Sagebrush
Steppe Land Trust
For Generations To Come

Landowner
INFORMATION

Landowner Testimonials

Cohen Croney

Conservation Easement Established 2017

I have a disease, and it's called topophilia. Topophilia is an attachment to a place, a rootedness, and I have a terminal case. Eventually, people with topophilia become part of the land. It's like that old saying, "you can take the farmer out of the dirt, but you can't take the dirt out of the farmer."

This conservation easement is, in part, my way of showing my gratitude to the land. Growing up poor, you realize the value of what you have. This place didn't make us rich, but it provided for us. We farmed here early on, and then did a cow-calf operation. I've also hunted and fished this land, and, until about 1980, most of our protein came from rod and gun. I keep animal mounts in my house, but I don't really consider them trophies. I keep them as part of my desire to show respect to the animals that have sustained us over the years, and this conservation easement is an extension of that same desire, to show respect and gratitude to the property that has sustained me and my family.

This conservation easement is also an acknowledgement of all the people who made their living off the land before me. I developed an interest in archeology after college and mapped Native American archeological sites all over this valley, including 4 or 5 on this property. I've found projectile points that date back hundreds, even thousands, of years. One thing this work has shown me is that you can't really own a piece of property. You're just the current deed owner.

The conservation easement process took a long time – 2 years and 3 months, to be exact, but it was something my sister and I had wanted to do for even longer, and we've had a good working relationship with Sagebrush Steppe Land Trust throughout. I wouldn't trade one cow pat off this place for all the cities in the world, and my primary concern in seeking a conservation easement wasn't money, it was protecting this land. I've watched as surrounding properties get hacked at and chopped up over the decades, and by protecting my land from strip malls and gravel pits, I feel I'm bequeathing the most valuable thing I can: standing room.

Landowner Testimonials

Nancy Armstrong

Conservation Easement Established 2017

My grandparents built their homestead here, moving to this remote place with almost nothing. There's no doubt it was scary. When my grandmother stepped off the train from Virginia, she sat on the ground and cried. But she had to keep going. She and my grandfather needed to grow enough food to survive, and even after my grandmother became a widow, she managed to hold onto the property and support her family. A large part of my motivation in conserving this land is honoring her.

I see myself as a steward of the land, and I didn't want to see it sold or developed. Native Americans lived here for centuries before it was opened from the Fort Hall Reservation for homesteading. My grandparents built their lives here, and my parents farmed the land after them. I farmed here with my father and eventually became the third generation to hold this property. Inheriting the land and knowing its history has given me a valuable perspective, and I realize this land, which has provided so much to so many generations, is worth far more than money.

My wife and I knew we wanted to conserve our property and eventually decided to pursue a conservation easement. My wife went online and found Sagebrush Steppe Land Trust, and we reached out to them. We had a lot of questions, and everyone there was very patient in answering all of them. It's clear they want you to feel comfortable about the decisions you're making, and it felt good to connect with people who were so knowledgeable about conservation.

Now that our conservation easement is in place, I feel a huge sense of relief. It's wonderful to know the land is protected forever, and it's been nice to have another set of eyes on the property. SSLT has helped us make informed decisions about managing habitat restoration and treating invasive plants, and they can share the good and the bad of what they see on the property over time, from a conservation perspective.

Protecting my property through a conservation easement has helped me act as a steward of the land, honoring my grandmother and preserving this beautiful landscape for the next generation and beyond.

Why Conserve Land?

Smart Development

- The U.S. loses **over 4,000 acres** to development every day *(Land Trust Alliance 2012)*.

Idaho has one of the highest rates of population growth in the U.S. As the population grows, we need to develop the landscape strategically so that we can preserve our open spaces, working farms and ranches, wildlife and native plant communities.

Protection of Agricultural Land

- **More than 62%** of all development in the United States between 1992 and 2012 occurred on agricultural land *(American Farmland Trust 2018)*.

Conserving agricultural land presents a special opportunity to maintain open space and apply smart management techniques to work the land while preserving its conservation value.

Wildlife

Habitat loss is one of the primary threats facing wildlife today, and preserving Idaho's privately owned land will help protect many species. Many animals, including mule deer and elk, travel vast distances between their summer and winter ranges, and maintaining ecological connectivity is crucial to these animals' survival.

Healthy Waterways

- In 2004, the Environmental Protection Agency reported that **44%** of U.S. streams were not clean enough for fishing or swimming (*Trout Unlimited 2014*)

Healthy waterways are vital for Idaho's agricultural economy. Managing water use and protecting water quality are also crucial for the fish, animals, birds, plants and people that depend on our streams, rivers and lakes.

Preservation of a Way of Life

- **74%** of Idahoans consider themselves outdoor recreation enthusiasts and **92%** believe the outdoor recreation economy is important for Idaho's future (*Colorado College 2019*)

Open spaces, opportunities to hunt and fish and working farms and ranches make living in Idaho special. Conserving land through conservation easements helps protect all of these aspects of Idaho life, for now and for generation to come

USING THE CONSERVATION TAX INCENTIVE

In 2015 Congress enacted one of the most powerful conservation measures in decades: the enhanced federal tax incentive for conservation easement donations.

The permanent conservation easement tax incentive is a powerful tool that helps Americans conserve their land voluntarily.

For land trusts across the country, the permanent incentive represents vastly increased opportunities to protect the special places in their widely varied communities.

If you own land with important natural, agricultural or historic resources, donating a conservation easement can be a prudent way to both save the land you love forever and to realize significant federal tax savings.

This short brochure summarizes the conservation easement tax incentive and provides answers to some frequently asked questions. For the latest information and for guidance on individual properties, please contact your local land trust, which can be located at www.findalandtrust.org.

Land Trust Alliance
Together, conserving the places you love

FREQUENTLY ASKED QUESTIONS

WHAT IS A CONSERVATION EASEMENT?

A conservation easement, also called a conservation agreement, is a voluntary and legally binding agreement between a landowner and a land trust or government agency.

When a landowner donates an easement to a land trust or public agency, she or he is giving away some of the rights associated with the land. The easement permanently limits uses of the donated parcel in order to protect its conservation values, as specified in the Internal Revenue Code (IRC) 170(h).

Conservation easements offer private landowners flexibility in protecting their land. For example, a donating landowner can retain the right to grow crops on a parcel while, at the same time, relinquishing the right to build additional structures on the parcel.

The land trust is responsible for making sure that a landowner adheres to the conservation terms of the easement. An easement may apply to all or a portion of the property and may or may not allow for public access to the property. A landowner who has donated a conservation easement can sell the land or pass it on to heirs, and future owners of the property are bound by the terms of the easement.

HOW DOES THE PERMANENT, ENHANCED TAX INCENTIVE WORK?

If a conservation easement is voluntarily donated to a land trust or government agency, and if it benefits the public by permanently protecting important conservation resources, it can qualify as a charitable tax deduction on the donor's federal income tax return.

First enacted temporarily in 2006, the tax incentive was made permanent in 2015 and increases the benefits to landowners by:

- Raising the deduction a donor can take for donating a conservation easement to 50%, from 30%, of his or her annual income;
- Extending the carry-forward period for a donor to take a tax deduction for a conservation agreement to 15 years from 5 years; and
- Allowing qualifying farmers and ranchers to deduct up to 100% of their income, increased from 50%.

Easements vary greatly in value. In general, the highest easement values are found on tracts of open space under high development pressure. In some jurisdictions, placing an easement on one's land may also result in property tax savings for the landowner.

1. What is an example of the financial benefit that the permanent tax incentive provides a landowner?

Prior to 2015, a landowner earning $50,000 a year who donated a $1 million conservation easement could take a $15,000 deduction (30% of his or her income) for the year of the donation and for an additional five years, generating a total of $90,000 in tax deductions.

The new, permanent incentive allows that landowner to deduct $25,000 (50% of income) for the year of the donation and for each of an additional 15 years. This would result in a total of $400,000 in deductions.

If the landowner is a farmer or rancher, he or she can deduct $50,000 (100% of income) in the first year and then for each of the following 15 years, realizing a maximum of $800,000 in deductions.

2. Can anyone deduct more than the value of his or her gift of an easement?

One can never deduct more than the fair market value of the gift. The permanent incentive simply allows landowners to deduct more of that fair market value.

3. Who qualifies as a farmer or rancher?

The 2015 law defines a farmer or rancher as someone who receives more than 50% of his or her gross income from "the trade or business of farming." The law references IRC 2032A(e)(5) to define activities that count as farming, including:

- Cultivating the soil or raising or harvesting any agricultural or horticultural commodity (including the raising, shearing, feeding, caring for, training and management of animals) on a farm;
- Handling, drying, packing, grading or storing on a farm any agricultural or horticultural commodity in its unmanufactured state, but only if the owner, tenant or operator of the farm regularly produces more than one-half of the commodity so treated; and
- The planting, cultivating, caring for or cutting of trees, or the preparation (other than milling) of trees for market.

For an easement to qualify for a farmer or rancher, it must contain a restriction requiring that the land remain "available for agriculture." This provision also applies to farmers who are organized as C corporations. Additionally, Alaska Native Corporations are eligible as farmers or ranchers.

4. Do these changes apply to gifts of land?

The expanded incentive does not apply to gifts of land in fee. It only applies to gifts that qualify under IRC 170(h)(2), such as conservation easements. A landowner considering the donation of land should consult an attorney to determine whether the structure of his or her gift should be changed to take advantage of the permanent incentive.

5. When does the permanent incentive apply?

The permanent incentive applies to all conservation easements donated after December 31, 2014.

6. What other restrictions apply?

Conservation easement donations must comply with "conservation purposes" as defined in IRC 170(h). A donated easement must be a true gift. It must protect significant natural, agricultural or historic resources that public agencies or land trusts want to have conserved. A donated easement cannot serve to simply prevent development on a property or be part of a "quid pro quo" agreement in exchange for a government action, such as issuance of a building permit or a zoning change.

7. Will donors who use this provision be audited by the IRS?

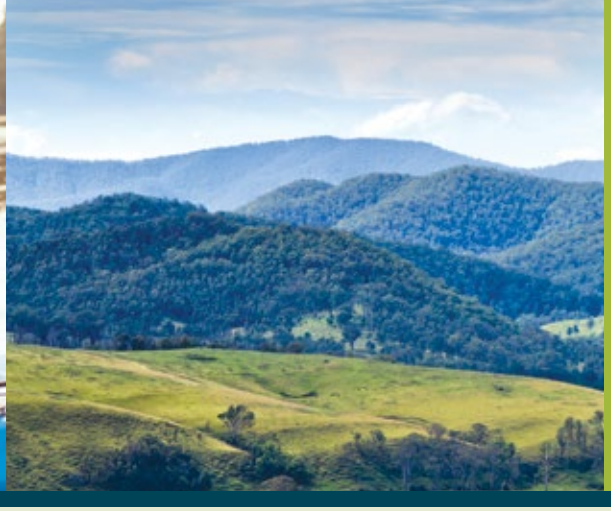
Taking advantage of the 2015 law should not affect one's likelihood of being audited. However, all donors should note that the IRS does pay attention to donations of property that are high in value, including donations of conservation easements.

This makes it important for donors and their advisors to know and follow the law, utilize a reputable professional appraiser who has experience in the appraisal of conservation easements and donate to a well-established, reputable land trust that has adopted and implemented *Land Trust Standards and Practices.*

WHAT IS THE ROLE OF THE LAND TRUST?

Voluntarily donating a permanent conservation easement is a major commitment for a landowner that requires careful planning and independent legal advice.

Donating an easement also necessitates a strong working partnership with a land trust. A landowner should allow sufficient time for the careful drafting of baseline documentation, creation of maps and production of a professional property appraisal. Land trusts will want to review the appraisal before accepting the gift, and landowners should understand that a land trust may decline to accept a donation that does not meet both the legal requirements and the land trust's charitable mission and strategic plan.



ACKNOWLEDGEMENTS

There are many people to thank for the 2015 conservation tax incentive victory. We extend one grand thank you from the Alliance to all of you.

The Alliance has been leading a team effort to achieve this since 2000, when we convened land trust leaders from across the country to build a consensus on what tax policies would best address the need to expand land conservation.

This legislation would not have happened without the leadership of Senators Dean Heller (NV) and Debbie Stabenow (MI), Representatives Mike Kelly (PA) and Mike Thompson (CA), and many of their colleagues. These leaders know that the conservation work of land trusts is important to their communities and broadly supported by their constituents.

For the latest information visit **www.lta.org/policy**.

ABOUT THE ALLIANCE

Founded in 1982, the Land Trust Alliance is a national conservation organization representing over 1,100 land trusts. The Alliance works to save the places people need and love by strengthening land conservation throughout America. Please visit our website at **www.landtrustalliance.org** for more information on:

- Finding a local or regional land trust
- The latest federal tax laws concerning conservation easement donations
- Examples of how private landowners work with land trusts to protect their land
- Publications and resources for landowners

Land Trust Alliance
Together, conserving the places you love

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Cover photos: Top–Harlen Persinger, photographer; Bottom–Scott Bauer, USDA/ARS.

Tax Benefits of a **Conservation Easement Bargain Sale**

What is a Bargain Sale?

Conservation easements can be partially sold and partially donated in what is termed a **bargain sale**. A bargain sale occurs when a landowner decides to sell a conservation easement to a land trust below the appraised fair market value of the conservation easement.

Tax Benefits

When landowners sell conservation easements through a bargain sale, they may receive some tax benefits from the donated portion of the easement.

The donated portion of the easement is considered the difference between the conservation easement's appraised fair market value and the sale price. This amount may be used to claim a charitable income tax deduction if the conservation easement qualifies under state and federal law.

Example: The appraised fair market value of a qualifying conservation easement is $250,000. The landowner decides to sell the easement to a land trust in a bargain sale for $100,000. The donated portion of this easement is $150,000 ($250,000 - $100,000), and therefore the landowner's charitable contribution is $150,000.

Qualifying for Tax Benefits

To be eligible for a tax deduction, donated conservation easements must be legally binding, permanent restrictions on the use, modification and development of the property. Current and future owners of the easement and the underlying property must all be bound by the terms of the conservation easement deed.

Landowners should note that conservation easements must meet specific criteria to qualify for tax benefits and that the tax implications of their decision will depend on their specific circumstances.

Please be advised that SSLT does **not** give tax advice. We strongly encourage landowners to consult their attorney or tax advisor to fully explore the income tax benefits generated from the charitable donation of a conservation easement.

Estate Tax Incentives

for **Land Conservation**

Keeping Land in the Family

For some families, one of the major advantages of donating a conservation easement is that it helps pass land on to the next generation, by reducing estate taxes. Estate taxes can lead to the land being broken up or sold off, even when families want to keep the land intact. Estate taxes can make it especially challenging for families to hold on to working farm, ranch, and forest land.

Changes to the tax code that were made permanent in 2014 raised the threshold for estate taxes from $1 million to $5 million (indexed to inflation). As of 2015, estates of $5.1 million or more are subject to estate taxes of 40%. Farm and ranch estates are four times as likely as other estates to be subject to estate taxes, putting some of the nation's most productive agricultural land at heightened risk of subdivision and development.

Estate tax incentives for land conservation give families the option to reduce their estate taxes by protecting their land, which conveys public benefit while easing the transition of land from one generation to the next.

How Conservation Easements Can Lower Estate Taxes

A conservation easement can reduce estate taxes in two ways:

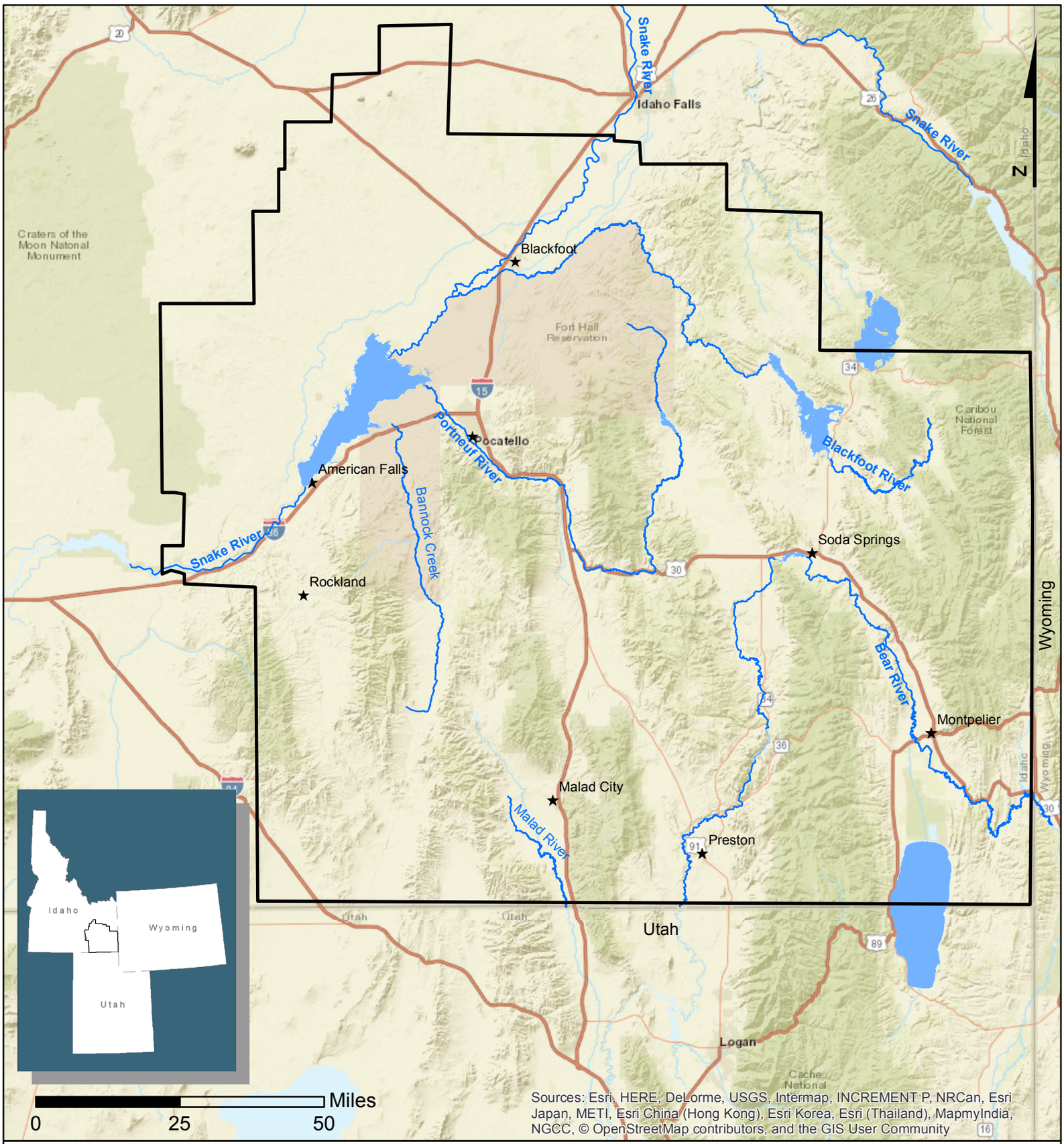
1. **It reduces the value of the estate to be taxed.** A conservation easement lowers the property value — and, correspondingly, estate taxes. In some cases, a conservation easement may drop the value of the estate below the threshold for estate taxes altogether.
2. **Heirs can exclude 40% of the value of land under conservation easement from estate taxes.** Section 2031(c) of the Internal Revenue Code provides an estate tax exclusion of up to 40% of the encumbered value of land (but not improvements) protected by a "qualified conservation easement." That exclusion is capped at $500,000. The cap is lower if the easement reduced the land's value by less than 30% at the time it was donated. To qualify, the easement must serve one or more of the conservation purposes recognized in Section 170(h) of the tax code. It must limit commercial recreational use to a minimum and it cannot qualify solely for the purpose of historic preservation. Only members of the original easement donor's family, including spouses and descendants, can claim this exemption.

Conservation Decisions in Estate Planning

Families can benefit from these estate tax advantages if the landowner donates an easement during life, or by will, or if the heirs donate a posthumous easement. However, if the easement is donated by will or posthumously, the family foregoes the opportunity for an income tax deduction.

Landowners should note that conservation easements must meet specific criteria to qualify for tax benefits and that the tax implications of their decision will depend on their specific circumstances. Anyone considering a conservation easement is advised to consult with independent, qualified financial and tax advisors.

Where Does the Land Trust Work?



Sagebrush Steppe Land Trust
For Generations To Come

Sagebrush Steppe Land Trust's service area covers 7 counties in Southeastern Idaho (Bannock, Bear Lake, Bingham, Caribou, Franklin, Oneida and Power). It is a 6 million-acre landscape composed of basin and range topography which supports an agricultural-based economy, high biological diversity and exceptional wildlife habitat. Livestock grazing, outdoor recreation and mining are the principle land uses on public land while agriculture typically dominates the productive valleys at lower elevations on private lands. Sagebrush-steppe is the dominate habitat type in our service area.

Map Created July 2018