



GUIDE

CONSERVATION EASEMENTS

A GUIDE FOR TEXAS LANDOWNERS



TEXAS
LAND TRUST
COUNCIL

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Introduction

BECAUSE OF ITS SIZE AND UNIQUE GEOGRAPHY, TEXAS ENJOYS A RICH AND DIVERSE NATURAL HERITAGE.

From the mountains in the west, to the 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 90 percent of the state’s land. But the Texas landscape is changing. Today, over 85 percent of all Texans live in urban areas, and 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 a significant percentage 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 their family history, their community, and their state’s natural and cultural heritage.

This guidebook is intended to help Texas landowners understand one of the most flexible and effective mechanisms 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. Some conservation easements may also qualify the landowner for numerous tax benefits.

Every conservation easement document is individually crafted and reflects the special qualities of the land protected, as well as the needs and desires of the landowner. Conservation easements can assist landowners who wish to permanently protect their farm or ranch land, wildlife habitat, open spaces, water resources, scenic views, historic buildings, or archaeological sites. Each conservation easement document can be tailored to meet a landowner’s specific needs, whether he or she owns 10,000 acres in West Texas or 100 acres in the Texas Hill Country.

This guidebook also profiles ten landowners, each of whom has used a conservation easement to protect some portion of their land. These profiles illustrate how conservation easements can help people to conserve their privately held lands and waters for agricultural production, wildlife habitat protection, open space and water quality protection...for the benefit of future generations.

Part One: WHAT IS A CONSERVATION EASEMENT?

A **conservation easement** is a written agreement between a property owner 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 (land trust). 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 or subdivide a property, but keep the rights to build a house in a certain location, raise cattle or grow crops. The landowner may continue his or her current use of the property, as long as the conservation values set forth in the easement remain protected.

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

Why Use a Conservation Easement?

Landowners interested in conservation generally have the desire to protect the natural or productive qualities of their land. The landowner may be 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 may also be concerned about maintaining their property’s economic use and productivity. The economics associated with land ownership are complex, and 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 conserve their land for their children and future generations, while maintaining private ownership and the historic use of their property. In Texas, conservation easements are generally donated to nonprofit conservation organizations, commonly known as **land trusts**. The donation of a conservation easement can potentially have 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 seek to answer general questions that a landowner might have about conservation easements. However, before completing a conservation easement agreement, landowners should consult with their legal and tax advisors.

Part Two: FINANCIAL BENEFITS OF CONSERVATION EASEMENTS

Placing a qualified conservation easement on land may provide the landowner with federal income and estate tax benefits and possibly state property tax benefits. Conservation easements are not suited for every situation; it is important that landowners consult legal and tax professionals for more specific information.

A conservation easement donation can qualify as a charitable contribution under IRS regulations 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.

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

- the conservation easement document, which must include a legally sufficient description of the land;
- 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 subordination agreement, which subordinates any mortgage and all other liens on the property to the terms of the conservation easement;
- a mineral remoteness report (if ownership of the surface and minerals are severed and the mineral owners do not waive their surface rights);
- IRS Form 8283 (an attachment to the federal income tax return of anyone claiming charitable contributions of more than \$5,000); and
- contemporaneous, written letter of substantiation from the easement holder documenting receipt of the conservation easement as a charitable gift.

Federal Income Tax Deduction

The federal income tax benefits of donating a conservation easement are similar to those of making other types of 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 monetary value of the conservation easement is, generally speaking, the difference between the value of the property with the restrictions of a conservation easement in place and the same property's value without these restrictions. Oftentimes, the value of a conservation easement donation is greatest in areas where development pressure is most intense and lower in more remote areas. Likewise, a conservation easement that prohibits development to a greater extent will have a higher value than an easement that contains only minimal restrictions.

For example, a tract of land may be worth \$500,000 as a site for potential residential development, but only worth \$200,000 as open space or recreational property. If a landowner donated a conservation easement to a land trust that prohibited new construction or further subdivision on his property and restricted its use to open space, the value of the conservation easement and charitable contribution would be \$300,000. The landowner may then be eligible for up to \$300,000 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 (AGI), 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. Federal regulations determining the extent (length of years, amount of Adjusted Gross Income) to which the landowner may deduct the conservation easement donation have been temporarily enhanced in recent years. In 2006, Congress enacted an enhanced conservation easement tax incentive that expanded both the percentage of AGI deduction allowed, as well as the number of succeeding years in which the deduction can be claimed. Land conservation advocates continue to work to make the enhanced conservation easement incentives permanent. Please consult your tax and legal advisors for the most up to date conservation easement tax provisions and the status of current regulations regarding deductibility.

Should the value of the charitable donation exceed a landowner's ability to use the income tax deduction over the allowable period, the landowner may consider donating the conservation easement in phases over different portions of the property. So, once the value of the first phase has been deducted over the allowable period, a second phase can then be donated with a separate deductibility period. However, such phasing can 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, may also be tax deductible.

Estate Taxes

Conservation easements can provide some estate tax relief to landowners and their heirs. First, the donation of an easement can provide for a significant reduction in the taxable value of the estate, thus reducing taxes owed. 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 home sites, even if the heirs do not intend to develop.

A conservation easement can place restrictions on the use of a property that limit its "highest and best use." When the property's "highest and best use" is restricted, its value and 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 homes, estate taxes on her land would be based on the land's value as a ranch, rather than as 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 executors have the power to donate a conservation easement after their death. Under federal law, in certain circumstances, executors or heirs can donate a conservation easement within a period after a landowner's death and qualify for land value reduction. A landowner intending to convey a conservation easement through their will should contact the potential easement holder (land trust or other qualified entity) to ensure that the organization will accept the donation.

In another 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

Second, a conservation easement may 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, as outlined in section 2031(c) of the tax code. This exclusion provides further estate tax incentives for properties subject to a donated conservation easement in addition to the reduction in land value attributable to the easement itself.

In the previous example, and with the Additional Exclusion:

Exclude 40% of Conservation Easement Land Value	\$700,000	(\$280,000)
New Total Taxable Estate		\$3,920,000

Local Property Taxes

Conservation easements may also 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 being taxed is reduced. 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 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 Three: 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 landowners. Some organizations, however, may be willing to purchase or otherwise accept conservation easements or deed restrictions that are designed for a set period of years. Some programs may pay landowners for limited-term conservation easements on lands that provide significant habitat for birds and other wildlife, or maintain lands in a desired type of vegetation. However, these limited term conservation easements do not qualify for federal tax benefits.

Can conservation easements be purchased?

Yes, conservation easements can be purchased, though this is less often the case in Texas. Purchased conservation easements are sometimes referred to as “PDRs,” which stands for “purchase of development rights.” If some type of funding is available to purchase an easement, often the amount available is less than the full 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 (tax deduction) generally will be the value of the conservation easement less the amount paid. How conservation easements are typically valued is discussed earlier in this guidebook.

In 2005, the Texas Legislature established the Texas Farm & Ranch Lands Conservation Program. 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 and funding status. Moreover, some Texas cities have approved and issued local bonds to provide funding to purchase conservation easements on private land for a variety of conservation purposes. Currently, the United States Department of Agriculture (USDA), through the Natural Resources Conservation Service (NRCS), has agricultural conservation easement programs through which the agency provides some portion of funding to local governments and land trusts to secure conservation easements on farms, ranches and other important agricultural lands.

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, or required under local development regulations).

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. 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.

Does a conservation easement grant public access to my property?

No. Landowners retain control of access to their property. They may choose to allow some level of access 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 from an experienced attorney and tax advisor is recommended for families considering placing a conservation easement on their land.

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?

Yes. In most cases, the landowner may retain specified development rights in a conservation easement agreement. The areas reserved for development are generally limited in scope, in order to adequately preserve the conservation values set forth in the easement. For example, a conservation easement protecting a farm or ranch may allow some construction, including residences and other structures compatible with agricultural operations. A conservation easement can also 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 may 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 for federal tax benefits are required to be permanent, landowners should assume that it will not be possible to terminate a conservation easement. Perpetual conservation easements are more than just private

contracts between the owner of the land and the holder of the easement, and modifying them is not done lightly. Easement terminations would require court approval, where the judge will weigh the conservation intent of the easement grantor and the interests of the public. It may be possible to amend a conservation easement if certain criteria are met, among them the following:

- 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.
- the amendment has a net positive or neutral impact on the conservation values protected by the easement, and
- neither the landowner nor any other person receives a financial benefit from the amendment.

In addition, many states require review and approval by the attorney general in order to amend a conservation easement.

When a federal 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, thereby reducing estate taxes for the 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 include the donation of a conservation easement. A landowner who might want their executor or heirs to be able to make this donation can easily 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 uniquely tailored for each property. They are further 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 (land trust) to determine whether this tool will help accomplish one’s long-term conservation and economic goals.

Part Four: EASEMENT PROFILES

The ten landowners profiled in the following pages have used conservation easements to accomplish their land use objectives and conservation goals for the future. The properties described in these profiles vary from a 71 acre county nature preserve to a 6,200-acre ranch along the San Antonio River in South Texas. Each landowner and their situation is unique, as is the land trust easement holder that they worked with. The profiles are intended to provide examples and insight for those considering placing an easement on their own land.

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 allowing 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 (TNC) was very interested in a donated conservation easement on the property because it is directly upstream from its Barton Creek Habitat Preserve. As the largest private property in western Travis County – and only 20 miles from downtown Austin, the ranch had excellent wildlife habitat and open space. Also, the development of the Shield Ranch would have negatively impacted a TNC property downstream, as well as Barton Creek all the way to Barton Springs.

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 qualified 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 both the development areas and the 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. Placing an easement on their ranch was not an easy decision for the family to reach and 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 master-planned 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. Next, the farm was expanded to 196 acres in 1961 when a neighbor sold Bert his farm. And as history sometimes has a habit of repeating itself, that year Hurricane Carla blew down the barn on that tract as well.

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 have all since collapsed or dried up. There was only 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 you walk through the farm’s 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 Pecore’s donated to the Pines and Prairies Land Trust (PPLT) strongly protects these 17 acres of rare prairie. For the baseline documentation report, the land trust assembled a great team of botanists and biologists to inventory the remnants of the vanishing native prairie ecosystem.

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 income 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 developments on the Island, but had also gotten bogged down with 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 soon realized the complexities of such an effort, as well as 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. 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 now in place ensures that this island, known as the “Robert ‘Bob’ Moore Wildlife Sanctuary,” will exist as part of this coastal preservation complex and remain undeveloped in perpetuity.



THE LANTANA RIDGE RANCH



More than 6,200 acres of beautiful south Texas ranchland lying along the San Antonio River in Goliad County are conserved through a conservation easement held by the Guadalupe-Blanco River Trust (GBR Trust). Dr. James Fuller, his wife Mary and their family own the 6,201-acre tract that features seven miles of San Antonio River frontage, diverse topography and natural habitats, including floodplain forest and upland habitats such as Tamaulipan thornscrub, woodland, savanna and grassland. The diversity is stunning here, as the ranch lies in an area of transition between the oak prairie and woodlands and south Texas brush. The ranch also supports a variety of active farming and ranching operations. With the large amount of river frontage and diverse habitats, Lantana Ridge Ranch supports a broad array of wildlife species in addition to the diverse agricultural operation.

The Fullers' goal is to pass the ranch down to their three sons who are already actively involved with the management of both the ranch and the land. "We wanted to see this beautiful property preserved for our three sons and ultimately for their families, rather than being fragmented and developed," Dr. Fuller said. "All of us love the ranch, and our sons are environmentally conscious and concerned about keeping the property intact – preserving it for future generations. This easement will help us do that," Mary Fuller explained.

The Fullers were active conservationists long before pursuing a conservation easement. When the property was initially purchased they worked hard to restore the land: initiating a range and wildlife management program, removing several abandoned structures and other debris, and applying prescribed fire to their property for range and wildlife habitat



improvement. The Fullers also participate in several USDA Farm Bill conservation programs through the Natural Resources Conservation Service that helps provide food, cover and water for livestock and wildlife. They have also cooperated with the U.S. Fish and Wildlife Service (USFWS) on a wetland restoration project and cooperate with the Texas Parks and Wildlife Department (TPWD) to manage their land for wildlife.

Over their years of ownership and work on the ranch the Fuller family had considered a conservation easement as one way to meet their goals for the ranch. In 2009, they decided to move forward to protect their ranch and the Fullers and GBR Trust negotiated a conservation easement that met the family's needs, while contributing significantly to the mission of the Trust. The resulting conservation easement keeps the ranch intact, in perpetuity, and provides for the continuation of grazing, farming and wildlife management use as well as residential use by the family.

The Fuller's conservation impact goes far beyond their ranch boundaries, however. Working in partnership with GBR Trust and Ducks Unlimited, the financial value of the donated easement has been leveraged as matching funds for several North American Wetland Conservation Act (NAWCA) grant proposals. These grants are being used to restore and enhance wetland habitats on both public and private land throughout the middle Texas Coast. Truly their donation of a conservation easement was a generous gift to both current and future generations of Texans, as well as to the wildlife that call our state home.

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-ever 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 Bayou Land Conservancy (BLC). 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 unique thing about the vegetation in Montgomery County is that many of the plants here are actually in the westernmost portion of their native species range. There is a distinct interplay of diversity at work here. 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 Development Co., 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.



Bayou Land Conservancy has hosted numerous boy scout and girl scout troops who have used the site for completion and collection of various nature badges as well as Eagle Scout Projects. 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 birders agree that having access to the site at all times is a rare treat, as most public parks are only open during regular daylight 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.

This project provided the land trust with the opportunity to work on a conservation easement in partnership with a Texas county, which has been an important conservation success story. The two entities worked together to set aside the land permanently, for both wildlife habitat as well as for low-impact public access. Cities, counties and other public entities have realized that conservation easements are an available—and beneficial—option for their use. In fact, in 2011 the Texas



“ 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. ”

legislature officially passed legislation allowing counties to purchase conservation easements.

Public entities who agree to preserve lands with their local land trust also receive numerous benefits for their parks departments. For example, Bayou Land Conservancy provided volunteers for numerous functions at the Preserve, as well as designing and building a two-mile long hiking trail through the wooded wilderness of the Preserve. Besides assisting with maintenance of the trail, Bayou Land Conservancy has also provided naturalist guides for events. For the grand opening of the Preserve, naturalist guides led guided

hikes throughout the trail – providing birding, mushroom, native plant and animal expertise. Local natural historians shared their intimate knowledge of the interesting history of the Spring Creek area.

Bayou Land Conservancy continues to “preserve the Preserve” by performing its annual survey to ensure that the terms of the easement are being upheld, and that no degradation is taking place. The land trust works in partnership 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.

BARNETT RANCH



Skip Barnett says that he never intended to be a poster boy for land conservation. But if protecting the ranching heritage in North Texas means becoming a public face of the conservation easement movement then Skip is happy to oblige.

Since 1888 the Barnett family has run a cattle ranching operation in Denton County between Denton and Decatur, Texas. Over the last 120 years the land surrounding the Barnett ranch has undergone a complete transformation. Where herds of cattle once roamed unfettered, cars and trucks now race across a network of roads and highways. The view from the top of the hill near the family homestead once extended to the horizon in all sides. Now it is now marred by rooftops, water towers, and drilling rigs.

The Barnett Ranch is distinctive in many ways. The property contains a 10-acre area tract of high quality native prairie and over 80% of the ranch is underlain by soils classified as prime farmland soils by the Natural Resource Conservation Service (NRCS). Coyote, bobcat, and fox are common on the property and Skip reports seeing a rare mountain lion on occasion. Meadowlarks make their nests beneath the native grass clumps, Scissor-tailed Flycatchers chase insects through the grasses and nest in the trees, coveys of Bobwhite Quail roam the fence lines, while Red-tailed Hawks and Turkey Vultures swirl high above in search of a meal. Look closely and you can still see broad cattle paths and wheel ruts from the Chisholm Trail standing as mute testament to the herds of cattle and wagons that crossed the property during the 19th century.

The ranching operation is unique to the area. While other operations depend on imported, non-native grasses, such as Bermuda, which often require heavy irrigation and fertilization to remain viable, the Barnett family relies on the native grasses that have sustained herd animals in Texas for thousands of years. Since these grasses are adapted to the unique climate of North Texas they do not require intensive artificial inputs to provide

healthy forage, even in the drought years so common to North Texas.

Preservation is important to the Barnett family and they have taken many steps to ensure that the ranching heritage survives for future generations of North Texans. The family homestead, built in 1914, is certified as a heritage property and the farm itself is registered as a heritage farm by the State of Texas. Skip has assembled an impressive collection of historical farming equipment in a museum setting on the ranch for visitors to enjoy. In 2006, the family placed 236 acres of native grasslands under the protection of the under the NRCS Grassland Reserve Program. Since the Barnett Ranch sits in the heart of the Barnett Shale natural gas field, some extractive development was inevitable. Since the family does not hold the mineral rights to the property Skip worked with lease holders to minimize the surface impacts of extraction and to locate well pads and pipelines in such a way as to reduce visual impacts. But the family's ultimate goal was to protect all of their land from the urban sprawl that surrounds them.

Their solution was the Connemara Conservancy, a non-profit land trust established to protect critical landscapes in North Texas. Working with Connemara, the Barnett family has placed a total of 990 acres of native grasslands, cropland and riparian corridors under two adjacent conservation easements. These easements allow the family to continue ranching operations while relinquishing rights to subdivide and develop the property. Combined with the acreage protected under the grassland reserve program, the family has ensured that over 1200 acres of prime North Texas ranch land will be preserved in perpetuity.

PIKE DAVIS RANCH



THE PERMANENT PROTECTION OF THE PIKE DAVIS RANCH IS THE RESULT of many years of careful preparation and thoughtfulness by the Hicks and Green families, ancestors of the ranch's long history. The ranch is 1,415 acres of stunningly classic Hill Country landscape, located within the Llano Uplift in the Colorado River watershed. The property was once part of a much larger ranch, purchased by the Davis family in the 1850s. Over the years, pieces have been sold off, but the Hicks and the Greens wanted to ensure that the remaining 1,415 acres can never be further broken apart. This large tract of Hill Country history is now permanently protected in partnership with the Texas Land Conservancy (TLC).

Pike-Davis Ranch is significant for many reasons – its sustainable ranching operation, historic value, rich water resources, abundant native plants and habitat – but there’s a larger conservation mosaic at work here. This beautiful ranch is also adjacent to three other TLC conservation properties. Pike-Davis is a direct neighbor to the Ferguson Ranch (215 acres) and the Willow Spring Ranch (175 acres). Less than a mile up the road is White Creek Canyon Ranch (310 acres). All told, the landowners in this area have voluntarily protected 2,115 acres of vital Hill Country landscape.

The 1,415 acres of the Pike Davis Ranch are still operated as a working cattle ranch. Howard & Helen Hicks and Bettie & Terry Green, the two family partnerships that own the Pike Davis Ranch, began thinking about conserving the ranch a couple of years ago. They began to think seriously about what the future of the Pike Davis Ranch might look like for the next generation. “The thing that’s the most important to me about the ranch is the historical heritage. To drive around and say, ‘my relatives walked right here’ is like going to the Holy Land,” says Bettie. Six generations of the Davis family are connected to the ranch. And in 2011, the Hicks and Green families made a decision to conserve their ranch- forever- in partnership with the Texas Land Conservancy.



What will the next 150 years of the Pike Davis Ranch look like? “The constant has been the land,” mused Alfred Davis IV, Bettie and Howard’s cousin, during his speech at the ranch’s 150th anniversary celebration. The family was gathered at Walnut United Methodist Church, built by some of the 23 original settlers. “Bluebonnets and Indian Blankets return each spring. Roadrunners still dart across the road. The seasons evolve. The hills of the Coal Creek Serpentine geologic formation are more than one billion years old. Bats still inhabit Blowout Cave and entrance visitors. I wonder if any of our original ancestors ever thought that 150 years after their arrival, their descendants would gather in this church to remember and honor them and give thanks for their sacrifices, renew friendships, and look to future generations to preserve some of the heritage that has come to each of us?”

With caretakers like Howard, Helen, Bettie and Terry, it is easy to imagine a similar celebration taking place at the Walnut Church another 150 years from now.

YTURRIA RANCH



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, The Yturria Ranch, owned by Frank Mary Yturria 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 Yturria Ranch 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 documented ocelots than any other privately owned property in the United States.

The ocelot is a small, native wild cat that lives in the thick brush in South Texas. The numbers of this beautiful and rare animal have declined to possibly no more than 50 in Texas – largely because their habitat has been cleared for 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 ocelots have been captured and fitted with radio collars on the Yturria Ranch. 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 large land holdings 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 in 1989 to the U.S. Fish & Wildlife Service (USFWS) and fence 489 acres of prime habitat on the ranch was not an easy one for Dr. Yturria. The agreement with the USFWS would mean the loss of potential ranching income and a possible 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 believed 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."

Mr. Yturria's conservation efforts did not end with this one time donation. In 2007 and again in 2009, Frank Yturria, working with The Nature Conservancy (TNC) sold in a bargain sale, a total of 1,939 acres to be set aside and restored back to ocelot habitat. The conservation easements held by both USFWS and TNC total 2,420 acres on the Yturria Ranch. Not only will it provide habitat for ocelots but for many native wildlife and vegetative communities native to South Texas. Mr. Yturria continues to be involved with many conservation efforts in South Texas, an ethic he learned long ago while working on his family's ranch.



THE FRYING PAN RANCH

Jim Bill Anderson and his wife, Deborah, have spent their adult lives putting the Anderson's Frying Pan Ranch back together. The 5,600-acre ranch is home to the Andersons, an integrated livestock operation, and the increasingly rare lesser prairie chickens as well as a myriad of other wildlife. The family decided the ranch, located east of Canadian in the sand-sage Canadian Breaks prairie, will remain intact forever.

"As stewards, we believe that we have a responsibility to care for the land during our time and to leave it better than we found it for future generations," Anderson said. "We have built our entire operation on the concept of sustainability—the ability to carry a practice on into the future—and a conservation easement fits into that framework. It helps us accomplish our long-term goals."

One reason that the Andersons chose to conserve their legacy is the rapid fragmentation of agricultural land in Texas.

"Texas is losing agricultural land faster than any other state in the nation," Anderson said. "The size of Texas disguises the urgency of the problem because it seems like we've got a lot of land. But if this trend continues, we could wake up one day and see that it has gone too far. What will we do then?"

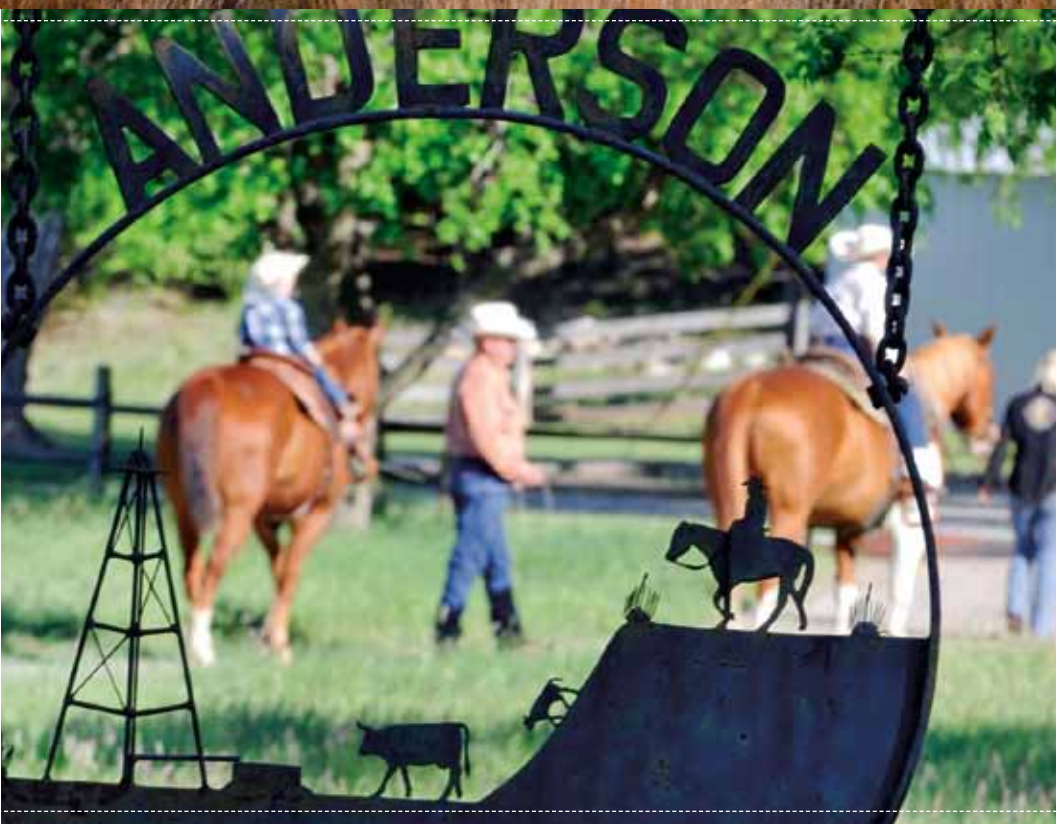
Although others argued that geography would protect the Anderson's holdings from urbanization, the family took a different view.

"Canadian is not the Dallas-Fort Worth metroplex, but that doesn't mean that fragmentation won't come," Anderson said. "While our area probably won't be dealing with strip malls and hotel chains, we could see the big ranches carved up into 300-acre recreational properties. It's already happening in adjoining counties."

To stop potential development, the Anderson family chose to enact a conservation easement.

"People enter into conservation easements for all sorts of reasons, including tax considerations and estate planning benefits, and while those were important considerations for us, the big reason we chose to do this was philosophical. In the long-term, keeping our land intact is as good for the people who live in the city as it is for us. Open space land benefits us all."

**"As stewards,
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generations,"**



THE DAHLSTROM RANCH



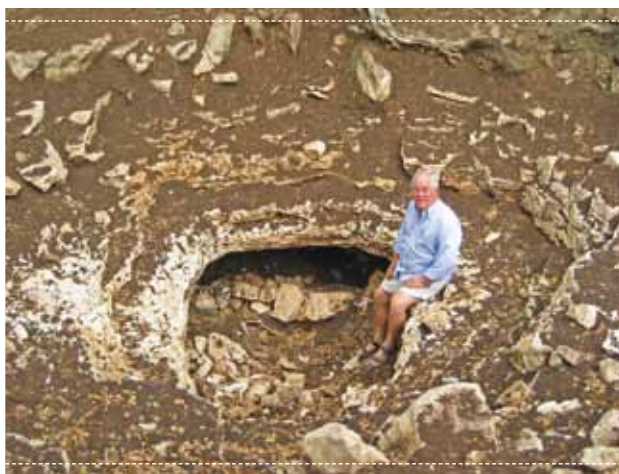
In 2010, the Dahlstrom family completed three conservation easements on their 2,254-acre ranch in Hays County. Dahlstrom Ranch lies in the Onion Creek watershed, part of the environmentally sensitive recharge zone for the Edwards Aquifer. It is located just outside of Buda, Tx, a rapidly urbanizing area close to Austin. The high rate of development makes conserving land more urgent and more expensive, creating the need for multiple funding partners to make the project happen.

With a family history dating back five generations, the Dahlstrom Ranch on Onion Creek has played a big part in Hays County's heritage. In recent years, the Dahlstroms, like many other Texas families, were concerned about whether they would have to sell some or all of their land in order to pay impending estate taxes. Mrs. Gay Ruby Dahlstrom felt strongly about preserving the family's heritage and legacy, so she hired a local law firm to help guide her through the process of creating a conservation easement to forever

conserve her land. In addition to alleviating a portion of the family's estate tax burden, the deal also provided them some financial compensation for adopting the easements, which will preserve the ranch in its natural, largely undeveloped state- forever.

The various partners worked over two years to complete this landmark conservation deal. They saw the value of preserving this working ranch, which provides the community with important benefits including protection of water quality and quantity, wildlife habitat, scenic views along Onion Creek, and preservation of the Hill Country's rural heritage.

The fact that numerous partners worked together on this project was ultimately the key to its success, but it also made the process significantly more challenging. The appraised value of the conservation easements on the Dahlstrom Ranch was over \$22 million dollars. Given limited public funding for conservation, the partners each contributed in numerous ways to make the deal happen.



The Dahlstrom family led the way by donating \$12 million of the value of their property. They wanted their entire property to be under easement, including a working quarry, which was a type of land use that had never been paired with a conservation easement before. The family also wanted to allow public access on a portion of their property, which is unusual in conservation easements on private land.

Hays County contributed \$4.9 million to help protect the land and for the option to lease 384 acres for public access and recreation. The county also serves as a co-holder of the easement. The City of Austin, with a keen interest in water quality protection in the Barton Springs Edwards Aquifer region, contributed \$1 million toward the easement purchase, as well as staff expertise and time. The City is also a co-holder of the easement.

The federal Natural Resources Conservation Service (NRCS)'s Farm & Ranchland Protection Program contributed \$4 million toward the purchase price

to achieve one of their primary grant program objectives, protecting land of archeological significance. The ranch has a listed State Archeological Landmark with artifacts from people who lived in the area 3,000 to 5,000 years ago. The Hill Country Conservancy (HCC) contributed significant staff time and legal expense to negotiate the conservation easements, and is the primary holder of all three easements. HCC is responsible for thorough documentation of the property and for monitoring and enforcing the terms of the easements, in perpetuity.

The Dahlstrom Ranch conservation easement is a successful example of how significant conservation can be accomplished with many partners, to achieve multiple goals. The ultimate solution, hammered out over many months, created three separate conservation easements that protected 2,254 acres of open space and aquifer recharge area, provided 384 acres for public access and recreation, and achieved the goals of the Dahlstrom family.

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 created for one or more conservation purposes, commonly called a land trust. Today there are dozens of land trusts working throughout the state to conserve the best of Texas' precious lands and waters. To date, these land trusts have conserved over 1.5 million acres.

What is a land trust?

A land trust is a nonprofit conservation organization involved in protecting land for its natural, recreational, productive, scenic, historical, or open space value. These trusts actively work to conserve land through fee-simple acquisition or use of conservation easements. Land trusts have varying conservation objectives; some work in specific geographic areas or concentrate on protecting particular natural or cultural features.

A directory of active, Texas land trusts is available online at www.texaslandtrustcouncil.org.

Landowners should get to know the different trusts that work in their area before making a conservation easement donation.

What does a land trust do?

Initially, a land trust meets with a landowner to determine whether there are substantial conservation resources to merit placing a conservation easement on the property. The land trust then works to tailor the terms of the easement to protect the land's conservation values, as well as meet the

landowner's personal and financial goals. Land trusts that accept conservation easements are responsible for monitoring the 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. If the terms of the conservation easement are ever violated, the land trust can take legal steps to stop or correct the violation. A land trust may also work with a landowner to develop a management plan as part of a conservation easement. These plans may include flexible goals and objectives relating to the conservation of the property's natural and cultural features.

The land trust is responsible for stewardship of the conservation easement in perpetuity. It is important that a landowner select an organization that can demonstrate that it has the financial resources and organizational capacity to handle these responsibilities long-term. Because the stewardship obligations are perpetual, many land trusts request tax-deductible financial contributions to help defray some of the costs involved.

Standards & Practices

Land trusts around the country have established a set of guidelines for the responsible operation and management of a land trust. These Standards & Practices, originally developed in 1989, set forth principles by which a trust should conduct itself in order to be credible and effective, as well as establish guidelines for conducting a sound land conservation program. For more information on Land Trust Standards & Practices visit: www.landtrustalliance.org/training/sp/

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 (www.texaslandtrustcouncil.org/texas-land-trust-directory).
2. The Texas Land Trust Council publishes this guide and can answer questions and offer additional resources for those interested in learning more about conservation easements.

The Texas Land Trust Council also hosts the annual Texas Land Conservation Conference for landowners, land trusts, and a variety of professionals involved in land conservation efforts statewide. For more information contact:

Texas Land Trust Council
(512) 994-TLTC (8582)
info@texaslandtrustcouncil.org
www.texaslandtrustcouncil.org

3. The Land Trust Alliance is the national organization for land trusts and hosts the national Land Trust Rally annually, provides training opportunities, and publishes a wealth of books and other materials related to land trusts and private land conservation. A description of several of these publications is listed in an appendix. For more information contact:

The Land Trust Alliance
(202) 638-4725
info@lta.org
www.landtrustalliance.org

4. Landowners should discuss the potential advantages and disadvantages of conservation easements with their own legal and tax advisors. The Texas Land Trust Council can help you locate professionals in your area who are well-versed in conservation easement law.

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 and Landowner’s Reserved Rights: Any land use inconsistent with the conservation easements’ purpose is prohibited. This section describes in detail which uses are allowed and which are restricted.
4. Additional Reserved Rights (the landowner’s rights to sell, transfer, bequeath, mortgage, and use the property subject to the terms of the conservation easement)
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 subject to certain principles)
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) 994-TLTC (8582) 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

Various landowner conservation-related publications are 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>

TEXAS LAND TRUSTS

For a list of Texas Land Trusts along with their areas served and contact information, please refer to the Texas Land Trust Council's Land Trust Directory, found on its website: www.texaslandtrustcouncil.org/texas-land-trust-directory

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TEXAS
LAND TRUST
COUNCIL