

Working with Land Trusts:

A Guide for Military Installations and Land Trusts

LTA Land Trust Alliance





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Dear Reader:

Land trusts and military installations share the common goals of advocating for protecting natural areas, appropriate development, and working with community organizations.



The Land Trust Alliance (LTA) provides training for land trusts and works to increase both the quality and pace of land conservation throughout America. I am proud to partner with the Department of Defense (DoD) to encourage collaborative activities between military installations and land trusts. Since 2002, LTA has invited DoD involvement in our national land trust conference, and DOD staff have served as workshop presenters and plenary speakers.

DoD also held a series of partnership workshops in the fall of 2004 and the spring of 2005 in Savannah, Corpus Christi and San Diego. LTA promoted and encouraged land trusts to attend these meetings with military personnel, environmental organization representatives, and Federal, state and local public agency staff.

I look forward to continued collaboration with the Department of Defense to increase land conservation around bases by land trusts and their partners.

Sincerely,

A handwritten signature in black ink, appearing to read "Rand Wentworth". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Rand Wentworth
President
Land Trust Alliance

FRAMING THE ISSUE

The Need for Communication

Two-way communication between the military and outside stakeholders is crucial to successful compatible land use planning. Land trusts can enhance the military's efforts to promote compatible development; the military can provide a variety of resources to help land trusts achieve their goals. Together, the military and land trusts can find mutually beneficial solutions to encroachment issues.

This guide is designed to:

- Help Department of Defense (DoD) officials and military installation commanders gain a better understanding of how land trusts operate, and how they can work together to protect military operations
- Facilitate communication and potential collaboration among stakeholders on encroachment issues

The Issue

Encroachment on United States (U.S.) military installations and test and training ranges is a serious and growing problem for DoD. Encroachment – a term used by DoD to refer to incompatible uses of land, air, water and other resources – is the cumulative impact of uncontrolled urban development that hampers the military’s ability to carry out its testing and training missions.

The rapid pace of urban growth into rural areas around military installations and ranges presents two sets of encroachment problems. First, DoD’s activities may have adverse impacts on neighboring communities. As residential and commercial development increases in areas near military installations, people may experience more aircraft over-flights, dust, and noise from military activities. Second, important military training exercises may be compromised due to incompatible land use developments adjacent to or near installations and ranges. For example:

- Night training can be compromised when light from nearby shopping centers interferes with trainee’s night vision
- Parachute training can be halted when housing developments are built near drop zones
- Usable test and training ranges can be segmented and diminished if development forces endangered species to migrate inside the military installation fence lines

Other issues that can lead to degradation of testing or training capabilities include:

- Competition for radio frequency spectrum
- Cell phone towers or wind energy towers in military use airspace
- New highways near or through training areas

The Army, Navy, Air Force, and Marine Corps manage nearly 30 million acres of land on more than 425 major military installations.

The Implications

In 2002, the Government Accountability Office (GAO) reported that nearly 80 percent of the nation's military bases were witnessing growth around their fence lines at a rate higher than the national average.

The U.S. military is responsible for protecting the American people and U.S. interests around the world. To maintain the country's premier military edge, troops must have the best and most realistic training and preparation for the challenges of combat before they go to war. Restrictions caused by increased growth and development can have a detrimental impact on the military's ability to "train as we fight." If trainees receive restricted or inadequate training, they are more likely to misunderstand combat strategies and tactics, leading to poor skills and unsafe practices on the battlefield.

While state and local governments have responsibility for managing urban growth and development through their land use management authorities, land trusts, the agriculture community, and conservation organizations can leverage their respective interests in open space conservation areas and work cooperatively with the military to establish compatible land use buffer areas around DoD lands. Working collaboratively, the military, land trusts, and state and local governments can protect military training capabilities while conserving important natural resources and maintaining community well-being.

To date, various groups have taken action in response to the growing issue of encroachment:

- Specific installations have engaged conservation-oriented non-governmental organizations (NGOs) such as land trusts, as well as state and local governments, to establish conservation areas surrounding military lands
- States have passed legislation to minimize incompatible development and promote compatible resource use around military installations
- State and local governments have formed military advisory boards to facilitate discussion and develop compatible land use policy for areas around military installations

Military/ Land Trust Partnerships

In Fiscal Year 2003, Congress granted statutory authority (10 U.S.C. 2684a) for DoD to work with state and local governments and conservation organizations to reduce encroachment on military test and training ranges. To implement this authority, DoD established the Readiness and Environmental Protection Initiative (REPI).

REPI funds are used to support a variety of DoD partnerships that promote compatible land use. By relieving encroachment pressures, the military is able to test and train in a more effective and efficient manner. By preserving the land surrounding military installations, habitats for plant and animal species are conserved and protected.

In implementing the REPI Program, DoD is forging new relationships within the land trust community. Some examples of projects are below:

- *Marine Corps Base Camp Lejeune*: The U.S. Marine Corps and the North Carolina Wildlife Resources Commission partnered to protect three parcels of land, totalling more than 1,000 acres. This land, which would have hindered training at Camp Lejeune had it been developed, will be incorporated into the North Carolina statewide system of wildlife preserves.
- *Fort Carson, CO*: Three major tank firing ranges on Fort Carson will remain operational due to the partnering efforts of the U.S. Army, The Nature Conservancy (TNC), Great Outdoors Colorado, and the Colorado Department of Transportation. The land, part of a private ranch and home to a shrinking short grass prairie ecosystem, is protected from development and promotes Colorado's traditional ranching economy.
- *La Posta Mountain Warfare Training Facility, CA*: The U.S. Navy, TNC, and the California Wildlife Conservation Board protected 370 acres of land in southern California and prevented incompatible development. This conservation easement ensures live-fire training capabilities for the Navy and protects a wildlife migration corridor between California and Mexico.

DoD established the Readiness and Environmental Protection Initiative (REPI) to implement statutory authority from Congress for DoD to work with state and local governments and conservation groups to reduce encroachment.

LAND TRUSTS

What is a Land Trust?

Land trusts protect farm and forest lands, natural areas, historic structures, and recreational areas.

A land trust is a private, nonprofit conservation organization formed to protect natural resources such as farm and forest land, natural areas, historic structures, and recreational areas. Land trusts are sometimes called conservancies, foundations, or associations. They are well-known for their firsthand involvement in land transactions and land management.

Local and regional land trusts support grassroots efforts to conserve lands important to their communities. They focus on distinct areas, such as a single town, county, or region, or concentrate on unique features of a specific lake, river, or mountain. National organizations, such as The Nature Conservancy, the American Farmland Trust, and the Trust for Public Land, operate throughout the entire state or several states. Ducks Unlimited, Trout Unlimited, Sportsman's Alliance of Maine, and Sporting Lands Alliance are examples of national and local conservation organizations created by outdoor enthusiasts to protect hunting and fishing areas.

Land trusts use a variety of tools to help landowners voluntarily protect their land. Purchasing and/or accepting donations of conservation easements and land are the most common.



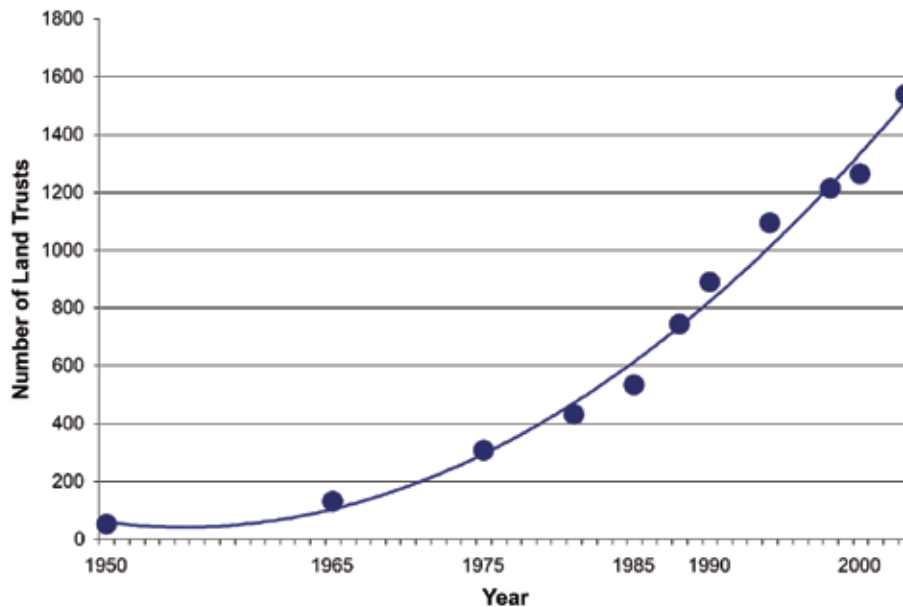
Land trusts may manage land owned by others or advise landowners on how to preserve their land. They may help negotiate conservation transactions in which they play no other role. Land trusts often work cooperatively with government agencies by acquiring or managing land, researching open space needs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

How Did Land Trusts Originate?

The country's first regional land trust was established in Massachusetts in 1891. The Trustees of Reservations is still operating today to protect open lands as well as historical, cultural and natural landmarks.

In 1950, there were 53 land trusts operating in 26 states. Today, there are more than 1,500 local and regional land trusts across the country, serving every state in the nation. They protect more than 9.3 million acres of farmland, wetlands, ranchland, forests, watersheds, river corridors, and other land types (see Figure 1).

Figure 1. Growth of Local and Regional Land Trusts: 1950 - 2003



Land trusts pledge to landowners and to the public that they will protect their land in perpetuity. To do this, a land trust must be strong and sustainable.

What Does a Land Trust Do?

Land trusts protect land by:

- Buying and/or accepting donations of land or conservation easements
- Educating the public and advocating the need for land conservation
- Helping landowners tailor conservation plans to individual situations and financial circumstances
- Determining the property's conservation values and future ownership

How are Land Trusts Structured?

Although each land trust is unique, all share common characteristics in structure and operations. For instance, all trusts deal with two types of work: organizational management and land transactions.

Organizational Management

Land trusts must:

- Be compliant with all non-profit laws
- Have 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

Land Transactions¹

Land transactions involve evaluating and selecting land conservation projects carefully. Most land trusts would like to protect more land than their limited time, staff, or other resources permit. The most effective organizations create a strategy or action plan to target specific types of land to conserve.

Once a land parcel is targeted, the land trust ensures sound transactions by making sure that every project is legally, ethically, and technically sound. The trust also ensures that every charitable donation meets federal and state tax law requirements.



¹ Starting a Land Trust: A Guide to Forming a Land Conservation Organization, Land Trust Alliance, 2000.

How Does a Land Trust Conserve Land?

Land trusts have many options available to conserve land (see Appendix A). Two popular options are conservation easements and fee simple ownership.

Conservation Easement

A conservation easement (or conservation restriction) is a legal agreement between a landowner and a land trust or government agency. The agreement:

- Permanently limits uses of the land in order to protect its conservation values
- Allows the landowner to continue owning and using the land
- Allows the landowner to sell the land or pass it on to heirs

Though land trusts often work with donated easements, there are public and private programs to purchase easements as well. The military's REPI program is but one example of how land trusts work with other partners to acquire easements.

Fee Simple

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. The land trust owns the land, maintains perpetual stewardship and management responsibility, and may grant conservation easements on it for a fee to another conservation organization, agency, or town.

Considerations When Deciding to Use Fee Simple Ownership or a Conservation Easement to Protect Property²

Factors Favorable to Conservation Easements:

- Conservation objectives include productive use
- 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

Factors Favorable to Fee Simple Ownership:

- Property contains very sensitive natural resources
- Public use is a significant conservation objective
- Resources on the property require intensive management
- Surrounding lands are owned in fee by the land trust or other conservation organization or agency

Land trusts use conservation easements and fee simple options to conserve land.

² "Conservation Options: The Land Protection Toolbox," Bates, Sylvia and Kohring, Peg, Land Trust Alliance and The Conservation Fund Land Conservation Leadership Program Training Manual, 2003.

Together, landowners and land trusts write conservation easements that meet the needs of both.

How Do Conservation Easements Work?

A conservation easement restricts development to protect the conservation values of a particular property, and may include a prohibition of construction. Landowners and land trusts, working together, can write conservation easements that reflect both the landowner's desires and the land trust's need to conserve natural resources. Even the most restrictive easements typically permit landowners to continue traditional use of land, such as farming and ranching.

When a landowner conveys a conservation easement to a land trust, he or she gives up some of the rights associated with the land. For example, a landowner might give up the right to build additional structures, while retaining the right to grow crops. Future owners are bound by the easement terms, and the land trust is responsible for ensuring easement terms are followed.

Steps in the Process of Working with a Land Trust

The following are the basic steps in donating a conservation easement; these may vary from land trust to land trust, and region to region.

1. The landowner and land trust representative(s) meet to discuss the 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.
2. The landowner reviews the material, consults with family members, legal counsel, and/or tax advisors, and indicates an interest in further exploration of an easement.
3. A land trust representative visits the property to evaluate its features and the natural and open-space 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 and, if donated, which of the various Internal Revenue Service (IRS) public benefit tests is satisfied. The land trust conducts a baseline study to inventory and document the resource values of the property.
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.
5. The land trust board approves the conservation easement, making a find-

ing as to the public benefit of the easement and how it fits with the land trust's strategic plan.

6. The landowner provides chain of title, certification of title, or title report to the land trust.

7. The landowner contacts the lender, if any, to arrange for subordination of mortgage. The mortgage must be subordinated for the conservation easement to be effective and, if donated, for a tax deduction to be available.

8. The landowner determines if certain IRS requirements are met for a tax deductible easement.

9. The conservation easement is finalized and signed.

10. The signed easement documents, including the Baseline Report, are recorded at the county courthouse.

11. Most land trusts ask conservation easement donors to make a donation to the land trust to cover the costs of monitoring and enforcing the conservation easement in perpetuity.

12. If the landowner intends to take a qualified tax deduction or claim a credit for the non-cash charitable gift, the landowner is responsible for hiring an independent appraiser to determine the value of the gift.

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

14. The land trust has responsibility for monitoring the property once or twice per year to ensure that all of the easement conditions are met.





Donated conservation easements may qualify as tax-deductible charitable donations.

What Are the Advantages of Conservation Easements?

Though conservation easements under the military's REPI program are usually acquired easements at an agreed upon price, most conservation easements are donated. Donations may qualify as tax-deductible charitable donations if they benefit the public by permanently protecting important conservation resources, and meet other federal tax code requirements. 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 a 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 may lower its market value, which in turn may lower its estate tax. Whether the easement is donated during one's life or through a will, it can make a crucial difference in the heirs' ability to keep the land intact.

What Are a Land Trust's Responsibilities Regarding Conservation Easements?

The land trust is responsible for enforcing restrictions 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.

What Other Methods Do Land Trusts Use to Protect Land?

Other ways to protect land, although not as common as easements, include:

Planned Gifts

A planned gift is a contribution given at death, such as bequests through a 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.

Mutual Covenants

A mutual covenant involves several landowners who 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 placed in the property deed restricting certain uses of the real estate by subsequent owners. There are no income tax benefits, but deed restrictions may allow for 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 Program³

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

Registry Programs⁴

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

Although most common, conservation easements are not the only way to protect land.

³ “Local Markets Shape Land Trusts’ Conservation Buyer Program,” McQueen, Mike, Exchange, Spring 2002.

⁴ “The Trust for Public Land: Doing Deals,” Land Trust Alliance and the Trust for Public Land, 1995.

Limited Development⁵

Sometimes portions of a property can be developed without sacrificing the protection goal. Such limited development usually entails developing the less environmentally sensitive portions of a land parcel and selling them to a private buyer. The portion of the property with the most valued resources may be retained by the land trust or sold to a third party, with conservation restrictions.

Like-kind Exchanges⁶

A like-kind exchange occurs when property held for investment is exchanged for any other property being held for investment, allowing the investor to defer paying capital gains taxes. This is also known as a “1031 exchange,” after the Internal Revenue Code §1031 (a) (1).



Lewis Jeffries, a descendent of Mary Draper Ingles, lives in the same home that has been in the family continuously since the 1750s. He placed an easement with the Virginia Outdoors Foundation in 2002, telling a local paper: “Not everything can be bought with a dollar. Some people say, ‘You ought to sell this farm.’ I say you can’t buy your heritage.”



⁵“The Trust for Public Land: Doing Deals,” Land Trust Alliance and the Trust for Public Land, 1995.

⁶“Like Kind Exchanges & Escrow Accounts: Leveraging Land Protection,” Daniels, Thomas L., Land Trust Alliance Rally Presentation, 2002.

Conserving Farm, Forest and Ranch Lands

The role of America's agricultural sector in the global economy has been likened to that of the Organization of Petroleum Exporting Countries (OPEC) in the field of energy. Agriculture underpins the economies of many rural communities, provides the nation with an abundance of food, fiber, and fuel products, supports America's balance of trade, and offers potential for reducing our dependence on foreign oil. Working landscapes such as farming, ranching, and forestry provide long-range environmental benefits which include wildlife habitat, clean air and water, flood control, and ground water recharge. Non-market benefits include scenic views, open space, and community character.

Farming, ranching, and forestry can be highly compatible with military land use. Protecting farm, forest, and ranch lands near military installations can help sustain military training and testing by buffering installations from residential neighbors and providing habitats for endangered species.

As populations grow and development increases, protecting military installations and the valuable working lands adjacent to them becomes more crucial. According to a June 2002 Government Accountability Office (GAO) report on military training, 80 percent of communities surrounding military installations are growing faster than the national average. Of the nearly 35 million acres of non-federal rural land developed in the last 20 years, more than half was agricultural.



Agricultural Conservation Easements are similar to other conservation easements in that they are voluntary and flexible, tailored to each property, and have provisions specifically tailored for agricultural purposes. As important as they are, however, agricultural conservation easements are only one tool for protecting land.

*Agricultural land use
can be compatible
with military land use.*

Strong sentiments and state traditions in favor of private property rights can have a tremendous influence on local land development decisions. These sentiments may make it difficult for elected and appointed officials to adopt more stringent land use controls to protect military installations.

Engaging communities, landowners, and agricultural interest groups is essential to the success of protecting working lands around military installations. Farm, forest, and ranch landowners as well as other rural residents respond to new planning, zoning, and policy initiatives based on their own private property interests and business, personal, and family priorities. For example, farmers and ranchers who believe agriculture has a strong future are more likely to sell conservation easements or support policies that manage growth and limit encroachment into agriculture areas bordering military installations. On the other hand, if they are not confident about the future and believe they will benefit more from selling their land, they are more likely to be concerned about losing private property rights and oppose policies they fear will reduce their property values.

Role of American Farmland Trust (AFT)

AFT is the nation's leading conservation organization working to protect agricultural land. AFT's mission is to stop the loss of productive farmland and to promote farming practices that lead to a healthy environment. AFT



has three major program areas: research, technical assistance, and policy development. Since its founding in 1980, AFT has been instrumental in the permanent protection of more than one million acres of land and has helped develop farmland protection and policy initiatives at the local, state, and federal levels. AFT also works directly with landowners, land trusts, and public entities to protect agricultural land with conservation easements.

For more information about protecting agricultural land, see the Resource Guide in this series, *Working to Preserve Farms, Forests, and Ranchlands: A Guide for Military Installations*, or contact AFT's Farmland Information Center: 800-370-4879 or www.farmlandinfo.org.

Where Do Land Trusts Get Funding to Conserve Land?

Land trusts draw upon a variety of sources to buy land or interests in land, using a unique and proactive method called conservation financing. Conservation financing utilizes local, state, federal and other funding sources (see Appendix B) to protect open space and manage growth. The military's REPI program is one example.

Since the amount of federal funding available for conservation fluctuates annually, local funding is the key to effective, long-term conservation financing. It is important to have local commitment and control. Local funds also help leverage federal, state, and private dollars, establishing a predictable and sizable conservation funding stream.

State and local governments continue to fund open space acquisition, viewing parks, recreation, and habitat as "green infrastructure" important to the quality of life and the economy. Examples include:

- In the 2004 election, voters in 67 communities approved 49 conservation ballot measures generating more than \$650 million in open space funds.⁷
- Several states have enacted trust funds to provide a sustainable principal that can generate regular interest payments for purchasing land. The strongest trusts are enacted by constitutional amendments that specify the use of the funds. Revenues from general appropriations, lotteries, mitigation funds, special taxes, and user fees have been used.

Some states are specifically earmarking money for protection of military installations.

Land trusts use conservation financing, a unique and proactive method to obtain funds from various sources.



⁷ Trust for Public Land website: www.tpl.org/landvote.

Land trusts have close ties to communities and often have the trust of local landowners.

What are the Advantages of Working with a Land Trust?

Land trusts have many advantages as land protection organizations. They typically have close ties to the communities in which they operate, and draw on community resources, including volunteer time and skills. Their community orientation is helpful in selecting and negotiating transactions. They 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 entities from outside the area.

The nonprofit tax status of land trusts provides them with a variety of tax benefits. Donations of land, conservation easements, or money may qualify 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, 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 in private.

What are the Advantages and Disadvantages of Working with a National Organization Versus a Smaller State or Local Land Trust?

Land trusts vary and it is important to understand their unique missions and organizational strengths.

Conservation organizations vary greatly from one state or region to the next and often work together on projects. Organizations like The Nature Conservancy and The Trust for Public Land have national offices with state and/or regional chapters. The Nature Conservancy has state chapters that can act like local land trusts. There are also many different types of local land trusts. These can be all-volunteer, or they can be large-, medium-, or small-staffed organizations. You should talk with representatives of the various organizations in your area to get an understanding of the types of land they focus on protecting, their abilities to bring outside funding to the project, and their organizational strengths to live up to their stewardship duties.

Factors to Consider when Partnering with a Land Trust

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

Every land trust is different, and each one should be able to articulate its mission and how it is implemented. With limited resources and time, the most effective land trusts focus their efforts on one geographic area or one land type.

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

Land trusts have varying levels of staffing and expertise available for a project. Talk with the land trust to explore the complexity of the proposed project and ensure that it has the needed staff, resources, and/or relationships with other organizations to complete the project and assume stewardship responsibilities.

What is the past experience of the land trust (projects, community outreach, landowner relations)?

As with prospective employees, contractors, and consultants, it is always best to check with people who have worked with the land trust to get an understanding of how it operates. Talk to previous landowners who have donated land or easements to the land trust; contact local government officials and ask if they or someone they know has worked with the land trust.

Does the land trust have access to other sources of funding?

Land trusts may have access to federal, state, or local sources of funding, some of which are described in this primer. Depending on the type of resource being protected, land trusts may be able to pool funds from a variety of sources or attract bridge financing to complete the project.



To find a land trust near you, listed by state and county, go to <http://www.lta.org/findlandtrust>

Five National Level Land Trust Organizations

- **AFT – American Farmland Trust (<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.
- **LTA – Land Trust Alliance (<http://www.lta.org>):** LTA promotes voluntary private land conservation to benefit communities and natural systems. LTA’s 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.
- **TCF – The Conservation Fund (<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.
- **TNC – The Nature Conservancy (<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.
- **TPL – Trust for Public Land (<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.



What are Some of the Challenges Land Trusts Face in Conserving Land?

A survey of the land trust community conducted in December 2004 by the Standards and Practices Design Steering Committee of LTA revealed that the top three perceived internal threats to land trusts are:

- Inability to defend conservation easements
- Land trusts going out of business
- Inability to steward land and conservation easements

The survey indicated that the top three perceived external threats are:

- Adverse court decisions
- Land use changes around conservation easements
- Loss of tax incentives

CONCLUSION

This guide is designed to provide military installation leaders with insight and understanding of land trusts and how they use land purchases and conservation easements to address encroachment and urban growth. By partnering with land trusts, the military can keep encroachment to a minimum near the installation fence line, while protecting important natural resources and maintaining agricultural and recreational lands.

Land trusts face both internal and external challenges. For more information, please refer to "Ensuring the Future of Land Conservation: A Proposal to Advance Implementation of Land Trust Standards and Practices via Accreditation and Training," Land Trust Alliance, March 2005. (www.lta.org/sp/ensuring_future_land_cons.pdf)

Appendix A. Summary of Conservation Options Available to Land Trusts

Land Protection Option	Description	Results
Conservation Easement	Legal agreement between a landowner and a land trust or government agency permanently limiting a property's uses	Land conservation values protected by organization; owner continues to own, use, and live on the land
Outright Land Donation	Land is donated to land trust or agency	Land trust or agency owns and protects the land
Donation of Undivided Partial Interests	Interests in land are donated to land trust or agency over several years until organization has full ownership	Can be nullified by subsequent agreement of owners
Donation of Land by Will	Land is donated to land trust or agency at death	Land trust or agency owns and protects the land*
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	Land trust or agency owns and protects the land*
Bargain Sale of Land	Land is sold to a land trust or agency for a price below fair market value	Land trust or agency owns and protects the land*
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 postponed
Mutual Covenant	A group of landowners agree to restrictions on their land use; May not involve a conservation group	Can be nullified by subsequent agreement of the owners

* For property best kept in private ownership, the land trust may place a conservation easement on the property to protect it, and sell it to an appropriate buyer. For non-conservation property donated to generate income to the land trust, the land trust will sell the property. Cash from the sale in either case will be used to support the land trust's conservation programs.

Appendix B. Available Federal Funding for Land Trusts

- **Federal Land and Water Conservation Fund (LWCF):** The LWCF is the largest source of federal money for parks, wilderness, and open space acquisition. It provides most of the acquisition funding available to the four federal land management agencies land trusts typically work with: the National Park Service, the Bureau of Land Management, the U.S. Fish and Wildlife Service, and the U.S. Forest Service.
- **The Forest Legacy Program:** This program is administered by the U.S. Forest Service and provides matching funds to states to assist in forest protection.
- **The North American Wetlands Conservation Act:** This act promotes voluntary, public-private partnerships to conserve wetland ecosystems for waterfowl and other migratory birds. Congress appropriated \$65 million for this program in Fiscal Year 2005.
- **The Cooperative Endangered Species Conservation Fund:** Section 6 of the Endangered Species Act gives matching grants to states for conservation projects that benefit candidate, proposed, and listed endangered species.
- **The Coastal Zone Management Program (CZMP):** CZMP is a partnership between the federal government and 35 states and territories to better steward the nation's oceanic and Great Lakes coastlines. While this program focuses primarily on management issues, there has been a recent push to better integrate conservation within the overall management strategy for the coastal zone.
- **Farm Bill:** The 2002 Farm Bill includes a variety of programs applicable to the work of land trusts. These include the Farm and Ranch Lands Protection Program, Wetlands Reserve Program, and Conservation Reserve Program.
- **The Transportation Equity Act for the 21st Century (TEA-21)⁸:** Reauthorized in 2005, this act provides federal funding for transportation enhancement activities with conservation purposes and community improvement projects such as open space preservation and trail development.
- **Department of Defense Readiness and Environmental Protection Initiative (REPI):** Title 10, Section 2684a of the U.S. Code authorizes the military to partner with state and local governments and with conservation organizations to encourage compatible land use and preserve natural resources surrounding military installations. To implement this authority, the DoD established the Readiness and Environmental Protection Initiative (REPI), which has received allocations of special funds from Congress since FY2004.

⁸ Conservation Finance Handbook, Cook, Ernest and Hopper, Kim, The Trust for Public Land, 2004.

This primer is one of a series designed in cooperation with DOD's Range Sustainment Initiative to facilitate a better understanding among all stakeholders, including military installation leadership, state and local government officials, land trusts, and communities, of how each operates within the context of encroachment and sustainability decision making. It is our hope that this information will facilitate communication and collaboration among those stakeholders to discover ways to engage in compatible land use planning. The primers in this series provide tools and suggestions for establishing and maintaining effective relationships and partnerships to address the challenges of encroachment. By working together, these stakeholders can find mutually beneficial solutions to encroachment and other sustainability issues.

The initial primer series includes:

- ❖ *Working with Local Governments: A Practical Guide for Installations*
- ❖ *Understanding and Coordinating with Military Installations: A Resource Guide for Local Governments*
- ❖ *Collaborative Land Use Planning: A Guide for Military Installations and Local Governments*
- ❖ *Working with Land Trusts: A Guide for Military Installations and Land Trusts*
- ❖ *Working with State Legislators: A Guide for Military Installations and State Legislators*

These primers are available online at www.denix.osd.mil/SustainableRanges

To obtain hard copies or for more information, contact:

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