



# MONTANA ASSOCIATION OF LAND TRUSTS

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Montana Interim Fire Suppression Committee  
c/o Leanne Heisel  
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Dear Committee Members:

Thank you for the opportunity to comment on an issue important to the committee and important to firefighting and fire safety in Montana.

The members of the Montana Association of Land Trusts very much welcome this opportunity to present comments primarily on the topics of private land forest health and private land conservation. These comments will also highlight the vast and – in large part – unrecognized work Montana's land trusts and landowners are doing in concert to actively manage working lands and forests to reduce fuels and the threat of catastrophic fire.

## Conservation Easements are Working Lands

There is a widespread misperception about conservation easements. Many people, including some state legislators, view a conservation easement as a type of wilderness or wildlife refuge on private lands. The on-the-ground modern reality is far different. When a landowner grants a conservation easement to a land trust, the land trust does not lock up the resources on the land. Instead, the land trusts understand that resources need to be managed, and almost all conservation easements drafted today recognize and encourage landowners to manage their properties actively to reduce wildfire risks, to improve the health of the forestlands and rangelands, and to manage their resources for the benefit of future generations and society as a whole.

The central purpose of conservation easements is to protect open lands, and one key way to accomplish that goal is to maintain traditional rural land use and to enhance the economic viability of farm, ranch and forestry operations. Since 1976, some 1,500 Montana landowners have voluntarily negotiated and signed conservation agreements with land trusts. Landowners may be eligible for a federal income tax deduction for the donated portion of the easement, reduce federal estate tax exposure and gain a measure of assurance the family farm, ranch or timberlands will not have to be sold for development. A conservation easement keeps a ranch a ranch, a farm a farm, and a working forest a working forest.

Conservation easements are granted and held on Montana's working lands. Virtually every conservation easement in Montana allows or encourages the current and continued agricultural use or active management of easement lands for productive economic purposes. Conservation easements allow flexible management to keep farm and ranch families on the land and most everything farmers and ranchers do – raise cattle, grow crops, build fences, irrigate – can happen on lands held under a conservation easement.

The same is true with working forestlands held under a conservation easement. There is a diverse and impressive array of active forest management that improves forest health currently taking place on Montana private timberlands held under easement.

It is true that decades ago, when the first conservation easements were developed, there were some restrictive conservation easements written that allowed less active forestland management. There are relatively few of these easements, and when they have the opportunity, land trusts will often seek to update the language in these old easements to reflect current resource management needs and public interest demands. The world of forest management has changed in the past 30 years, and Montana's forest managers have – or should have – changed as well. Certainly private landowners and Montana land trusts have changed, and these changes have led to more active management to reduce forest fuels buildup, to create defensible space around structures, to improve forest health and reduce the threat of catastrophic fire.

We have more fires and we have bigger fires than we did three decades ago, and the efforts by land trusts and landowners to mitigate against catastrophic fire certainly and absolutely reflects that reality.

Keep in mind also that another key element in a conservation easement is the protection and improvement of wildlife and fishery habitat. Many of the same components of a healthy forest – prescribed fire, thinning, selective timber harvests, fuels reduction projects, control of disease and bug infestation, erosion control, and streamside management zones – are also components of effectively improving and managing wildlife and fishery habitat.

### **Conservation Easements Promote Active Forest Management**

The language of conservation easements reflect the land trust and landowner commitment to forest management. Conservation easement language specifically allows the landowner to retain rights for timber harvest.

Here are some examples of "Permitted Uses" under conservation easements lifted directly from conservation easements themselves that pertain to forest management.

*Permitted Use: To use timber cutting, prescribed burning, and other silvicultural tools for non-commercial purposes, such as for purposes of improving the health and safety of the forest, for purposes of returning the forest resource to a more natural state, and for the prevention of catastrophic wildfire...*

*Here is another example of conservation easement language. Permitted Use: To use timber harvest, prescribed burning, and other silvicultural tools for the purpose of controlling forest disease, for the purposes of protecting wildlife habitat, for the purpose of fostering a multi-aged forest, or for the purposes of returning the forest resource to a more natural state, any one of which may be performed on a commercial basis subject to the approval of a timber harvest plan...*

These two examples of relatively standard conservation easement language approve both commercial and non-commercial timber harvests to improve forest health. It is important to note that additional standard

conservation easement language requires that timber harvests “*must conform to state and federal forestry laws, practices, guidelines or regulations (including Best Management Practices in effect at the time of the harvest); and must minimize soil disturbance, vegetation damage, and impacts on the integrity of the watershed, water quality, wildlife habitat, and the natural scenic and aesthetic qualities of the Property.*”

Simply put, in contemporary conservation easements, there is typically no prohibition against landowners with conservation easements actively managing their forestlands. In fact, the opposite is true. A healthy forest serves the landowner, the land trust, the landscape and the values identified within the conservation easement.

Not only does the written agreement between the landowner and the conservation easement call for active management for forest health, but active steps taken by land trusts and landowners reinforce that language. For example, land trusts routinely refer private landowners with conservation easements to attend the MSU Extension Forestry “Forest Stewardship Workshop” held in association with the Montana Logging Association. Another land trust held a Forest Health Workshop with private landowners and easement holders where fire management expert Steve Arno presented information about forest health.

Land trusts monitor conservation easements on an annual basis. When a land steward for a land trust is monitoring an easement, the land steward will often give the landowner a report about the health of their forest. If the land steward sees insect infestation or disease problems, or the need for fire hazard fuel reduction, the land steward tells the landowner about the problems and often takes the extra step of referring them to forest professionals. The goal of such an effort is to improve forest health and reduce the risk of catastrophic fire. The monitoring by land trusts encourages landowners to be involved and pay attention to their forest resources and manage them in a responsible manner that also meets their goals and objectives for their property.

Finally, specific language allowing the use of prescribed fire and active tree thinning is common in many conservation easements.

### **Specific Examples of Active Forest Management On Conservation Easement Lands**

Length limitations prevent a comprehensive list of specific examples of active forest management and benefits of conservation easements to firefighting efforts, but here is a sample of actual on-the-ground projects, programs or events related to conservation easements and active forest management.

- A conservation easement in the Rock Creek area east of Missoula was helicopter-logged through a 650-acre fuels reduction timber harvest. About two million board feet were removed as part of the harvest, which provided logs to Stimson Lumber Company, improved the health of the forest, improved wildlife habitat, and reduced the risk of catastrophic fire.
- A large salvage and timber sale on a conservation easement in the Gallatin Valley area removed close to six million board feet of dead, dying and green timber. Again, the purpose of the timber sale was to reduce the risk of future fire and improve forest health.
- A telephone call to one forest consultant who works with private landowners and land trusts revealed that within the last three years he had worked with landowners and land trusts on active forest management projects in the Ennis area (300,000 board feet), the Blackfoot Valley (300,000 board feet), Lewistown area (900,000 board feet), Livingston area (150,000 board feet), Taylor Fork area south of Bozeman (300,000 board feet), two projects in the Bozeman Pass area (300,000 board feet) and has also worked with land trusts and private landowners on ten different forest management plans and fuels reduction projects.
- A Fuel Treatment Assessment was recently prepared for a landowner who holds an easement in the Georgetown Lake area of Montana, and the report discussed at length the success of fuel

- mitigation, tree thinning, fuel continuity, wildlife habitat, diversity of tree species, tree regeneration, pile burning and defensible space. In the conclusion, the author of the report (a retired US Forest Service fuels/fire manager and currently a community forester with 39 years of firefighting experience) writes to the landowner: “You have done an excellent job of accomplishing fuel mitigation in one of the toughest habitat types in Montana. You are to be commended for taking on this project. The results will help protect not only your property and improvements but will also help protect your neighbors to the north and northwest of the property. They should value the commitment and investment you have undertaken.”
- On the same Georgetown Lake area easement property, a Department of Natural Resources and Conservation forester wrote, “My overall impression of the stewardship is admirable. It is a pleasure to tour active management carried out in a sustainable fashion, with positive multi-use results.”
  - Conservation easements – large open spaces – have been the sites of fire camps, fire staging areas, and helicopter staging areas. Dozer lines have been dug as fire lines across conservation easement properties. Land trusts and landowners with easements have been good neighbors in fighting fire across Montana’s landscape.
  - Steve Arno, a US Forest Service fire researcher and recognized fire expert in Montana (and author of the book “Mimicking Nature’s Fire: Restoring Fire-prone Forests in the West), has worked with a local land trust on forest health issues and active forest management. Steve Arno has a conservation easement on his property.
  - The US Forest Service released its Open Space Conservation Strategy, a document intended to help guide the Forest Service’s efforts in the wildland urban interface and private lands bordering national forests. The goals of the Strategy include the protection of working lands and a reduction in wildfire risks. Among the ways the Forest Service seeks to accomplish these goals are the protection of regional priority lands “*through partnerships and mechanisms such as land acquisition and conservation easements.*”
  - A Missoula-based land trust has helped private landowners to obtain funding to improve forest health through fuels reduction on their easement properties.
  - A Bozeman-area conservation easement, created in 1992, required a forest management plan prior to any forest management operations, and immediately after the easement was created, so was the forest management plan. A professional forester updated the plan in 2001 specifically to initiate a fuels reduction strategy.
  - Finally, in the Blackfoot Valley, a partnership between private landowners, land trusts, agencies and corporations have protected much of the area with conservation easements, and an effort is underway to restore portions of the valley floor with forest thinning operations and prescribed fires on easement properties.

Multiply these kinds of projects and success stories over hundreds of landowners, hundreds of projects and hundreds of thousands of acres, and the massive contribution of landowners, land trusts and conservation easements to fire suppression efforts, forest health and fuels reduction can begin to be understood.

### **Conservation Easements Reduce Firefighting Costs and Firefighting Risks**

The costs and dangers of fighting fire in residential areas of the wildland urban interface are well documented, but a handful of facts jump out when considering this issue.

- The Office of Inspector General (2006) found that 50 percent to 95 percent of US Forest Service fire suppression costs are related to protecting private buildings in the wildland urban interface.

- In 2007, for the first time in Montana history, fire suppression costs exceeded \$100 million, at approximately \$107 million, a more than 20 percent jump above the next most costly fire suppression year.
- The U.S. Government Accountability Office (2007) found that homes built in the wildland urban interface were a top reason why firefighting costs nationally have tripled since 2000 to over \$3 billion a year.
- In 2000, 25 percent of the total US Forest Service budget was spent on firefighting. In 2006, that figure was at 44 percent.
- Wildland urban interface fire suppression costs are illustrated by two 2007 Montana fires. The Jocko Lakes Fire, which threatened 3,000 structures, cost \$1,000 per acre to fight. Conversely, the Chippy Creek Fire, which threatened fewer than 100 homes, cost \$157 per acre to fight.
- According to Headwaters Economics, a research firm headquartered in Bozeman, in the six western Montana counties that make up the core of the wildland urban interface, 91 percent of the land inside the interface is undeveloped. With each residential structure in that area, the cost of firefighting escalates.
- Headwaters Economics estimates that under current building trends, in the next 20 years, over 1,500 houses per year will be constructed in the Montana wildland urban interface.
- According to the US Forest Service Report “National Forests on the Edge: Development Pressures on America’s National Forests and Grasslands,” nine national forests and grasslands are expected to experience substantial increases in housing density on at least 25 percent of adjacent land. The forest that ranks highest nationally in this category: The Bitterroot National Forest in Montana.

There can be no doubt that firefighting costs are going up, and a leading contributor – if not *the* leading contributor – to those increases is the need for increased protection of lives and property as a result of residential development in the wildland urban interface. One strategy for Montana and the Fire Suppression Committee to consider is programs that reduce residential development in the wildland urban interface.

The good news for Montana is that such a program already exists. The Montana Open-Space Land and Voluntary Conservation Easement Act, the original act that led to the first conservation easement in 1976, has been limiting residential development in the wildland urban interface even before a wildland urban interface was officially recognized as such. These voluntary private land conservation agreements, which bind a landowner and a land trust to permanent open lands, have been helping curtail firefighting costs before many Montanans were truly concerned about firefighting costs.

Thus, by reducing density of residential development at the forest fringe, conservation easements can actually play an important role in dramatically reducing the costs of firefighting in this critical zone.

Conservation easements serve as a major asset to Montana firefighters through the conservation easement language itself; the thousands of forested acres treated on easement properties; the efforts by land trusts to responsibly work with landowners and provide them with forest health materials through workshops, annual monitoring and contacts with professional forest stewards and consultants; and the limitation of residential development in the wildland urban interface, that results in firefighting cost savings and assist on fire management through open land used for fire staging areas, fire lines, fire camp and helicopter staging areas.

The twelve members of the Montana Association of Land Trusts recognize their contribution to Montana fire suppression and forest health, and are ready and willing to play an even more active role in those

venues. The members of the Montana Association of Land Trusts are prepared to work with the committee, Montana legislators and the Montana firefighting community on incentive based, voluntary programs that would enhance the opportunity for private land conservation agreements inside the wildland urban interface.

The committee is looking at several possible approaches to restricting development in the wildland urban interface, including some government regulatory or mandated proposals. Land trusts have had great success in Montana protecting open lands and encouraging sustainable forest health through incentive-based voluntary programs that reward landowners. Such an approach may be possible as a way to further limit development in the wildland urban interface.

The Montana Association of Land Trusts wants to thank the members of this committee for its efforts on this issue, and also would like to thank the network of volunteer, local, county, state, tribal and federal firefighters for their commitment to protecting Montana and Montanans. Land trusts feel we can support and help bolster that commitment.

Thank you for the opportunity to comment. If you have questions about anything contained in these comments, please feel free to contact us.

Sincerely,

Glenn Marx  
Executive Director  
Montana Association of Land Trusts