



MONTANA ASSOCIATION OF LAND TRUSTS

Box 675 Whitehall, Montana 59759
Glenn Marx, Executive Director 490-1659
Email: montanamalt@q.com
Website: montanalandtrusts.org

**Bitter Root
Land Trust,
Hamilton
406-375-0956**

**The Clark Fork-
Pend Oreille
Conservancy
Sand Point, ID
208-263-9471**

**The
Conservation
Fund,
Missoula
541-8555**

**Five Valleys
Land Trust,
Missoula
549-0755**

**Flathead
Land Trust,
Kalispell
752-8293**

**Gallatin Valley
Land Trust,
Bozeman
587-8404**

**Montana Land
Reliance,
Helena
443-7027**

**The Nature
Conservancy,
Helena
443-0303**

**Prickly Pear
Land Trust,
Helena
442-0490**

**Rocky Mountain
Elk Foundation,
Missoula
523-4533**

**The Trust
for Public Land,
Bozeman
522-7450**

**Vital Ground
Foundation,
Missoula
549-8650**

Response to Article from Fred Kelly Grant,
Published in Oct. 9, 2009 edition Western Ag Reporter

Why Landowners Support Conservation Easements

by Glenn Marx, Montana Association of Land Trusts

My goodness, when Fred Kelly Grant gets wound up, the accusations certainly do fly. Unfortunately, it appears Mr. Grant would prefer to bury the truth.

Mr. Grant's guest column, published in the Oct. 9, 2009 edition of the Western Ag Reporter, attempts to paint a bleak picture of private land conservation programs in Colorado and manipulate that bleak picture into a torturous path that crosses the country – sort of like the flu – to lay landowners low in places like Montana.

Mr. Grant complains that the local and national media are cohorts in this massive and deliberate cover-up, that there will be "a national crisis" with "horrible results" in part because the Colorado Governor and Secretary of Agriculture have "turned their backs" on landowners.

All of this, in Mr. Grant's version of an apocalyptic future, will lead to a "huge federal takeover" of private land.

Clearly, Mr. Grant's vision of the future is worse than most any imaginable flu.

The distinction is there actually is such a thing as the flu. But there is no federal takeover of private land held in conservation easements, not in Colorado, not in Montana, not anywhere.

Colorado has a transferable tax credit program for conservation easements. Montana does not. Colorado's program has been tainted by a few dishonest appraisers and a couple bogus organizations. A small handful of landowners may have been complicit in perpetrating what may ultimately be viewed as tax fraud.

The facts are that in Colorado, no private land held in easement has been "taken over" by the IRS or any other branch of the federal government. Nor state government, for that matter. Zero landowners; zero acres. In fact, it is hard to imagine a scenario in which that's even possible.

Yes, some Colorado landowners are facing some serious problems. Some landowners were victimized by shoddy and shady land appraisals. Some landowners were complicit in some transactions. Here's what I mean by complicit: If you're a landowner and you're presented an appraisal that suggests the development value of your land is five times more than what you know your property is worth, or if that appraisal suggests your property is worth more than anyone else's property in the county and you absolutely know it's not, do not agree with that appraisal.

The truth is, landowners voluntarily seek conservation easements because of the positive impact conservation easements can have on the land and the landowner's pocketbook. Land trusts exist to serve those landowners. In reality, what a conservation easement does is take a landowner's

vision for their property and instill that vision as reality, and what a land trust does is make sure that vision stays in place.

A conservation easement can qualify a landowner for a federal income tax deduction. And it should. The landowner is giving up something of value (development rights) and the public benefits from that action (through permanent protection of open lands). It is this broad public benefit for which land trusts are qualified as charitable organizations. The land protected by conservation easements continues to be farmed, ranched, managed for forest health and for other uses.

But every member organization of the Montana Association of Land Trusts tells every landowner considering a conservation easement that signing a conservation easement document is a major decision, and as such the landowner should confer closely and consistently about that decision with their entire family, the banker, accountant, attorney, financial advisor and anyone else whose opinion is valued. When it comes to a conservation easement, the last thing a land trust wants is a surprised landowner. Land trusts depend on informed landowners.

And the reason why landowners are so supportive of conservation easements is because the typical easement works just as envisioned. The bond between a landowner and the land is an amazing thing. It's an emotional, tangible, physical, financial, cultural and generational bond that is so fervent most landowners can't even explain it. They try, but often it's too personal, too passionate. But that bond is surely there, which is a benefit to all of us. Conservation easements help keep that bond and those benefits in place...permanently.

No doubt Mr. Grant discounts all this. So would you, and so would I – so would everyone – if there indeed was a massive, orchestrated confiscation of privately-held conservation easement lands by the federal government. Given the problems Mr. Grant describes – or actually invents or exaggerates – in Colorado, you'd think the last thing a landowner would do is place his or her property in a conservation easement. Certainly, Colorado landowners want no part of a federal takeover of land, especially *their* land.

Funny thing is, though, in 2008, 42 conservation easements were created in Colorado by long-time farm and ranch families and Colorado land trusts. In 2009, that number will be closer to 50 easements. Landowners and land trusts in Colorado will partner to protect 100,000 acres during those two years. The Colorado tax credit program has been repaired and the benefits of the program have been restored.

Mr. Grant views a conservation easement and mysteriously and mistakenly sees a future of land confiscated by the government. A landowner views a conservation easement and proudly sees a future of farming and ranching and protection of private open land.

Landowners are a sturdy and savvy bunch. They're responsive and resilient. If we're smart, we'll respect their choices for the future of their land.

(Glenn Marx is the executive director of the Montana Association of Land Trusts, a group of twelve nonprofit land trusts in Montana. He lives in Whitehall, MT.)