

# THE ASPEN TIMES

## Land trusts submit to accountability

Aspen Valley organization part of trial run

**By Jennie Lay**  
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A Better Business Bureau for land trusts: That's what the Land Trust Alliance would like to see, instead of federal legislation that would likely end most tax incentives for land conservation.

Under the national organization's new voluntary accreditation program, land trusts will soon be able to open up their books and their conservation easements to an independent commission for its stamp of approval.

A 65-acre conservation easement has helped preserve the historic coke ovens in Redstone, where coal was processed before being sent to smelters. (Ed Kosmicki/Aspen Valley Land Trust)



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"It took a long time for the [land trust] industry to come around to this being OK," said Martha Cochran, executive director of the Aspen Valley Land Trust, Colorado's oldest. But she and other leaders now believe accreditation is essential to alleviate growing concerns that conservation easements are too easily abused for personal gain.

Conservation easements have become the primary tool for preserving private land. An easement is a deed restriction that limits or eliminates future development rights. Landowners can donate those development rights to a land trust - a private, nonprofit land-conservation organization - in exchange for federal tax deductions. As an added incentive, 14 states offer their own tax credits for donating conservation easements.

Concerns about abuse of conservation easements hit the national news in 2003, when the Washington Post published a series of stories about dubious land deals and conflict of interest within the leadership of The Nature Conservancy, the world's largest land-conservation organization. The Post also exposed a few smaller land trusts doing questionable easements and wealthy landowners taking hefty tax write-offs for easements on golf courses, dude ranches and bits of open land in ritzy subdivisions.

The coverage caught the eye of Congress, which began holding hearings and commissioned a report from the Joint Committee on Taxation. Released in January, the report recommended eliminating almost all benefits for conservation donations. The Internal Revenue Service also jumped in, announcing it would do an unprecedented 400 audits of conservation easements this year.

"Conservation easements and land trusts really have been wearing the white hats for 30 years," says land trust veteran Dan Pike, president of Colorado Open Lands. "Now they're under attack - and frankly, some of it is justified."

### A test run in Colorado

In an attempt to get ahead of Congress and the IRS earlier this year, the Land Trust Alliance, which represents more than 1,000 of the nation's 1,500 land trusts, conducted several tests of the accreditation program it has been developing since 2004. The group zeroed in on Colorado, where a generous state tax credit program has made conservation easements extremely popular and where the IRS is conducting half of its 400 audits. Three land trusts - Estes Valley, Eagle Valley and Aspen Valley - allowed two evaluators to comb through hundreds of

pages of policies and easement agreements and to do site visits of specific easements.

The Colorado test results will help shape the national program, according to Rand Wentworth, president of the Land Trust Alliance. For the national program, a commission of experts will look at 42 specific factors to determine the overall financial and ethical health of land trusts. They'll scrutinize specific conservation easements, funding sources and policies for dealing with issues such as conflict of interest. They'll even drill down to such specifics as how a land trust protects its easement documents from fire and flood.

Wentworth says the alliance will hone the program further with more testing before officially launching it in 2008.

### **What will Congress do?**

Most land trusts have embraced the idea of voluntary accreditation, though some smaller trusts say they will have a difficult time finding the time and manpower to pull together all the necessary documents. Other land-trust officials worry that the program does not include local governments, which hold many conservation easements and have also come under fire for providing inadequate oversight. But the biggest hurdle remains Congress, which is still debating changes to the tax code affecting land conservation.

Wentworth says the accreditation program should convince Congress it does not need to impose severe restrictions because, ultimately, the private sector should regulate itself. He suggests the IRS could use the absence of accreditation as one of the triggers for an audit.

Others argue for a stronger role for accreditation. Colorado Open Lands' Pike said he believes the tax-exempt status of land trusts should be tied to accreditation, while Eagle Valley Land Trust Executive Director Cindy Cohagen argued that the IRS should allow tax deductions only for landowners who work through accredited trusts.

However, a Senate aide involved in ongoing discussions with the Land Trust Alliance says the accreditation program, although a vital step, is not enough. Additional measures will be necessary to end conservation easement abuses, the aide says, including stricter land-appraisal standards.

At a recent meeting of land trusts, Pike outlined what he thinks some of those new measures will be when a tax bill finally makes it out of the Senate: formal appraisal standards for conservation easements, including a requirement for two appraisals on any donation more than \$5 million; personal accountability for land-trust boards and staff members in cases of fraud; the elimination of deductions for golf courses and small "backyard"-size easements; and, as a reward for good conservation practices, a possible bump in the size and duration of income tax deductions.

Mike Strugar, a Colorado tax credit broker, welcomes the changes.

"You're supposed to be getting the tax benefits for something that hurts," he says. "If it doesn't hurt you, if you're not leaving something on the table, you shouldn't be getting the benefits."

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