



STEWARDSHIP FOR PERPETUITY

# MORE THAN A WALK IN THE WOODS

By TOM SPRINGER

a stewardship work day for Grand  
Traverse Regional Land Conservancy  
might involve pulling invasives.





AMANDA HULTS/GREAT LAND TRUST

↑ Great Land Trust hires seasonal land stewards, typically college students studying natural resources, who also conduct easement monitoring visits. For many, such as steward Ethan Hodgkin (pictured), it's the job of a lifetime.

**Y**ou may think of the “stew crew” as the people who can distinguish between a narrowleaf cattail and the native variety. Or adjust the air fuel mixture on a sputtering chainsaw.

But, along with caring for conserved lands, many stewardship staff also work on conservation easement oversight, requiring a “kitchen sink” of complex skillsets ranging from technical to relational. Today’s land steward might need to possess the ability to: work outside in all conditions; keep accurate and timely records; communicate effectively; resolve conflicts; educate the public; use GIS technology; manage and monitor habitats; oversee recreation and public access areas; interpret legal terms and applicable laws; understand insurance; and so much more.

“Acquisition of land, easements and other rights are just the beginning. The promise to take care of those acquisitions is the long game—that’s the promise of perpetuity,” says Leslie Ratley-Beach, conservation defense director for the Land Trust Alliance. “Stewardship provides that essential function.”

In the years ahead, stewardship will play an ever-larger role. The 61 million acres and growing that land trusts protect nationwide speak to that forever obligation. These

protected lands won’t remain static—active, skilled stewardship is what keeps conservation thriving.

For stewardship staff to continuously evolve to meet these challenges, they’ll need more from their land trusts. It’s a shift that is both cultural and operational. Stewardship staff are often undervalued and underpaid, and there aren’t enough of them. At many land trusts, the deal makers (acquisition staff) have historically been the people who get the glory and money—stewardship compensation, according to Alliance data, is not always comparable to other land trust professionals. And current trends suggest that land trusts that do not prioritize stewardship are at risk for increasing legal challenges in the coming years, putting them at a huge financial risk. (Read about the Alliance’s latest salary survey report and legal trends on p. 34.)

As much as land acquisition, it’s sound stewardship that will increasingly determine a land trust’s future, says Ratley-Beach.



## 'The Total Package'

In Michigan, the accredited Grand Traverse Regional Land Conservancy (GTRLC) has deepened its understanding and support for stewardship. The organization manages 320 easements that cover 47,000 acres. Each of its three stewardship staff has a portfolio of about 110 easements that they visit annually.

"We really focus on face-to-face relationships with landowners and monitor easements in-person whenever possible," says Mike Okma, GTRLC's manager of easement stewardship. "We still find that's the best way to avoid conflict. Strong connections give you 'relationship collateral' that you can lean into when there's a problem."

For Okma, stewardship isn't a mere compliance function that's separate from land acquisition. Rather, he sees them as two sides of the same coin.

"Look at the value that stewardship brings," Okma says. "From a financial perspective, our biggest donors are easement holders. And during monitoring visits, we don't just talk about easements. We talk about what we're doing as a land trust, what new acquisition projects we're looking at. That's why we need skilled professional staff to deal with easement donors."

When it comes to stewardship hires, GTRLC looks for "the total package."

"People look to us for property management advice, so we want someone with a background in forestry or natural sciences," he

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—MIKE OKMA, MANAGER OF EASEMENT STEWARDSHIP AT THE ACCREDITED GRAND TRAVERSE REGIONAL LAND CONSERVANCY IN MICHIGAN

says. "And communications skills are huge. They need to write well and speak well. They need the skill to negotiate conflicts and work with our land protection staff."

As for increasing stewardship pay, Okma says GTRLC isn't 100% there, but is working toward it. Ramped-up benefits such as ample flex time so that stewardship staff can care for families and themselves as needed is a step in the right direction.

For Okma, an 18-year veteran of GTRLC, it's crucial to avoid high turnover on stewardship teams. Given their deeply relational nature, combined with highly skilled technical and legal requirements, these are hardly plug-and-play positions. There's a wide range of factors to study and intuit: the landowners, with their passions and preferences; the conservation easement wording; the history of past land management; plus the neighbors, real estate agents, government conservation programs, and state, local and federal regulations. It's this collective safety net that upholds the integrity and legality of protected lands. And stewardship staff

stand at the center of it. "People won't want to donate easements if we can't honor and uphold them," says Okma.

After making a thousand-plus easement visits, Okma could write a how-to book about them. Absent that, he offers these observations for new stewardship staff.

"An easement visit isn't a walk in the woods," he says. "Stewardship is the frontline work for making sure easement terms are upheld. It takes incredible skill and knowledge to build relationships, protect conservation values, help landowners maintain excellent management standards and uphold easement terms. Easement stewards need to manage risk, build relationships and instill a stewardship ethic. That's how we protect the quality of privately conserved lands that provide huge benefits for everyone."

## A Stewardship Ethic in Alaska

When stewardship staff visit conserved lands in Alaska, it can feel like part conservation work, part hero's journey. The accredited Great Land Trust (GLT), based in Anchorage, holds 42 conservation easements scattered across an area the size of West Virginia. It can take up to two days by car, boat and airplane to reach far-flung conserved lands such as the Bear Walk on Afognak Island, near Kodiak. And Alaska's short summers mean that staff must visit its properties between May to September. This tight timeline, combined with GLT's staff of four, means they've had to find a workaround.

For GLT, that consists of hiring seasonal staff to complete monitoring visits. They're usually college students with natural resources backgrounds. Importantly, they're trained to conduct easement monitoring visits by GLT's full-time stewardship director, who knows the landowners and properties well.

All stewardship staff follow the same preparation and process for each visit, take copious notes and photos on the ground and, after the visit, debrief together. "Each Monday," says Ellen Kazary, GLT's executive director, "we ask what did you find? Anything we should be

concerned about? Any issue that may require a TerraFirma [conservation defense liability insurance] placeholder claim?"

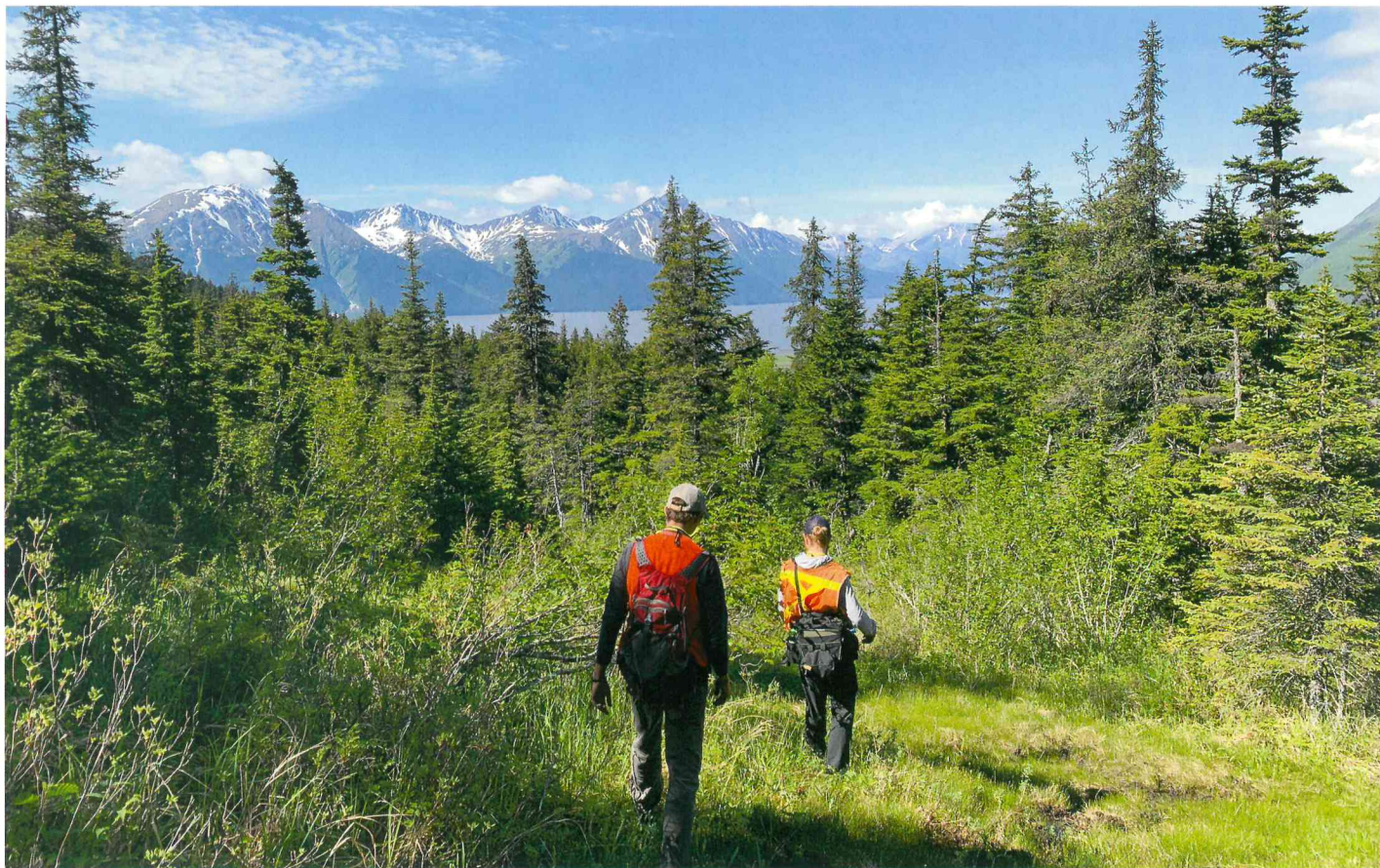
Beyond easement monitoring, documentation and recordkeeping, Kazary says, "caring for property is part of building an ethic of stewardship." This includes workdays where landowners and neighbors can bond over the sweaty work of pulling invasives. And afterward, keep an eye out for rogue loggers, developers or others who prey on open lands in Alaska. "Once neighbors work hard on conserved land as volunteers, they'll call us if they see a bulldozer out there," Kazary says.

This ethic of stewardship is something GLT has built up internally over time.

"Basically, we are all-in all the time on stewardship," says Kazary. "And we are successful because our staff and board take stewardship seriously."

GLT worked on getting all the strong accreditation elements in place first—good policies and practices, including monitor-





GREAT LAND TRUST

↑ Great Land Trust's seasonal land stewards follow the same routine for each easement monitoring visit: Review the easement and prior monitoring reports, note any issues that were previously flagged, notify landowners, traverse through sometimes rugged terrain to the property, meet with landowners, and take copious notes and photos on the ground. Afterward, debrief with staff.

ing and documentation. Then it invested time and financial resources in building a great team—staff, board and legal counsel—that all have a deep commitment to lasting conservation. Having a board that is engaged and supportive of all aspects of stewardship is what helps Kazary sleep at night.

“Our board knows that handling challenges successfully is one of the best ways to raise money and enhance the public perception of our work and effectiveness,” says Kazary.

Of course, this level of stewardship costs money. GLT requires landowners to make a stewardship contribution up front. The contribution amount takes into account many factors, including how far the property is from the GLT's Anchorage office. For a large property within a day's drive, the contribution typically ranges from \$75,000-\$100,000. GLT relies on the fund to cover annual monitoring costs. “We don't close on a transaction without having those resources in place,” Kazary says. “Without that, you're in hot water coming in.”

## No Staff, No Problem

In rural northwest Connecticut, small is beautiful for local land trusts. Here, four land trusts use a smorgasbord of solutions for stewardship and easement monitoring. Winchester Land Trust has no employees, so volunteers do it all. Norfolk Land Trust (also no employees) relies on a mix of volunteers and paid contractors for easement work. Cornwall Conservation Trust and Salisbury Association Inc., both have part-time staff, yet they use volunteers and paid contractors to monitor easements.

The common denominator—like a New England circuit rider of old—is Shelley Harms. She works part time for all four land trusts in some capacity. Writing grants here, serving as conservation director there, part-time executive director elsewhere. Taken together, the four towns she serves have an average population of 4,400.

Consider Salisbury Association Inc. “It was founded in 1902 and first devoted its energy to tree planting,” Harms says. “For 200 years, the iron industry had stripped the landscape bare to make charcoal for forges.” Today, Salisbury promotes local history, community events and, since 1976, has operated a land trust that now holds 49 easement properties and 17 preserves of its own.

Harms' peripatetic travels take her across the rolling wooded hills and pastures of northwest Connecticut. Along the way, two major areas where she's helped small land trusts improve have been volunteer management and recordkeeping.

Volunteers, she advises, should live close to the lands they monitor. In New England, along with learning to read GIS satellite images, volunteers need the skills to find boundary markers that may date to the Revolutionary War. Volunteers also build and maintain trails on public preserves, remove invasives and plant native species.

Meanwhile, Harms used the accreditation process to help the land trusts wrangle their paperwork into order (three of the four land trusts have achieved accreditation). For instance, paperwork storage had been rather homespun, as not all the land trusts had offices.





STEPHEN ALVAREZ

↑ The Land Trust for Tennessee conducts a monitoring visit with a landowner on a beautiful spring day with daffodils in bloom.



JOE MEEHAN

↑ This land is protected by a conservation easement held by Salisbury Association Inc. in Connecticut.





↑ The Land Trust for Tennessee created this Landowner Resource Guide to support landowners as partners in conservation easement stewardship.

"People kept files of easement records in their houses," Harms says. "As part of accreditation, we built a back-office function. While most of our land trusts have offices now, new tech has been a bigger help. Volunteers email me the monitoring forms, and I upload them to Google Docs and Dropbox."

## Building a Better Stewardship System

If land trusts don't manage stewardship, sooner or later it will manage them. The Land Trust for Tennessee (LTTN) learned that lesson the hard way in 2016.

"We were drowning in stewardship issues," says Emily Parish, vice president of LTTN (accredited). "We just didn't pay it enough attention or invest in it up front. We said, 'Oh, we'll just cover the monitoring responsibilities and make it work.' But when a consultant told us, 'You're going to have major problems if you don't staff up,' we had to act."

Today, LTTN has four full-time stewardship staff and a small team of volunteer monitors who oversee over 400 conservation easements (the organization owns just four parcels). While that's an unusual ratio for land trusts, the innovations they've made along the way are widely applicable.

For one, they've chosen to specialize. They now rely on a single "field coordinator" who focuses on monitoring easements. As a timesaver, they use the Lens imagery program to look at satellite views of conserved properties. Lens uses public geospatial images that are updated more often than GIS images. It's also useful—given Tennessee's rugged terrain—for showing hard-to-reach corners of properties that can't be reached on foot. On the ground, LTTN staff use iPads to upload photographs embedded with time stamps and GPS coordinates.

Another area that's required a diligent tracking system has been land transfers (when a conservation easement property changes ownership). LTTN has handled over 85 transfers to successor owners in just the last three years. These complex transactions involve tracking sales, dealing with real estate

agents and reviewing requests to build or expand structures. All while trying to build a relationship with the new owner. Much of this growth, Parish says, began during the pandemic: "When people had more time to spend at home enjoying their land, they started thinking of new stuff to build!"

In terms of pay equity for stewardship staff, LTTN has taken a different route. Instead of separate job levels for stewardship, they use the standard titles of coordinator, manager and director across the organization. The same pay scale applies, whether it's a stewardship, conservation or administrative position. "We want to build folks up, so they'll stay with us a long time," Parish says. "These positions give us a ladder for upward mobility."

## The Future of Stewardship

Mission fulfillment, therefore, depends on strong stewardship.

"A land trust's stewardship work is the fulfillment of its legal requirement to uphold and defend easements, preserves, trails and other conservation rights," explains Ratley-Beach.

It's where the "sexy glamour" of land acquisition meets the dedication and perseverance that make relationships endure. And if a land-rush mindset marked the early land trust years, so must a determination to make perpetual conservation a reality on the ground define its future.

"Way back when, we were all naïve," Ratley-Beach says. "We thought the hard part was getting money to buy land and that everyone would follow easement agreements. Stewardship was sidelined; the people who did it weren't paid well. Then, as decades went by, we saw that people don't always follow easement agreements."

The time is now, Ratley-Beach says, for land trust boards to invest in stronger stewardship programs. This, before the pace of new land acquisitions winds down.

For starters, it costs nothing to make stewardship more visible to the board and public. This includes giving stewardship regular time on board meeting agendas—and not just when problems arise. It means boosting stewardship staff morale by elevating their work in board reports, annual reports and newsletters, and email blasts. Over time, the virtuous cycle of stewardship can become self-perpetuating (read more about how boards can better support stewardship on p. 28).

"Lasting conservation requires full funding to retain skilled people who will uphold agreements and enhance preserves," Ratley-Beach says. "Beginning projects with stewardship as the first priority is essential, rather than racing to add acres that later become inordinately expensive to steward."

Ratley-Beach also touts the value of publicizing good stewardship and educating people that strong stewardship brings in money by enhancing the reputation of the land trust, bridging community relationships and highlighting new opportunities.

She says: "Strong stewardship is how we'll uphold our promise that conservation is forever." ☺

Find resources to support your stewardship work at [lta.org/stewardship-for-perpetuity](http://lta.org/stewardship-for-perpetuity).

**TOM SPRINGER** has served in several roles for the accredited Southwest Michigan Land Conservancy, including board member, volunteer and writer.



## 2024 LAND CONSERVATION TRENDS IN PERMANENCE

The Land Trust Alliance Conservation Defense Initiative offers support, guidance, resources, tools and leadership to land trusts across America to uphold conservation permanence. This starts with daily routine prevention and continues with skillful, timely dispute resolution and litigation when land trusts face more serious and sustained challenges. Identifying and triaging legal trends is an important aspect of this approach.

The [Land Trust Accreditation Commission](#) was incorporated in April 2006 as an independent program of the [Land Trust Alliance](#) to operate an innovative program to build and recognize strong land trusts, foster public confidence in land conservation and help ensure the long-term protection of land. The Commission's mission is to inspire excellence, promote public trust and ensure permanence in the conservation of open lands by recognizing land trust organizations that meet rigorous quality standards and strive for continuous improvement.

The Commission and the Conservation Defense Initiative staff monitor trends and act as sounding boards for land trust staff and volunteers and their advisors. This trend sheet distills current 2024 trends.

1. Turnover: Over the past three years, about 30% of land trusts applying for renewal of accreditation experienced turnover of one or more executive directors in a five-year period. Being accredited can help with the leadership transition, as the organization has the systems and processes in place. Land trusts have shared that the accreditation application process is one of the best ways for leadership to learn about every aspect of their organization and for board members to feel confident that their organization has an additional layer of external oversight.

Conservation Defense Initiative staff talk with more new staff, especially stewardship staff and board members looking for basic resources and help navigating resources. Many staff changes are people new to conservation and are looking for assistance with basics such as records and amendments. Many new board members are unfamiliar with important concepts such as impermissible private benefit. The Land Trust Alliance has ample resources to orient new staff, volunteers and board members to the many critical technical details essential to running a successful land trust.

2. Basics: Complexity in the land trust world is increasing (e.g., harder to get appraisals; uptick in public visits to land trust properties and how to continue to leverage that interest; projects are getting more complex and taking longer; electronic recordkeeping; remote monitoring; land division challenges; access and legal right of way demands, family partitions, bankruptcy and increasing boundary disputes, trespass and encroachments.) In that complexity and with staff and board turnover, basics need to be refreshed and reemphasized.

For example:

- Financial: Obtaining required evaluation of financial statements each year (i.e., audit, review or compilation) and contents of financial reports sent to the board.
- Tax: Documenting concerns with Form 8283 or landowner's appraisal while balancing not giving advice.
- Title update: Documenting the title was updated "at or just prior to" closing.
- Gift letters:
  - Understanding the fine line between getting a good deal (no charitable intent) and a gift.
  - Sending the letter: The "landowner said they weren't going to take a tax deduction" is not a good reason because landowners have been shown to change their minds.
  - Disclosing bargain sale component to any transaction, including paying something that benefits the landowner (like the appraisal they use for the tax deduction).
- Recordkeeping: Considering electronic recordkeeping, as cloud back-up alone is not sufficient, because it will over-write deletions and then your record is gone forever; billing disputes can cause the provider to block access to records; providers go out of business; sites may not be secure, etc.
- Sufficient board oversight: Having a board that provides sufficient oversight of the land trust's finances and operations. From the Commission side, some challenges with financial health include having adequate operating reserves; having adequate capacity; having funding and ability to provide adequate stewardship for the portfolio. Having a board appropriately and proactively developing transition plans to ensure continuity in the leadership and management of the land trust's functions. From a conservation defense perspective, boards will want to ensure perpetuity by engaging with stewardship staff at every board meeting and fully funding ample capacity and capability in stewardship to meet increasing demands and complexity.
- Violation documentation: Understanding what thorough and complete violation documentation is so that it withstands disputes is essential. Documentation includes a photo, description and map of every single tree cut, every inch of a linear violation, every rut and water erosion pool or stream, every side of a structure or improvement and the full extent and dimensions of grading or other topography change. This is not an exhaustive list but should be enough to guide violation documentation. If a land trust feels a violation is resolved, then it needs to show its work and its conclusions. Document how the resolution is consistent with the conservation values and will not result in impermissible private benefit.
- Refresher on basics: Basic concepts such as impermissible private benefit, records, title update, amendments, enforceable drafting, thorough documentation of problems, negotiation skills with landowners and neighbors, issue identification, problem-solving skills and location of basic resources should all be on every new staff, volunteer and board member orientation check list. The Conservation Defense Initiative sees much unfamiliarity with these critical concepts. The Land Trust Alliance has many resources to train and orient new staff and board members.



- Boundaries: Standards require that the land trust be able to locate boundaries of preserves and easements on the ground and enforce the integrity of those boundaries. About 53% of [Terraforma](#) claim coverage denials involve boundary problems and trespassers. Of those, 20% are more than two decades old and were unaddressed and often undiscovered despite documentary evidence possessed by the land trust. 82% of all coverage denials involve a problem that is older than a few years and unaddressed.
- Rights of way: Demands for legal access are increasing quickly. A methodical investigation of the legitimacy of the demand, litigation risk, avoiding impermissible private benefit, alternative routes and minimizing any unavoidable intrusion are essential to preventing conservation loss and future disputes.

The good news is that seeing and addressing these risks means that accreditation matters, and it works even if it requires more time and effort.

3. Stewardship: Stewardship is the part of a land trust that fulfills legal requirements and protects community perception to uphold lasting conservation. Mission fulfillment rests with sound stewardship. The trends we are seeing now related to stewardship point to a need for the whole community to begin a mindset and operational shift to stewardship. The expectation is that within the next decade land trusts will need to begin making this shift to becoming predominantly or fully stewardship-focused organizations over time. A full board commitment now, leading to a strong stewardship program, will position the land trust for success when dealing with the increased challenges of the future.

- Numbers: Various measures of increasing challenges show increases in defense of lasting conservation in multiple venues:
  - Conservation case law summaries number of cases: 105% increase in a decade.
  - Tax controversy conservation cases: Increase in three years of 114%.
  - Terraforma covered cases: 616% increase in nine years.
  - Terraforma all claims: 2284% increase in nine years.

These numbers continue to trend up in a steeper incline and in greater numbers than the creation of conservation easements. It suggests that land trusts need more investments in stewardship capacity, capability and compensation for on-the-ground stewardship staff and volunteers.

- Division: Faced with increasing economic and development pressure, owners of conserved land are challenging conservation easement division prohibitions more and more. Happily, we have seen a steady stream of cases where the court has upheld division restrictions.
  - This success in court is largely due to the Conservation Defense Initiative's participation in amicus briefs. One such example is [Dep't of Agriculture and Rural Development v. Engle, No. 359098 \(Mich. Ct. App. Nov. 10, 2022\)](#) where the original easement grantor, who had served on the board of a local land trust for several years, divided the conserved property, split the land ownership and sold half the land violating the easement. The Land Trust Alliance partnered with Grand Traverse Regional Land Conservancy, the Michigan state land trust association, Heart of the



Lakes and American Farmland Trust to defend against this threat to conservation permanence by submitting amicus briefing. The appellate court agreed that the easement prohibition on divided ownership was not an unreasonable limitation on the landowner's right to sell where the original easement grantor, who had served on the board of a local land trust for several years, divided the conserved property, split the land ownership and sold half the land, violating the easement. The Land Trust Alliance partnered with Grand Traverse Regional Land Conservancy, the Michigan state land trust association Heart of the Lakes, and American Farmland Trust to defend against this threat to conservation permanence by submitting an amicus brief. The appellate court agreed that the easement prohibition on divided ownership was not an unreasonable limitation on the landowner's right to sell.

- Access: Litigation pertaining to access rights in and to preserves and conservation easements is on the rise. This includes disputes related to public access, such as landowners seeking to re-route trail easements or prohibit trail maintenance. It also includes right-of-way litigation where third parties are seeking to expand existing rights-of-way that have vague or nonexistent written agreements or are attempting to create new paved and widened access to service lots around preserves and conservation easement land.
  - Rights-of-way shared among multiple owners also breed disputes that involve the land trust in bitterly fought litigation. These are expensive and protracted disputes. The Land Trust Alliance is responding to these trends by enhancing our guidance for Standards and Practices and developing additional resources to help land trusts prepare for and respond to such threats.
- Original grantors: Original grantor disputes have been on a steady rise since around 2017, dramatically increased during the pandemic (2019-2023) and are now 23% of all challenges. Successor owners remain the largest category of challengers with 47%. Original owner disputes cost 20% more to resolve than successor owner disputes.
  - This changes a decades-old trend of successor owners being the only risk category of any volume or cost. Original owner violations costing an average of \$33,000 to resolve were once unheard of, but no longer.
- Condemnation: These continue to rise as state actors seek to develop conserved land for various public utility uses such as energy generation and transmission infrastructure. The Land Trust Alliance is responding to this in many ways, including:
  - Submitting extensive public comments to federal agency requests for comments where we advocate for smart siting and the avoidance of conserved lands and lands of high conservation/agricultural value that have yet to be conserved (copies of which are available upon request).
  - Assisting land trusts in defending against condemnation by issuing letters of support or joining together with state associations to draft and collectively submit advocacy letters.
  - Preparing educational resources for the land trust community.
- Extreme weather: Escalating insurance losses have outpaced rate increases, primarily because of costs of catastrophes, severe weather and large fires. Expect carriers to



continue to raise rates. This trend is likely to continue with the increased severity and frequency of hurricanes, floods, wildfires, tornadoes, winter storms and other extreme events such as straight-line wind and extreme heat.

- The frequency and severity of major catastrophes continue to stress the insurance industry. In the last four years, these events have caused annual insured losses of more than \$100 billion globally. In 2023, total insured losses globally were an overwhelming \$118 billion. This is impacting insurance premiums with Texas seeing a 500% increase in Conserve-A-Nation premiums over the next three years as mandated by the Texas regulators.
- Water rights: Land trust interests in restricting water diversion and improving water quality are increasing, but substantive in-house expertise is lacking. Terraforma has spent more than \$300,000 litigating water rights issues. These issues are more legally and practically complex than traditional land conservation.
- Heat severity: For stewardship staff and volunteers, [HeatRisk dashboard](#) is a practical tool for evaluating daily risks. Land trust leadership will want to take steps to manage outdoor workplace safety to prevent heat illness and death, conduct appropriate trainings and implement policies and procedures to ensure staff and public safety related to concerns specific to their service area and conditions on conservation lands. The Occupational Safety and Health Administration's [Heat Stress Prevention Training Program document](#) is a helpful resource for implementing overall policy or guidance.
- Perpetuity: Term agreements are not conservation easements, even if the intended use is laudable. Avoiding term agreements helps to counter annual state legislative efforts to restrict perpetual easements.
- Recognition: A promising trend is the Tax Court's recognition of and reliance on land trust expertise in determining the impacts of reservation of certain rights. The Tax Court has explicitly pushed back on IRS arguments by relying on the role of the land trust to monitor and to prevent inconsistent uses and by citing Section 170h of the Internal Revenue Code as its authority.
- Terraforma is winning cases: Terraforma paid out more than \$7 million to support more than 278 lasting conservation defense challenges. Courts might be seeing a plateau on post-pandemic severe cases.

4. Legal: The U.S. Supreme Court changed the direction of regulatory law in its [Loper Bright](#) decision that negated 40 years of Chevron deference, which required federal courts to defer to a federal agency's regulatory interpretations of ambiguous statutory provisions. In [Corner Post](#), the U.S. Supreme Court substantially expanded how long agency regulations can be challenged.

We expect future litigation to challenge the validity and interpretation of IRS regulations. Federal agencies are likely to take longer in drafting and finalizing regulations due to these rulings. However, these decisions may also serve to slow other adverse changes such as sweeping changes in existing regulations when an administration changes. Precedent prior to Chevron still stands and limits the adverse impact of these decisions. Expect protracted litigation over many years as courts at all levels sort this out.



Regarding the proceeds clause legal basis, the Tax Court invalidated Treas. Reg. § 1.170A-14(g)(6)(ii) in [Valley Park Ranch v. Commissioner](#), leaving intact [Oakbrook Land Holdings v. Commissioner](#) that upheld the regulation but only for states in the Sixth Circuit Court of Appeals (Kentucky, Michigan, Ohio and Tennessee). The invalidation of the regulation reinforces the Tax Court's unwillingness to uphold IRS arguments about technical foot-faults but also creates uncertainty as to the treatment of extinguishment and proceeds. Taxpayer attorneys are eager to use Loper Bright to overturn the statutory perpetuity provision using the invalidation of the regulation as the basis for a finding of no perpetuity requirement. Undermining compliance with the Uniform Standards of Professional Appraisal Practice as the standard is another emerging trend.

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## Driftless Area Land Conservancy – Strategic Plan Overview – 2023-2027

VISION, MISSION, & CONSERVATION TARGETS	GOALS	CORE STRATEGIES
<p><b><u>VISION</u></b> The Driftless Area Land Conservancy (DALC) envisions Southwest Wisconsin's Driftless Area to be a landscape of resilient and diverse grasslands, oak-dominated forests, pine relicts, and healthy agricultural lands that support clean water, wildlife, scenic open spaces, and rural livelihoods.</p> <p><b><u>MISSION</u></b> To maintain and enhance the health, diversity and beauty of Southwest Wisconsin's natural and agricultural landscape through permanent land protection and restoration, and improve people's lives by connecting them to the land and to each other.</p> <p><b><u>CONSERVATION TARGETS</u></b> Our conservation targets are:</p> <ul style="list-style-type: none"> <li>• native prairie remnants</li> <li>• surrogate grasslands</li> <li>• oak-dominated savanna and forest</li> <li>• pine relicts</li> </ul> <p>By improving the health and resilience of these characteristic habitats of the Driftless Area, we are improving the health and resilience of all the people, plants and animals that depend on them.</p>	<ol style="list-style-type: none"> <li>1. <b>Reduce threats to our conservation targets</b>, particularly the threats of invasive species, lack of fire, incompatible development, and lack of resources.</li> <li>2. <b>Strengthen the connection between ecosystem services and human well-being</b> by:               <ol style="list-style-type: none"> <li>a. Increasing agricultural systems and practices that do no harm, buffer, or improve the health of our conservation targets;</li> <li>b. Contributing to a thriving rural economy; and</li> <li>c. Growing a community that is climate-smart, protects and manages the Driftless landscape, and connects with nature in meaningful ways.</li> </ol> </li> <li>3. <b>Grow and maintain sufficient organizational capacity</b> to implement strategies that achieve our vision.</li> </ol>	<ol style="list-style-type: none"> <li>1. <b>Protect high quality grasslands, oak-dominated forests, and pine relicts, from incompatible development</b> through conservation easements.</li> <li>2. <b>Manage and restore DALC-owned properties in a manner that achieves our ecological and human well-being goals</b>, creating sites that demonstrate best management practices and provide the public with opportunities to connect with nature. Sites include:               <ul style="list-style-type: none"> <li>• Spring Valley Preserve (Belleville)</li> <li>• Sardeson Preserve (Mineral Point)</li> <li>• Erickson Conservation Area (Argyle)</li> <li>• Morrison Preserve (Muscoda)</li> </ul> </li> <li>3. <b>Develop and nurture alliances and partnerships</b> that strengthen the efforts and outcomes of each partner organization. These include:               <ul style="list-style-type: none"> <li>• Driftless Trail</li> <li>• Lowery Creek Watershed Initiative</li> <li>• Southern Driftless Grasslands</li> <li>• Cardinal-Hickory Creek Opposition</li> <li>• Iowa County Clean Local Energy Alliance - Now</li> </ul> </li> <li>4. <b>Grow and engage target audiences</b> through effective communications and outreach.</li> <li>5. <b>Increase the capacity of landowners to implement best practices</b> on their property, related to our conservation targets.</li> <li>6. <b>Promote and nurture regenerative agricultural systems and practices</b> that do no harm, buffer, or improve the health of Driftless Area natural systems.</li> <li>7. <b>Continually improve organizational capacity and administration.</b></li> </ol>



# **Driftless Area Land Conservancy**

## **Project Evaluation & Approval Tracking Worksheet**

**Project:** \_\_\_\_\_ **Location:** \_\_\_\_\_

**Project Size:** \_\_\_\_\_ Acres **Total Score:** \_\_\_\_\_

<b>Likely Land Protection Tool:</b>	Conservation Easement Donation	Purchase at Bargain Sale
	Conservation Easement Purchase	Purchase at Appraised Value
	Land Donation	Other: _____

### **I. Mandatory Criteria for Consideration** (first 5 conditions or the 6th must be met; check all that apply)

- a. Property is within the Driftless Area of Iowa, Lafayette, Richland, Sauk, Grant Counties or western Dane or Green Counties.
- b. The projects maintains and/or enhances the health, diversity, & beauty of SW Wisconsin's natural and/or agricultural landscape.
- c. Property is 40 acres or more, or is within a priority area of DALC, a partner, or is contiguous with other protected natural lands.
- d. There appear to be no known or foreseen circumstances (political, geographical, other) that may significantly impair land protection.
- e. Project clearly meets IRS criteria for inherent public value, if it is likely a tax deduction will be claimed
- f. Special circumstances exist that warrant waiver of the above criteria

Explain item "f" if checked: \_\_\_\_\_

### **II. Significant Biological Resources**

Choose the highest 1 of the 3 point categories that accurately describes the subject property:

Property contains a functional, recognized, imperiled or rare natural community (i.e. pine relict, mesic prairie, oak opening, dry prairie).

If yes, list: \_\_\_\_\_ 20 pts. \_\_\_\_\_

OR

Property contains a functional, recognized natural community, other than an imperiled or rare community, (i.e. southern dry, dry-mesic, or mesic forest, southern sedge meadow, dry or wet cliffs).

If yes, list: \_\_\_\_\_ 15 pts. \_\_\_\_\_

OR

Property contains quality surrogate habitat (i.e. pastures, grassland, tree plantation, ponds). If yes, list \_\_\_\_\_

10 pts. \_\_\_\_\_



Choose the highest 1 of the 3 point categories that accurately describes the subject property:

Property contains resident threatened or endangered species (state or federal). If yes, list: \_\_\_\_\_ 20 pts. \_\_\_\_

OR

Property contains rare or “state listed” species, other than threatened or endangered, (i.e. species of special concern or greatest conservation need).

If yes, list: \_\_\_\_\_ 15 pts. \_\_\_\_

OR

Property contains healthy populations of native flora and fauna.

If yes, list \_\_\_\_\_ 10 pts. \_\_\_\_

Property Acreage: \_\_\_\_\_ 45 pts. \_\_\_\_

**Subtotal = \_\_\_\_**

### **III. Significant Geological and Water Resources**

Property contains unique, rare or highly valued geological formations, landforms, or resources (i.e. scenic rock cliffs, caves, sink-holes, etc.). 10 pts. \_\_\_\_

If yes, list them: \_\_\_\_\_

Property contains unique, rare, or highly valued water resources (i.e. cold-water stream, springs, lake, pond, wetlands, etc.). 10 pts. \_\_\_\_

If yes, list them: \_\_\_\_\_

Property serves as a significant surface-water buffer, filter, or storage area. (i.e. adjacent or drains immediately to high value waterway that would be impacted by erosion onsite) 10 pts. \_\_\_\_

**Subtotal = \_\_\_\_**

### **IV. Significant Agricultural Resources**

At least 50% of the Property is covered by soils of prime or statewide importance 15 pts. \_\_\_\_

Property hosts regenerative agricultural systems that are compatible with conservation:

Grass-based Agriculture 10 pts. \_\_\_\_

Farmer integrated conservation best practices (i.e. contour strips, cover crops, stream buffers) 10 pts. \_\_\_\_

**Subtotal = \_\_\_\_**



## **V. Location and Connectivity Considerations**

Property is adjacent to natural land permanently protected by DALC or a conservation partner. If yes, list property \_\_\_\_\_ 20 pts. \_\_\_\_

Property lies within a currently identified DALC priority area.  
If yes, list priority rank: \_\_\_\_\_ 15 pts. \_\_\_\_

Property is within a priority area of a conservation partner (i.e. WIDNR, BCA, IBA, RPBB Area, etc). If yes, list priority area \_\_\_\_\_ 15 pts. \_\_\_\_

Property is within 3 miles of another protected property. 10 pts. \_\_\_\_

There is realistic potential to protect adjoining lands in the future (DALC is talking with landowners, actively working on project, etc.) 10 pts. \_\_\_\_

**Subtotal = \_\_\_\_**

## **VI. Other Benefits to the Public**

Property has significant scenic value to the public (i.e. adjoins or is visible from public recreation area)  
Explain: \_\_\_\_\_ 10 pts. \_\_\_\_

Property has significant recreational or educational access/value to the public (i.e. educational workshops hosted onsite, open to public, etc.)  
Explain: \_\_\_\_\_ 10 pts. \_\_\_\_

Property has significant historic, cultural, or archaeological value.  
Explain: \_\_\_\_\_ 10 pts. \_\_\_\_

**Subtotal = \_\_\_\_**

## **VII. Financial, Legal, and Practical Considerations**

Degree to which an urgent need or imminent threat to valued resources exists due to unique circumstance or timing (i.e. at risk of development, landowner urgent need). 10 pts. \_\_\_\_

Acquisition funds available or not necessary for project (i.e. donation). 10 pts. \_\_\_\_

The project would provide a special opportunity for: developing our membership base, fundraising, advancing our goals in a community, or otherwise advancing an important partnership. 10 pts. \_\_\_\_

The Property is a future host site for the Driftless Trail 20 pts. \_\_\_\_

Property is already protected by some legal mechanism (i.e. easement), or is undevelopable or not threatened due to factors such as restricted access, steep slopes, or wetland status. -10 pts. \_\_\_\_

**Subtotal = \_\_\_\_**



Additional comments/explanation of financial, legal, & practical considerations:

**Total Points - Check One**

**Total Project Points = \_\_\_\_\_**

- Highest level priority (> 80%) = 300 - 240 points
- High level priority (79 - 60%) = 239 - 180 points
- Moderate level priority (59 - 40%) = 179 - 120 points
- Low level priority (< 40%) < 119 points

= \_\_\_\_\_

Evaluated by: \_\_\_\_\_

Title: \_\_\_\_\_

**Other Considerations to be Discussed by DALC Staff at Time of Bi-Annual Project Review:**

- Does DALC currently has the staff time required for this project?
- Is DALC is the most suitable CE holder/owner?
- Is the proposed project is the best tool based on the landowner's protection goals?
- Is the landowner is motivated by financial benefits that appear dubious, or are the motivations of the landowner a potential threat to the integrity of the project or DALC?
- Do the current uses of the property compromise the conservation values?
- Is there any risk that our protection of this property would result in a negative public reaction that could outweigh the protection benefits?