

# NATIVE LAND TRUSTS

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CCLT CA  
Conservation  
Conference

March 4, 2015

# TRUST: TRIBAL TRUST VS. LAND TRUST

## ■ Tribal Trust

- Land held in trust for Tribes by the Federal Government

*In carrying out its treaty obligations with the Indian tribes, the Government is something more than a mere contracting party...it has charged itself with moral obligations of the highest responsibility and trust. Its conduct...should therefore be judged by the most exacting fiduciary standards (Seminole Nation v. US 1942)*

## ■ Land Trust

- Private, non-profit organization that holds and stewards land, usually to protect it from development and/or to enable non-extractive uses

# NATIONAL LAND CONSERVATION

- State, local, and national land trusts hold 47 million acres (2x size of all national parks)
- 66% of all protected land held by 24 national land trusts
- 34% of all protected land held by 1,699 state and local land trusts
- **1,699 state and local land trusts**
  - Own 2.1 million acres
  - Hold conservation easements on 8.8 million acres
  - Conserve a total of 16 million acres

# NATIVE LAND TRUSTS

- Hold less than 10,000 acres (working figure), but growing
  - Amah Mutsun Land Trust
  - InterTribal Sinkyone Wilderness Council
  - Kumeyaay Diegueño Land Conservancy
  - Maidu Summit Consortium
  - Native American Land Conservancy
  - Native Conservancy Land Trust (AK)
  - Native Land Conservancy (Mashpee)



**NATIVE AMERICAN  
LAND CONSERVANCY**

*"To Acquire, Preserve and Protect Our Sacred Lands"*

<b>Native land trust</b>	<b>Selected Land Status</b>	<b>Selected Conservation Tools</b>	<b>Selected Partners</b>	<b>Selected Accomplishments</b>
Amah Mutsun Land Trust	Private	Land trust, conservation easements	Non-Native land trust, non-Native landowner, foundations, public agencies	Cultural access and long-term stewardship/restoration w/in homeland
InterTribal Sinkyone Wilderness Council	Private	Land trust, conservation easements	Federal and state agencies, tribes, foundations, non-Native land trusts	Purchased 3,845-acre parcel, placed conservation easements
Native American Land Conservancy	Private	Conservation ownership	Federal agencies	Learning/ healing landscapes, cultural conservation
Maidu Summit Conservancy	Private	Conservation easements	Private landowner, state agency, non-Native land trust	Pending transfer of land in public conservation process

# CONSERVATION EASEMENTS

- An easement is usually a grant of *affirmative* right *between neighbors* (appurtenant): “you can cross my land for X purpose”
- In contrast, a conservation easement is
  - *restrictive* (prohibits an action) and
  - *affirmative* (permits action), and
  - *in gross* (pertaining to distant users):

*The landowner retains fee interest in the property, but the easement holder holds **the rights to prevent** the landowner and successors from developing the land*

<b>Collaboration</b>	<b>Land Status</b>	<b>Selected Conservation Tools</b>	<b>Selected Partners</b>	<b>Selected Accomplishments</b>
Eastern Band of Cherokee/ Land Trust for the Little Tennessee	Tribally owned (fee simple)	Conservation easements	State, Tribe, Non-Native land trust	Purchase and preservation of Cowee Mound
Tsi' Akim Maidu/ Bear Yuba Land Trust	Private (non-Native)	MOU, 10-year formal agreement	Non-Native land trust, Tribe, landowner(s)	Access and stewardship of culturally important lands
Little Traverse Bay Band of Odawa/ Little Traverse Conservancy	Tribally owned (trust)	Conservation easement, conservation easement supplemental agreement	Federal and state agencies, non-Native land trust, Tribe	Cultural conservation, tribal park
Feather River Land Trust/ Maidu	Private (non-Native)	Collaborative projects	Non-Native land trust, Maidu Summit, Native family, college	Access, collaborative stewardship



Collaborative burning project at the Heart-K Ranch (November 2012), partners include Feather River Land Trust, Cunningham family members, Greenville Rancheria, Feather River College, Maidu Summit

# INDIGENIZING LAND TRUSTS: OPPORTUNITIES AND CHALLENGES

## ■ Opportunities

- Long-term orientation facilitates traditional stewardship and cultural perpetuation
- Revenue from not developing
- Partnerships enable increased access to funding

## ■ Challenges

- Application on trust land (encumbrance): addressed, for example, by Little Traverse Bay Band of Odawa with conservation easement supplemental agreement
- Oversight by third party easement holder may be considered an infringement on sovereignty
- Addressing enforceability by issuing limited waivers of sovereign immunity

# CONSERVATION EASEMENTS AND THE CARBON CREDIT MARKET

- CE's: primary land trust tool
- Protecting a property from development (via CE or conservation ownership) may facilitate carbon sequestration
- Conservation management can be enhanced/ tailored to sequester tons of CO<sub>2</sub> and offset polluting activities elsewhere

# INDIGENIZING LAND TRUSTS AND CONSERVATION EASEMENTS

- Recognition of cultural conservation easements (tax incentives apply to cultural as well as environmental protection)
- Attention to conservation activities as occurring in Native homelands
  - Sharing leadership in conservation
  - Partnerships for cultural conservation
  - Justice in conservation: Participatory/ Distributive
- Financial support for cultural (as well as environmental) protection

# ENABLING COLLABORATIVE CONSERVATION

- Shared leadership (Native board members on non-Native land trusts)
- Building tribal leadership (Native land trusts)
- Acknowledging uniqueness of each model of tribal land trust (structure, funding, mechanisms)
- Mutual support (Alliance of Native land trusts, National Indian Carbon Coalition, etc.)
- Supporting tribal ownership with conservation commitments/assurances
- Enabling tribal access to (cultural) conservation funding and conservation incentives
- Recognizing tribal land stewardship expertise

~ THANK YOU ~

*Please notify me of (and forgive) any errors, as this research is a work in progress.*

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