

Together we're taking care of our natural landscapes and our Kootenay way of life.



SECURING PRIVATE LAND FOR CONSERVATION IN THE KOOTENAYS FREQUENTLY ASKED QUESTIONS

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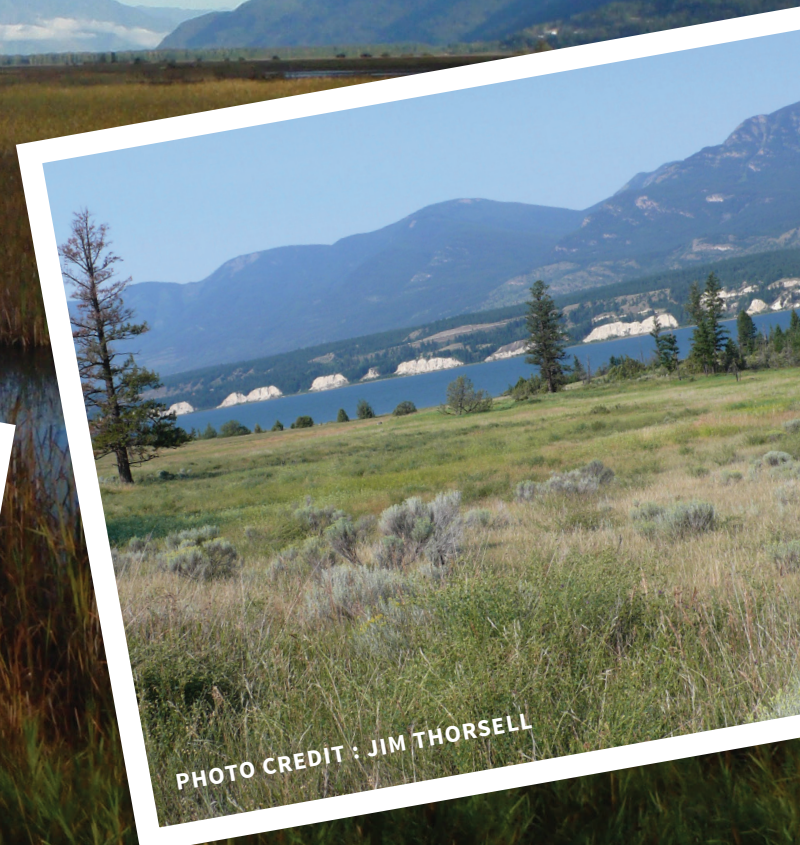


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Introduction

This document was prepared by the Kootenay Conservation Program (KCP)¹ to provide an overview of conservation securement in the Kootenays. KCP is a broad partnership of land and water conservation and stewardship groups, government agencies, resource industries, and agricultural producers working throughout the East and West Kootenays. The partnership seeks to cooperatively conserve the biological diversity and naturally functioning ecosystems of the region while providing mutual project support and leveraging technical and financial resources. Securement is an evolving and variable process. This information is a living document that may be updated regularly to reflect these changes.

Securement is the long-term acquisition of property for conservation through direct purchase, donations, conservation covenants or land lease

Why is private land conserved?

Conserved lands form the core lands for several major conservation programs, numerous wildlife management areas, provincial parks and other conservation initiatives. Securement of private land protects conservation values on the property for generations to come. Beyond conservation values, these lands can also protect other values such as First Nations cultural/heritage sites and certain types of recreation use. Approximately 8% of the Kootenays is private land², most of which is in valley bottoms. Because these low elevation areas have a disproportionately low level of representation in Provincial and National Parks and a high degree of ecological significance, land trusts have prioritized them for securement.

The Frog Bear Conservation Corridor property in the Creston Valley, conserved through a conservation covenant established by a local land owner and NCC, is a prime example of habitat connectivity. The property provides a travel corridor for an at-risk population of grizzly bears to move between important habitats in the Selkirk and Purcell mountains on either side of the Creston Valley. The property and surrounding area is also home to one of only two known breeding locations in BC for the endangered northern leopard frog.

From a large landscape perspective, undeveloped land in valley bottoms acts as the foundation for mid and high elevation habitats; the protection of which allows contiguous wildlife travel corridors to exist between different higher elevation habitats. In many cases the conservation of key parcels of low

¹ www.kootenayconservation.ca

² KCP mapping analysis, 2018

elevation private land ensures landscape level habitat connectivity, thereby conserving the ecological integrity of much larger areas.

Rationale for private land conservation in the Kootenays is therefore threefold³:

- to conserve biodiversity;
- to compensate for historical losses of important ecological features such as low elevation forests, grasslands and riparian areas; and
- to conserve a selection of important ecological features that might otherwise be lost due to the impacts of human development, climate change and preventable natural disturbances, either in the near-term or well into the future.

Who conserves private land?

There are two large active land trusts in the Kootenays: Nature Conservancy of Canada (NCC)⁴ and The Nature Trust of British Columbia (TNTBC)⁵. There are also smaller land trusts including the Valhalla Foundation for Ecology⁶, the Kootenay Land Trust Society⁷ and the Southern Interior Land Trust (SILT)⁸.

What is the role of Kootenay Conservation Program (KCP)?

KCP provides a coordination and collaboration role for private land securement in the Kootenay region. The KCP Securement Committee includes members from the large land trusts (NCC and TNTBC) as well as other key organizations who are actively involved in landscape-level land acquisition for conservation (e.g. provincial government, Canadian Wildlife Service, Fish and Wildlife Compensation Program). Securement Committee member organizations operate throughout the entire KCP Service Area to provide holistic, regional overview⁹.

KCP evaluates properties based on biological and administrative criteria to set priorities for land acquisition in the Kootenays. Priorities are based on:

- Presence of habitat and species at risk
- Property size and linkage to other conservation corridors
- Urgency of conservation threats
- Management and maintenance responsibilities
- Available funding

KCP is not a land trust and does not hold or acquire properties or covenants. Rather, KCP serves as a forum for discussion, prioritization, coordination, and supporting subsequent stewardship.

³ Text based in part on information from Columbia Basin Trust, pers. comm., 2016

⁴ <http://www.natureconservancy.ca/en/>

⁵ <http://www.naturetrust.bc.ca/>

⁶ <http://new-denver.cylex.ca/company/valhalla-foundation-for-ecology---social-justice-12430219.html>

⁷ <http://ltabc.ca/member-directory/regional/kootenay-rockies/kootenay-land-trust-society>

⁸ <http://www.siltrust.ca>

⁹ For further information, see KCP Securement Committee Terms of Reference

How is private land conserved?

Land securement is the process of setting property into conservation status to conserve, typically in-perpetuity, land-based values of interest. Two common securement mechanisms are *fee simple acquisition* and *conservation covenants*. Fee simple acquisition consists of obtaining legal ownership of a property through purchase and/or donation. A conservation covenant is an encumbrance permanently registered on a property’s land title restricting and/or prescribing certain land uses, transactions and/or management regimes to conserve the property’s ecological values. As with fee simple acquisitions, conservation covenants are established through purchase and/or donation; but differently, they require annual compliance monitoring.

Which land gets conserved?

Potential acquisitions are prioritized based on the principles of conservation biology including: reducing habitat fragmentation and increasing landscape-level connectivity, ensuring sustainable populations of keystone species (such as grizzly bears) and their necessary corridors for movement, representing and protecting the most “at risk” habitats, and considering the percentage with which these habitat types occur on private land. KCP conducts an evaluation of the property based on its criteria, and each land trust has its own methodologies to further evaluate how well individual properties fit with their mandates and priorities.

Table 1: Criteria for property acquisition by Nature Conservancy of Canada and the Nature Trust of BC.

	Nature Conservancy of Canada	The Nature Trust of BC
General criteria	Landscape connectivity and wildlife corridors, species-at-risk habitat (e.g., Grizzly bear, Mountain Caribou, Northern leopard frog), and priority ecosystems	Ecologically significant lands for plants, wildlife and people; habitats of high biodiversity value and at greatest risk of being lost; connectivity between existing conservation lands
Priority Ecosystems	Old growth Interior Cedar-Hemlock, dry Interior Cedar Hemlock, hydro-riparian and wetland ecosystems, rivers, streams and lakes, low elevation forests, high elevation forests, grasslands and open forests, and mesic forests	Within the Bunchgrass, Ponderosa Pine, and Interior Douglas-Fir zones of conservation concern: grasslands, dry open forests, older forest, wetlands and riparian areas.

Within the Kootenays, TNTBC targets the following three biogeoclimatic zones¹⁰ of conservation concern (Taking Nature’s Pulse¹¹) types of ecosystems that, for the most part, are found only in dry low elevation valleys: Bunchgrass, Ponderosa Pine, and Interior Douglas-Fir. Within the Columbia Basin, TNTBC’s conservation efforts are primarily focused in the Rocky Mountain Trench, although they do own properties in other parts of the Basin (Figure 1). Prospective conservation properties are evaluated by TNTBC based on the types and rarity of ecosystems and species present, biogeoclimatic zones of concern, relative threat, how much of the ecosystems found on the site are already protected elsewhere, and contiguity with other conservation lands. Ecologically significant properties are then assessed in more detail to identify management considerations for maintaining and/or enhancing the ecological values over time, along with the associated costs, to aid TNTBC in making sound decisions for conserving BC’s natural diversity¹².

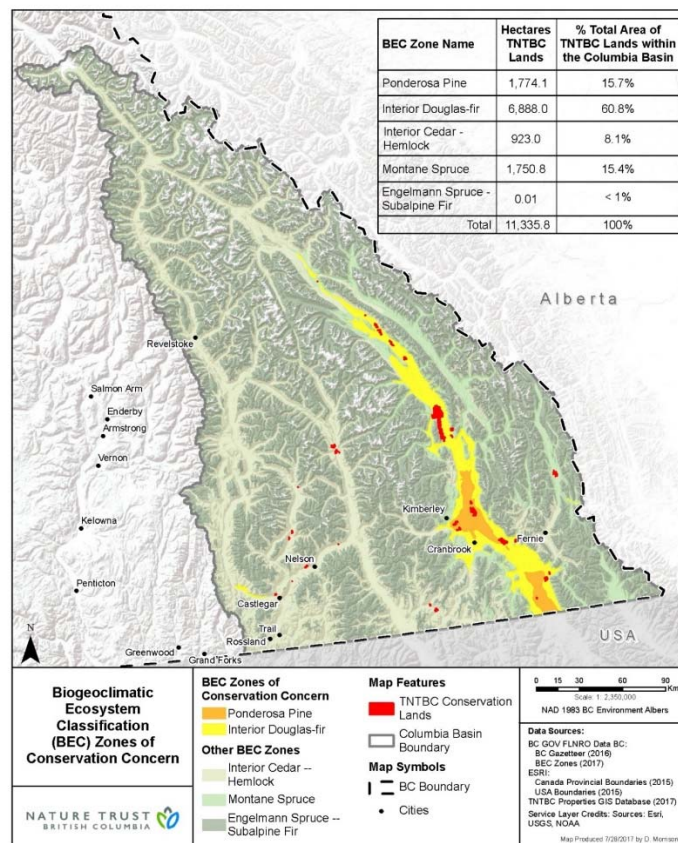


Figure 1: Priority Biogeoclimatic Zones for land conservation in the Columbia Basin used by The Nature Trust of BC.

¹⁰ Biogeoclimatic zones are a classification of ecosystems in BC. For more information, see here:

<http://selkirk.ca/discover/bec/zones/pdf/whatis.pdf>

¹¹ http://www.biodiversitybc.org/assets/pressReleases/BBC_StatusReport_Web_final.pdf

¹² <http://www.naturetrust.bc.ca/land-conservation/securing-land/securement-criteria/>

NCC uses Natural Area Conservation Plans (NACP) to direct its conservation activities. Within the Kootenays there are three natural area plans: South Selkirk (West Kootenay), Rocky Mountain Trench, and Elk Flathead (Figure 2). These are the priority areas within the larger landscape that, in NCC’s view, contain the greatest concentrations of ecological values. Specific ecological targets are identified at the NACP level, taking the region’s biodiversity, threats, and conservation opportunities into consideration. Depending on the area, these may include considerations for connectivity and wildlife corridors, species-at-risk habitat (e.g., Grizzly bear, Mountain Caribou, Northern leopard frog), and priority ecosystems (old growth Interior Cedar-Hemlock, dry Interior Cedar Hemlock, hydro-riparian and wetland ecosystems, rivers, streams and lakes, low elevation forests, high elevation forests, grasslands and open forests, and mesic forests).

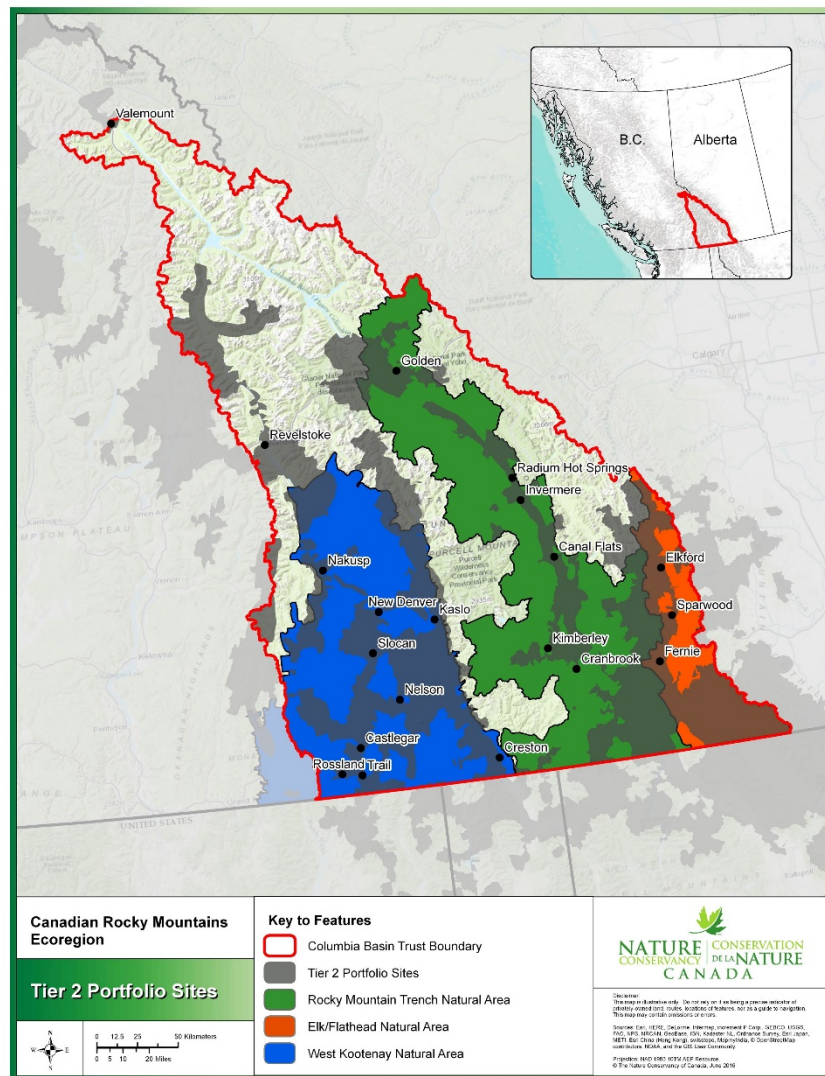


Figure 2: Three Natural Areas as defined by the Nature Conservancy of Canada (NCC). Source: Nature Conservancy of Canada.

The New-Denver-based Valhalla Foundation (VF) for Ecology is a small conservation organization with registered charity status. They hold a small number of conservation properties and covenants in the Slokan Valley and elsewhere in the province. Because VF is a small organization with a limited capacity for purchasing conservation properties and the associated (and sometimes costly) stewardship management, VF very carefully considers a limited number of possible conservation properties annually. Their primary focus has been on private land purchases, conservation covenants and land tenure buy-outs (such as traplines) that enhance biodiversity and the wildlife values of land bordering provincial parks. VF respect local First Nations interests and seek their approval as appropriate.

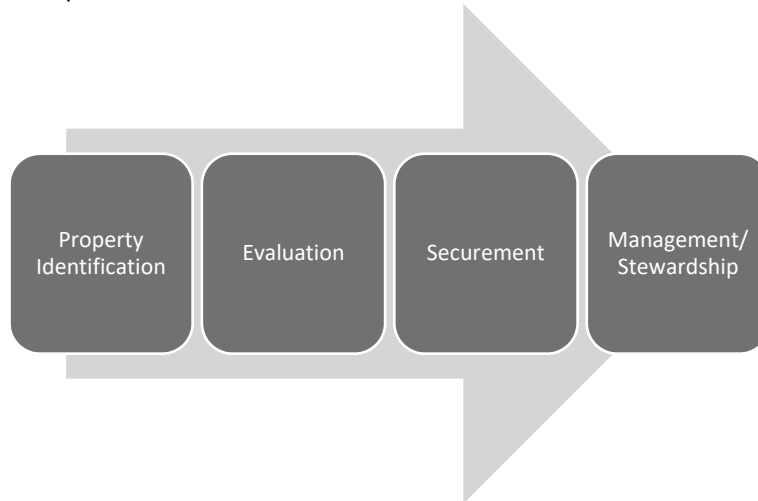
The Southern Interior Land Trust (SILT), established in 1988, is a registered not-for-profit charity run by an independent volunteer board. SILT operates throughout the BC southern interior and focusses on acquiring those gems and jewels of fish and wildlife habitat that act as “stepping-stones” for ecosystem connectivity between larger conservation areas. These “islands” of habitat are generally too small or too remote to be of much interest to the larger land trusts and conservancies—but failing to secure them against loss is creating a dangerous gap in species conservation and ecosystem resilience. SILT’s goal is to protect important habitats for all living things—including people. SILT is a qualified recipient under Canada’s Ecological Gifts Program and issues tax receipts for donations of cash, property or bequests from estates.



Figure 3: Luxor linkage property connects wetlands and grasslands, providing an important corridor for wildlife. Photo: Richard Klafki.

What is the Process of Securing Land?

The securement process used by KCP evaluation committee, NCC and TNTBC and other land trusts consists of four main steps: *property identification, evaluation, securement and management/stewardship.*



1. Property Identification

Properties are identified in a number of different ways. Landowners may approach a land trust if they would like to donate or sell their land or place a conservation covenant on their land title. Biologists or environmental organizations may identify properties that have unique ecological values and bring properties forward to a land trust or KCP for consideration. Land trusts, KCP and government agencies also independently identify properties that are conservation candidates.



Figure 4: Nature Conservancy of Canada's "Lot 48". Photo courtesy of James Thorsell.

2. Evaluation

Land is expensive and funds for conservation are limited. Therefore, not all private land is considered a candidate for conservation. Rather, only those lands that support significant ecological values are considered. Such values include endangered species and ecosystems, wildlife movement corridors connecting important habitats on adjacent lands, and habitat for species that are particularly important to people (e.g., for wildlife viewing and hunting). The evaluation process is important because **the level of interest among landowners and communities to conserve properties for ecological (and recreational) purposes far exceeds the capacity of land trusts to conserve new properties** (given the high costs of acquiring and managing conservation lands).

For properties that are likely to have conservation potential, either KCP and/or land trust staff conduct an initial assessment to determine if the basic elements of a land conservation opportunity are in place. This assessment typically involves conversations with the property owner, a field visit, and an evaluation of the property's biological features using pre-existing data. If the property does not meet certain basic requirements, the landowner is notified as soon as possible.

If the property has conservation potential, it is brought forward as a candidate to the KCP Securement Committee for consideration. If a land trust is interested, a detailed property evaluation is completed based on biological, administrative and financial considerations. The candidate property is then numerically ranked relative to other properties on KCP's "Securement List" of potential high priority securement projects. As of August 2017, there were 108 properties on KCP's Securement List.

In addition to KCP property ranking list, each land trust carries out its own property evaluation process using its own evaluation process and methodology. These different methodologies each consider landscape and site specific biological criteria, connectivity to adjacent habitat features and conservation lands, feasibility and urgency of the property or covenant purchase, and future management requirements.

3. Securement

Property securement happens when a willing landowner and land trust agree to set a property into conservation status and funds are available to support the transaction. Since 2006, there has been an average of one to two securements annually in the Kootenays. A successful land acquisition depends on a variety of factors including a willing landowner, a property that is considered high priority for conservation, available funds, a reasonable price (based on property appraisal) or donation or covenant, and an endowment fund for continued management.

Securement can happen in various ways, the most common of which are fee simple acquisition and conservation covenants. After the landowner and land trust agree on the transaction in-principle, the land trust(s) involved submit a funding proposal to prospective funders, which have typically included Columbia Basin Trust (CBT), Fish and Wildlife Compensation Program (FWCP), Habitat Conservation Trust Foundation, Environment and Climate Change Canada, and other organizations. Kootenay Lake Local Conservation Funds (KLLCF) may be used for securement purposes in Electoral Areas A, D and E of the Regional District of Central Kootenay and Columbia Valley Local Conservation Funds (CVLCF) may be

used for securement purposes in Areas F and G of the Regional District of East Kootenay¹³. Funding proposals convey information about: the property’s ecological and financial values as well as any other relevant values (e.g., agricultural); project cost; prospective funding sources; and may also include information about public views on the project and information from relevant public planning processes. **Kootenay Conservation Program does not seek funding for land trusts; rather KCP provides a letter of support on behalf of the Securement Committee for acquisitions that are for highly ranked properties based on KCP criteria.**

4. Management/Stewardship

As part of the evaluation and securement process, each property needs to be carefully assessed as to conflicts, past history, invasive plant species, what restrictions or encumbrances such as neighbours’ waterlines or access have been registered on the title and so on. This might include trespass by range cattle whereby the owner is required by the *Trespass Act* to fence out livestock. It is very important to identify all existing and potential management and stewardship issues prior to implementing the process of procuring the property.

Once a property is secured, ongoing property management and stewardship are essential to ensure that targeted ecological values are conserved. Land trusts develop and implement a property management plan for each property guiding how ecological attributes will be maintained or restored over time through activities like access management, construction or removal of fencing and stewardship activities. Examples of stewardship projects include: removal of invasive species, deactivating or stabilizing roads, improving wetland function, and reducing tree density in certain types of forests to restore other ecological values, such as native grasslands, and to reduce the risk of high-intensity wildfires. Property stewardship/ management plans often include management direction concerning whether community and / or economic activities (e.g. hiking, hunting, cattle grazing) will occur on the property.



Figure 5: Opening forest and reducing fuel hazard on The Nature Trust of BC’s Bummers Flats – Cherry Creek Property.

¹³ <http://kootenayconservation.ca/conservation-fund/>

Property stewardship/management activities are funded in two main ways. When a land trust secures a new property, it typically aims to raise an additional 15 - 20% of the property's Fair Market Value to place into *stewardship endowment* investments. Income from these investments is used to support long-term property management costs including: stewardship costs and legal issues that may arise. Stewardship activities are also funded on a project-by-project basis through contributions from other organizations such as Columbia Basin Trust, Fish and Wildlife Compensation Program, and the Habitat Conservation Trust Foundation.

What Are Options to Protect My Property for Conservation?

Do you have a piece of property that you would like to donate, sell, or buy for conservation purposes? Or would you like to place a conservation covenant on your property to protect it for future generations? The following options provide examples of how private properties have been conserved in the Kootenays:

Option #1: Donate, sell or place a covenant through a large land trust organization.

Nature Conservancy of Canada and The Nature Trust of BC

If you are interested in donating, selling, or placing a covenant on your property for conservation, provide the property information to KCP, including the size, ownership, conservation values, potential threats, and property ID Number from the State of Title Certificate or Tax Notice. KCP will coordinate with the land trusts to determine if it fits within their priorities. If you are interested in donating your property, both TNTBC and NCC participate in the Federal Ecological Gifts¹⁴ Program that offers tax receipts with the ability to offset capital gains. For more information or to determine if your property may be a good fit for these organizations, contact the Kootenay Conservation Program¹⁵. **Please note that the level of interest among landowners and communities to conserve properties for ecological purposes far exceeds the capacity of land trusts to conserve new properties.** Consequently, donations from willing landowners cannot always be accommodated.

Option #2: Donate or sell through a smaller land trust in the West Kootenay

Valhalla Foundation for Ecology

In order to bring a property to the Valhalla Foundation Board for consideration, they require adequate background information including a title search, preliminary assessment of ecological values, current assessed and market value (including an independent appraisal by a certified Land Appraiser), full disclosure of any conflicts or controversial issues involving the property, a stewardship management plan if the property is to be purchased, and an outline of funding possibilities. VF does not provide funding for conservation purchases but occasionally assists with fund-raising efforts. Costs for background research required by VF includes:

- a lawyer (to check on title, recent land transactions, latest BC land assessment, liens against the property, other rights and exclusions, etc.);

¹⁴ <https://www.ec.gc.ca/pde-egg/>

¹⁵ manager@kootenayconservation.ca

- an accountant (to vet out the different capital gains options as is found in *Green Legacies*¹⁶);
- a professional land appraiser;
- a certified biologist to do an initial and possibly more in-depth ecological appraisal (for Federal Eco-Gift certification);
- identification of existing and potential land conflicts (e.g. illegal access, community vision for the land that may collide with conservation); and,
- Development of a stewardship plan.

Once this background research is completed, a fundraising plan can be developed in close cooperation with a fundraising coordinator. Fundraising includes the purchase price plus an endowment that is usually an additional 10%. KCP does not currently have the capacity to undertake these types of fundraising activities.

Southern Interior Land Trust

SILT is managed by an independent, volunteer board that aims to conserve and protect wildlife and fish habitat for present and future generations. If your interest is in creating a lasting legacy for all living things, a trust representative will explore opportunities and available options with you. SILT is a registered, not-for-profit charity authorized to issue tax receipts for donations and gifts of ecologically significant land.

Option #3: Secure through Regional District Parks or apply a Local Government Covenant.

In some cases, local governments can play a role in securing land. The Regional District of Central Kootenay (RDCK) and Regional District of East Kootenay (RDEK) have acquired lands for regional district parks. These lands may be secured for a variety of purposes including conservation value; but have been traditionally focused on recreational assets or mixed as at Wycliffe Regional Park near Cranbrook. In other parts of the province, local government parks have been used specifically for conservation purposes. For example, in the Okanagan the Central Okanagan Land Trust worked with the Regional District of Central Okanagan to create the Johns Family Nature Conservancy Regional Park¹⁷. In Metro Vancouver, Surrey Bend Regional Park was created that includes a large area where human access is prohibited in order to increase conservation value¹⁸

Covenants have also been used by local governments in the Kootenays to protect conservation values on properties by prohibiting or restricting certain activities on lands, or sensitive portions of lands. Planning considerations include long-term enforcement and resources to monitor compliance. Each local government is unique in its abilities and capacity to secure lands or hold conservation covenants, as well as the development triggers that may provide such opportunities to either the land owner or the local government.

Local governments in BC have been provided an opportunity for parkland dedication at the time of subdivision. Parkland dedication is considered to be 5% of land or cash in lieu and is required prior to

¹⁶ http://tidescanada.org/wp-content/uploads/2015/12/Green_Legacies_Guide_2015.pdf

¹⁷ <https://www.regionaldistrict.com/your-services/parks-services/parks-and-trails/30-johns-family-nature-conservancy-regional-park.aspx>

¹⁸ <http://www.metrovancouver.org/services/parks/parks-greenways-reserves/surrey-bend-regional-park>

subdivision approval where subdivision involves the creation of more than three additional lots. However, it is determined by the property owner whether such park land dedication requirements will be met through dedication of lands or through cash in lieu, unless there is strong policy directive or specific requirements outlined in an Official Community Plan. In addition, the funds collected can only be used to secure lands within the same area in which subdivision occurs. This makes the use of this tool for conservation purposes somewhat limited unless the lands under subdivision have been identified prior to as having high conservation value or the property owner recognizes identified conservation values associated with the property under subdivision.

Option #4: Sell or donate property to BC Parks

BC Parks partners with private individuals, corporations and the non-profit sector to acquire land to be included in parks, ecological reserves, and protected areas. In the last five years alone, over \$13 million in property and donations have gone to increasing B.C.'s parks and protected areas through partnerships. BC Parks staff in each region of the province identify regional priorities and Provincial Services establishes the annual priority list and lead the acquisition to completion. High priority properties include those that are inholdings (surrounded by BC Parks) or adjacent to existing parks, that have ecological integrity, recreation capacity, and that enhance existing parks.

From the evaluation and assessment to negotiating a settlement and ensuring technical requirements are met, BC Parks works collaboratively and in consultation with First Nations, land owners, conservation agencies, local governments and other interested parties to acquire land and include it in new or existing parks, protected areas, ecological reserves, or conservancy. Once the boundaries of the property have been legally mapped and appropriately designated, BC Parks continues to work with the partners to develop or amend a management plan for the area to protect and enhance its recreational and/or habitat conservation values. Properties can be legally designated under the, *Park Act*, *Ecological Reserve Act* or *Protected Areas of British Columbia Act*.

The provincial government accepts land donations if the land will enhance the Parks and Protected Areas system. In exchange for these donations, tax receipts may be offered, provided the gifts are not required compensation for a subdivision process. The Province also participates in the Federal Ecological Gifts program that offers tax receipts with the ability to offset capital gains. For more information, see: <http://www.env.gov.bc.ca/bcparks/partnerships/landAcquisition.html>

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Figure 6: Meadow Creek south property acquired by The Nature Trust of BC.