

THE ASPEN TIMES

Conserving despite controversy

Scott Condon
Aspen Times Weekly
 January 26, 2008

 [Comments \(0\)](#)  [Print](#)  [Email](#)

A Carbondale-based land trust preserved a record amount of land as open space in 2007, despite intense scrutiny of conservation projects by the state and federal governments.

Aspen Valley Land Trust completed 34 deals that prevented development of 7,613 acres, according to Executive Director Martha Cochran. “We had our best year ever,” she said.

That was a relief, even for an organization with a 40-year history of performing legitimate deals. Land conservancies never have experienced greater scrutiny than they are facing today. The U.S. Internal Revenue Service ramped up its audits of land conservancy projects in 2005, targeting many deals in Colorado. Various state agencies have launched their own audits or investigations. The government entities want to make sure they aren’t getting cheated out of tax revenues by deals that inflate the value of the conserved land.

So far, Cochran said, the increased scrutiny hasn’t had a chilling effect on AVLT’s efforts. There is a perception that landowners have been scared away from conservation because they don’t want to face potential hassles from government regulators. In reality, Cochran said, the problems that have plagued a small number of conservation projects around the state don’t really affect AVLT’s service area in the Roaring Fork and lower Colorado River valleys.

Nuts and bolts of conservation

AVLT rarely buys land. Instead it purchases conservation easements. Here’s how it works: Ranchers or other owners of open land want to raise funds but don’t want to sell their property to a developer. Instead, they sell conservation easements at a lower price than they would sell the land. That allows a land trust or local government open-space program to work with them.

A rancher can continue working the land, but the development potential is eliminated or severely reduced by a binding agreement. The landowners receive a state tax credit that reflects their willingness to accept less than full payment for the land.

They can sell those tax credits to raise cash or use them to reduce their property-tax bills. They also receive a



Aspen Valley Land Trust’s work with Wendy McNulty and her family paid off in 2007 with the preservation of the majority of their working cattle ranch in Missouri Heights. Conservation easements were purchased through the Eagle County open space fund. AVLT will hold those easements and the McNulty family will continue to ranch. (Tyler Stableford photo)

[Click to Enlarge](#)

federal tax deduction.



Montover

[Click to Enlarge](#)

Cochran said a few questionable deals by less reputable organizations in other parts of the state have increased exposure for all land trusts. “There are some deals that the land trust community has questioned,” she said.

The deals that raised eyebrows involved possibly inflated appraisals of property. Some deals, for example, might contend that property could be subdivided and sold at a high price for home development even though it is located in an inaccessible or less desirable location.

Higher property values produce bigger tax credits for landowners, so the revenue department and IRS want to make sure they aren’t losing funds.

High development potential and soaring property values are easily proven realities in the Roaring Fork and lower Colorado River valleys, where land is scarce. Cooking an appraisal would be unnecessary.

Nevertheless, state and federal auditors cast a large net. Cochran said three conservation projects that AVLT brokered have been audited. All parties that conveyed the easements are defending the deals as legitimate, according to Cochran.

‘You’ve got to preserve some land’

AVLT representatives make sure they explain to any landowner they work with that conservation projects are a lightning rod for state and federal tax auditors right now, Cochran said. But they also stress that a deal that relies on a legitimate land trust and an accredited appraiser will survive scrutiny.

Given that information, landowners proved in 2007 they were willing to move forward with conservation. AVLT worked with landowners from Smuggler Mountain, overlooking Aspen, to Snowmass Creek, in the heart of the Roaring Fork River basin, to as far away as north of De Beque, in the Grand River Valley.

“We just continued to get landowners that are concerned with what’s happening to land,” Cochran said. “They want to conserve what’s important to them.”

Joe Montover, a landowner in the Silt area, said he was aware of the audits of conservancy deals, but he went ahead with a transaction with AVLT in December anyway. He figured a square deal that plays by the rules the government established could withstand scrutiny. He conveyed conservation easements on 320 acres in East Divide Creek, about 10 miles south of Silt. The land is covered with “quakies” and spruce trees that provide excellent habitat for everything from beaver to elk, Montover said.

“It’s just a great place to get away from the hustle and bustle,” he said.

Those qualities made the land attractive to developers who would have liked to subdivide it into 35-acre lots and sell it for home construction. Montover said he preferred to preserve the land for his kids and grandkids.

“I’m not an environmentalist by any means,” he said. “[But] you’ve got to preserve some of it.”

‘Aspen’ can be a dirty word

The conservation deal allows Montover’s family to continue running cattle on the high ground, if they so desire. His family doesn’t live full time on the property.



Billy Grange runs a cattle ranch that his grandfather acquired in 1916. Billy, along with his sister-in-law Tina Grange and her four children, conserved nearly 250 acres of prime development property on the edge of Basalt. Aspen Valley Land Trust will hold the conservation easements, which were purchased by the governments of Pitkin County, Eagle County and Basalt. The Granges will continue to ranch. (Jordan Curet/Aspen Times Weekly)

[Click to Enlarge](#)

Prior to the conservation deal, the Montovers leased their minerals rights to a natural-gas-production company. Some test wells were drilled, but gas wasn't found at levels that made production worthwhile at this time. The gas lease remains valid, but AVLТ now would be a party in negotiations over surface disturbance, Cochran said.

Although "Aspen" can be a dirty word in Silt, Montover said AVLТ was highly regarded and recommended by friends of his who conserved land in western Garfield County. He said the organization was great to work with and that he will actively promote conservation with AVLТ to other friends of his.

Deals like Montover's pushed AVLТ's total acreage of preserved lands to 27,801 acres, making it one of the largest nonprofit land trust's in the state.

Cochran predicted that the state will iron out rules that eliminate questionable land conservancy projects but still provide the incentive that's so important to completing deals.

scondon@aspentimes.com

[BACK](#) 