



Practical Pointer Series
Adapting Stewardship Administration to Changing Conditions

Sound conservation stewardship ensures perpetual protection of the conservation purposes of owned and protected land. Land trusts are now at a critical juncture between traditional stewardship administration and the demands from the material physical effects of changing conditions. The challenges include, but are not limited to, the continued escalation of the severity and frequency of natural disasters fueled by severe weather; changes in surface water and sea level, precipitation, arability of farmland; decreased or increased agricultural production capacity; plant, animal and human migration; more extreme and frequent fires, floods, damaging wind and drought; water availability and quality; viability of forests and grasslands and more.

The impacts of these changes on stewardship goals and practices will be far-reaching and specific to different regions. Various approaches exist to disaster response, to adaptation and to risk management. Each land trust must assess the options and select appropriate responses. This pointer addresses stewardship administration of conserved land in response to changing circumstances. (See *Adapting Conservation Easement Drafting to Changing Conditions* for considerations in drafting conservation easements due to these changed and changing circumstances).

General considerations for evaluating stewardship administration

1. Consider your land trust's mission, the communities you serve or want to serve, the various and long-term community needs, your portfolio of easements, land and facilities (buildings, structures, equipment), your routine practices, staff, board members and supporters.
2. Understand what the short- and long-term projections are for the changing conditions in your region.
3. Evaluate how changing conditions may affect conservation purposes, or your land trust's ability to protect conservation purposes, and the potential changes in uses of the land.
4. Identify the projected risks, impacts and vulnerabilities in your region and on individual conservation holdings using a comprehensive and realistic analysis that considers both short- and long-term and immediate, extreme and gradual changes.
5. Assess stewardship administration within the context of those risks, impacts and vulnerabilities. Incorporate this assessment in a prioritization plan which explains where to start and why.
6. Plan for change and resilience — conservation purposes and stewardship may not be static.

7. Question whether your land trust will focus its stewardship efforts on adaptation (actions designed to respond to the impacts that are already occurring or are expected to occur in the future) or mitigation (actions designed to reduce the causes of such impacts) or both.
8. Integrate responsive goals and management strategies into your practices, procedures and policies.¹ Identify and implement proactive stewardship, management and restoration for your specific region with new or updated procedures. Think about the likely human, environmental and infrastructure changes and identify practical responses.
9. Consider what discussions with your community and other stakeholders might be necessary and prudent as you modify your procedures.
10. Assess what procedure to use as determined by your individual assessment of the foregoing considerations. This will vary regionally and by land trust.
11. Have board-sanctioned stewardship procedures that uphold the due diligence requirements for land trusts, and also respond to the community with compassion and common sense.
12. Follow *Land Trust Standards and Practices*. Stewardship personnel and boards must respond to gradual change and intensifying natural disasters; the various Practice Elements of *Land Trust Standards and Practices* are a sound guide as you navigate difficult challenges and can help your land trust address areas of risk.
13. Periodically assess your organization using this tool, which may provide an unforeseen solution to a difficult problem: <https://tlc.lta.org/topclass/uploads/documents/10623/2017-ayo-combined-blank.pdf>.
14. Use the toolkit [A Quick Start Guide to Adaptation Planning for Land Trusts](#) for support and as a steppingstone for the process of climate adaptation and disaster planning.
15. Evaluate your insurance portfolio for appropriate coverage, limits, endorsements and riders.
16. Evaluate where your original records and duplicates are stored. Your land trust should consider whether changing conditions inform whether changes should be made to how your original records are stored and protected and the location of your duplicates. (See Practice Element 9G.)
17. Remember the prohibitions on private inurement and impermissible private benefit.

Procedures to support responsive stewardship

1. Create a written process to evaluate and respond to natural acts or occurrences beyond the landowner's control. If your easement contains a "natural acts" or "act of God" clause, evaluate each situation consistent with that clause to address the changing conditions as well as to ensure that landowners are treated equitably and to provide staff with clear direction as to prevention, abatement and mitigation. If your clause is not clear regarding what is outside of the landowner's control, then consider adopting an interpretation standard with measurable criteria. (See *Adapting Conservation Easement Drafting to Changing Conditions* for more information on the use of this clause).
2. Enable stewardship personnel to interpret conservation easements and restrictions to promote the reasonable remediation, abatement, or mitigation of significant property damage based on criteria for a disaster response. Specify the necessary due diligence and

¹ Guidelines, plans, policies, procedures, and practices, or any combination thereof are hereinafter referred to as "procedures." But be sure to understand the legal and organizational implications of each.

documentation, as well as how and when to communicate with landowners in an appropriate manner.

3. Consider adopting an emergency procedure to allow an immediate response to extreme events, such as for the removal of downed trees, emergency access, earthquake, wind, flood and fire, and managed human migration for disaster displacement. Include a clause for what constitutes an “emergency” to avoid debates with landowners and allow your land trust personnel some board sanctioned flexibility in making those determinations.
4. Ensure conformance to all land trust procedures in effect.
 - a. In accordance with Practice Element 11F2 of *Land Trust Standards and Practices*, establish written procedures to guide the land trust’s decision-making if using discretionary approvals or interpretation, or if a conservation easement contains such clauses. State explicitly in the document granting the approval, waiver, consent or other discretionary act, that it is revocable in the land trust’s sole discretion based on consistency with the conservation purposes, or make it time-limited, or any other measurable standard as appropriate.
 - b. Remember to document all decisions to demonstrate consistency with the land trust’s established procedures. Documentation is especially necessary with deviations from standard procedures, so that you can demonstrate you were being responsible and responsive to changed, urgent circumstances.

Stewardship considerations for active land management under changing conditions

Adapt management practices and management plans for agriculture, forest, riparian and shoreline, recreation, wildlife habitat and any other identified conservation purposes to include strategies to address impacts and vulnerabilities and to allow for change over time.

1. Identify conservation purposes and their attributes for management and assess their resilience.
2. Decide on the appropriate management approaches and responses now and in anticipation of potential future conditions to incorporate in your procedures.
3. Revamp procedures to address foreseeable risks such as seasonal wildfires, floods, earthquakes, damaging wind, drought, economic shifts and human migration.
4. Restore functioning of degraded ecological systems.
5. Help increase the ability of species and ecological systems to recover from disturbance with a goal of heightened resilience.
6. Reduce non-climatic stressors and adaptively manage existing land uses.
7. Sustain and enhance ecological connectivity of all types.
8. Consider proactive management strategies, if appropriate for your land trust, the community, and the location.
 - a. Considerations include assisted migration, reintroduction of species, control of pest and disease outbreaks, specified grazing practices, control of fires (including prescribed burning), control of invasive species, decreasing nutrient-enhanced runoff, enhancing natural flood and wind buffers and removing infrastructure hazards.

- b. These actions can increase both resistance (the ability to maintain function or retain basic function in the face of stressors or extreme events) as well as resilience (the ability to regain function after stressors and extreme events) in a landscape.

Stewardship considerations for conservation easement management under changing conditions

1. Establish a proactive written communication process with landowners regarding identified impending disasters or occurrences beyond their control.
 - a. Encourage landowners to contact the land trust regarding evaluation of site, review of rights and limitations as they pertain to prevention, abatement, mitigation and remediation.
 - b. Discuss landowner plans and necessary changes considering any identified impending disasters.
2. Establish external communications and stewardship protocol (including timeframes) for landowner outreach immediately following a disaster.
 - a. Contact landowners to define processes, schedules, communication and assistance.
 - b. Organize site visits with land trust staff and other experts as necessary to:
 - i. assess directly damaged conservation lands first, as quickly as possible.
 - ii. identify workable triage system.
 - iii. assess all properties within a reasonable time frame.
 - iv. create and file appropriate documentation.
 - v. see Practice Elements 11C2 and 11E2.
3. If warranted, update the baseline documentation report, create a current conditions report or document in a monitoring report any substantial changes. (See Practice Element 11B3.)
4. As resources allow, help to identify assistance for conserved lands and landowners including volunteers, social service organizations, government agencies, and potential fund sources.
5. Coordinate, as appropriate, with local, state and federal governments and nonprofits.
 - a. Recognize the authority of governmental police powers during an emergency to protect public health, safety and welfare; the use of these powers can adversely affect conservation purposes.
 - b. Allow stewardship personnel to respond with a flexible and sound response.
 - c. Allow landowners to address damage caused by state or local action within the easement's rights and limitations.

Considerations for creating proactive organizational procedures:

Disaster response can temporarily expand a land trust's role as a community organization when other systems break down. Stewardship administration may need to expand to community support in response to natural disasters:

1. Address organization and operational priorities including:
 - a. staff and volunteer safety with reference to safety manuals and procedures;
 - b. safety of office records (see Practice Element 9G), including offsite copies stored in a safe and separate location, equipment, facilities and buildings;

- c. preparedness to maintain electricity/utilities and other basic services for your land trust;
 - d. "emergency services" training for certain staff and/or board members to be ready to respond and organize others to do so;
 - e. land trust management and board of directors communication and emergency authorizations;
 - f. website and in-person communication:
 - i. provide information on emergency and recovery services and resources.
 - ii. provide handouts (in case electricity is out) on what to do and what to avoid for both immediate recovery and longer-term remediation.
 - g. remembering the basics: food, clean water, electricity, sanitation, locating displaced persons and companion animals, medical emergency services and shelter; and
 - h. referral to local emergency management administration for priority needs of the organization and larger community.
2. Identify post-disaster responses and resources by assisting the community as feasible, utilizing the strengths, tools and abilities of the land trust.
 - a. Offer free site visit with any community member affected by disaster (does not have to be conserved land or land trust member).
 - b. Help the local economy.
 - c. Partner with social service organizations that you have pre-identified.
 - d. Organize volunteers to assist with general work that is not a safety hazard or that impedes first responders.
 - e. Be a source of constant critical information—people crave information.
 - f. Plan and implement long-term recovery.
 3. Trigger liability and insurance policies.
 - a. Understand claim and loss notification procedures and timing in advance.
 - b. Address any staff and volunteer liability issues especially if services are being provided beyond traditional land trust work.
 - c. Assume you will have to make paper or personal claim filings if electricity is off, or the internet is down.
 4. Stay in touch. More than ever, land trusts will want to communicate with other conservation organizations locally, statewide and nationally to promote assistance and learning.

Call or write to us any time

- Leslie Ratley-Beach (802) 262-6051 | lrbeach@lta.org
- Diana Norris (202) 816-0221 | dnorris@lta.org

For questions about accreditation or how accreditation requirements apply to your circumstances, please contact Valerie Roof (518) 587-3143 vroof@landtrustaccreditation.org.

DISCLAIMER

The Land Trust Alliance designed this material to provide accurate, authoritative information about the subject matter covered with the understanding that the Alliance is not engaged in rendering legal, accounting or other professional counsel. If a land trust or individual requires

legal advice or other expert assistance, they should seek the services of competent professionals. The Alliance is solely responsible for the content of this series.

January 6, 2022