

Montana Association of Land Trusts Membership



- Prickly Pear Land Trust
- Gallatin Valley Land Trust
- The Trust for Public Land
- Flathead Land Trust
- Montana Land Reliance
- Five Valleys Land Trust
- Bitterroot Land Trust
- The Conservation Fund
- The Nature Conservancy
- The Vital Ground Foundation
- Rocky Mountain Elk Foundation
- Clark Fork-Pend Oreille Conservancy

WHAT IS A LAND TRUST?



**Nonprofit
organization**

**Focus on private land
conservation**

**Voluntary conservation
agreements**

**Follows national
standards and practices**

Community based

**Multiple private and
public partners**

What is a private land conservation easement?



A voluntary, negotiated agreement between a landowner and a land trust or public agency that permanently restricts development and maintains open lands.

What isn't a private land conservation easement?

- It isn't eminent domain
- It isn't condemnation
- It isn't a wilderness
- It isn't a wildlife refuge
- It isn't mandated public access
- It isn't anti-public access
- It isn't a property tax cut
- It isn't a loss of property right



Why do farmers/ranchers enter into private land conservation easements?



Tax advantages. Federal income tax deductions can be attractive. It is possible to zero out federal income taxes for up to 16 years.

Reduction in federal estate tax exposure can be attractive. Easier to pass farm or ranch to heirs.



Altruistic reasons. Family ranch, family tradition, established bond between family and the land.

Keep farming and ranching. Conservation easements help keep farmers farming and ranchers ranching.

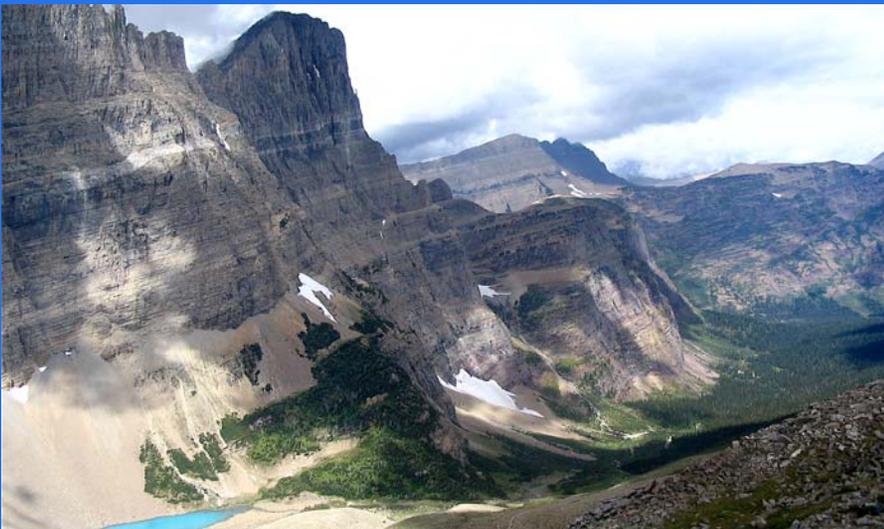
Private land conservation easement

- Initial discussion with landowner.
- Site visit.
- Easement baseline report, appraisal, title report, legal review, survey.
- Federal Legal Requirements: Conservation easement must: (USC 170 [h])
 - 1) Preserve land areas for outdoor recreation/education for general public
 - 2) Protect relatively natural habitat
 - 3) Preserve open space
 - 4) Preserve historically important land
- Landowner and land trust negotiate easement agreement. Typically, discussions involve landowner, landowner's family, attorney, financial consultant, accountant.
- If approved by land trust board and the landowner, and if easement meets federal and state laws, easement is recorded in county courthouse.
- Donated easements that result in an income tax deduction can be audited at any time.

State lands conservation easement

- Response to a community “problem” or “opportunity.”
- Public process created with state/federal agencies, local conservation groups, multiple-use groups, businesses leaders, community leaders.
- State trust must be fully financially compensated for any easement on state lands. No donation, no tax deduction. Since there is no tax deduction, there is no “public value” to be quantified for tax reasons.
- State land conservation easements will eventually be presented to state land board by DNRC and/or the public. Land board makes policy/political decision based on DNRC recommendation and public comment.
- So, it would be the public, DNRC and land board that would define what the conservation “value” of state land conservation easements would be.
- So, a possible contrast and comparison...for conservation easements on private lands compared to state lands...
 - a) The process used to create the easement could be substantially changed.
 - b) The decision process to approve the easement could be substantially changed.
 - c) And the “product,” the conservation easement itself, could be substantially changed in the context of a private land conservation easement.

Suggestions for the EQC



- **Think local.**
- **Get Whitefish viewpoint.**
- **State land easements should be tied some way to open lands statute for consistency.**
- **Encourage/allow DNRC to explore existing policy options and opportunities.**
- **“Define” easement holders: Must follow LTA Standards and Practices, must hold certain amount of private land easements, must be approved by county planning department, etc.**
- **Conservation easements can and should complement, not replace, traditional uses of state lands.**
- **State land conservation purposes have the potential to increase trust revenue, maintain traditional uses, and enhance community priorities.**