

Conservation Easements:



“As the landscape continues to be fragmented, the wildlife habitat, watersheds, and scenic splendour which these ranches have sustained for generations are being swept away forever.”

... **leaving a Legacy**

A land conservation problem

Like many areas in Canada, the productive land base of the Rocky Mountain West is experiencing dramatic changes. In traditional agricultural communities, ranches and farms are rapidly being sold and sub-divided to make way for rural estates and recreational developments. As the landscape is broken into smaller pieces, the wildlife habitat, watersheds, productive capacity and scenic splendour which these agricultural lands have sustained for generations are being swept away forever. Growing populations and the increasing mobility of the work force have created an insatiable demand for rural properties.

Compounding the urgency of the situation is the growing number of ranchers and farmers approaching retirement age who are torn between the pressures and financial lures of development and their long-term commitment to the land and their way of life. To address these problems, new methods are being developed to enable agricultural families to conserve these working landscapes.

A land conservation solution

Conservation easements offer a private sector solution to the problem of vanishing ranchlands and natural habitats. They are tools which individuals and communities can use to ensure the availability of unbroken productive landscapes and natural areas for future generations.

A conservation easement is a voluntary agreement between a landowner and a qualified easement holder (such as the Southern Alberta Land Trust Society) which limits the amount and type of development which can occur on a property in order to preserve its natural character and agricultural potential.

When you think of owning a piece of land, you can think of it as a “bundle of rights.” You may have the right to construct buildings, irrigate the land, cut timber, subdivide, etc. A conservation easement is a legal tool by which you voluntarily relinquish certain of those rights, while retaining title to the land.

The terms of conservation easements vary, as each agreement is tailored to the specific landowner. However, all preclude subdivision and environmentally damaging forms of development. Conservation easements are typically granted in perpetuity and remain with the land regardless of ownership.

Why a conservation easement?

Protection of agricultural lands

Easements can prevent conversion of agricultural lands to non-agricultural uses, maintaining agricultural opportunities for future generations. As ranching lands are maintained, so too are the rural community values and the agricultural heritage that depend on these lands.

Preservation of open spaces

Conservation easements safeguard watersheds and wildlife habitat, and maintain the natural landscapes which provide surrounding residents with clean air, clean water, food production, and scenic beauty.

Financial incentives

The donation of a conservation easement may qualify the donor for a significant income tax deduction. The appraised value of the property on which an easement has been placed may be lowered through the relinquishment of development rights, reducing the capital gains when the land is sold or transferred. In certain circumstances, conservation easements can be purchased by an eligible organization.

Landowner focused

A conservation easement is negotiated around the desires and needs of the landowner as well as the objectives of the organization which will hold the easement. Protection can be provided for both the property’s environmental and agricultural features. A landowner can grant an easement on all or on part of his or her property, while still retaining title to the land.

Private, local solutions

Conservation easements are frequently administered by private organizations, which can bypass the delays often associated with larger, public agencies. Many of these organizations are locally based and community driven.

How do you go about granting one?

Choose an organization to work with

Most conservation easement laws allow you to grant a conservation easement to the crown, a municipality or a registered charity which is eligible to hold conservation easements. Look for an organization whose values and goals for preserving the land are similar to yours. For a list of the eligible groups in your area, you can contact the Canadian Wildlife Service of Environment Canada.

Determine your needs and desires

Spend some time thinking about what your needs and desires are relative to a conservation easement on your land. If you can, talk to people you know who have granted a conservation easement, and find out how and why they did it.

Draft the conservation easement agreement

A document is drawn up between you and the party to whom you have chosen to grant the easement. This agreement will explain:

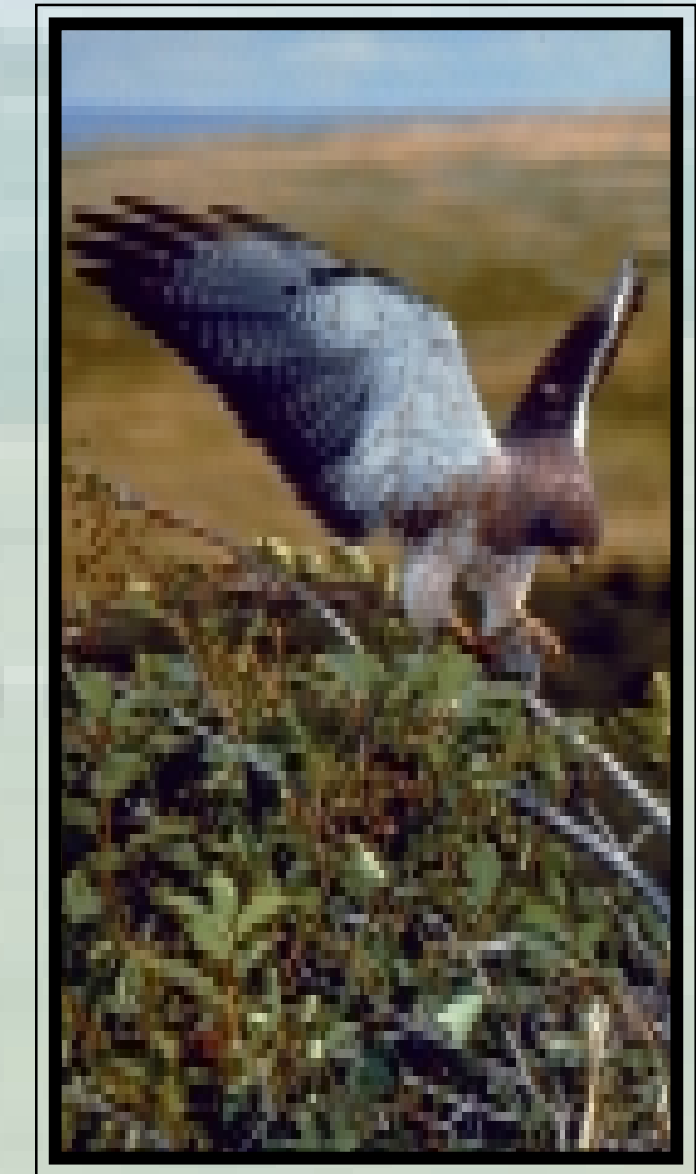
- why the conservation easement is being granted, and what are the natural and productive values it is designed to protect;
- what are the rights and responsibilities of yourself and the easement grantee;
- how you resolve disputes and address violations.

Attached to the agreement is a legal description of the property and a list of the restrictions on activities and uses of the land. A report is also made describing the natural and productive features of the land at the time the easement is granted. When completed the conservation easement is registered with the appropriate land titles office.

Have the easement land appraised

As with any donation or sale, the parties involved will want to know the value of the property interest being donated or sold. It is also necessary to have this information when you come to calculate the tax benefits.

If you are donating an easement, apply to have it certified by Revenue Canada as an “ecological gift” so you can get the maximum tax benefit.



What happens after you grant a conservation easement?

Land management

The agencies, municipalities and qualified organizations to whom you can grant a conservation easement are interested in the long-term sustainability of the land, not in becoming the day-to-day managers of the easement property.

Access

When you place a conservation easement on your land, there is no requirement to allow public access beyond what you desire.

Monitoring

The grantee (the organization you choose to work with) will come onto the property periodically to monitor it and ensure the terms of the agreement are being upheld. Done in consultation with the landowner, this monitor-

ing usually happens no more than once a year, or when a violation is known or suspected to be occurring.

Changes in land use

You and the grantee form a partnership for the conservation of the land. Accordingly, you should jointly be involved in making decisions regarding major changes in land use. These would include any proposals related to water resources, energy or utility applications, expropriations, reclamation or any activity which may affect the conservation values of the property.

Modification of the agreement

Many conservation easement agreements allow for future modifications, upon mutual agreement of the landowner and conservation organization, provided any amendments do not affect the conservation values of the easement.

The Southern Alberta Land Trust Society (SALTS) is a charitable, non-profit organization dedicated to preserving the environmental, productive, scenic, and cultural values of Alberta's foothill and prairie regions. For more information about the Southern Alberta Land Trust Society and its work contact:

SALTS

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Conservation easements are complex and vary between jurisdictions and organizations. This fact sheet is not intended to be comprehensive, nor to replace the expert legal, tax and estate planning advice you will need that is specific to your situation. For more information on conservation easements and a list of publications, organizations and agencies who can help you further, see the SALTS' booklet, "Conservation Easements: A Landowner's Guide."

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