



# **A Guide for TU Chapters: Working with Land Trusts** *Partnerships for Conserving Coldwater Streams and Watersheds*

**TU Land Conservation Handbook Volume I**



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A publication of Trout Unlimited. Learn more at [www.tu.org/landprotection](http://www.tu.org/landprotection)

**Mission:** To conserve, protect and restore North America's coldwater fisheries and their watersheds.

**Vision:** By the next generation, Trout Unlimited will ensure that robust populations of native and wild coldwater fish once again thrive within their North American range, so that our children can enjoy healthy fisheries in their home waters.

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**Cover Photo:** North Mills River, Henderson County, NC. Damon Hearne/Slabcreek Photography.

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Ashuelot River Headwaters, New Hampshire.  
*Courtesy of Jerry Monkman Ecophotography.*

## 1 INTRODUCTION

This guide is designed to provide TU volunteers and leaders with insight into understanding land trusts and how they use land acquisition and conservation easements to address their own land protection goals. This document covers the basics of working with land trusts, sources of funding, success stories, volunteer effort, grant application and technical support that TU brings to our partnership with land trusts nationwide.

By partnering with land trusts, TU can better help protect and restore critical coldwater habitat on private lands from development or incompatible farming, ranching and forestry practices.

## 2 LAND TRUST OVERVIEW

### ↳ WHAT IS A LAND TRUST?

A land trust is a non-profit conservation organization formed to protect natural resources such as productive farm and forest land, natural areas, historic structures and recreational areas. Land trusts are also sometimes called conservancies, foundations or associations.

The country's first land trusts were established in Massachusetts during the 1850s for the purpose of protecting small parcels of land for public use. Today, the oldest continuously operating land trust in America is the Trustees of Reservations, in Massachusetts, founded in 1891. In 1950, it is believed there were 53 land trusts operating in 26 states. Today, **there are more than 1,700 local and regional land trusts across the country**, serving every state in the nation. They protect over 12 million acres of farmland, wetlands, rangeland, forests, watersheds, river corridors and other land types.

### ↳ WHAT DOES A LAND TRUST DO?

Land trusts protect land directly by buying or accepting donations of land or of conservation easements and protecting that land in perpetuity. They also educate their community and advocate for the need to conserve land. They can help landowners tailor a conservation plan to their individual situation and financial circumstances, and determine the property's conservation values and future ownership. Land trusts are distinguished by their first-hand involvement in land transactions or management and their unique mission within the non-profit sector.

Land trusts use a variety of tools to help landowners voluntarily protect the natural resources and conservation values of their land. The most commonly used methods of protecting land are purchasing the land outright and/or buying or accepting donations of conservation easements which permanently protect the land while allowing the landowner to maintain ownership and control. Most land conservation transactions protect land 'in perpetuity' from commercial, residential, or energy development and other activities that would harm the land's conservation values.

Land trusts may also manage land owned by others or advise landowners on how to conserve or manage their land. They may help negotiate conservation transactions in which they play no other role. Land trusts often work cooperatively with government agencies by acquiring or managing land, researching open space needs and priorities, and assisting in the development of open space plans.

Some land trusts focus on distinct areas, such as a single town, county or region, or concentrate on the uniqueness of a lake, river or mountain. Some land trusts only work on wilderness and pristine lands; others are interested in preserving 'working' forests, farmland or areas with limited development that conserve a community's rural landscape and open space. Local and regional land trusts support grassroots efforts to conserve lands important to their communities. Others operate throughout an entire state or even several states. There are national land trust organizations like The Nature Conservancy and the Trust for Public Land that have state and regional offices and operate nationwide and internationally.

### ↳ THE TU-LAND TRUST CONNECTION

TU has a long history of collaborating with land trusts to conserve coldwater fisheries. Because TU is not a land trust and does not have the specific mission of protecting and holding land, TU works with partners in the land trust world to carry out this highly technical work. TU brings a variety of tools and support to land trusts that helps conserve coldwater streams and watersheds.



**Why doesn't TU just become a land trust so we can do it ourselves?** In the past, TU chapters have occasionally owned land or held conservation easements. This is no longer the practice for a number of reasons:

- Land conservation is highly technical work. Because land is being protected 'in perpetuity' and must conform to real estate, tax and charitable gift law, (not to mention public perceptions), land trusts with specific missions, professional staff and focused volunteers are best suited to carry out this work.
- Permanent land protection comes with significant legal and fiscal liability. From top to bottom, land trusts are structured to deal with this liability. They have long-term plans for annual monitoring, legal defense funds for the future issues that history predicts may likely arise, and work closely with the Land Trust Alliance to minimize these risks, all in accordance with detailed rules established by the IRS.
- TU has a history of collaboration, not duplication. TU can protect more streams and do better work if we conserve land in partnership with land trusts.

**What does TU bring to land trusts?** TU's land protection program has been working to develop sources of funding, success stories, volunteer effort, grant application and technical support for land trusts doing coldwater conservation work. Here are some things TU can offer:

- Embrace-A-Stream cooperative projects. Because land trusts often focus on the protection of a property, they are often very receptive to restoration assistance.
- Conservation Success Index (CSI) support for funding requests and baseline documentation. Land trusts have used this watershed ranking tool to leverage grants, justify parcel priorities, and connect regional lands for larger funding initiatives.
- Grassroots volunteer support for restoration projects, appropriations funding, and other projects of interest to local chapters.
- Project support, facilitation and fisheries data from TU land preservation staff.
- Coldwater Land Conservancy Fund grants for land trust transaction costs that protect lands important to trout and salmon habitat.



TU volunteers gather at Rocky Fork, Tennessee to discuss fundraising options with land trust partners to permanently protect 16 miles of coldwater streams.

# FIND YOUR LOCAL LAND TRUST

[www.LandTrustAlliance.org](http://www.LandTrustAlliance.org) has a Find a Land Trust tool that makes finding your local organization (out of 1,700 nation wide) easy.

The Land Trust Alliance, in addition to helping land trusts do high quality and sustainable conservation, is also a great resource for landowners and TU chapters for more detailed information and questions.

This handbook provides details about how land trusts protect land, what tools are commonly (and uncommonly) used, and how TU chapters have and can continue to work with land trusts to protect coldwater habitat. This handbook will inform you, but there is no substitute for personal relationships with your local land trust. Find them and get to know them today.

## ➔ HOW ARE LAND TRUSTS STRUCTURED?

No two land trusts are identical. However, they all share common characteristics in their structures and operations. Land conservation is a complex endeavor, and successful land trusts master many organizational, legal and financial tasks. Most land trust work has three main parts: organizational management, land transactions and stewardship.

### Organizational Management

#### Land trusts must:

- Be compliant with all non-profit laws
- Possess the ability to raise funds
- Institute careful financial management
- Attract a strong board of directors, as well as the appropriate mix of volunteers, staff and contractors

#### LOOK FOR THIS SEAL:



The accreditation seal recognizes land conservation organizations that meet national standards for excellence, uphold the public trust and ensure that conservation efforts are permanent.

*Graphic used by permission of the Land Trust Accreditation Commission*

Today, most land trusts in America are members of the national Land Trust Alliance ([www.landtrustalliance.org](http://www.landtrustalliance.org)). The Alliance provides training and education programs to land trust volunteers and staff using the "*Land Trust Standards and Practices*" as a guide. When working with a land trust, **one of the first questions to be asked is:** "has your land trust adopted *Land Trusts Standards and Practices*?" A yes answer indicates the commitment of the land trust to excellence.

Another indicator of commitment to quality is "Accredited" status. The national **Land Trust Accreditation Commission** was established in 2006 as an independent program of the Land Trust Alliance, and as of September 2010 has awarded accreditation to over 100 land trusts. Accreditation demonstrates that the land trust has undergone a rigorous review of its policies, practices, and financial operations. It will be a number of years, however, before the Commission will be able to accept and review the applications of every land trust that seeks accredited status. Many non-accredited land trusts are already performing to these high standards.

## Land Transactions

Land transactions start with evaluating and selecting land conservation projects carefully. This **strategic conservation approach** is the foundation of a robust conservation program. Most land trusts would like to protect more land than their limited time, staff, funding or other resources permit. Accordingly, the most effective organizations create a strategy or plan of action to target specific types of land to save. Trout Unlimited works with land trusts to incorporate coldwater habitat into conservation priorities.

Once a land parcel is identified, a willing seller or donor is on board, and funding is identified (see Costs of Acquiring Land and Conservation Easements below), the land trust ensures sound transactions by making sure that every project is legally, ethically and technically sound. This **due diligence** often involves an array of professionals and can be an expensive process. Appraisals, land surveys, environmental risk assessments, legal review of easements and deeds, title insurance and baseline documentation are all part of the due diligence process. These essentials may be carried out by land trust staff, but are often completed by professional contractors and consultants. The land trust also ensures that every charitable donation meets federal and state tax law requirements. For conservation easements, the charitable donation is defined by the details of the legal document that is the easement deed. Crafting these documents that must protect land 'in perpetuity' is a unique challenge for which land trusts are well suited.

### STRATEGIC PLANNING FOR CONSERVATION

Land trusts, no matter how large or financially successful, must focus their efforts on protecting the most important lands and landscapes. More and more are developing 'strategic conservation plans' that guide their project selection to ensure they focus their limited resources on the best land and most threatened landscapes.

*TU can provide its best science, through the Conservation Success Index, as well as local expertise, to land trusts as both a tool to help inform their planning and to help evaluate the importance of specific protection projects. For more, go to [www.tu.org/science/conservation-success-index](http://www.tu.org/science/conservation-success-index) or contact TU land protection staff via [www.tu.org/easternlandprotection](http://www.tu.org/easternlandprotection)*

## Stewardship

Land trusts carry a significant burden of 'stewarding' lands that are meant to be conserved in perpetuity. On land that is owned outright, this often means implementing a land management plan to achieve the conservation goals. Some land trusts have the capacity to carry out more advanced and costly restoration work, however, many trusts are not able to dedicate as much effort to restoration as they would like. TU's ability to contribute to this effort is outlined below.

One of the major stewardship activities and costs focuses on maintaining the conservation values associated with conservation easements. Unlike the ownership described above, land trusts must work with third party landowners to maintain the integrity of the easement document and prevent deleterious land uses. TU can also help bring restoration options to these private landowners that may be beyond the scope of the land trust. More details on conservation easements are provided below.

### MORE RESOURCES ON LAND TRUSTS

[www.landtrustalliance.org](http://www.landtrustalliance.org)  
[www.landtrustaccreditation.org](http://www.landtrustaccreditation.org)

### 3 HOW LAND TRUSTS CONSERVE LAND

Land trusts have many options available to them in order to conserve land (Appendix A). Two of the most popular options are ownership (**fee simple**) and **conservation easements**.

#### FEE OWNERSHIP VS. CONSERVATION EASEMENT:

The following are a few of the factors involved in the fee ownership vs. conservation easement decision. Also see Appendix A: Other Methods Used to Protect Land.

##### Factors Favoring Fee Ownership:

- Property contains very sensitive natural resources
- Public access and use is a significant conservation objective
- Resources on the property require intensive management or restoration
- Surrounding or adjoining lands are owned in fee by the land trust or other conservation organization or agency
- Funding available for the transaction and purchase price (if not a donation)

##### Factors Favoring Conservation Easements:

- The landowner wishes to retain ownership and management of the land
- Conservation objectives include productive use (e.g. farming, forestry)
- Private ownership is compatible with the conservation objectives
- The land trust has the capability and finances to monitor and enforce the easement
- Restrictions that protect the resources can be negotiated and can be reasonably monitored and enforced

#### ➔ FEE SIMPLE OWNERSHIP

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

Sometimes a land trust "pre-acquires" fee simple interest with the intent to later transfer the land to another agency or conservation organization. Sometimes these pre-acquisitions result in the land being transferred to private owners, but the land is made subject to conservation restrictions to ensure protection.

Fee simple lands are usually managed at the discretion of the land trust based on environmental factors and mission of the trust. Some trusts have management plans for their holdings, others manage on a need-based schedule. Because land management and restoration can be a daunting and/or expensive process, trusts are often receptive to partnering with TU to complete riparian restoration or barrier removal projects on fee owned land. TU has the benefit of knowing that its resources are going to lands that will be conserved and managed by a conservation entity.

#### ➔ CONSERVATION EASEMENTS

A conservation easement (or conservation restriction) is a private, voluntary legal agreement between a landowner and a land trust or government agency that **permanently limits uses of the land in order to protect its conservation values**. The owner permanently gives up or "eases" the right to develop the property for residential, commercial or industrial energy uses. It allows the landowner to continue to own and use the land and to sell it or pass it on to heirs, but the easement 'runs with the land,' meaning that it is not extinguished when the land is sold.

## 4 CONSERVATION EASEMENTS IN DETAIL

An easement restricts development to protect the conservation values of a particular property, which may or may not include the prohibition of construction of additional buildings, roads or other infrastructure. Landowners and land trusts, working together, can write conservation easements that reflect both the landowner's desires for the future and the need to protect conservation values. Even the most restrictive easements typically permit landowners to continue traditional uses of the land such as hunting, farming, ranching and sustainable forestry.

When a landowner donates or sells a conservation easement to a land trust, he or she gives up certain rights associated with the land, primarily relative to development. For example, the right to build additional structures might be given up, while the right to grow crops is retained. Those restrictions remain with the land in perpetuity, i.e., future owners also will be bound by the easement's terms. The land trust is responsible for making sure the easement's terms are followed.

In effect, a conservation easement is a legal tool that limits future development on a given parcel of land in order to protect conservation resources. It removes or extinguishes certain rights through the specific language of the easement and allows other rights and activities to continue.

### ➔ UNIQUE ADVANTAGES OF CONSERVATION EASEMENTS

Landowners have found that conservation easements offer great flexibility, yet provide a permanent guarantee that development will not harm the conservation values. For example, an easement on property containing rare wildlife habitat might prohibit any development, while one on a farm might allow continued farming and the building of additional agricultural structures. An easement may apply to only a portion of the property, and need not require public access.



*Courtesy of the Southern  
Appalachian Highlands  
Conservancy.*

A landowner may sell or donate a conservation easement (or a combination called a 'bargain sale'). If the donation benefits the public by permanently protecting important conservation resources and meets other federal tax code requirements, it can qualify as a tax-deductible charitable donation. The amount of the donation is the difference between the land's value with the easement and its value without the easement. Placing an easement on property may or may not result in property tax savings.

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

## ➔ TU'S ROLE IN THE EASEMENT PROCESS

The following are some key steps in completing a conservation easement that may include a TU role. These may vary by land trust and region.

- 1 Before an easement or any other conservation plan is on the table, a relationship must be created with the landowner. Depending on the situation, this might be initiated by word of mouth, informational meetings, direct mail or other personal contacts with the landowner.

**TU's role:** TU members may know landowners along the streams they frequent, or personally know landowners who would be interested in hearing about conservation options. NOTE: Landowner communications, especially initial contact and "cold calling" can be a very delicate task. Please read "Landowner Communications", Appendix C before you proceed!

- 2 Once a landowner expresses interest, landowner and land trust representative(s) meet to discuss landowner's wishes, needs and conservation objectives. The land trust representative describes the land trust and its policies, and explains how a conservation easement works, appropriateness for the property, and any other conservation options that may be available to the landowner.

**TU's role:** if the landowner is a friend of TU, or comes via a TU connection, you may wish to support the landowner in this process. For some landowners, this is an easy step. For others, years of relationship building and trust may be required to get to this point.

- 3 If the landowner expresses further interest, a land trust representative visits the property to better understand its conservation resources, and consults again with the owner on the easement terms and the long-term objectives. The land trust representative determines whether protection of the property serves the public interest, the land trust's mission and, (if donated), which of the various IRS public benefit tests is satisfied. The land trust conducts a baseline study to inventory and document the resource values of the property.

**TU's role:** Chapter volunteers or staff may be able to contribute knowledge of the fishery, riparian condition and the Conservation Success Index to the land trust's baseline report. Additionally, if future access or restoration projects are planned, this is a good time to discuss those details with the trust. If this work is, or might be planned, building in easement provisions for the barrier removals, instream modifications or access structures is key.

- 4 After consulting with family members, advisors, or others, the landowner reaches a preliminary agreement with the land trust on the proposed terms of the easement and property description. The land trust board approves the conservation easement, making a finding as to the public benefit of the easement and how it fits with the land trust's strategic plan.

**TU's role:** TU works with land trusts to incorporate coldwater habitat protection into strategic plans. This paves the way for land trusts to more easily protect these lands.

- 5 Land Trust obtains a survey and chain of title, certification of title or title report for the property and other due diligence reports as needed.

**TU's role:** Chapters and staff may nominate projects to receive transaction funds from the Coldwater Land Conservancy Fund. See The Costs of Acquiring Land and Conservation Easements, below.

- 6 The land trust completes a Baseline Report that documents the current condition of the property and the conservation values that the easement is intended to protect.

**TU's role:** if the baseline report contains information on coldwater habitat or CSI details, this would be a good time to review the document for accuracy.

- 7** Landowner determines (with assistance from advisors) if certain IRS requirements for an easement to be tax deductible are met.

**TU's role:** TU (as well as land trusts) cannot give tax advice. Staff may provide hypothetical examples of how tax deductions work, and may suggest options to explore, but specific tax advice must be left to tax professionals who work directly for the landowner.

- 8** Conservation easement is finalized and signed.

**TU's role:** consider working with the land trust to organize an appreciation event or press release, if appropriate. The landowner should be consulted carefully as some do not wish to publicize their actions.

- 9** Most land trusts ask conservation easement donors to make a donation (as arranged earlier in the transaction) to the land trust to cover the costs of monitoring and enforcing the conservation easement in perpetuity. This "stewardship" funding is sometimes obtained through public or private fundraising initiatives.

- 10** A qualified appraisal is required if the landowner is donating a conservation easement valued at more than \$5,000 and intends to seek a federal charitable income tax deduction for the gift. Conservation easement appraisals are complex and time consuming. As such, landowners are advised to contact an appraiser early in the process as it may take four to six months or more to complete an appraisal.

**TU's role:** see transaction funds, #5 above.

- 11** The landowner claims a federal income tax deduction for the donation on a special form with his or her income tax return (Form 8283). Depending on the state, there may be state and local tax savings as well.

- 12** The land trust has the responsibility of monitoring the property at least once per year to ensure that all of the easement conditions are met.

**TU's role:** Some land trusts employ volunteer monitoring programs that may use the help of TU volunteers. More likely, however, is the continued TU engagement with the landowner and land trust for stream buffer planting and invasive species maintenance, erosion and access issues, etc.

## WORKING LANDSCAPES



*Working landscape in the mountains of North Carolina. Photo courtesy of Doug Bradley.*

Farming, ranching and forestry can be highly compatible with watershed and riparian protection. Working lands can buffer streams, lakes and rivers from residential neighbors, commercial land uses, roads and other uses that might directly impact water quality and habitat integrity.

Agricultural Conservation Easements are specifically designed to keep land available for agriculture by limiting non-farm development and allowing land uses that are important to agricultural activity without sacrificing sound riparian management practices. These easements often provide housing lots to be reserved for family members and most do not restrict farming practices. They do often contain requirements for riparian buffers of appropriate sizes.

Acquiring Agricultural Conservation Easements is not a simple process. Engaging landowners and agricultural groups is an important component in protecting coldwater fisheries. Remember that most rural landowners have multiple interests in their property and may also be part of the sportsmen and women community.

Working forest easements are common in places where there is a viable forest products industry. In these easements, the landowner retains the right to harvest forest products periodically, usually under the terms of a written forest management plan prepared by a professional forester. Often the easement requires that the management plan contain an inventory of the forest and other natural resource values of the property, and that the plan itself be designed to protect those values. Forest land owners are often aware that sustainable forestry can involve forgoing timber harvesting in sensitive areas such as riparian corridors, and may seek some compensation for giving up the economic value of those forest products.

## ➤ THE COSTS OF ACQUIRING LAND AND CONSERVATION EASEMENTS

One of the most common ways that TU assists land trusts is through helping raise funds to cover the costs of land protection projects. These transaction costs often occur whether the land or easement is being donated or purchased. TU's Coldwater Land Conservancy Fund specifically provides matching grants for these expenses (see TU Grant Programs below). Land trust transaction costs can include:

**Appraisals** of the value of a proposed purchased property or easement. Land trusts are required under charitable trust law to pay no more than the fair market value. If an easement or land is being purchased from a private landowner, the land trust must have an appraisal or market analysis that accurately determines the value. The cost can vary widely but can be as little as a couple hundred dollars to \$10,000 or more.

**A land survey** is needed for most projects. Having a clear, recordable survey for each conservation property is a requirement of most land trusts and many public funding programs for land conservation.

**Legal review** is essential, for both the land trust and the landowner. Some land trusts seek the costs of their legal fees from the landowner and others try to raise that money separately. Generally, the landowner is responsible for his/her legal or financial assistance expenses. Land trusts will either ask the landowner to cover their legal costs or seek to raise funds to cover these costs from other sources.

**Staff expenses** are a substantial cost for most land trusts. Land protection specialists who work for land trusts are trained to efficiently and effectively negotiate complex easement terms and provide the proper documentation for easement baseline reports. The costs to a land trust can vary, but a few thousand dollars in staff costs per project is not uncommon.

**Recording fees and transfer taxes**, while not a major cost, are a direct expense the land trust incurs to get every deed and conservation easement deed properly into the public records.

**Purchase costs** are often the largest of the expenses. If the transaction is not an outright donation, land trusts may purchase the easement or fee property for the full or partial appraised value. Fee purchases are often more expensive on a per-acre basis, and projects often range from hundreds of thousands into the millions of dollars. Because landowners retain ownership of land in conservation easements, these purchases are often more affordable for the land trust. In either scenario, trusts often work with multiple partners, including state agencies and other non-profit organizations to raise the funds necessary to complete purchase transactions.

**Interest payments** can often be significant. In some situations, land trusts will take out a bridge loan in order to purchase a property in a timely manner, and then sell the property for permanent conservation to another entity such as state or federal government agencies. The period between purchase and "take out" by the agency can often be several years or more and significant interest expenses can accrue.

**Easement stewardship** costs are an important concern of land trusts. A land trust will seek a stewardship contribution that is sufficient, if invested in an endowment, to generate annual income sufficient to monitor the property. This number varies from land trust to land trust, but can range from a few thousand to tens of thousands of dollars depending on the size and complexity of the property and easement document.

**Fee land stewardship** for properties to be owned and managed by the land trust can include various capital expenses like gates, signs, parking lots, bridges, boundary marking, biological inventories, habitat restoration, fences, etc. Each property will be unique and a land trust will want to know it has adequate resources to appropriately care for every new property it acquires.



## ➔ LAND TRUST RESPONSIBILITIES FOR EASEMENTS

A land trust’s responsibilities regarding conservation easements concern the enforcement of the restrictions and approval of specific reserved rights detailed in the easement document. The land trust monitors the property on a regular basis, typically once a year, to determine that the property remains in the condition prescribed by the easement document. According to the Internal Revenue Code, a land trust must have a commitment to protect the conservation purposes of the donation, and the resources to enforce the restrictions.

### HABITAT RESTORATION AND MANAGEMENT ON CONSERVED LANDS

TU will frequently seek to participate in land trust projects because it perceives an opportunity to restore fisheries habitat. Stream or floodplain restoration projects on protected land have the added benefit of investing volunteer hours and funding in sites that will never be subject to conversion to development or inappropriate land uses. When working with a land trust on such a property, TU should indicate its interest in potential restoration work early on in the process and ensure that, if the property is being protected by a conservation easement, the terms of the easement are “restoration friendly” (See Appendix B). Some traditional conservation easements contain prohibitions on alteration of terrain that might be interpreted as preventing some restoration projects. This problem is easily prevented if the land trust and TU anticipate projects and write language that specifically allows for such work. But remember, the land still belongs to the private landowner, and any project proposed must have the full support of both the land trust AND the land owner.

On lands the land trust may own or transfer to another agency, TU will want to be sure the land trust’s property management policies allow for the kinds of projects TU anticipates. Dam and culvert removal, stream reconfiguration, plantings, removal of exotic invasives, etc. generally will be favorably received by most land trusts, but it’s best to assume that all possible projects should be discussed prior to making any commitments to a land protection collaboration.

*TU volunteers work help re-establish vegetation along Gilbert Creek in Wisconsin.*



## 5 EASEMENTS AND PUBLIC ANGLING ACCESS

Not all conservation easements provide for public recreational access to the protected, private land. The IRS code that qualifies a conservation easement for a tax deduction does not require public recreational access, and some landowners are reluctant to grant permanent, 24/7 public access. Many conservation easement programs operated or funded by public agencies do require public access, and as a result some landowners choose to work exclusively with a private land trust instead.

However, access for anglers can be a powerful tool to leverage additional support. TU has a history of access arrangements with private landowners that provide significant stewardship benefits to the landowner. When appropriate, TU brings access proposals to the table if it will significantly improve the chances of success or if it will be a beneficial addition to the project.

### ➔ ACCESS GUIDANCE

In the context of TU's land protection program, TU's work on access generally adheres to the following:

- TU does not require nor does it always request public angling access in return for project assistance or funding.
- TU encourages voluntary angling access in land protection projects in which it participates.
- TU policy is to NOT engage in access agreements that provide exclusive angling access to a specific group, such as members of a TU chapter, a local fish and game or angling club, an exclusive group of property owners, etc. Any angling access to a conservation property through TU should be available to all properly licensed, responsible anglers, regardless of membership in a group or association.

It is reasonable for TU to suggest that the conservation easement contain a provision that permits the landowner and easement holder to develop "limited" public access provisions. This means that unlike 24/7 public access, the provision might provide for conditional access, such as: during open fishing season only, during daylight hours only, or with permission of the land trust and/or landowner.

TU has developed several of these "middle ground" access options (see below) that can provide benefit to landowners while leveraging more support from sportsmen/women and state funding mechanisms. Some of the benefits to landowners can be increased funding from public sources, additional support and interest from the community, long term stewardship assistance with fencing, trash pickup or restoration projects, and perhaps most valuable, additional 'friends of the stream' with an interest in preventing problems before they occur.

**It should be re-emphasized that TU policy is to encourage "voluntary angling access" in land protection projects in which it participates, but access is not a requirement.** Similarly, TU does not engage in agreements that grant exclusive angling access to TU members in exchange for their support of the project. All TU sponsored access must be open to all responsible members of the angling public. Some chapters may choose a lesser degree of participation in projects that do not include public access or benefits to downstream coldwater resources.

TU land conservation staff can help you navigate access issues and provide potential options that can be shared with land trusts and landowners.

## ➤ PUBLIC ACCESS SUCCESS & SCENARIOS

Although every project is unique, the following examples are provided to demonstrate scenarios that could be used as templates in future projects:

*Vermont Creek, Dane County Wisconsin.  
Courtesy of Mario Quintana*



### VERMONT CREEK, DANE COUNTY WISCONSIN

**Background:** As part of Trout Unlimited’s growing effort to promote partnerships among TU chapters and councils, private landowners, land trusts and public agencies, a pilot project was initiated by the Southern Wisconsin TU chapter (SWTU), with support from the TU State Council. The pilot involves a new Dane County program (which TU helped initiate through county-level advocacy) aimed at securing permanent conservation easements on trout streams. About 50 miles of stream where habitat restoration work had been allowed under shorter term easements with private landowners were identified as the first priority for permanent protection under the program.

**On-the-ground:** On Vermont Creek, TU raised over \$16,000 to go toward the purchase of two permanent conservation and access easements along a 130 foot riparian corridor. Combined with additional in-kind match from the local land trust and funding from a local foundation, the county purchased easements on two properties for \$112,000. Access points on each end of the stream that cross the landowner’s property allow public access to 1 ½ miles of stream that had previously been unavailable for fishing. In addition to the easement payment, two landowners also benefited from \$150,000 of stream restoration work at no cost.

**Challenges & lessons:** Appraisals for conservation/access corridors can be tricky. In Wisconsin, one method for dealing with this was to set an appraised price per linear foot for stream access for each watershed. This method treats neighbors equally and provides some certainty for the negotiation of a purchased access easement with landowners. State requirements for individual appraisals, however, can sometimes override this plan. The availability of county or state funding for this type of program may be limited in your region, and fee-for-access arrangements should be very carefully weighed against other possible scenarios.

**Long term Implications:** The permanent conservation and public access easements help protect past taxpayer investments in these restoration projects. In the past two years, Dane County has spent about \$400,000 to buy permanent access easements on over 12 miles of trout water. The cost of county easement purchases is often matched by grants from the State Department of Natural Resources Stewardship program. Additionally, the work to restore and protect Vermont Creek spurred the state to restore significant stretches of public land upstream.



*Landowners allow access along Mossy Creek in Augusta County, Virginia. Courtesy of Seth Coffman/TU.*

## **MOSSY CREEK, AUGUSTA COUNTY VIRGINIA**

**Background:** Flowing through rolling farmland, it is a classic limestone creek that features tough-to-catch brown trout, undulating masses of aquatic vegetation, swift runs, and steep drop-offs. This challenging water is bank-fishing only but has rewarded many patient anglers with 25 inch brown hook-ups.

**On-the-ground:** In 1978, VA Department of Game and Inland Fisheries (DGIF), Trout Unlimited, and landowners along the stream partnered to create a world-class fishery. It was sealed with a simple, but very important agreement that all anglers must obtain a landowner permission to fish card (available for free from the local DGIF office or the landowner) along with a valid Virginia fishing license.

These permission cards have been key to bringing landowners on board for several reasons. First, anglers who seek out the card are making an extra (albeit relatively small) effort to fish Mossy Creek which seems to help self-select for intentional users. Additionally, the landowners have a right to revoke permission cards from abusers. Although revocation has never been needed, it gives the landowners comfort that a standard fishing license does not afford. Special seasons and regulations are also printed on the back.

DGIF handles the landowner relations, but the local TU members also provide key support. TU volunteers work annually to keep livestock fences in good repair and also maintain the fence crossing stiles, in addition to inspecting the streams for other access-related issues. Perhaps most importantly, the local TU chapter, in partnership with the state council, holds an annual landowner appreciation dinner. This popular social occasion attracts 40-60 cooperating and neighboring landowners from two streams under this management scheme.

**Lessons:** Landowners may be very willing to ‘trade’ access for fisheries restoration and management. TU’s careful management of the stream access, without much bother or interaction with the landowners has been important. In this instance, leaving the landowner relationships to DGIF staff has worked well and avoided potential pitfalls of changes in volunteer availability from the TU chapter.

**Long term:** On Mossy Creek, the willingness of landowners to allow fish stocking and public access has built an enduring and beneficial relationship for all parties. The landowners are comforted by DGIF and TU’s ability to ‘look out’ for the land and solve problems before they arise.

## “CLEAR CREEK”, USA.

The following example is fictional, but contains access methods used in the past and ideas that have been put forward by various TU grassroots leader.

**Background:** The Fische family has owned a farm on Clear Creek for several generations. Flowing through woods and cattle pastures, the Clear Creek was once a popular brook trout stream, and with some strategic stream restoration and riparian fencing, has the potential to be a high quality fishery. Additionally, access has been limited ever since an unfortunate incident between the bull and an-out-of state angler in the 1980’s. The family is now in discussions with a local land trust for the donation or purchase of a conservation easement, but can’t afford to incur much expense in the transaction. They also would like to take advantage of county grant funds for restoration but are leery of the accompanying public access requirements.

**On-the-ground:** The land trust reached out to the local TU chapter and arranged a site visit with the chapter’s conservation committee chair. During the visit, the landowner got to know the TU volunteer and heard about several access options that might help bring more resources to the table. The TU contact followed up with the land trust by providing several stream access success stories and offered to help with a restoration grant. Additionally, they provided a fact sheet on the state’s strong and protective landowner liability laws.

In the end, the landowner saw that entering into a voluntary access agreement for angling would be beneficial in the long run, and also provide some additional short term funding assistance from public entities. In addition to county funds, the land trust and TU chapter wrote proposals and received funding from the Embrace-A-Stream program, and the newly-launched Coldwater Land Conservancy Fund. These funds covered the necessary land transaction costs of a boundary survey.

The landowner, TU volunteers and the land trust worked out the following terms with the assistance of TU land protection staff:

Anglers must sign in and check out a free day-pass from the local fly shop.

- Only five passes per day are available on a first-come, first served basis that can be reserved 24 hours in advance. In addition to state game laws, there is a size and creel limit to help increase the trophy qualities of the stream.
- The TU chapter has an individual who is a point-of-contact for the landowner and handles any concerns and issues. (This point of contact happens to be good at talking with landowners, and understands the delicacy required to keep things working smoothly.)
- The landowner can call the outfitter to close the stream for special occasions. High water flooding, turkey hunting season, family reunion weekends or other unforeseen events are often good reasons to temporarily close the access.
- The TU chapter has an annual clean-up and stream and fence inspection that helps keep things in good shape. They also help maintain the small parking area.
- The landowner can temporarily close or re-negotiate the access in the event of unforeseen problems that cannot be easily resolved.
- The access agreement is solidified by a 25-year lease of the access to the county subject to some basic requirements that protect both entities.

**Challenges & lessons:** It took some time and patience from the TU volunteers to provide information and let the Fische family become comfortable with the idea of limited public access. Showing them evidence that their property would not be overrun by eager anglers was a hurdle. The five pass limit helped address this issue, and as it turns out, all five are rarely out at once. They also had concerns that the chapter would disappear after a year or two and the access structures would fall into disrepair. Relationship building and

support from the land trust helped overcome this issue. The chapter had good support and advice from TU's land protection staff, and found the "How to Talk with Landowners" section of the land protection handbook very useful.

**Long term:** Over the years, the Fisches get to know the local anglers, who provide an extra hand or two through the TU chapter during haying season. The fencing installed as part of the riparian restoration helps produce healthier livestock, and on several occasions anglers have seen and reported issues on the land that would have gone unnoticed to the owners. The Fische family was able to carry forward a tax deduction for the donated portion of the easement and access that saved them significant income tax payments.

Through word-of-mouth and land trust publications, the TU chapter has been approached by several other landowners who are interested in similar arrangements. And as icing on the cake, the farmer's elementary school-aged children brought their class for a visit and released fingerling trout from their Trout-In-the-Classroom project.

## 6 TU AND FUNDING FOR LAND PROTECTION

Funding of conservation transactions is one of the biggest challenges that land trusts face. Land trusts draw upon a variety of sources when they need to buy land, or interests in land. They may use one or more sources in combination. Some common sources of funding are acquisition endowments or funds held by the land trust, local or state bond measures, federal land acquisition programs, donations from individuals and foundation grants.

When financing a project requires more funds than are immediately available, land trusts may borrow funds from foundations, private donors, financial institutions and other entities. Sometimes these loans are available at below market rates.

**TU offers a variety of tools that can help with project funding**, as well as a variety of success stories from around the country on how chapters have found innovative ways to assist in providing funding for partnering land trusts and projects.

### ↳ TU GRANT PROGRAMS

#### ***Coldwater Land Conservancy Fund***

This new fund, established by the TU Board of Trustees in 2009, will make matching grants to land trust/TU partnerships to protect priority coldwater fishery habitat. Building on the success of the Embrace-A-Stream program, the CLCF will focus specifically on helping land trusts cover transaction costs for land and conservation easement acquisition.

When this grant program is fully operational, it will be providing matching grants of up to \$20,000 (with special provisions for larger grants in extraordinary cases) that can be used to pay for surveys, appraisals, legal expenses, due diligence, title review and capital costs for purchase of conservation easements and land. Applications will be accepted and reviewed twice a year, by a committee of TU volunteers and staff.

In emergency situations, when a land trust/TU partnership must raise funds quickly in order to secure options or purchase and sale agreements on threatened properties, the CLCF program director will consider special grant applications outside of the normal grant cycle.

While the principal emphasis of the CLCF will be on partnerships with land trusts, grants from the CLCF will also be available to public conservation agencies in partnership with TU. For more details about the CLCF grant program go to [www.tu.org/clcf](http://www.tu.org/clcf).

## ***Embrace-A-Stream Grant Program***

This TU grant program provides matching grants of up to \$10,000 for on-the-ground projects to chapters and partners. These matching funds are used for stream restoration, barrier removal and other riparian project work. Since 1976, Trout Unlimited has provided grants to TU chapters engaged in a variety of projects that conserve coldwater fisheries through innovative grassroots action. Overseen by a committee of TU volunteers and administered by the national office, TU annually raises money from TU members, corporate and agency partners and foundations to distribute as grants up to \$10,000. A hallmark of EAS projects is successfully leveraging cash and other in-kind services. EAS has funded 959 individual projects for a total of more than \$3.9 million in direct cash grants, that TU chapters and councils have contributed an additional \$12.7 million in cash and in-kind services. Please go to [www.tu.org/eas](http://www.tu.org/eas) for more information.



TU volunteers from the Westslope Chapter TU plant trees for an Embrace-A-Stream funded project along Eustache Creek near Missoula, Montana .

## **➔ CHAPTER AND STAFF SUPPORT FOR FUNDING**

### ***Chapter fund raising/donations***

From time to time, chapters will take on fundraising efforts to support the conservation of a parcel that is of significant interest to the chapter. Chapters have hosted fundraisers and raffles, solicited personal donations, and pooled money from annual budgets to raise money for local land protection projects. For example, TU's Georgia State Council recently organized donations from each chapter in the state to help conserve an important parcel on Amicalola Creek. Each chapter contributed between \$100 and \$3000 and together they contributed \$20,000 in cash to the project costs. In addition to helping when it counted, the donation cemented TU's credibility as a serious participant in land conservation.

In recent years, some chapters and councils have dedicated a percentage of their income to land protection projects. For example, one chapter in New Hampshire has made regular donations of a few thousand dollars to land protection projects in the watersheds of the Chapter's membership. Some land trusts have found that a thoughtful solicitation to the local TU chapter for projects on coldwater streams is almost always met with at least a modest contribution.



Southeastern Wisconsin TU chapter members raising funds for stream restoration projects.

## ***Grantwriting Support***

Upon request, our science and land protection staff can assess specific land protection projects and provide a brief CSI analysis report describing the CSI ranking of the property in the context of the subwatershed. Information can include existing status of native trout species, threats, future security, etc. This analysis can be helpful in securing support from wildlife and fisheries management agencies as well as private and public funding through grant proposals.

## ***Funding Campaign Assistance***

At a minimum, letters of support for grants and funding applications can be provided. When appropriate, TU's web-based "Action Alert" can be used to coordinate chapter and council support of state and federal level policy and budget appropriations.

When a project is located in a watershed where TU has an important conservation interest, national staff can be enlisted to assist with the development of fundraising campaign strategies, including the identification of potential donors. Senior policy staff at TU have supported collaborative efforts to lobby Congress for land acquisition appropriations through the Forest Legacy Program, Land and Water Conservation Fund and other agency budgets.



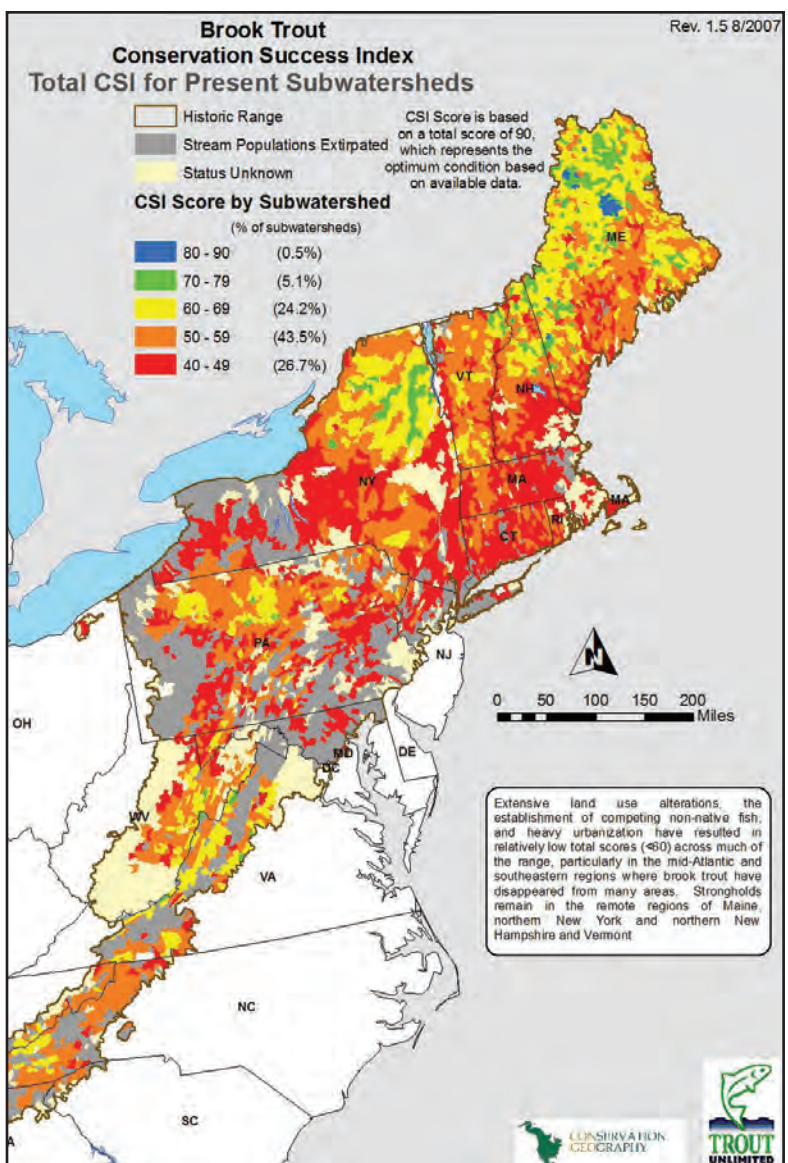
**7 COLDWATER SCIENCE, RESTORATION EXPERTISE AND OTHER SUPPORT**

**➔ FISHERIES SCIENCE - THE CONSERVATION SUCCESS INDEX**

TU developed the Conservation Success Index (CSI) in order to become more strategic and effective in our conservation efforts. Using the CSI, conservation status of native coldwater fishes can be quantified and mapped so that comparisons of existing condition, threats, future security, and management opportunities can be made across watersheds, river basins, and entire species. The CSI helps identify different conservation priorities as well as enables TU and its partners to track the conservation success through fish population and landscape metrics over time. The CSI can be explored at [www.tu.org/science/csi](http://www.tu.org/science/csi).

Chapters can work with TU staff to incorporate the CSI into land trust strategic conservation plans, and can assist in incorporating the CSI into funding applications.

In one study in New Hampshire, GIS data on forest cover, aquifers, water quality, population density, and CSI fisheries data enabled a land trust to identify particular subwatersheds to target for protection of Eastern Brook Trout as well as Atlantic Salmon and other aquatic species. Following that analysis, public funding from the state Fish and Game Department and NOAA's Anadromous Fish Restoration Program assisted in protecting key properties in the identified subwatersheds.



The Conservation Success Index (CSI) range-wide map for Eastern Brook Trout.

## ➤ HABITAT STEWARDSHIP AND RESTORATION

TU chapters, councils and the national staff have extensive experience in the science of stream ecology and geomorphology and how to use scientific data to develop successful habitat restoration and enhancement projects.

TU frequently partners with public agencies and private foundations that value TU's scientific, on-the-ground approach. For example, stream habitat projects designed and managed by TU have brought together funding from the Natural Resources Conservation Service (NRCS) cost share programs, US Fish and Wildlife Service (USFWS), National Oceanic and Atmospheric Administration (NOAA), US Forest Service (USFS), National Park Service (NPS) and numerous state and county agencies.

Projects have ranged from the creation of instream habitat structure (using rock and wood) to stream bank erosion control, livestock fencing, culvert replacement, and dam removal. In scale, these projects vary from small volunteer based tree planting efforts on short stream reaches, to massive projects such as the current Trout Unlimited led partnership to remove two major dams on Maine's Penobscot River in order to restore runs of wild Atlantic Salmon.

TU is known for its ability to deliver volunteers who will get their feet wet and hands dirty. If a land trust has a property or conservation easement on which some kind of habitat restoration or improvement project is appropriate and desired, establishing a partnership can enable both organizations to expand their volunteer force with enthusiastic people, and build lasting collaborations that will extend beyond a single project.



## ↳ LOCAL KNOWLEDGE

TU members, as angler conservationists, often possess an intimate, detailed knowledge of the local waterways that can assist a land trust as it evaluates the significance of a project to coldwater species. As the result of years of asking permission for angling access, TU members will often have excellent personal relationships with riparian landowners, which can help facilitate connections between land trusts and the landowners. Often, having the support of local TU members can build bridges to other sportsman/women's organizations that can be helpful in project advocacy.

## ↳ ADVOCACY

When a project requires public approval or public funding, land trusts may reach out to voters and legislators for support. TU members have often found that their efforts on behalf of conservation projects bring surprisingly large benefits. Many legislators, especially in rural areas, are highly cognizant of the concerns of outdoors groups, and will seek out their opinions regarding matters before the legislature, county board or Congress.

TU can provide important public advocacy both through volunteers and staff. Land trusts may seek letters of support from TU at the chapter and council level for bonds, appropriations or other public funding. TU councils and chapters frequently provide letters of endorsement for foundation grants as well.

At the national level, land protection projects of regional or national significance can seek the support of TU's national conservation program. TU maintains a staff of public policy experts who frequent Capitol Hill and work with other conservation groups to seek passage of key legislation affecting coldwater fisheries. TU has worked with the Trust for Public Land, The Conservation Fund, The Nature Conservancy and a number of state and regional land trusts to advocate for funding for key land protection projects.

## ↳ TU STAFF ASSISTANCE

Another key resource for land trusts is the assistance that TU staff can provide. Upon request, our science and land protection staff can assess specific land protection projects and provide a brief CSI analysis report describing the CSI ranking of the property in the context of the subwatershed. Information can include existing status of native trout species, threats, future security, and conservation priority. This analysis can help secure support from wildlife and fisheries management agencies as well as private and public funding through grant proposals. For more information, contact TU's land protection staff at [landprotection@tu.org](mailto:landprotection@tu.org).

TU land protection staff also work with chapters to help develop funding strategies, coordinate outreach and advocacy plans for grassroots action, facilitate and leverage stream restoration grants, coordinate on-the-ground work and pursue transaction funding for a project.

Staff may also be directly involved in project coordination, landowner discussions, GIS mapping and other transaction details as warranted by a given project and land trust need.

# Land Protection Project Case Studies



## ST. JOE, IDAHO

*St. Joe River in Idaho*

Potlatch Corporation, headquartered in Spokane, Washington, is a mid-sized integrated forest products company with roughly 1.5 million acres of timberland in Idaho, Minnesota, and Arkansas. They are the largest private landowner in both Idaho and Minnesota and one of the largest in Arkansas. Potlatch's 670,000 acres in Idaho contains extensive wildlife habitat including over 1,500 miles of coldwater streams and it is well integrated with federal and state public lands.

During 1990's economic slump in the resource sector, Potlatch was able to remain independent and hang on to the bulk of their land base. One of Potlatch's strategies has been to monetize non-timber values inherent in their land base through the sale of Working Forest Conservation Easements – in which they retain the timber rights but are paid to transfer the development and recreation rights and preserve some sensitive sites.

28,000 of those Potlatch acres are along the St. Joe River in Idaho. "In the lower 48, the St. Joe is the place you have to be if you want to save bull trout" says TU Director of Resources Joe McGurrin. When the Trust for Public Land negotiated an agreement to purchase conservation easements on a substantial part of the Potlatch land, including the St. Joe, TU joined the effort. The easement secured protection for critical river frontage and Potlatch agreed to practice forestry under certification by the Forest Stewardship Council, further protecting the quality of the watershed.

The project successfully obtained a grant through the Forest Legacy program and TU secured some of the private funds needed for match. TU highlighted the high quality, unfragmented habitat for native cutthroat and bull trout to obtain a \$500,000 grant from the National Fish and Wildlife Foundation's Acres for America program, funded by Walmart.



## **ROCKY FORK, TENNESSEE**

*Rocky Fork, Unicoi County, Tennessee*

Rocky Fork, a 9,624 acre parcel named after the pristine trout stream that runs down its center, creates a vast, unfragmented haven with over 16 miles of stream, of which approximately 4 miles are classified as a hybridized population of Southern Appalachian Brook Trout fishery. According to the US Forest Service, the property was the largest unprotected high-elevation tract of land in the southern Appalachian Mountains before conservation efforts began in earnest in 2006. Approximately 30 minutes south from Johnson City, Tennessee and 35 minutes north from Asheville, North Carolina, the tract lies within the Cherokee National Forest and abuts the Pisgah National Forest.

The property owner, New Forestry, LLC decided to sell the property and The Conservation Fund and The USDA Forest Service, in collaboration with the Southern Appalachian Highlands Conservancy and many others stepped up to propose it be added to the National Forest. The collaboration then undertook a major advocacy effort to secure federal funding to add the property to the adjoining Cherokee National Forest.

Rocky Fork's protection is an excellent vehicle for telling the land conservation/ sportsmen benefit story. The sheer size alone draws attention, in addition to the quality of the streams and the views that it protects. The parcel is known to the recreational community and draws anglers from across the region. The fact that the property is in an interim conservation holding and is poised for a permanent protection success story is an additional benefit. The Conservation Fund asked for TU's help in garnering grassroots support for a significant congressional appropriation for FY11 and perhaps additional help with state and regional funding.

## 8 KEY QUESTIONS

### WHAT ARE THE ADVANTAGES OF WORKING WITH A LAND TRUST?

Land Trusts are familiar with the land in the area and often have the trust and confidence of local landowners who may not want to work with government or entities from outside the area. One advantage of working with land trusts is that they are very closely tied to the communities in which they operate. They can draw on community resources, including volunteer time and skills. Their community orientation is also helpful in selecting and negotiating transactions.

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

Because land trusts are private organizations, they can be more flexible and creative than public or government agencies in fundraising and real estate transactions, and can often act more quickly. They can hold and manage land and other assets as a corporation, and are able to negotiate with landowners discreetly.

Many other advantages of working with land trusts are described above. These include: unique technical and legal abilities, professional staff, familiarity with charitable trust law, and the organizational framework to deal with the liabilities of permanently conserving land.

### WHAT ISSUES SHOULD WE CONSIDER BEFORE PARTNERING WITH A LAND TRUST?

**What is the land trust's mission, and is it compatible with the objectives of the project?**

Ask the land trust if their mission and project prioritization policy are in line with your project.

**Does the land trust have the capacity to complete the project and assume the stewardship responsibilities?**

Talk with the land trust to explore the complexity of the proposed project and ensure that they have the needed staff, resources, and/or relationships with other organizations to complete the project and assume the stewardship responsibilities.

**At what level can your chapter offer financial support to the land trust?**

TU chapters have a long history of supporting land trusts, and even small donations can signal your interest and leverage significant funding from other sources.

**Have you read the communicating with landowners section of this document?**

Knowing how, and how not to talk with land owners is key. Please think about communication strategy before you engage a landowner. See Appendix C.

**Is your chapter prepared to let the land trust take the lead on the conservation transaction?**

Land trusts take the liability of the project and have the expertise needed to bring the project to completion.

**Do you have a member who is willing to take the lead or be the point of contact for land conservation partnerships?**

Identifying a point of contact is important for maintaining momentum and communicating effectively about the project and its progression.

## ARE THERE MORE RESOURCES?

For more information on how TU works and how it can contribute to land conservation transactions by land trusts, see Part II of this guide: "Working with Trout Unlimited: A Guide for Land Trusts."

These handbooks, along with other land conservation resources and links, are available at [www.tu.org/landprotection](http://www.tu.org/landprotection)

### *Selected websites:*

#### **Land Trust Alliance:**

[www.landtrustalliance.org/](http://www.landtrustalliance.org/)

"The Land Trust Alliance unites and champions organizations in local communities working to save natural areas." This site contains a wealth of conservation information including factsheets (see below), conservation tax updates, landowner resources and more."

[www.ltanet.org/landtrustdirectory/](http://www.ltanet.org/landtrustdirectory/)

Find a local land trust by name or county

[www.landtrustalliance.org/consERVE/factsheets](http://www.landtrustalliance.org/consERVE/factsheets)

Includes "Basic Facts and Resources for Landowners", "What is a Land Trust?" and more.

#### **Trout Unlimited Website:**

[www.tu.org/landprotection](http://www.tu.org/landprotection)

[www.tu.org/science/conservation-success-index](http://www.tu.org/science/conservation-success-index)

## Five National Level Land Trust Organizations

**1 LAND TRUST ALLIANCE** ([www.lta.org](http://www.lta.org)): LTA promotes voluntary private land conservation to benefit communities and natural systems. Its main goals are to dramatically increase the pace of land conservation, build strong land trusts, encourage strategic conservation, and defend the permanence of conservation easements. LTA itself does not hold conservation easements or land.

**2 AMERICAN FARMLAND TRUST** ([www.farmland.org](http://www.farmland.org)): AFT is a nationwide nonprofit membership organization solely dedicated to protecting America's farmland. AFT works to stop the loss of productive farmland and to promote farming practices that lead to a healthy environment. AFT holds conservation easements, and also works with state and local land trusts and agencies on land projects.

**3 THE CONSERVATION FUND** ([www.conservationfund.org](http://www.conservationfund.org)): TCF helps local, state and federal agencies, and nonprofit organizations acquire property from willing sellers to protect open space, wildlife habitat, public recreation areas, river corridors and historic places. TCF frequently transfers the land it protects to public agencies or other land trusts.

**4 THE NATURE CONSERVANCY** ([www.nature.org](http://www.nature.org)): TNC is an international, nonprofit organization dedicated to preserving the diversity of life on Earth. The Conservancy works with landowners, communities, cooperatives and businesses to establish local groups that can protect land. TNC holds and manages many thousands of conservation easements and fee properties.

**5 TRUST FOR PUBLIC LAND** ([www.tpl.org](http://www.tpl.org)): TPL is a national, nonprofit, land conservation organization that conserves land for people to enjoy. TPL bridges the needs of landowners seeking to protect a special property and those of government agencies that acquire land for public benefit. TPL does not hold land or easements for more than an interim basis. Its projects frequently engage local land trusts, municipal, state and federal agencies as both funders for and eventual owners of conservation easements and land.

**9 APPENDIX A****OTHER CONSERVATION OPTIONS AVAILABLE TO LAND TRUSTS**

The following is a list of less common options that land trusts may use to conserve land. See above for detailed information on conservation easements and fee owned land purchase.

**Planned Gifts**

A planned gift is a contribution given at death, such as bequests through will, or a life income gift such as charitable remainder trusts, charitable gift annuities, reserved life estates, life insurance and gifts of IRAs and pension plans. Land and conservation easement gifts can also be made by will.

**Mutual Covenants**

A mutual covenant involves several landowners that mutually agree to restrict their land. It may not always involve a land trust, and is not necessarily permanent or binding on future owners. There are no income or estate tax benefits.

**Deed Restrictions**

Deed restrictions are terms that are placed in the deed to the property that restrict certain uses of the real estate by subsequent owners. They are enforceable by the party that created the restriction in the deed. Again, there are no income tax benefits, but possibly estate tax benefits.

**Rights of First Refusal**

A landowner who cannot afford to donate his or her property to the land trust may consider a right of first refusal, in which the landowner agrees to grant the land trust the opportunity to match any bona fide purchase offer at a future time if and when the landowner elects to sell the property.

**Conservation Buyer Program**

In a typical conservation buyer transaction, a land trust protects a property by identifying a buyer who is willing to purchase proposed conservation land and subsequently donate a conservation easement on it to the land trust. Sometimes the land trust itself purchases the land and resells it to a conservation buyer, retaining an easement.

**Registry Programs**

Some land trusts operate programs to “register” significant conservation properties. This registration involves drafting a nonbinding agreement in which the landowner agrees not to develop the land, or at least certain portions of it, and will notify the land trust of any threat to the land or of any plans to sell.

**Limited Development**

Sometimes portions of a property can be developed without sacrificing the protection goal. Such limited developments usually entail developing the less environmentally sensitive portions of a land parcel and selling these to a private buyer or buyers; the portion of the property with the most valued resources may be owned or placed under conservation easement to the land trust or sold to a third party with conservation restrictions.

**Lease**

Land is leased for a specific number of years to land trust or individual, with restrictions placed on how it can be used. Development is postponed.

**Donation of Remainder Interest in Land with Reserved Life Estate**

Land is donated to land trust, but owner (or others designated) continues to live there, usually until death. The end result is land owned and protected by the land trust.



**10 APPENDIX B****HABITAT RESTORATION & ANGLING IMPROVEMENTS  
IN EASEMENT PROVISIONS**

When a conservation easement is being placed on a property, many land trusts use a standard conservation easement template developed for their state or for their specific land trust. Most of these easements have language that prohibits alteration of the natural terrain, removal of materials from the property and other activities that would harm the conservation values of the property. While this language is primarily intended to prevent mining, wetlands manipulation, or other activities that might be associated with disallowed uses of the property, it could inadvertently prohibit stream, floodplain, wetland and riparian habitat restoration and enhancement projects if the language isn't carefully constructed.

When working with a land trust, be sure to consider the following possible projects and seek to include language that will expressly permit them, provided they are properly designed, permitted and approved by the land trust and the land owner:

- Removal of dams and associated reclamation activities, including equipment access;
- removal or replacement of culverts;
- relocation of roads from riparian zones;
- establishment of fences to restrict livestock or wildlife from sensitive areas;
- placement of rock and large woody debris into streams for habitat improvement and diversity;
- removal of exotic invasive species, including plants, fish and animals;
- installation of bypass channels; etc.
- wetland restoration or construction;
- removal and/or relocation of soil for ecological benefit;
- restoration of floodplain function and associated habitat.

Finally, if angling access is being established on a property, it is also important to be sure the land trust includes reserved rights for the land owner, or affirmative rights for the land trust (perhaps with designation of TU to act as its agent) to install and maintain appropriate facilities such as parking areas, fences, signage, trails and pedestrian bridges.

**11 APPENDIX C****LANDOWNER COMMUNICATIONS**

Adapted and augmented with permission from: How To Speak “Ag” - The Do’s and Don’ts of speaking with Agricultural Landowners by the Colorado Cattleman’s Agricultural Land Trust (2007). [www.ccalt.org](http://www.ccalt.org)

***Helpful hints and possible conversation starters:***

- *Introduce yourself and start with small talk.* (Talking about the weather is a good option!)
- *Express interest in their land use - what crops they raise, what kind of livestock they have, their forests, etc.* (But be careful not to make them feel cross-examined or interviewed.)
- *Don’t be afraid to compliment them on their land management or stewardship practices.* (Keep in mind that it is important to be genuine.)
- *Ask about the challenges they face.* (Impact of growth in area, increase in land values, lower commodity prices, estate taxes, general marketing trends & frustration with marketing system, water issues, public lands, government regulations, neighbors who aren’t involved in agriculture, and the all time favorite - the weather.)
- *Ask about their family’s history and/or what brought them to the area.*
- *Become involved in the community and learn the history of the area. Take time to understand the local needs and issues.*
- *Educate yourself about ag products and operations.* (Ask people about their daily lives!)
- *Be totally upfront with your interest - folks will be leery of secret agendas.*
- *Focus on what you both have in common.* (Discover how landowners envision their communities, themselves and their land in the future.)
- **REMEMBER - PEOPLE BEFORE PROJECTS!** *Get to know individuals and their families - cultivate relationships with them.* (Remember, trust takes time.)
- *Leave your degrees at home.* (They care more about who you are than what you know.)
- *Offer to come out and help.* (Show them you are sincere in your willingness to learn but don’t be surprised if (a) they don’t take you up on it, or (b) they give you really “interesting” jobs to do.)
- *Be prompt.*

***Gentle hints about what not to say or do:***

- *Don’t start conversations by asking how big their operations are, how many acres they have, or how many cows they run.* (This is like asking how much they have in the bank.)
- *Don’t ask to go hunting or fishing!* (Wait to be invited – keep in mind it may never happen. For some landowners, this is a source of income, for others it is a sensitive topic that should wait for later in the relationship.)
- **DO NOT use maps with lines drawn or target areas on them!!!!** (This is the quickest

way to lose potentially interested individuals and generate mistrust all in one fell swoop.)

- *Don't push agendas or pre-conceived plans.* (Let the vision form itself by encouraging participation from all interest groups.)
- *Don't assume that ag-oriented people aren't interested in conservation or the environment. Many of them consider themselves to be the original environmentalists!* (Be open-minded about your interest and observations and shelve your pre-conceived notions!)
- Avoid talking about finances and politics. (Financial discussion will come in time if the relationship moves toward a conservation project).
- *Don't over-promise.* (Managing expectations will make your life easier in the long run. Remember that most things will take longer, and be more complicated than you expect!)

### **Things you might consider NOT saying:**

- *"I'm here to save you."* You might settle for assuring them that you are concerned about the disappearing land base and the impact this has on the surrounding community.
- *"Do you have any endangered species on your property?"* Be aware that this may be a sensitive topic better left until you have established a firm relationship with them.
- *"Protect or Preserve"* It might be more preferable to let them know that your desire is to working with them in conserving a working landscape that will ensure the continuation of their livelihood, legacy and heritage.
- *"Restore"* When referring to recovery or restoration of resources, a better alternative might be to address the enhancement of existing resources.
- *"Educate"* If your goal is to provide educational experiences or alternative management styles, you might offer opportunities to create awareness.

### **Tips for Talking and Listening**

- *Address them by their name*
- *Make eye contact in order to establish a rapport.*
- *Practice active listening* (Focus on the speaker, and listen for their meaning. You should be able to repeat back to them what they have said in your own words.)
- *Listen more than you talk* (Hogging the conversation won't help – remember that a conversation takes two people.)
- Remember that you won't necessarily hit all of the topics on your list in one visit and that these relationships take time. If you find yourself in a difficult situation, reach out to TU staff or your local land trust for help.

## 12 SELECTED WORKS CITED

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Conservation Options: The Land Protection Toolbox Land Conservation Leadership Program Training Manual (2003) Sylvia Bates and Peg Kohring. Land Trust Alliance and The Conservation Fund.

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