

CHIRICAHUA REGIONAL COUNCIL

NEWSLETTER

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P. O. Box 16480
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In this issue: Conservation easements, 2005 fire history, forthcoming revisions of National Forest and National Monument management plans, other happenings in the Douglas Ranger District, and notices of upcoming or planned public meetings.

SHOULD THE CHIRICAHUA REGIONAL COUNCIL HOLD CONSERVATION EASEMENTS?

A conservation easement is a legal agreement between a landowner and either a private organization, typically a nonprofit conservation organization or a government agency, whereby development rights are permanently given up on all or part of the owner's land. If the land is sold, the easement stays with the land. If a landowner wants to establish a conservation easement on his or her land, a crucial first step is to find an organization that is able and willing to hold and enforce that easement in perpetuity.

In general, conservation easements can be written to meet the landowner's desires for the future condition and use of the land, as long as they are acceptable to the organization that will hold the easement. For example, the landowner may want the easement to allow building one or more residences on a portion of the property at some future time.

Some organizations buy conservation easements from willing landowners to protect open space, to preserve farmlands or ranch lands, or to protect exceptionally valuable wildlife habitat. Such purchases can allow the owner, who might otherwise be forced by low profits or high taxes to subdivide, to continue farming or ranching

and retain family ownership of the land. Where wildlife habitat needs protection, an easement might, for example, stipulate that streamside vegetation be fenced and that the organization purchasing the easement would maintain the fence.

Even a donated conservation easement can offer a major financial advantage to a landowner. The difference between the assessed value of the land with and without the development rights can be claimed as charitable donation. Particularly in areas of rapidly rising land values, that difference can be enormous. The donation can be deducted over a period of up to six years. In some areas of the country, having a conservation easement on your property results in lower property taxes. So far, neither Arizona nor New Mexico law requires counties to take into consideration the loss of development rights when assessing property values. We can only hope that this apparent injustice will be corrected before too long.

Several organizations that hold conservation easements operate in Arizona. The Malpai Borderlands Group (MBG), with considerable legal help from the national office of The Nature Conservancy, has done an incredible job of encouraging and acquiring conservation easements in their area. MBG now holds easements on

some 75,000 acres of ranch lands on both east and west sides of the Peloncillo Mountains. The Arizona Open Lands Trust, The Nature Conservancy, and the Southeast Arizona Land Trust have encouraged and acquired conservation easements farther west in Arizona, and TNC holds easements on part of its Portal Preserve.

Any organization holding conservation easements must physically inspect each parcel at least annually, and take legal action to enforce the easement terms when such terms are violated. Depending on the size and location of the parcel, and the adjacent land uses, the cost of monitoring and enforcing the easement can be quite small, or it can be substantial.

Land trusts and similar organizations are typically reluctant to accept an easement if the parcel is remote, if the parcel does not fit in well with their conservation priorities, if the parcel is so small that its conservation value is small, or if adjacent land uses are such that major easement enforcement costs can be expected.

Organizations that hold conservation easements generally require an endowment to cover future monitoring and enforcing expenses. A generous endowment can be a positive consideration when an organization is reluctant to accept an easement because of the factors mentioned above.

The Arizona Open Land Trust, The Nature Conservancy, the Southeast Arizona Land Trust, and the Malpai Borderlands Group may be willing to accept conservation easements in our area, but our impression is that they will be reluctant to do so in many cases. Several knowledgeable people have suggested that a local organization is needed to serve this need, especially for smaller parcels and for parcels remote from those organizations' usual operating areas.

Chiricahua Regional Council Bylaws allow our organization to hold conservation easements, so this is a task we could legally take on. Furthermore, two Portal residents have asked that we consider holding title to a 2-acre undeveloped parcel adjacent to Cave Creek in Portal. Each of

these activities would be new and rather different from our customary activities. The CRC Board of Directors will have to consider possible costs and liabilities of these endeavors cautiously, with input from our members, before taking any action.

Want to learn more about conservation easements? Come hear former CRC Director Bill McDonald, now Executive Director of Malpai Borderlands Group, at the Portal Fire Station on April 20, 2006. See meeting announcement below.

The websites of various land trusts are also quite helpful. Particularly useful is the frequently asked questions section of the Land Trust Alliance website, www.lta.org.

JOHNSON PEAK PRESCRIBED BURN

AND OTHER FIRES. Smoke was last seen on February 24, 2006, from a fire lit by the Forest Service on October 27, 2005, within the designated 32,000-acre Johnson Peak prescribed burn block in the Chiricahua Mountains. GPS mapping revealed the overall area affected by the burn to be 8470 acres. Only a small percentage of the burned area was subjected to intense fire, and numerous patches of vegetation were not burned at all. Nonetheless, fire managers are convinced that the ability of a catastrophic wildfire to start in or spread across this mosaic of burned and unburned land has been greatly reduced.

The almost rain-free late fall and early winter allowed the prescribed fire to treat a considerably larger area than would have been possible in a year of average rainfall. Citizens in nearby communities were exposed to considerably more smoke than they would normally inhale while roasting marshmallows on the wrong side of a campfire, but the long-term wildlife, vegetation and wildfire-avoidance benefits of the burn are expected to be significant.

The largest wildfire in our area during the 2005 fire season was the 1740-acre Barfoot Fire. It started in early July within 50 yards of the point where the disastrous 1994 Rattlesnake Fire start-

