

Conservation Easements: an opportunity for landowners

By Carolyn Mehl

Many of us living in the Seeley Lake region are aware of the incredible wildlife and natural resource values that surround us in the Clearwater Valley. Many of these values are evident every day as we look out at our landscape and see productive forests and wildlife habitat, beautiful lakes, streams, and rivers, ponds and wetlands, scenic vistas, and many other types of exceptional natural resource values. Fortunately in Montana, a landowner has the power to protect these values for now and for future generations. You can do this without selling your land or without giving up your right and your family's right to enjoy and use it. The option available to the landowner that wants to permanently protect these values is called a conservation easement.

A conservation easement is a voluntary legal agreement between a landowner and another organization that restricts some of the uses of the land to protect its conservation values. In addition to specifying the desired uses of the property, a landowner might specifically retain additional rights such as the option to sell the property, to restrict public access, and to construct additional dwellings on specified portions of the land. Montana state law requires that conservation easements accomplish at least one of the following three conservation purposes: 1) preservation of open space that includes forest, ranch, and farm lands, 2) preservation of relatively natural habitat for fish, wildlife or plants, or 3) preservation of lands for education or outdoor recreation of the general public. So, while a landowner can specify the rights he or she wishes to keep, the conservation easement will not be possible unless the targeted conservation values that the easement is designed to protect will be maintained into the future.

Conservation easements have become popular among Montana's private landowners for a number of reasons. A few of these being that the land is permanently protected, yet ownership and management of the land remains in private hands. All traditional uses of the land can continue by developing an agreement that fits the individual needs of the landowner, provided that these traditional uses are compatible with maintaining the conservation values. Depending on the objectives of a conservation easement, a landowner may choose not to allow public access on their property. This is something that is negotiated between the landowner and the easement holder. Easements that are intended to protect outdoor recreation, public trails, or similar uses would require that public access be allowed. In most cases, when an easement does provide for public access for recreation or other purposes, the Montana Recreational Land Use Statute will protect the property owner against liability.

A conservation easement may also make a landowner eligible for savings on federal income taxes, estate taxes, and state taxes, under certain conditions. In addition, some federal, state, and county conservation programs can provide funds to help purchase conservation easements where conservation values that match the objective of a program are met. Examples of these may include Montana Fish, Wildlife, and Park's conservation easement program to protect important fish and wildlife habitat, public access, parks, and cultural and historic resources; the U.S. Fish and Wildlife Service's program to protect important fish and wildlife habitat; the Natural Resource Conservation Service's program to protect valuable agricultural lands; and Missoula County's Open Space program to protect important open space, fish and wildlife habitat, water quality, public access, and cultural and historic resources. In some cases, these programs can be combined together to ensure that important conservation values are protected.

A conservation easement is a permanent, legally binding document that is recorded with the property deed in the county in which the land is located. The agreement is legally binding to all future owners of the property as well. A conservation easement may be fully or partially donated or fully or partially sold by the landowner to a qualified easement holder. A qualified easement holder can be either a land trust or a government agency. A land trust is a private, nonprofit organization whose primary goal is to acquire and hold conservation easements that help maintain open space and conservation values in the region in which they serve. The most common government agencies that will hold a conservation easement include Montana Fish, Wildlife, and Parks, the U.S. Fish and Wildlife Service, and under limited circumstances, such as providing public trails, Missoula County.

If you are interested in exploring the idea of a conservation easement for your property, the first step you should take is to contact a regional land trust to determine if your property would qualify. While different land trusts and government agencies have different easement objectives and requirements that must be satisfied, most land trust representatives will be aware of the diversity of programs available to our region and will be able to recommend the best fit for your property. They will also be able to answer many of your questions regarding conservation easements and can explain the potential tax benefits or purchase arrangements that may be available. Further, land trusts can help coordinate and raise funds for the purchase of an easement from multiple funding organizations if your property qualifies. There are 5 primary land trusts serving the Seeley Lake region:

Five Valley's Land Trust, Missoula, 406-549-0755
Montana Land Reliance, Kalispell, 406-837-2178
Rocky Mountain Elk Foundation, Missoula, 406-523-4500
Vital Ground, Missoula, 406-549-8650
The Nature Conservancy, Missoula, 406-543-6681

Remember too, your land does not have to be unique, have endangered species, or be in pristine condition to qualify for a conservation easement. There are many reasons to protect land and there are many types of natural resources and wildlife habitat that need protection. If you have ever thought about wanting to see your land permanently protected or would just like to explore that idea, I would encourage you to contact one of the land trusts identified for more information.

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