

# Land Trust Alliance

## PSCC Annual Meeting

February 29-March 1, 2012





## What does the Alliance do?

- Increase the *pace* of conservation
- Improve the *quality* of conservation
- Insure the *permanence* of conservation

# How does the Alliance achieve its strategic goals?

- Training
- Accreditation
- Policy / Advocacy
- Conservation Defense
- Other

# What is Accreditation?

- A program separate from the Land Trust Alliance that was piloted in 2007 and is now fully operating.
- A program designed to confirm compliance with the Land Trust 12 Standards and 88 Practices, the technical and ethical guidelines for running a land trust.

# Why Accreditation Matters

- Accreditation provides public recognition of land trusts that are engaged in the long-term protection of the land in the public interest. It increases public awareness of, and confidence in, land trusts and land conservation.
- Land trusts use the accreditation application process as a way to fine-tune their policies and streamline their operations. The Commission conducts an extensive review of the application and grants accreditation - and the right to use the accreditation seal - to land trusts that meet the practices.
- The accreditation seal is a mark of distinction in land conservation. It recognizes organizations for meeting national standards for excellence, upholding the public trust and ensuring that conservation efforts are permanent.

# Who is eligible to apply for Accreditation?

- Land trust accreditation is available to all U.S.-based 501(c)(3) and quasi-governmental organizations that actively acquire or steward conservation land or conservation easements, that have been incorporated for at least two years, and that have completed at least two direct land or easement acquisition projects. (In a direct land or easement acquisition project the land trust is included in the chain of title on a fee parcel or is the grantee of a conservation easement.)
- Two completed projects provide the Commission with actual data to verify. The two-year eligibility requirement clarifies for applicants, funders and the public that it takes time for new organizations to create the systems needed to carry out the indicator practices and that there is no expectation that new organizations will earn accreditation right away.

## Getting from here to Accreditation



- \* Guided or self organizational assessment
- \* Full compliance with 26 indicator practices
- \* 400 hours (average)
- \* Fees (based on budget)
- \* Commitment of board and staff

# Six most common Accreditation “problem areas” - #1

- 11B – Baseline Documentation Report. For every easement, the land trust has a baseline documentation report (that includes a baseline map) prepared prior to closing and signed by the landowner at closing. The report documents the important conservation values protected by the easement and the relevant conditions of the property as necessary to monitor and enforce the easement. In the event that seasonal conditions prevent the completion of a full baseline documentation report by closing, a schedule for finalizing the full report and an acknowledgement of interim data [that for donations and bargain sales meets Treasury Regulations §1.170A-14(g)(5)(i)] are signed by the landowner at closing.

# Six most common Accreditation “problem areas” - #2

- 4A - Dealing with Conflicts of Interest. The land trust has a written conflict of interest policy to ensure that any conflicts of interest or the appearance thereof are avoided or appropriately managed through disclosure, recusal or other means. The conflict of interest policy applies to insiders (see definitions), including board and staff members, substantial contributors, parties related to the above, those who have an ability to influence decisions of the organization and those with access to information not available to the general public. Federal and state conflict disclosure laws are followed.

# Six most common Accreditation “problem areas” - #3

- 5A - Legal and Ethical Practices. The land trust complies with all charitable solicitation laws, does not engage in commission-based fundraising, and limits fundraising costs to a reasonable percentage of overall expenses.

# Six most common Accreditation “problem areas” - #4

- 10B - Appraisals. The land trust informs potential land or easement donors (preferably in writing) of the following: IRC appraisal requirements for a qualified appraisal prepared by a qualified appraiser for gifts of property valued at more than \$5,000, including information on the timing of the appraisal; that the donor is responsible for any determination of the value of the donation; that the donor should use a qualified appraiser who follows Uniform Standards of Professional Appraisal Practice; that the land trust will request a copy of the completed appraisal; and that the land trust will not knowingly participate in projects where it has significant concerns about the tax deduction.

# Six most common Accreditation “problem areas” - #5

- 9H - Title Investigation and Subordination. The land trust investigates title to each property for which it intends to acquire title or an easement to be sure that it is negotiating with the legal owner(s) and to uncover liens, mortgages, mineral or other leases, water rights and/ or other encumbrances or matters of record that may affect the transaction. Mortgages, liens and other encumbrances that could result in extinguishment of the easement or significantly undermine the important conservation values on the property are discharged or properly subordinated to the easement.

# Six most common Accreditation “problem areas” - #6

- 111 - Amendments. The land trust recognizes that amendments are not routine, but can serve to strengthen an easement or improve its enforceability. The land trust has a written policy or procedure guiding amendment requests that: includes a prohibition against private inurement and impermissible private benefit; requires compliance with the land trust’s conflict of interest policy; requires compliance with any funding requirements; addresses the role of the board; and contains a requirement that all amendments result in either a positive or not less than neutral conservation outcome and are consistent with the organization’s mission.

# For the six “problem areas”, most issues are related to:

- Policies (by not including all elements specified)
- Recordkeeping (by not keeping adequate records of someone absenting themselves from discussion, not keeping records of how title issues were resolved, not keeping records of how amendments did not result in impermissible private benefit)
- Gift substantiation and landowner notification (by not including all elements specified by the IRS or by the practice)
- Baseline documentation reports (by not including all elements specified by the Commission’s Guidance Document, such as qualifications of the preparer and authentication as a business records)

# Additional hurdles

- How funds are restricted: “implied” (give to your stewardship fund/endowment) versus “actual” (this check is specifically for your stewardship fund/endowment)
- These funds should be at least temporarily restricted
- If you are using the word “endowment” but plan to use the principal for defense, you need to be sure you have specified that to the landowner.

# Pre-Application Issues

- Almost every rejection has had to do with easement monitoring. A land trust MUST have, for ALL its easements (in addition to other pre-app requirements):
  - 1) Two most recent inspection dates being roughly one year apart for every property OR
  - 2) Three most recent annual inspection dates occurred once per calendar year for every easement.

# Accreditation Preparation Resources

- Guidance Documents – from the Accreditation Commission
- **IT IS IMPERATIVE THAT YOU READ THESE IN DETAIL BEFORE APPLYING:**
- [Required Policies for Accreditation: Related to Indicator Practices 4A, 9G, 11E, 11I, and 3F](#)
- [6D. Financial Review or Audit](#)
- [9G. Recordkeeping](#)
- [9H. Title Investigation and Subordination](#)
- [9J. Purchasing Land - Independent Appraisals - Pursuant to Indicator Practice](#)
- [10B. Appraisals](#)
- [11A. Funding Easement Stewardship and 12A. Funding Land Stewardship](#)
- [11B. Baseline Documentation Report](#)
- [11C. Easement Monitoring](#)
- [12C. Land Management](#)

# Accreditation Commission

## Upcoming Spring 2012 Webinars

### **The Pre-Application Process**

- Tuesday, March 13  
12:00 - 1:00 pm Eastern (11:00 AM Central, 10:00 AM Mountain, 9:00 AM Pacific)  
*Free. Pre-registration is required*

### **The Application Process**

- Thursday, May 24  
12:00 - 1:00 pm Eastern (11:00 AM Central, 10:00 AM Mountain, 9:00 AM Pacific)  
*Free. Pre-registration is required*

### **The Accreditation Renewal Process**

- Thursday, June 28  
12:00 - 1:00 pm Eastern (11:00 AM Central, 10:00 AM Mountain, 9:00 AM Pacific)  
*Free. Pre-registration is required*

# Accreditation Preparation Resources – Curriculum

## Courses from the Alliance - page 1

- 1D: Ethics
- Avoiding Conflicts of Interest and Running an Ethical Land Trust
- 2A: Compliance with Laws
- Nonprofit Law and Recordkeeping for Land Trusts Volume I
- 2B: Nonprofit Incorporation and Bylaws
- Nonprofit Law and Recordkeeping for Land Trusts Volume I; Land Trust Boards: Preparing for Perpetuity
- 2C: Tax Exemption
- Nonprofit Law and Recordkeeping for Land Trusts Volume I
- 3C: Board Governance
- Land Trust Boards: Preparing for Perpetuity
- 3F: Board Approval of Land Transactions
- Land Trust Boards: Preparing for Perpetuity
- 4A: Dealing with Conflicts of Interest
- Avoiding Conflicts of Interest and Running an Ethical Land Trust
- 5A: Legal and Ethical Practices
- Building the Foundation for Fundraising Success

# Accreditation Preparation Resources – Curriculum

## Courses from the Alliance - page 2

- 6B: Financial Records
- Financial Management of Land Trusts; Nonprofit Law and Recordkeeping for Land Trusts Volume II
- 6D: Financial Review or Audit
- Financial Management of Land Trusts
- 7A: Capacity
- Mission, Planning and Capacity
- 8B: Project Selection and Criteria
- Evaluating and Selecting Conservation Projects
- 8D: Public Benefit of Transactions
- Evaluating and Selecting Conservation Projects
- 9E: Easement Drafting
- Conservation Easement Drafting and Documentation
- 9G: Recordkeeping
- Acquiring Land and Conservation Easements; Nonprofit Law and Recordkeeping for Land Trusts Volume II
- 9H: Title Investigation and Subordination
- Acquiring Land and Conservation Easements

# Accreditation Preparation Resources – Curriculum

## Courses from the Alliance page 3

- 9J: Purchasing Land
- Acquiring Land and Conservation Easements
- 9K: Selling Land or Easements
- Selling and Transferring Land and Easements
- 10B: Appraisals
- Tax Benefits and Appraisals of Conservation Projects
- 11A: Funding Easement Stewardship
- Determining Stewardship Costs and Raising and Managing Dedicated Funds
- 11B: Baseline Documentation Report
- Conservation Easement Drafting and Documentation; Conservation Easement Stewardship
- 11C: Easement Monitoring
- Conservation Easement Stewardship
- 11E: Enforcement of Easements
- Managing Conservation Easements in Perpetuity
- 11I: Amendments
- Managing Conservation Easements in Perpetuity
- 12A: Funding Land Stewardship
- Determining Stewardship Costs and Raising and Managing Dedicated Funds
- 12C: Land Management
- Caring for Land Trust Properties
- 12D: Monitoring Land Trust Properties
- Caring for Land Trust Properties

# Accreditation Preparation Resources

- Accreditation Commission's eNewsletter is now highlighting one practice per month to talk about the common expectations for improvement.
- <http://www.landtrustaccreditation.org/>
- <http://www.landtrustalliance.org/>
- Call our offices (269)324-1683 or (773)957-9919
- Email Johanna: [jgarsenstein@lta.org](mailto:jgarsenstein@lta.org)

# Don't take it from me....Advice from Accredited Land Trusts

- **Advice from Land Trusts in the Pilot Program**
- Document policies and procedures. 2. Keep policy and procedure documents well organized. 3. Get it on paper and save it carefully – if you can't find the letter to the landowner showing that you advised him of such-and-such, then you can't prove that you did it.
- DO it. It's a great experience. 2. Budget a lot of time and a lot of dollars and get board buy-in – not just approval, but significant support. Use The Learning Center for sample documents. 3. Talk to accreditation staff and land trusts who have been through the process.
- Do not apply until you are fully compliant, on paper and in action, with *[Land Trust Standards and Practices]*, and have set up your policies, practices, and files accordingly.
- Read the entire application before starting. 2. Clear or reduce schedule during application process. 3. Gather documents electronically and physically.

# More advice from Accredited Land Trusts

- Don't apply unless you have not only completed the assessment, but have completed all of the action items you agreed upon in the self assessment. 3. Assemble all team members prior to deciding whether to apply or not, and go through the application and have an honest and open assessment of your readiness to apply. 2. Be very organized and disciplined and stick to your timetable once you begin.
- Complete the assessment right away and set a reasonable schedule for documentation of undocumented policies. 2. Involve all staff members in completing the application (this is where a web-based application would help!) 3. Use three hole punch paper when copying.
- Be prepared to set aside other projects if you are a small organization, or commit a lot more time to the effort. Be prepared for a substantial investment in terms of cost and personnel time, if you have paid staff.
- Schedule workload or assign staff specifically for this project. 2. Review policies and identify documentation/evidence of implementation asap. 3. Prepare the background info (organization profile and project lists) in advance.
- Establish the team to work on the application. Then make some ground rules up front - what font people should write in, how to refer to organization name, what person to write in, etc... We had one person compile answers so that they were uniform. Also allow time for editing – it is a big document all together. Find an intern to do the copying - it is a nightmare. Do the assessment first and commit to getting that complete. Then the application is not too hard.

# More advice from Accredited Land Trusts

- Don't worry about the time commitment. Just make sure you have enough knowledgeable staff to complete the process. It takes more than just coping skills 2. Make sure your board understands how labor intensive and revealing the process is. 3. The process itself is well worth the effort. It gives you a new perspective on your organization.
- Realize that it is an ongoing effort, not a one time process. 2. Identify a point person - hopefully one without other responsibilities in the organization. 3. Try not to do it when there are short term tax incentives driving increased land protection inquiries!
- Take the assessment seriously and take the time to adjust needed policies or programs before applying for accreditation. 2. Look at the detail of [*Land Trust Standards and Practices*] (and the indicator practices) and determine in advance how you would document your compliance to the practices (not just do you do it, but how do you document it). 3. Make sure you have the time, money and right staff to tackle the application.
- **Top 3 Pieces of Advice From the Pilots**
- Take the organizational assessment (whether guided or self) seriously.
- Do not apply until you are fully compliant and have set up and implemented your policies, practices and files accordingly.
- Make sure you have the time, money and right people to tackle the application.

# Is Accreditation a realistic goal for small, all volunteer groups?

- Yes, the accreditation program is designed to be achievable by any land trust committed to putting the policies and systems in place to ensure the ethical, legal and technically sound operation of the organization and ensure the long-term protection of land. The Commission recognizes that there is a wide range of approaches in how these practices are carried out in each organization, and that small land trusts will have different policies and procedures from large organizations. We tested the program in 2007 with land trusts of all sizes to get more information about the challenges faced by smaller organizations and how they can successfully complete the accreditation process.

## Ask your colleagues – Which land trusts in IL are Accredited?

- Lake Forest Open Lands, John Sentell
- Ducks Unlimited, Eric Schenck
- Jo Daviess Conservation Foundation, Sandi Helgerson