



TALTnews

Conserving the Texas heritage of agricultural lands, wildlife habitats, and natural resources.

PASSING LAND DOWN TO FUTURE GENERATIONS: CONSERVING AND DIVERSIFYING WITH MITIGATION BANKING

by Lorie Woodward Cantu



Advanced Ecology was founded in 1994 when Terry Anderson and his partners Mike and Donna Bird recognized the Clean Water Act and the Endangered Species Act's regulatory requirements were creating opportunities to provide environmental services to corporate, government and industrial clients.

To date, Advanced Ecology, their private equity partners and joint venture landowners have committed over \$70 million dollars in

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NO LAND NO WATER: 77 RANCH: DIVERSIFYING WITH WATER AS A CROP®

by Lorie Woodward Cantu

Gary and Sue Price have established the 77 Ranch near Blooming Grove as a model of diversity and sustainability.

"Each new endeavor must fit our long-term plan of economic and ecological sustainability," said Gary. "Their impact must improve the condition of the land, be sustainable and mesh with our quality of life goals. A land ethic is not easily taught or learned but rather it is acquired over time through years spent on the land observing successes and failures trying to live 'with' the land and all its components."

Their newest crop is water.

The Prices and some of their neighbors in the Texas Mill Creek Watershed, part of the 18,000-square mile-Trinity River Basin, chose to participate in Water As A Crop®.

"One of the things that intrigued us about Water As A Crop® is that we both see opportunity when we say that everybody's drinking water comes across somebody's ranch somewhere—that means we play a vital role in a pretty big product," Gary said.

Forty percent of the people in Texas depend on the Trinity River Basin as their main water source.

"What does a gallon of silt cost you in terms

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CEO'S LETTER

Some stories bear repeating. The story of Texas land is one. Why? Because the fate of Texas' land determines the fate of Texas' water—and our collective future.

The intertwined ecology of land and water can be complicated, but the relationship is simple: No Land. No Water.

We're losing productive open space land in Texas at an unprecedented rate. As our population grows, we're covering up and carving up the land, Mother Nature's sponge. If the sponge disappears, rainfall can't make its way into aquifers or maintain its purity as it travels to rivers and lakes.

Fortunately, more people are realizing the urgency of the situation and are working diligently to keep Texas lands intact and Texas water supplies ample. Gary and Sue Price of 77 Ranch near Blooming Grove manage their land in a manner that water is a crop as surely as their highly sought after cattle. Mitigation banking is an emerging practice designed to offset the impact of development on sensitive natural resources and it offers nearby landowners who have sensitive natural resources of their own an opportunity for additional income stream that can help them keep their land intact. During the past legislative session, our leaders – motivated by the desire to conserve working lands in order to protect the state's water resources – awarded a first-time appropriation to the 10-year old Texas Farm & Ranch Lands Conservation Program. This will allow the purchase of development rights from families, allowing them to stay on the land and keep their "piece of the sponge" healthy and whole.

The Texas Agricultural Land Trust is prepared to fight on the front lines, work alongside landowners or negotiate in the background to ensure that our land remains open so our water continues to flow.

Sincerely,

A handwritten signature in dark ink that reads "Blair".

Blair Fitzsimons, Chief Executive Officer
bfitzsimons@txaglandtrust.org

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NO LAND NO WATER: 77 RANCH: DIVERSIFYING WITH WATER AS A CROP®

of water quality and storage-capacity reduction when it winds up in a lake?” asked Gary.

Water As A Crop®, founded in 2009 by the Sand County Foundation, is built on the idea that a majority of the rain falls on private lands, so the quantity and quality of the water supply is directly correlated to the land’s condition and management.

“Water that comes across our land either goes to Tarrant County or to the western edge of Dallas County through the Tarrant Regional Water District, or down into Lake Livingston, and is part of Houston’s drinking water,” Price said. “The overall idea from Sand County was to show the urban areas downstream the value of keeping water clean and keeping silt out of the Richland-Chambers Reservoir.” The Richland-Chambers Reservoir is the main water source for Tarrant Regional Water District, which supplies Fort Worth and 11 counties.

In exchange for implementing conservation practices rural landowners receive financial incentives to reimburse their costs. Urban investors are encouraged to reinvest in their water supply by providing financial incentives to help landowners mitigate the cost of their conservation activities such as planting riparian buffer zones, reseeding native grasses or installing cross fences to enhance rotational grazing.

“This is a new way to see agriculture as a public benefit,” said Blair Fitzsimons, TALT CEO. “It allows landowners to see how they’re really affecting the general public and it allows the general public to see the connection between the land and their water.”

Water As A Crop® bridges gaps between rural and urban, private and federal, corporate and individuals. The program brings together landowners, local partners and stakeholders in funding water conservation in water-stressed areas.

Initial investment from the Sand County Foundation attracted additional funding from the Dixon Water Foundation, the Meadows Foundation, the Knobloch Family Foundation as well as the USDA-NRCS National Water Quality Initiative and the Tarrant Regional Water District. Even brewer MillerCoors, located in Fort Worth, provides funding to the Navarro Soil and Water Conservation District for conservation projects.

“Miller uses a lot of water to make beer, so they’re interested in how we clean up and conserve the water,” Gary said.

Research comparing the effectiveness of different land management strategies in conserving water is ongoing. There are three monitoring stations, each in a different ecosystem, on the 77 Ranch. In addition to providing science-based information for land managers who are making conservation decisions, the research findings reassure conservation investors they are getting a return on their money.

“We’re all in this together. If we manage [our natural resources] a certain way, we could benefit financially from that. To us, sustainability means we’re here next year.”

To read more Gary and Sue Price and their conservation ethic, visit www.txaglandtrust.org/77ranch/



[Read More txaglandtrust.org](http://www.txaglandtrust.org)

ENHANCED TAX INCENTIVES

by Lorie Woodward Cantu

Enhanced tax incentives broaden the appeal of conservation easements by allowing landowners to more closely realize the value of their conservation easement.

“For an average family, the regular tax treatment does not provide enough incentive for them to complete a conservation easement donation,” said Texas Agricultural Land Trust CEO, Blair Fitzsimons. “Under the enhanced treatment, families may more closely realize the value of their gift, thus making a conservation easement a better business decision.”

According to the Land Trust Alliance, the enhanced tax incentives, which have been in place since 2006, have helped America’s 1,700 land trusts increase the pace of conservation by one-third. Thanks to the benefits, landowners have conserved more than one million acres per year of important wildlife habitat, farmland and scenic open space land across the country.

Until now, the enhanced benefits have been subject to Congressional renewal every two years. Currently, the House of Representatives has passed HR 641, the America Gives More Act of 2015, and the Senate companion bill S. 330 is gaining support. These measures will make the enhanced incentives permanent. The bill currently has 42 Senate sponsors, a strong statement of bipartisan support. A vote is likely around Thanksgiving.

“Making the enhanced incentives permanent will not only allow landowners to more fully appreciate the value of their conservation easements, it will give them the confidence to embark on long-term tax planning,” Fitzsimons said. “It demonstrates that our country has a long-term commitment to conservation.”



CALL TO ACTION

Contact your Senator
today at 202-224-3121.

Don’t just leave a message at the front desk. Ask to speak with the staffer who handles tax issues. Ask for their support of S 330 that would make permanent tax incentives for donated conservation easements.

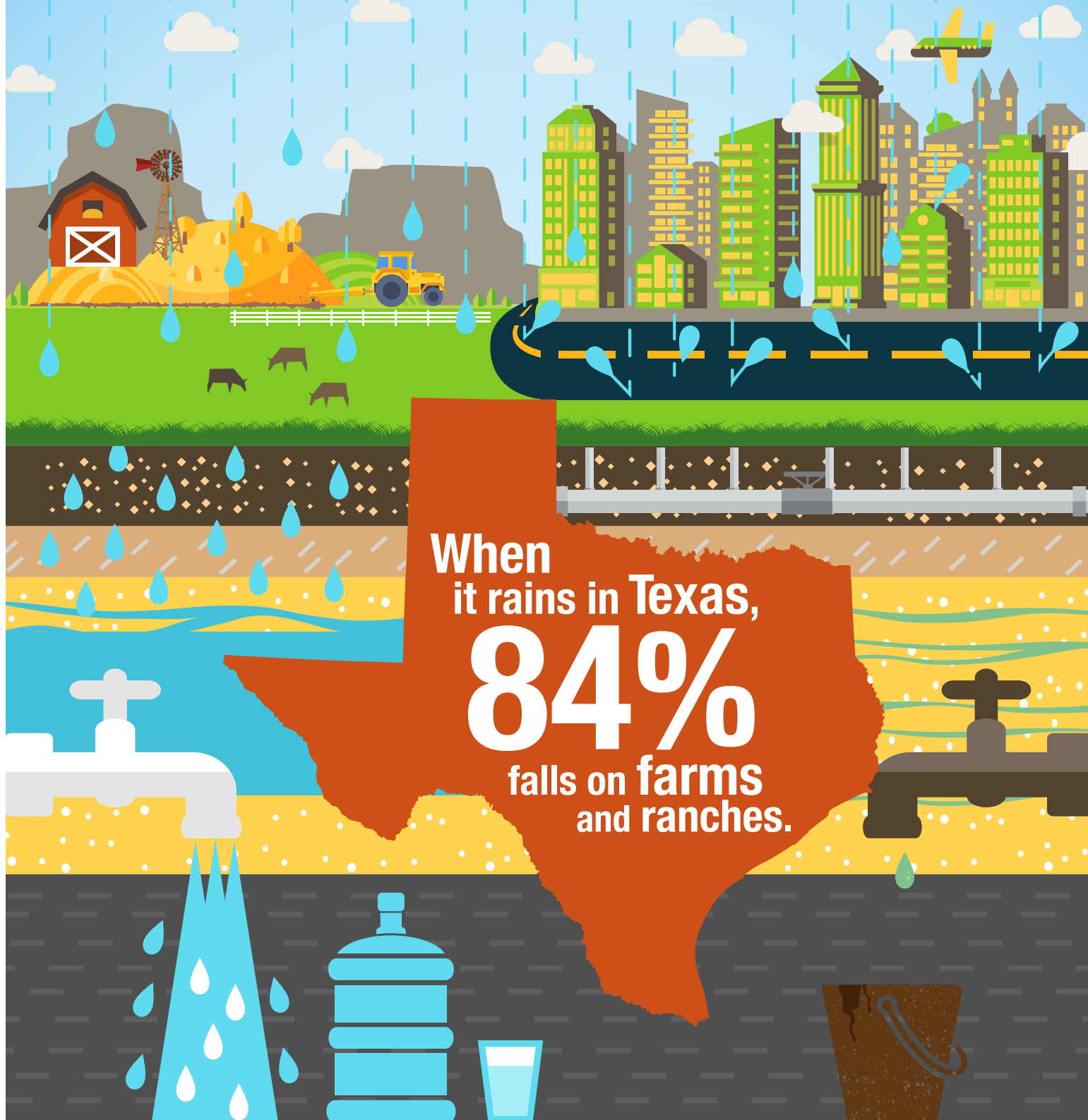
Visit <http://www.landtrustalliance.org/issues-action/take-action/tax-incentives> for additional Tax Incentive talking points.

Tax Implications

For more about how the Tax Incentives work please visit <http://www.txaglandtrust.org/enhancedtaxincentives2015/>



LIFE OF A RAINDROP



Rural working lands are key to protecting Texas' drinking water.

MEET TALT BOARD MEMBER **ED SMALL** by Lorie Woodward Cantu

Ed Small is a respected lobbyist, attorney and cattleman with deep roots in Travis County. He was raised on a ranch near what is now the intersection of RR 620 and Highway 183 in north Austin.

"I became familiar with the area as a child and have watched it transform," said Small, who is a partner the law firm of Jackson Walker. "Our land that used to produce beef and environmental benefits is now home to subdivisions and strip malls."

Small, who is a cattleman and hunter as well as an attorney, represents agricultural clients such as the Texas and Southwestern Cattle Raisers Association (TSCRA) before the Texas Legislature, state agencies and the federal government. He has been active in the legislative arena for more than 40 years. In that role he has seen attitudes regarding conservation easements change.

"In the beginning, 'conservation easement' was a bad word," Small said. "Resolutions were passed annually by ag trade associations essentially saying, 'Keep government's hands out of our business and keep conservation easements out of Texas.'"

However that began to change as people realized

the tax and other benefits associated with conservation easements. "For families who are trying to hold their land together, market values become a dominant force," Small said. "Conservation easements can help relieve the pressure of converting land to cash to meet tax or other obligations."



Small, who hosted the early meetings between TSCRA, the Texas Wildlife Association and the Texas Farm Bureau that led to the founding of TALT, thinks Texas' growing demand for water will make conservation easements even more attractive "People are beginning to recognize the connection between land and water," Small said. "The rain that runs off a parking lot or erodes bare ground is not the same as rain that percolates in the ground and can be managed long-term."

As a director of TALT, Small is committed to using his specific expertise to helping people understand the public benefits of conserving open space land.

"I don't believe our children, grandchildren and all the rest can live in a state that's paved over," he said. "We have to be able to grow food. We all need clean air and water. Land is integral to life."

CEARLEY RECEIVES TWA CONSERVATION LEADER AWARD

by Lorie Woodward Cantu

Texas Agricultural Land Trust's Stewardship Director, Ken Cearley, received the Sam Beasom Conservation Leader Award from the Texas Wildlife Association (TWA) at the organization's annual convention in July. The award, one of TWA's most prestigious, recognizes a member of the professional conservation community who has made an outstanding contribution to the conservation of Texas wildlife and shares the philosophies of TWA.

"Ken is the consummate professional conservationist and wildlife educator," David Yeates, CEO of TWA, said. "In a career that spans nearly four decades and the vast expanse of Texas, Ken's outreach and education



efforts have influenced countless landowners and young people helping them understand the art and science of successful, sustainable natural resource management."

During his career, Cearley gained hands-on experience working in ecosystems in the Coastal Prairie, Rio Grande Plains, Edwards Plateau, Rolling Plains, Trans Pecos and High Plains regions of Texas.

Cearley recently retired as Wildlife Specialist for Texas AgriLife Extension, where he had been based in Amarillo since 1998. He also served as an instructor at Sul Ross State University as well as ranch manager and wildlife biologist on several ranches in the Edwards Plateau. In addition to his role with the Texas Agricultural Land Trust, Cearley is president of Cornerstone Wildlife Consulting LLC and has been active in the Texas Brigades, a youth conservation leadership program, where he has served as board president as well as a board member, steering committee member and program instructor.

MISSION

To conserve the Texas heritage of agricultural lands, natural resources and wildlife habitats.

GOVERNING PRINCIPLES

STEWARDSHIP

requires stewards.

Keeping productive rural lands in private hands and under private management is the best way to conserve Texas' natural resources.

FOCUS

only on private lands.

TALT refuses to acquire conservation easements that will end up in public hands or that involve condemnation.

HELP

landowners protect their lands.

TALT does not own fee title to any properties.

TRUST

the landowner to manage.

TALT does not interfere with day-to-day management decisions.

RESPECT

landowners' rights.

The donation of an agricultural conservation easement does not require the landowner to provide public access, nor does TALT require it.

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undertaking more than 25 mitigation-related projects in five states, conserving or enhancing over 25,000 acres of habitat.

"As field foresters and biologists, we start with the land," Anderson said. "The way we attack the problem is fundamentally different than others with different backgrounds. Make no mistake, this is a very capitalistic endeavor, but where other people see mitigation as a financial enterprise with an ecological component, we see it as an ecological enterprise with a financial component."

TALT:

What characteristics does a property need to have to be a potential mitigation banking site?

ANDERSON:

First, a property has to be located in the region where a projects requiring mitigation are occurring. For instance, if a proposed road in the Houston metro area will negatively impact a wetlands, the highway contractor has to offset that impact in the same ecoregion and watershed. It can't purchase credits from a mitigation bank in the Sabine River Basin to offset a Houston impact in the San Jacinto River Basin.

The current mitigation market in Texas can involve wetlands, streams or endangered species; therefore, a piece of property has to offer either the opportunity to enhance or conserve a watershed function or some form of endangered species habitat.

In Texas, especially with the current list of candidate species, the opportunity to create Conservation Banks may be greater than the opportunity to create Wetland/Stream Banks.

TALT:

Is creating a mitigation bank something that landowners can do themselves or is it something that requires the expertise of an experienced partner?

ANDERSON:

Creating a mitigation bank is a complicated high-risk, high-return venture that requires a high-level of specialized expertise. At the very least, landowners will need to enlist the help of several highly qualified, experienced consultants to navigate the multi-step process.

Creating a mitigation bank is not a quick flip proposition. It will likely take three to five years to secure the initial documentation and permits and ten years to complete development. If landowners are considering the possibility of creating a mitigation bank, the first question they should ask themselves is: Do I have the fortitude and financial resources to underwrite the cost of this proposed project or would I be better off entering a joint venture with a partner who could provide funding and share the risks?

On a cautionary note, I would suggest that landowners carefully vet any potential



consultants or joint venture partners. Ask for references. Ask for a portfolio of completed, successful mitigation projects. Unfortunately, there are people in the environmental services sector who are happy to conduct environmental surveys on properties that have little or no chance of ever becoming a mitigation bank.

We've had people come to us, after they've already spent \$50,000 to \$250,000 or more on banking projects, wanting to join

forces with us to take their project to the next level—and we’ve had to tell them that their property lacks some of the basic components essential for creating a mitigation bank. Without solid advice, it’s easy to spend a lot of money “chasing a wild goose.”

TALT:

What should private landowners consider before establishing their land as a mitigation banking site either singly or with a partner?

ANDERSON:

Landowners need to not only consider the related economic costs and risks, but also the land use restrictions, just as they would for a traditional conservation easement.

Because a conservation easement will be involved, landowners need to identify land trusts that share a similar land management philosophy and, if possible, have mitigation banking experience.

Unlike a traditional conservation easement which is negotiated between the landowner and a land trust, a mitigation bank must also meet the criteria established

by either the US Army Corps of Engineers or U.S. Fish and Wildlife Service. If all three parties can’t reach consensus the mitigation bank won’t be approved.

Because federal approval is essential, agency personnel are negotiating from the power position.

Also, landowners need to prepare themselves for the long haul. A project will likely involve detailed

environmental restoration, legalities that will be in place in perpetuity as well as elements of complex economics. For it to be successful, no components can be left to chance.

However, when the stars align it can be well worth the effort—economically and ecologically.

“As field foresters and biologists, we start with the land”

☆ [Read More txaglandtrust.org](https://www.txaglandtrust.org)

KEEPING FAMILIES ON THE LAND: MITIGATION BANKING AS A CONSERVATION STRATEGY



An increasing part of the Texas Agricultural Land Trust’s work includes mitigation banking, which offers another income stream for ranchers and farmers. Mitigation banking was largely created to give land developers a way to offset the impacts of land development. When a developer is impacting certain natural resources, such as streams, rivers, wetlands, or habitat for an endangered species, they must obtain a permit from a federal agency, either the U.S. Army Corps of Engineers or the U.S. Fish & Wildlife Service. The developer may obtain the permit by performing a number of actions in order to compensate for the adverse impact. One compensatory act is to purchase credits from a mitigation bank. The need for these credits in turn creates a market for private lands conservation.

Think of it this way: A new pipeline is slated to run through two acres of a wetland. The pipeline company must obtain a permit from the U.S. Army Corps of Engineers in order to comply with the Clean Water Act, and must compensate for the impact. It may obtain a permit by protecting and restoring an isolated wetland area near the project, or it can purchase two-acre credits, if available, from a mitigation bank servicing the geographic area of the project. The purchase of credits streamlines the permit process, and is beneficial for the resource, as a large area of land can be restored and protected, as opposed to multiple isolated sites. Finally, it helps the landowner by providing another source of income.

For credits to be certified by either the Army Corps of Engineers or the US Fish and Wildlife Service, the land must be permanently protected with a conservation easement, which is where the Texas Agricultural Land Trust comes in. Mitigation banking is one way in which we meet the goal found in our current strategic plan of identifying innovative, incentive based solutions for private lands conservation. The donated conservation easement simply does not work for many landowning families. Mitigation banking can provide a financial incentive for those who wish to conserve their lands.



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2015 ANNUAL REPORT IS NOW AVAILABLE ONLINE AT

[WWW.TXAGLANDTRUST.ORG/
ANNUAL-REPORTS](http://WWW.TXAGLANDTRUST.ORG/ANNUAL-REPORTS)

UPCOMING 2015 TALT

EVENTS

GOING GOING GONE: Impacts of Loss of Rural
Land on Water, Wildlife and Agriculture

November 13th, 2015: Uvalde

9am-2pm

Uvalde County Fairgrounds, Frio Room

Event is FREE.

Lunch provided for those who
register by November 8th.

CLE credits available

Get more information at www.txaglandtrust.org/category/events/