terms in the deed of conservation easement.

Mineral Assessment

To satisfy federal requirements, a mineral remoteness assessment is completed to evaluate the probability of surface mining on the property. The Land Trust maintains a network of qualified, licensed geologists to complete the mineral assessment. Mineral assessment costs are paid by you and may range from $3,000 to $7,000 based on property location and size. In the case of fully donated easements, the Land Trust may be able to fundraise to assist landowners with this cost.

Completion of Baseline Documentation Report

The baseline documentation report (BDR) is a record of the property's attributes and condition at the time the conservation easement is completed. Land Trust staff, or contractors in conjunction with Land Trust staff, will inventory all aspects of the property, ranging from ecological sites to history of the agricultural operations to existing structures, and will establish the annual monitoring photo points (discussed below). These attributes are recorded in the BDR.

Land Trust staff will perform a site visit to complete the BDR. You will be invited to accompany staff on this visit to thoroughly tour the property, inventory natural features, and establish logical and accessible photo point sites. Most site visits take half a day and are completed during the summer.

Closing Procedures

After all due diligence items are complete (appraisal, title review, deed of conservation easement, mineral assessment, baseline report) and the project is fully funded, the project moves into the closing phase. The costs discussed below are usually deducted from the final payment for a purchased easement. In the case of fully donated easements, the Land Trust may be able to fundraise to assist landowners with these costs.

Final Board Approval

Land Trust Board of Directors must approve the final conservation easement deed and supporting documents prior to closing a conservation easement transaction.

Funder Review of Due Diligence

For purchased conservation easements, some funders wish to review the project and request documents such as the conservation easement, appraisal, baseline inventory, minerals report, title work, and other relevant documents prior to releasing funds. Funder review of due diligence can take up to ninety (90) days.

If the project is funded by NRCS, additional time is required to complete this step. Technical review by NRCS requires analysis by national NRCS staff, additional appraisal analysis on large projects, and a site visit by the local District Conservationist to ensure condition of the property has not significantly changed from the time of application or from what is documented in the baseline inventory.

Purchase and Sale Agreement

This contract lays out the terms and conditions for the transaction.

Mortgage Subordination or Release

If the land is mortgaged, the mortgage must be subordinated or released before the conservation easement can be signed. The Land Trust will coordinate with the mortgage company to complete any necessary subordination documents. The mortgage will be formally subordinated at the time of closing.

Signing of the Conservation Easement

Once all other steps are completed, the conservation easement is signed and closed at the title company that is insuring the transaction. Remote closing is possible if you or Land Trust staff are unable to attend in person. All title costs associated with the project are paid by the landowner at the time of closing. Title costs may range from $3,000 to $8,000 depending on the project.

Transaction Fee

At closing, you pay a transaction fee to the Land Trust to recover costs incurred by the Land Trust through the course of the project. The Land Trust uses a standard transaction fee of $30,000 for purchased easements and $18,000 for fully donated easements. Transaction fees may be considered a charitable contribution based on the landowner's tax situation (consult your financial advisor for more information).

Stewardship Fee

The Land Trust requests that you make a $40,000 charitable contribution to its Stewardship Endowment. The intent of this endowment is to fund annual monitoring expenses, enforcement costs in the event of some future violation, and defense of the conservation easement from external threats to the conservation values of the property. Contributions to the Land Trust Stewardship Endowment may be considered a charitable contribution based on the landowner's tax situation (consult your financial advisor for more information).

Recording the Conservation Easement

The signed conservation easement is recorded in the local county clerk's office. An original copy is provided for your records. Recording costs vary from county to county and are paid by the landowner at the time of closing.

Acknowledgment of Charitable Contribution

In the event the landowner claims the in-kind value donated as a charitable contribution, the appraiser and your tax advisor will complete an IRS Form 8283 documenting the charitable event. The Land Trust will evaluate this form for consistency with federal and state income tax deduction or credit requirements and provide an accompanying "Contemporaneous Letter" further acknowledging the charitable donation.

Annual Monitoring

As an accredited Land Trust, we are required to monitor each conservation easement at least once per year. You will receive notice of monitoring two weeks prior to the visit. You are encouraged, but not required, to attend the visits.

Each year, biennial photos are taken at half of the photo points established on the property. Land Trust staff will visit with you to determine if any reserved rights have been exercised in the past year and are consistent with the conservation easement. Land Trust staff will also inquire about any future projects you have planned or opportunities for the Land Trust to provide additional support.

Each monitoring visit is documented in a report that is signed by you and Land Trust staff. A copy of this report will be provided to you for your records.

Conservation easements establish a powerful partnership between landowner and Land Trust. Land Trust staff are available to discuss your property management goals, future opportunities for conservation, or challenges you are facing. As your partner in conservation, we want to support and assist you however we can.

Estimated Purchased Conservation Easement Timeline

Phase 1 – Initial Due Diligence (1 year)

- Title Commitment
- Appraisal Consultation
- Survey (if required)

Phase 2 – Fundraising and Due Diligence (1-2 years)

- Title Curative Work (if necessary)
- Grant Applications (NRCS, WWNRT, other non-government entities)
- Minerals Assessment Report
- NRCS Appraisal
- Baseline Documentation Report
- Deed of Conservation Easement Drafting

Phase 3 - Closing (6-12 months)

- Final Board Approval
- Funder Final Approval and Invoicing
- Mortgage Subordination (if applicable)
- Signing and Recording of the Conservation Easement
- Land Trust Transaction Fees and Stewardship Contribution Due
- IRS Appraisal

Frequently Asked Questions

What is a conservation easement?
Conservation easements are voluntary, individually tailored, and perpetual agreements that limit the amount and type of development on all or part of a property. With a conservation easement, you continue to own your property, but you give up specific rights to divide and develop the land within the conservation easement. By giving up these particular rights, a landowner ensures that the property will remain in its current and natural state for generations to come.

The Land Trust's deed of conservation easement template allows agricultural operations to grow and change as agricultural practices change, while limiting or eliminating the potential for subdivision and future residential development on the property. In partnering in a conservation easement with the Land Trust, you ensure that the land will be available for agricultural uses in the future.

What are the financial benefits of a conservation easement?
Based on your financial status, certain tax benefits may be available. The Land Trust encourages every landowner to consult with their attorney and financial planner to discuss the possible tax benefits that can be realized in a conservation easement transaction.

What does perpetuity mean?
"Perpetuity" means that the conservation easement is fixed to the property permanently. Furthermore, the deed of conservation easement cannot be amended or terminated unilaterally by the conservation easement grantor (landowner) or grantee (Land Trust). Perpetuity is a requirement of federal tax law for an easement donation to be tax-deductible.

Will a conservation easement result in the loss of landowner control over the management of the property?
The terms of an agricultural conservation easement are designed to preserve the property without undermining your ability to make day-to-day management decisions for your ranch. However, by their nature, agricultural conservation easements limit future development of the property for the purpose of conserving values of the property.

In a deed of conservation easement, the Land Trust is conveyed the rights to access the property for annual monitoring and the ability to enforce the conservation easement. Additionally, the Land Trust is granted the development rights, except those reserved by the landowner, which are subsequently extinguished. Rights reserved by the landowner, including predetermined future residences and agricultural support buildings, are individually tailored in the terms of the deed of conservation easement.

The deed of conservation easement prohibits certain activities that may compromise the agricultural and conservation values of the property. These prohibitions typically include limitations on subdivision, construction of additional residences or structures, dumps and hazardous waste storage, surface mining, non-agricultural commercial uses, etc.

Agricultural conservation easements are designed to protect the continued use of the property for agriculture. To this end, the deed of conservation easement explicitly reserves to the landowner numerous rights that capture the essence of agricultural production. These explicitly reserved rights include grazing, hunting, leasing, limited additional residences, fence construction, vegetation management, road and utility construction, recreation, agricultural support structures, etc.

A pro forma deed of conservation easement is available for interested parties to review.

Can a conservation easement ever be amended or terminated?
Amendments to conservation easements are possible but can only be done at the mutual consent of both the landowner and Land Trust, and if the amendment does not result in private benefit to any party. The amendment process is rarely used and involves extensive legal counsel, new appraisals of the property and due diligence, and additional transaction fees.

The Land Trust has never had a conservation easement terminated for any reason. However, conservation easements can be terminated by either judicial action or condemnation. These processes rarely occur and have specific procedural requirements detailed in the deed of conservation easement.

Can there be oil and gas development on a property with a conservation easement?
Conservation easements limit mineral development, and limitations will differ between properties. We encourage you to consult with your attorney concerning mineral development on permanently conserved lands.

What are the public benefits?
Conservation easements help to ensure that Wyoming's wide-open spaces continue to contribute to the production of food and fiber, habitat for wildlife, watershed quality, and the scenic resources that Wyomingites and visitors alike cherish. These public benefits are what qualify conservation easements as charitable transactions in the IRS code.

Do conservation easements require public access?
Conservation easements do not require public access. Decisions regarding public access to the property are left solely to the landowner. Some landowners choose to grant public access and some funders are willing to pay for it. Any public access agreements are completed separate from the conservation easement.

Who gets the money if a conserved property is sold to a new owner?
The Land Trust does not gain from the sale of a conserved property. As the landowner, you receive all proceeds from any future sale of the property. The Land Trust works with new landowners after a property has been sold to ensure they understand the terms of the conservation easement and build a relationship between the new landowner and the Land Trust.

Can the Land Trust sell the conservation easement granted to them, or otherwise dispose of it?
Land Trust conservation easements may only be transferred to a different land trust or conservation easement holder with the mutual consent of the landowner, and not for any financial gain. The Land Trust has only been transferred additional easements to hold and has not transferred any easements to other land trusts.

Why is there an application fee and how is it applied to approved projects?
The Land Trust implemented an application fee to help offset the initial costs of evaluating properties. This allows us to focus resources on new projects with strong conservation potential. The application fee is non-refundable, however for approved project applications, the fee will be deducted from the transaction fee at closing. If the application fee presents a barrier, please contact us to discuss options.

How does the Land Trust choose which project to take on?
The Land Trust uses a ranking system that is approved by our Board of Directors. The metrics consider agricultural viability, agricultural heritage, landscape connectivity, wildlife habitat, public benefit, fundraising

opportunities, and potential project risks. More information is available in the application form and on our website.

What's the difference between fully donated and purchased conservation easements?
The primary difference between donated and purchased conservation easements is the amount a landowner is compensated for the easement.

In a fully donated transaction, the landowner receives no payment for the easement and makes a charitable "in-kind" donation of the full value of the easement. The landowner can utilize the full value of the easement for potential tax benefits, provided a qualifying appraisal is completed. In a fully purchased transaction, the Land Trust pays up to 75% of the conservation easement value and the landowner makes a charitable "in-kind" donation of the remaining 25% of the conservation easement value.

Charitable donation can be used for potential tax benefits if a qualified appraisal is completed. Landowners are not required to pursue or utilize potential tax benefits.

Fully donated easement projects may be completed in 12 to 18 months, depending on the size and scope of the project, and are at a reduced cost to the landowner compared to purchased easements. Purchased easements take longer and are more expensive to complete than fully donated easements due to the fundraising and staff capacity necessary to complete the project.

Why should I consider a conservation easement?
Conservation easements are a great tool for certain landowners. They may provide tax incentives, assist in generational transfer, provide numerous public benefits, and preserve our working Wyoming landscapes. The Land Trust advises landowners to discuss the potential benefits of both fully donated easements and purchased easements with their legal and financial advisors.

For More Information

Visit our website at wsglt.org

or

Call the Wyoming Stock Growers Land Trust office at (307)772-8751

WYOMING
STOCK GROWERS
LAND TRUST