

# KEEPING TEXAS BIG, WIDE & OPEN

A GUIDE TO PROTECTING TEXAS LAND AND YOUR LEGACY



# THIS LAND IS TOO IMPORTANT

FOR ITS FUTURE TO BE LEFT TO FATE.

SARAH HARTE,  
DECIE RANCH



TALT

THE TEXAS AGRICULTURAL LAND TRUST

# CONSERVES THE HERITAGE OF AGRICULTURAL LANDS

NATURAL RESOURCES AND WILDLIFE  
HABITATS ACROSS THE STATE OF TEXAS.

Founded by the Texas Farm Bureau, Texas and Southwestern Cattle Raisers Association, and the Texas Wildlife Association, we approach this mission with private landowners seeking to preserve working landscapes with agricultural uses. This includes farmers, ranchers, and sportsmen. These landowners are committed to conservation and keeping their land in agricultural use.

# CONSERVATION EASEMENTS

A conservation easement is a voluntary legal agreement that allows landowners to retain title and management of their property, while protecting the property in perpetuity with certain development and use restrictions. This protects the land from commercial or residential development, preserves habitat, limits subdivision and fragmentation of the land and allows landowners to ensure the land they love is protected forever. Conservation easements provide more than protection to open spaces. Easements often serve as a financial tool for landowners as they plan to transition land to future generations or as they reinvest resources back into their operation. Conservation easements can be donated, purchased, or a combination of both.

## DONATED EASEMENTS

Donated easements do not provide direct compensation to a landowner. Rather, they may qualify landowners for tax benefits.

### FEDERAL INCOME TAX DEDUCTION

The 2018 Farm Bill and IRS guidelines treat a donated easement as a charitable donation, allowing landowners to deduct the easement's value from their Adjusted Gross Income (AGI) over a 15-year period. Typically, landowners are eligible to take an annual deduction of up to 50% of their adjusted gross income. However, qualified farmers and ranchers may qualify for higher percentages. Some expenses incurred in connection with the conservation easement donation may also be eligible for a federal tax deduction during the year of the donation.

### REDUCED ESTATE TAX

The fair market value of land is decreased by permanently restricting development and commercial rights. This reduces the property and estate tax burden for current owners and family members who may inherit the land. easements do not affect Texas property tax valuations.

## PURCHASED EASEMENTS

Purchased easements provide direct compensation to landowners through a cash payment for some or all of the value of the conservation easement. This funding can come from private philanthropic sources, state programs, or federal programs.

### CASH PAYMENTS

Purchased easements qualify landowners for direct payment. Examples of funding sources include state and federal programs such as the Agricultural Conservation Easement Program (ACEP) or the Texas Farm and Ranch Lands Conservation Program (TFRLCP). Some properties, due to their specific conservation values, may qualify landowners for philanthropic grant funding.

### REDUCED ESTATE TAX

The fair market value of land is decreased by permanently restricting development or commercial rights. This reduces the property and estate tax burden for current owners and family members who may inherit the land.

## EASEMENTS OFTEN SERVE AS A FINANCIAL TOOL FOR LANDOWNERS AS THEY PLAN TO TRANSITION LAND TO FUTURE GENERATIONS.

*Disclaimer: This document is not intended as tax advice. Landowners should consult with their own accountant and legal counsel regarding tax issues. Many conservation easements are structured as a combination of a donation and purchase, known as a "bargain sale," where the easement is funded in part and the remaining value is donated.*



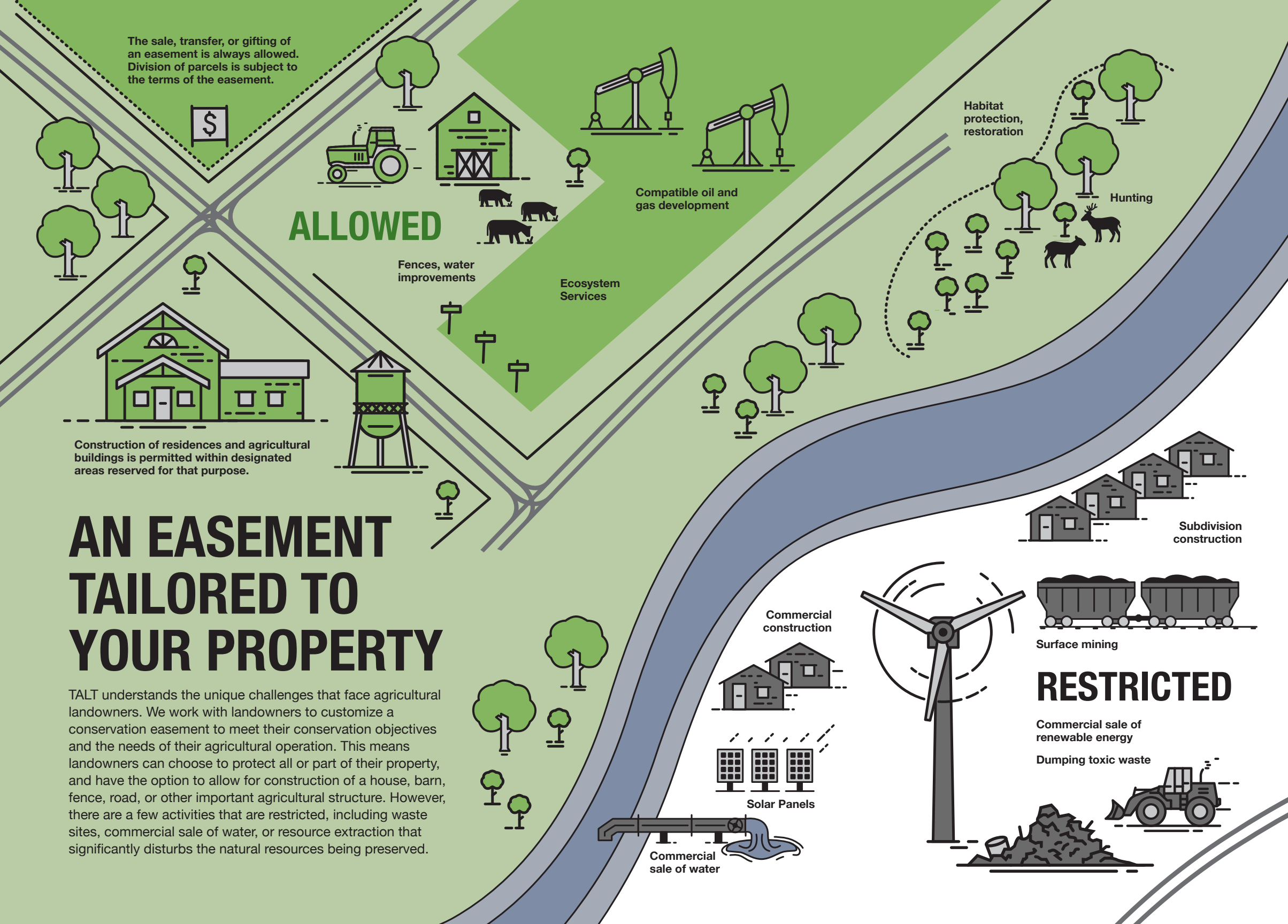
## WHY EASEMENTS

Conservation easements are legally binding agreements with a landowner and a qualified land trust, like TALT. A conservation easement allows landowners to retain title and management of their property, while protecting the property in perpetuity with certain development and use restrictions.

**NO TWO CONSERVATION EASEMENT ARE ALIKE. EACH IS TAILORED TO THE UNIQUE CHARACTER OF THE LAND AND THE GOALS OF THE LANDOWNER.**

TALT and the landowner work through the landowner's conservation objectives and operational needs to tailor the terms of the easement to account for the unique character of the land and the goals of the landowner. At TALT, we are open about the process, and can walk you through a variety of options or structures that have worked for the landowners we've partnered with over the years.

TALT also works with landowners to identify available ecosystem services market opportunities that may be a good fit for their property and objectives. There is an increasing number and wide variety of ecosystem services arrangements and many factors to consider. Contact TALT to learn more.



The sale, transfer, or gifting of an easement is always allowed. Division of parcels is subject to the terms of the easement.

### ALLOWED

Compatible oil and gas development

Habitat protection, restoration

Hunting

Fences, water improvements

Ecosystem Services

Construction of residences and agricultural buildings is permitted within designated areas reserved for that purpose.

# AN EASEMENT TAILORED TO YOUR PROPERTY

TALT understands the unique challenges that face agricultural landowners. We work with landowners to customize a conservation easement to meet their conservation objectives and the needs of their agricultural operation. This means landowners can choose to protect all or part of their property, and have the option to allow for construction of a house, barn, fence, road, or other important agricultural structure. However, there are a few activities that are restricted, including waste sites, commercial sale of water, or resource extraction that significantly disturbs the natural resources being preserved.

Commercial construction

Subdivision construction

Surface mining

### RESTRICTED

Commercial sale of renewable energy

Dumping toxic waste

Solar Panels

Commercial sale of water



# FOREVER PROTECTING THIS LAND

WAS THE MOST GENEROUS  
GIFT WE COULD GIVE TO  
THE COMMUNITY.

CAROLYN CHIPMAN EVANS,  
HEREF FARM

# BENEFITS OF DONATING

By donating a conservation easement to TALT, you forever protect your land and your legacy. In addition, landowners may be eligible for a number of related financial benefits. For example, a couple owning a large Texas ranch property wants to enable the next generation to continue the family legacy of stewardship. Rising land costs and encroaching development threaten to fragment the ranch and convert it to commercial use or residential subdivision after the couple passes away. By donating a conservation easement to TALT, the couple can make a deductible charitable donation and reduce the fair market value of the property for estate tax purposes while keeping the land intact and forever protecting its natural resources and working lands potential.

## TAX DEDUCTION

### WITHOUT EASEMENT

**A** MARKET VALUE = \$34M

### WITH EASEMENT

**B** MARKET VALUE = \$24M

CHARITABLE DONATION = \$10M

## ESTATE TAX IMPLICATIONS

	Without easement	With easement
<b>C</b> PROPERTY VALUE	\$ 34,000,000	\$ 24,000,000
<b>D</b> LESS JOINT EXCLUSION	\$ (25,840,000)	\$ (25,840,000)
<b>E</b> TAXABLE ESTATE	\$ 8,160,000	\$ 0

### **B** CONSERVATION EASEMENT VALUE

Property value can change when land is protected by a conservation easement containing development and use restrictions. This reduced value may qualify as a charitable donation, allowing landowners to reduce their adjusted gross income for tax purposes. Deductions range from 50% to 100% annually based on various factors. This deduction can be used the year of the donation and then carried forward 15 years. The value of the conservation easement in the example above is for demonstration purposes only. The value of each conservation easement will vary based on many factors, including the specific terms of the easement and the nature and location of the property.

### **C** PROPERTY VALUE

Federal estate tax is based on the fair market value of the property at the time of a landowner's death, not the original purchase price.

### **D** LESS JOINT EXCLUSION

Federal tax law limits the value of an estate that can be left to heirs free from federal estate taxes. The example above is based on the 2023 individual exclusion amount of \$12.92 million, which is currently set to expire in 2026 and revert to \$5 million (as adjusted for inflation) per person.

### **E** TAXABLE ESTATE

A conservation easement containing development and use restrictions reduces the fair market value of the property and thereby lowers the amount of the estate subject to gift and estate tax. Consult your tax advisor regarding the application of the gift and estate tax and related exclusions to your circumstances.

### **A** APPRAISED VALUE

A property's fair market value is assessed by appraising the highest and best use of the land for commercial purposes. An appraisal considers not just the current use of the property, but the potential value associated with alternative uses, such as commercial or residential development.

TALT UNDERSTANDS THE VALUE OF ALLOWING LAND STEWARDS TO CONTINUE TO

# MANAGE THE LAND

KIRK WILLIAMS,  
WILLIAMS FAMILY RANCH





# THE TYPICAL PROCESS

## FROM CONTACT TO CLOSING

Establishing a conservation easement takes time. This can range from several months to over a year and depends on numerous factors, including the landowner's circumstances, the details of the property, and whether the easement is donated or purchased. We strive to keep the process transparent, and ensure landowners feel confident in each step before moving forward.

### APPLICATION PHASE

#### CONTACT US

Once you contact our team, we will share additional information and answer questions you may have. We may have a few questions, too. We want to understand how long you have owned the property, where your land is located, the size of the operation, what your goals are in conservation, and the status of your mineral ownership.

#### DISCUSS THE DECISION

Discuss the decision to place a conservation easement on your property with your attorney and tax advisor as well as your family.

#### SCHEDULE A SITE VISIT

Coordinate with TALT to schedule an on-site visit to your farm or ranch. We will collect information to ensure that your property aligns with our mission and address your questions.

#### APPLY

Complete an application and submit an application fee to TALT, the amount of which ranges from \$1,000 to \$1,500 based on whether your easement is to be donated or purchased.

#### APPLICATION APPROVAL

TALT's Board of Directors approves all conservation easement applications. When a landowner is ready, we present their application to the land conservation committee for approval to proceed with the next steps.

### PREPARATION PHASE

#### BEGIN PARTNERSHIP

Once an application is approved, we both sign a memorandum of understanding outlining the next steps for a conservation easement. This is when you pay the first half of a project coordination fee.

#### CONDUCT DUE DILIGENCE

Next, we will work together to collect or obtain necessary documents and reports, including the deed history of the property, landowner entity information, title commitments, mineral leases, surface use agreements, title reports, appraisals, and mineral remoteness assessments. Each of these represents an important element of the due diligence required in connection with the transaction.

#### COMPLETE A BASELINE INVENTORY REPORT

A baseline report documenting the current uses and features of the property is an important foundation for protecting the property's conservation values going forward. With your assistance, TALT will prepare a baseline report for review and approval by you and TALT.

#### DRAFT THE DEED OF CONSERVATION EASEMENT

Together with respective legal counsels, we will draft the terms of the Deed of Conservation Easement. This legal document is tailored to your specific goals and needs.

### CLOSING PHASE

#### FINAL BOARD REVIEW

Once due diligence and the easement agreement are complete, we submit the final Conservation Easement to the Board of Directors (made up of landowners) for final review and approval.

#### CLOSING

At closing, we will join you, typically at a title company, to sign the Deed of Conservation Easement in front of a notary and have the easement agreement filed in the county real property records. All expenses, including the remainder of your project coordination fee, stewardship endowment, and closing costs are due at this time.

### MONITORING PHASE

#### MONITORING

We contact landowners and schedule visits to monitor easements annually. These visits ensure your conservation goals are carried out into perpetuity, and serve as an opportunity for you to discuss questions, concerns, and future plans with our team.

## COST

Conservation easements involve a number of expenses. Expenses charged to the landowner vary widely depending on the type, size, and complexity of the easement. The total cost can range from \$45,000 to \$100,000. Following is a breakdown of a typical conservation easement project:

#### APPLICATION FEE: \$1,000 - \$1,500

TALT's application fee is \$1,000 for donated easements. Applicants seeking a purchased easement will be required to submit additional fees for grant funding applications

#### PROJECT COORDINATION FEE: \$7,500 - \$8,000

The project coordination fee is \$7,500 for a donated conservation easement and \$8,000 for a purchased conservation easement coordination. This flat fee may increase if the project extends longer than two years.

#### TALT LEGAL FEES: \$5,000-\$10,000

Because of the nature of TALT's nonprofit status, TALT requires that landowners reimburse TALT for its legal expenses incurred in conducting transaction due diligence and working with landowner counsel to customize the conservation easement. TALT's legal fees will vary widely depending on the type, size, and complexity of the easement.

#### DOCUMENTATION AND REPORTS: \$7,000 - \$20,000

Each easement requires certain technical or professional reports or services, including an appraisal, baseline report, survey, mineral remoteness report. In some cases, additional reports, such as a mineral title report, may be necessary.

#### CLOSING COSTS: \$3,000 - \$30,000+

Closing costs include title company closing and recording fees and a title insurance policy premium based on the value of the conservation easement.

#### STEWARDSHIP ENDOWMENT: \$15,000 - \$50,000

Landowners donate to TALT's stewardship endowment, which funds future stewardship and monitoring of the property.

#### LEGAL DEFENSE FEE: \$5,000

This fee is contributed to a fund reserved for the purpose of ensuring that the terms of the easement and landowner values are upheld and enforced in perpetuity.

*In addition to these fees, all landowners are required to obtain their own legal counsel to help.*



MY GRANDCHILDREN WILL BE ABLE TO ENJOY  
**THE SAME PIECE OF TEXAS  
THAT I HAVE LOVED**

GIB LEWIS,  
S03 RANCH





## HELP US KEEP TEXAS BIG, WIDE & OPEN FOR GENERATIONS TO COME

For more information, please visit [www.txaglandtrust.org](http://www.txaglandtrust.org) or follow us on social media. To learn more about easements contact a member of the land conservation team.

 [TXAGLANDTRUST.ORG](http://TXAGLANDTRUST.ORG)

 [@TXAGLANDTRUST](https://twitter.com/TXAGLANDTRUST)

 [@TEXASAGLANDTRUST](https://www.youtube.com/channel/UC...)

 **BEYOND THE FENCE LINE**  
Want to learn more about the benefits of easements? Check out our Beyond the Fence Line podcast. [TXaglandtrust.org/tag/podcast](http://TXaglandtrust.org/tag/podcast)

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TALT, a Texas non-profit corporation and 501(c)(3) tax-exempt charitable organization, was created by farmers and ranchers for farmers and ranchers. TALT is proud to play a role in conserving Texas' legacy of wide open spaces.



WE CHOSE TALT AS OUR PARTNER IN LAND CONSERVATION BECAUSE

**THEY ENSURE THE LAND  
HAS A SEAT AT THE  
TABLE FOREVER.**

DAVID LANGFORD,  
LAURELS RANCH