

2020



Taos Land Trust LANDOWNERS HANDBOOK



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Introduction

Welcome to the world of conservation easements with the Taos Land Trust. Land preservation can be complicated. We've created this handbook to:

- > Help you understand conservation easements and how they work.
- > Help clarify the rights and responsibilities of landowners of conserved properties.
- > Outline the role of the Taos Land Trust (TLT) in the ongoing stewardship of your property.

- > We hope you find this overview a helpful guide for the process of easements and stewardship. The Taos Land Trust takes great pride in our thirty plus years of empowering people to protect the land and traditions they love through education, advocacy, and conservation.

For more information:

Contact Maya Anthony, Stewardship Coordinator at Maya@taoslandtrust.org, Susan Nuss, Operations Manager, at Susan@taoslandtrust.org, or Kristina Ortiz, Executive Director, at Kristina@taoslandtrust.org. **All can be reached at 575.751.3138.**



Above: Rio Fernando Park. Taos, New Mexico.

Photos by Jim O'Donnell

Front Cover: Loretta Trujillo + Family – Martinez Conservation Easement.

What is a conservation easement?



Droke Easement. Taos, New Mexico.

Photos by Jim O'Donnell

A conservation easement (CE), is a voluntary legal agreement between a landowner and a land trust that permanently limits development of the land in order to protect its conservation values. Protecting valuable resources (such as, riparian areas, prime agricultural land, wildlife habitat, and corridors and scenic view-sheds) benefits not only the landowner, but the public as well. By protecting, in perpetuity, the land they love, landowners are allowing future generations to enjoy the beauty, culture, and bio-habitats that help make New Mexico a spectacular place to live. While conservation easements restrict development, land owners continue to own their land, use their land, sell it or pass it on to their heirs. Because individual lands and landowners have unique conservation needs and goals, each recorded conservation easement contains unique terms which reflect a balance between the personal objectives of the landowners and protecting the land and its resources. Ultimately, the easement stays with the land no matter transfers of ownership.

In the State of New Mexico, conservation easements and charitable donations of land for conservation purposes are eligible for a state tax credit through the New Mexico Land Conservation Incentives Act (LCIA). The maximum tax credit is 50% of the appraised value of the donation (meaning the difference between the appraised value as developable land and the appraised value as undevelopable land). The tax credit yields a maximum of \$250,000 per individual donor or up to \$500,000 for a married couple.

Land conservation tax credits must be approved by the Energy, Minerals and Natural Resources Department (EMNRD) Secretary in consultation with the Natural Lands Protection Committee. A taxpayer has a maximum of 20 years to fully use the tax credit following the taxable year in which the donation was made. Alternatively, the tax credit may be transferred (sold) to another taxpayer through a tax credit broker in minimum increments of \$10,000.



How does this benefit you as a landowner?

Landowners have different reasons for protecting their land. It may be a family thing: wanting to preserve heritage through land that has been in the family for generations. Or it can be about maintaining agricultural traditions – or even about water rights. Perhaps it is about a deep affinity for the land itself or for protecting ecosystems and wildlife habitat. For many landowners, it's all of the above.

You can rest easy knowing that the beauty, ecology, and cultural traditions of the conserved land will be forever preserved and protected. On top of that, you might be eligible for a federal tax deduction as well as the New Mexico LCIA tax credit. You might also see a reduction in property taxes based upon a reduced assessed property value.



John and Rebecca Hall – Droke Easement. Taos, New Mexico.

Photo by Jim O'Donnell

How does the conservation easement process work?

For a donation of land to qualify for a conservation easement, the purpose of the donation must be for the protection of certain conservation values, including:

- > **Preservation of open space (including farm and forest land) either for the scenic enjoyment of the general public or as part of a clearly defined government conservation policy (both purposes must yield a significant public benefit).**
- > **Protection of habitat for fish, wildlife, plants, or larger ecosystems.**
- > **Preservation of land for outdoor recreation by, or the education of, the general public.**
- > **Preservation of a historically important land area or a certified historic structure.**



Photos by Jim O'Donnell

The process of placing a conservation easement on your land is not simple. It can take many months and there are costs involved, but the end result protects your land in perpetuity. The staff of the Taos Land Trust work closely with landowners and lawyers to craft an easement that will meet your needs, and protect your land for future generations. This process involves multiple visits to the property as well as conversations with you to determine your needs, plans, concerns and vision.

After these conversations, TLT staff will make a presentation to the TLT Land Committee which makes the initial decision to proceed or not, decides on the amount of the Conservation Fee, and estimates a Stewardship Contribution to request. The Conservation Fee, which covers the work and costs incurred by TLT in preparing the easement, is due when you sign the Engagement Letter. The amount varies depending upon the size of the land, its location and other factors, including the number and types of areas where building may occur in the future. These are called “building envelopes”. This fee pays for costs incurred during the preparation of the Conservation Easement. These costs may include the creation of necessary documents, shepherding the application through the State’s LCIA process, closing the conservation easement with the County, and preparing a donation form for a federal tax deduction, should you choose this option.



The Stewardship Contribution is due after the CE is approved and goes toward all future costs of protecting the land forever, which includes a yearly monitoring visit, and any necessary legal defense. This amount is tax-deductible.

NOTE: TLT DOES NOT PROVIDE LEGAL, TAX, FINANCIAL, APPRAISAL OR ANY OTHER KIND OF PROFESSIONAL ADVICE FOR THE CE. THE LANDOWNER MUST SEEK THEIR OWN COUNSEL ON ALL MATTERS.

The next step involves the creation of necessary documents and the application. Each conservation purpose must be identified in the Deed of Conservation Easement and further described in a Baseline Documentation Report, both of which will be completed by TLT staff and our attorneys. The Deed of Conservation Easement becomes part of the Pre-Assessment Application, which TLT must submit to EMNRD. EMNRD generally accepts these applications three times per year, and once the application is submitted, it is considered by the state Natural Lands Protection Committee and either accepted or rejected. If rejected, you are always free to submit again. The Pre-Assessment Application also requires:

- > **A Title Search**
- > **A water rights summary (if holding water rights)**
- > **Survey**
- > **Warranty Deed**
- > **A description of any current and future building/structure plans within building envelopes.**

Once the State approves the LCIA Pre-application, TLT, in cooperation with you, creates a Baseline Documentation Report, which is required under IRS Code. The Baseline Documentation Report is an inventory of the property at the time you donate the conservation easement and is used in the future to compare any changes in the property. The Baseline Documentation Report generally includes maps, field notes on major natural characteristics of the property, and photographs, which thoroughly document the current condition of the property.

DURING THE PROCESS YOU ARE RESPONSIBLE FOR:

- > **An appraisal of the property. This is a special appraisal designed specifically for conservation easements and can only be accomplished by a few, very specific appraisers. This appraisal is your responsibility. The costs are significant, ranging from \$10,000 to \$25,000 depending on the location and size of the property. We will work with you to find a qualified appraiser.**
- > **Other reports including a mineral report or archaeological survey which may be required on the advice of the State.**

Next, you and TLT sign the Deed of Conservation Easement and the Baseline Documentation Report, and you donate the Stewardship Contribution to the Land Trust. TLT records the Deed of Conservation with the relevant county clerk and sends copies of the recorded CE, the Baseline Documentation Report, and any other relevant materials to you or your representative(s).

Once you receive the completed appraisal of the donated CE, you will send a copy of Form 8283 (which specifies the donation and its value for the landowners income tax return) to TLT for signatures. Remember, you must complete and sign the CE within 60 days of the completion of the appraisal.

After the CE is complete, TLT assumes responsibility for ensuring that all future owners respect the conservation objectives of the easement. TLT's stewardship work includes:

- > **Annual visits to monitor the condition of the land;**
- > **Responding to owners' questions regarding the conservation of the land and the easement;**
- > **Building relationships with new owners when the land changes hands;**
- > **Ensuring that the conservation objectives are upheld, including, if necessary, going to court to prevent, stop, or resolve a violation of the terms of the easement; and**
- > **Responding to owners' requests to engage in activities that require TLT approval.**



Rio Fernando de Taos

Photo by Jim O'Donnell



A bit about reserved rights & prohibited activities

While each Conservation Easement is unique, they all outline Reserved Rights (or allowed activities) as well as Prohibited Activities. TLT works closely with landowners to create a document that allows the landowner to use their land wisely and comfortably while still protecting it forever. The Reserved Rights that you retain must be fundamentally consistent with the objectives of the conservation easement, and be compatible with your current objectives and activities, as well as those in the future. For example, you will want to retain the right to maintain any existing buildings, structures and improvements on the property, as well as the right to sell, lease, transfer, or exchange the property in the future. The rights that you reserve today will be very important to your heirs and a potential buyer in the future.

Reserved Rights often include:

- ⇒ Agricultural uses
- ⇒ Measures to improve wildlife habitat or native biotic communities
- ⇒ Building Envelopes for future homesites, outbuildings, etc.
- ⇒ Limited roads (generally unpaved, for utility or home access)
- ⇒ Fencing of limited height
- ⇒ Well-managed forestry/the removal of dead trees or dry vegetation that creates a fire danger
- ⇒ The ability to sell, rent, pass on through inheritance, or lease the property

- ⇒ Trails, camping, and recreational activities (including hunting and fishing, if deemed appropriate)
- ⇒ Posting of signage of limited size which designates trails, prohibited areas, etc.

Prohibited Activities often include:

- ⇒ Paving and impervious surfaces, including most roads
- ⇒ Tennis courts, skateboard parks and other recreational facilities with impervious surfaces
- ⇒ Feedlots and CAFOs
- ⇒ Mining and mineral extraction
- ⇒ Commercial or industrial activity other than agricultural or simple recreational uses
- ⇒ The selling of water rights
- ⇒ Subdivision
- ⇒ Large signs, billboards, bright lights, etc.
- ⇒ Building other than within designated Building Envelopes
- ⇒ Dumping or storing of trash or waste (composting and biodegradable storage is okay)



Annual monitoring visits

As part of our responsibility to protect your land in perpetuity, it is the duty of the Taos Land Trust to monitor your property once per calendar year and to generate an annual monitoring report detailing any changes or issues that may have arisen since the last visit. Monitoring is carried out by a TLT staff member or specially trained volunteers.

In addition to ensuring that the terms of the Conservation Easement are being followed, annual monitoring helps us build and maintain positive working relationships with landowners by providing the opportunity to meet in person and discuss any questions or issues involving the property. Prior to

each year's visit, we will contact you to try to arrange a convenient, mutual time for the visit. We understand that it is not always possible for landowners to meet with us, but we do welcome the opportunity whenever possible.

We are available for questions and concerns via email, phone, or scheduled visits during our regular business hours. 575.751.3138 or info@taoslandtrust.org



Taos High School Students Monitor Water Quality at a Conservation Easement along the Rio Fernando de Taos.

Photo by Jim O'Donnell



About the Taos Land Trust: Our Story

Taos Land Trust was founded in 1988 by a group of community volunteers who watched a beautiful tract of open land get sold because the owners could not afford to pay exorbitant inheritance taxes. This group wanted to give local families another alternative. By saving the extraordinary landscape of northern New Mexico, these visionary community members were also helping save the distinctive qualities of our area that make it truly a “Land of Enchantment.” Since then, we have been helping landowners create voluntary conservation easements and using other creative approaches to permanently protect family lands, working with other organizations to buy and protect land for the public and staying involved in long-range land conservation planning at the local, county, and state levels. Overall, we have permanently protected more than 25,000 acres of irrigated farms and ranch lands, wildlife habitat, and beautiful open landscapes throughout northern New Mexico.

Our Mission

Taos Land Trust empowers people to protect the land and traditions they love through education, advocacy, and conservation.

Our Vision


A legacy of open, productive, and natural lands for future generations.

Our Accreditation

Taos Land Trust is an accredited member of the national Land Trust Alliance (LTA) in New Mexico and has formally adopted LTA Standards & Practices.

For more information, visit us at www.taoslandtrust.org



A close-up photograph of a person's hand holding a small, round, green apple. The hand is positioned in the lower half of the frame, with the thumb and index finger supporting the apple from below. The person is wearing a black wristband and a metal chain bracelet. The background is a blurred, out-of-focus image of a person's legs in blue jeans and black sneakers, suggesting an outdoor setting.

“ Conservation will
ultimately boil down to
rewarding the private
landowner who conserves
the public interest. ”

– Aldo Leopold

*Conservation Economics,
The River of the Mother of God.*





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