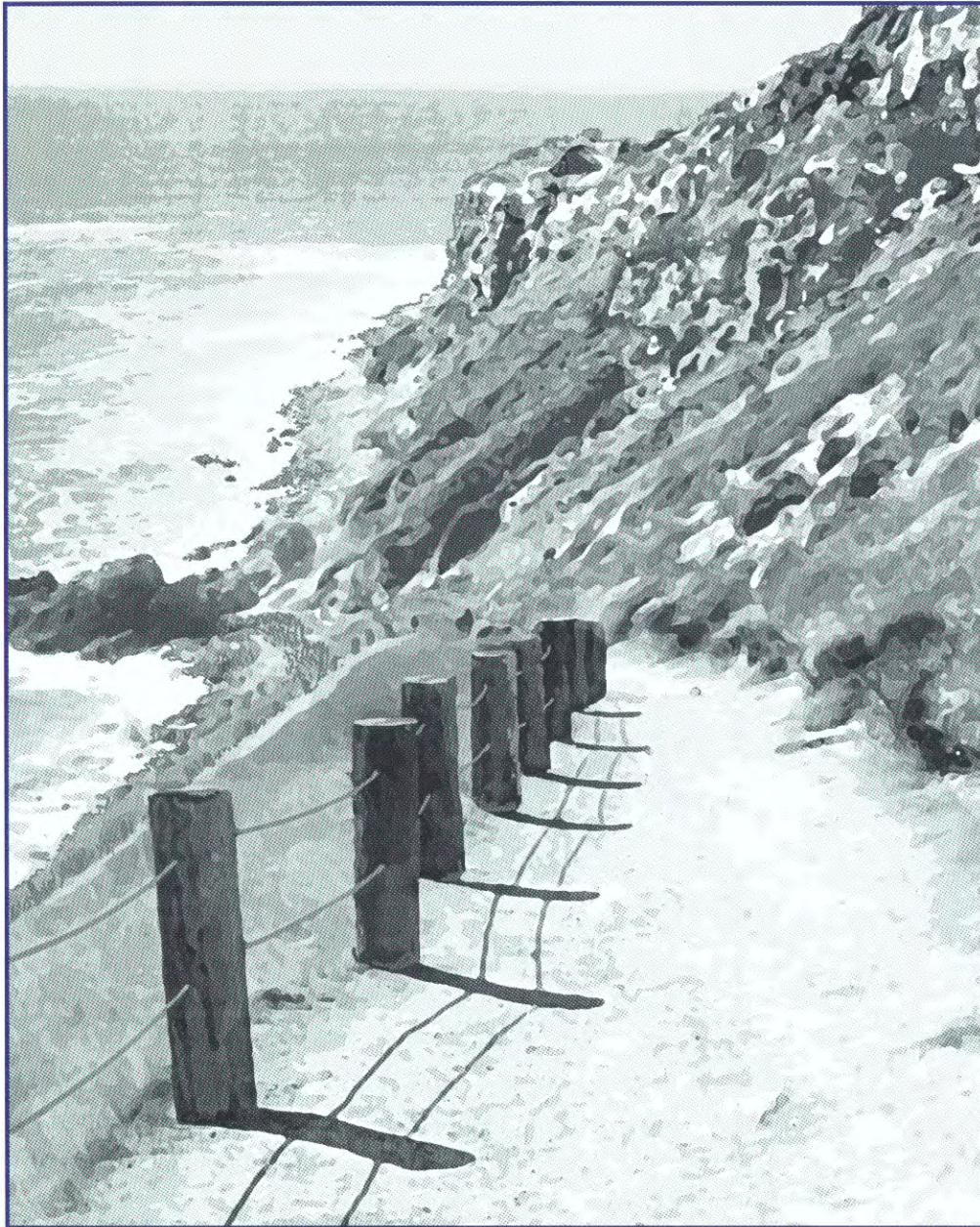


Happy Trails To You

HOW TO ACCEPT AND MANAGE OFFERS TO DEDICATE ACCESS EASEMENTS



CALIFORNIA COASTAL CONSERVANCY * CALIFORNIA COASTAL COMMISSION

*A publication of the California Coastal Commission,
pursuant to National Oceanic and Atmospheric Administration
Award NA570Z0324, and the California Coastal Conservancy*



1997

Please recheck telephone numbers contained in this scanned version of the document, as they may have changed.

“The people of California have been burdened by the impacts of additional development along the coast . . . but have not yet benefited from the public access improvements that are intended to mitigate the impacts from this development.”

—COASTAL COMMISSION, 1995



CONTENTS



1. What Do Local Citizens Gain by Managing Public Access Easements?	6
<i>How Some Terms Are Used in This Booklet</i>	
2. What, Exactly, Is an Offer to Dedicate?	6
3. How to Find Out about Available OTDs	7
4. Who Is Qualified to Accept and Open an OTD	7
<i>What Is an Easement?</i>	
5. What to Consider before Accepting an OTD	8
6. Preparing to Accept and Open an Easement	9
<i>Two Coastal Agencies</i>	
7. How to Accept an OTD	10
8. Liability	11
9. Insurance	14
10. Management Plans	15
<i>One Land Trust's Experience</i>	
11. Funding	17
12. Designing, Constructing, and Opening an Accessway	17
13. What's Next?	19
Information Sources	20
Useful Reading	20

This million dollar view was just sold—for free!

Impossible? Just ask the Mendocino Land Trust, proud new owner of this stunning trail easement. Hurry! Opportunities to own part of the coast for yourself (oh yeah, and for the public) won't last much longer.

*The California Constitution provides that
“access to navigable waters of the State shall
be always attainable for the people thereof.”*

A dream come true for a land trust to own a little bit (100 feet) of the Malibu coast. Easy terms arranged for the few improvements needed. Unique opportunity expires December 2004.



ALIFORNIA'S MAGNIFICENT COAST is a magnet to all its people and to visitors from all over the world. By law, the entire 1,100-mile shoreline belongs to everyone. Yet more than half of it remains inaccessible or hard to reach because there are not enough pathways from the nearest road to the ocean's edge.

Thousands of public rights-of-way are not being used. These rights-of-way are known as Offers to Dedicate access easements (OTDs). They were obtained by the Coastal Commission and local governments from property owners as a condition of receiving permits to develop within the Coastal Zone, as designated by the California Coastal Act of 1976. They are meant to compensate the public for the cumulative impacts of new development, such as blocked pathways, diminished views, heavier traffic, and reduced open space.

OTDs represent only potential access until someone takes on the responsibility for turning them into real trails, stairways, parking lots. They are no more than "paper trails" until they are accepted by a suitable nonprofit land trust or public agency, and opened. A suitable entity must then make the necessary improvements and maintain them.

A Commission analysis has shown that to date only 19 percent of 1,269 recorded OTDs have been accepted, and not all of these have

been opened. Unaccepted OTDs expire within a certain period of time, usually 21 years from the date they were recorded. If they are allowed to expire, the potential for access they represent will be lost.

Although many local governments and agencies would be glad to accept and open these unclaimed accessways, they lack the necessary resources to do so. Mendocino County, for instance, where 132 OTDs are unclaimed, can no longer afford even a countywide parks department. To build and manage new trails is a dream out of reach without more funding.

Here is where citizens can step in. Through local land trusts (or similar nonprofit organizations) they can adopt these accessways and open them, for the benefit of their own communities and the larger public interest. Local people can design accessways that suit their communities, and make sure that they are responsibly operated. Groups interested in exploring these opportunities can get help from the Coastal Conservancy, which has a long record of working with local land trusts and helping new land trusts to organize.

Local citizen stewardship may be the most promising approach at this time. A model already exists in Mendocino County (see p. 16) and is being emulated elsewhere. Both the Conservancy and the Coastal Commission are ready to help local citizens, as well as local government agencies, take on this challenge. We have prepared this booklet to answer some basic questions, and we are available to offer technical and other assistance. ■

“Public access from the nearest public thoroughfare to the shoreline and along the coast shall be provided in new developments . . .”

—CALIFORNIA COASTAL PLAN, 1975



Can't see the OTD for the trees?

A land trust could change all that. Just put up a few signs* and voila! . . . your very own public access easement. Then everyone will be able to see the trees, not to mention the scenic Mendocino coast.

*See brochure for the other requirements.

HOW SOME TERMS ARE USED IN THIS BOOKLET

OTD: Offer to Dedicate an interest in property. In this booklet, OTD usually refers to offers to dedicate an easement for public access. This is an easement that has not yet been accepted by anyone. It is still just an offer.

Easement: Once an OTD has been accepted, it becomes an easement, a permanent interest in land.

Accessway: A way for the public to get to the coast—stairs or trails, for example. In this booklet, easements and OTDs are called accessways when the reference is to the physical site and public use of it.

Here a stairway would do more than open this easement to the public. It would also protect the dunes from being trampled.

1.

What do local citizens stand to gain by undertaking to open and manage new coastal accessways?

There are several reasons why land trusts and local public agencies should be interested in Offers to Dedicate access easements. By accepting an OTD they secure permanent access to the shore for themselves, their community, and all others. They gain the opportunity to create accessways that fit the needs of their community. They secure this access now, rather than waiting an unknown number of years for the government to act. They remain in charge of these new accessways; if changes or improvements are needed, or if problems occur, they have the power to respond. Thus decision-making power stays within the community. By enabling people to reach the coast more easily, land trusts can also build a good name for themselves in the community.

2.

What, exactly, is an Offer to Dedicate?

Offers to Dedicate access easements, or OTDs, are recorded legal documents that offer interests in land to a government agency or a nonprofit organization. The land interest usually consists of an easement or right-of-way to a public beach or along the shore. It is usually no more than 10 feet wide, and can be a trail and/or a stairway. OTDs were created as part of the Coastal Commission permitting process as a way to mitigate the cumulative impacts of new coastal development on coastal resources.

OTDs are only *offers* of easements, however. The interest belongs to the property owner until an agency or nonprofit organization officially accepts the OTD (for how this is done, see section VII, "How to Accept an OTD"). Once an OTD is accepted, the accepting entity obtains title to the easement



(or other interest in land), just as it would if it were granted directly by the property owner.

If nonprofit organizations and government agencies do not take action, these opportunities for beach access, trails, and open space will be lost. OTDs are offered only for a limited time, usually 21 years from the time the document is recorded. If no entity accepts an OTD within this period, the interest reverts to the property owner. When an OTD is accepted, however, the property becomes an easement, a permanent right-of-way, immediately. Large numbers of OTDs will start to expire as early as the year 2001. It is therefore critical that OTDs be accepted soon.

3.

How do you find out if there are OTDs waiting to be accepted in your area?

That's easy: contact the Coastal Commission's access program manager, Linda Locklin, (408) 427-4863.

4.

Who is qualified to accept and open an OTD

Public agencies such as county parks departments may do so, as may land trusts—nonprofit organizations that buy, hold, or manage land, or interests in land, for the purpose of conservation and recreation. (In this booklet, the terms “nonprofit organization” and “land trust” are used interchangeably.) To qualify for accepting an OTD, a land trust must be incorporated as a nonprofit organization with tax-exempt status under Section 501(c)(3) of the Internal Revenue Code, and must be acceptable to the executive director of the Coastal Commission.

There are at least a hundred land trusts in California, many hundreds more around the country. The Coastal Conservancy can help a group of citizens interested in opening accessways to organize as a land trust (see p. 8).

(For information on land trusts, see “Information Sources” and “Useful Reading” on p. 20.)

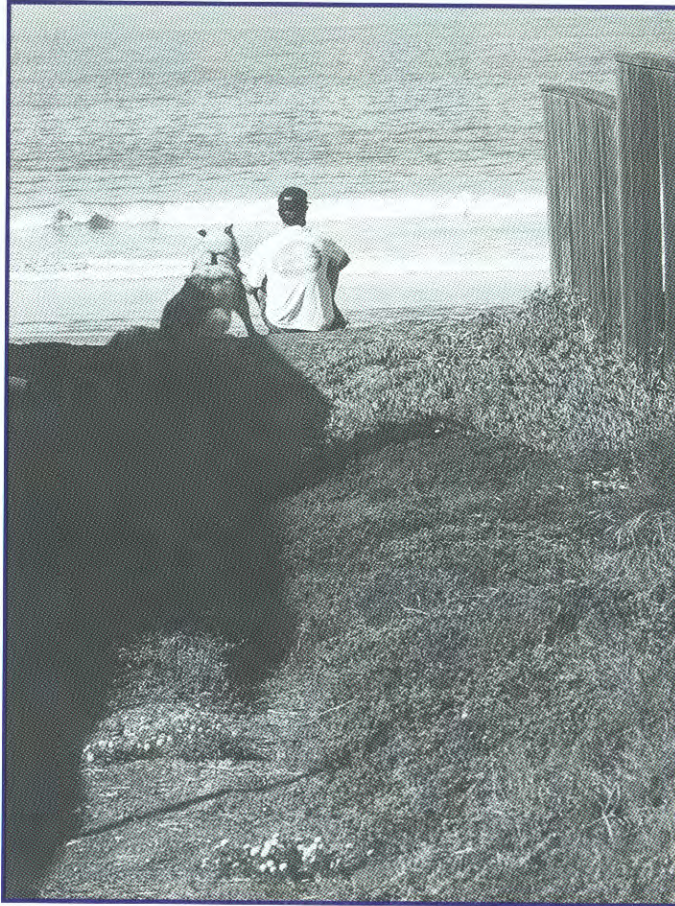
WHAT IS AN EASEMENT?

TWO TYPES OF EASEMENTS can be created by the Coastal Commission's permitting process: access easements and open space/conservation easements. An access easement is a right to use a designated portion of the property of another. The access easements discussed in this booklet allow public right-of-way through a landowner's property to the shore or passage along the shore. Vertical access easements provide public access from the nearest public road to the beach, while lateral access easements run along the shore.

Open space/conservation easements are different in character: rather than providing for physical use of property by others, they preclude the property owner from development or use of property that

would interfere with the preservation of open space or other natural resources. The holder of an open space/conservation easement has the legal right to enforce its specific provisions and to prevent prohibited uses that would interfere with the conservation purposes of the easement.

Each of these types of easements is itself a property interest that can be held, transferred, or conveyed like any other property interest. The easement holder's interest is a limited one, however: it has only those property rights specifically and expressly granted in the OTD. Owners of the property that is subject to the easement (the “fee owners”) retain the right to the use and enjoyment of their property, consistent with the easement provisions.



**Stuck in the sand?
Wouldn't you like to get
your feet wet?**

Here's an opportunity for a nonprofit organization to maintain an easement on an interim basis only. This easement has been accepted by San Luis Obispo County, but won't be opened until the County has management funds. Why wait? Make the County an offer it can't refuse!

5.

**What a land trust should
consider before deciding whether
to take on an access easement**

Before making a decision to take on an accessway project, a land trust (or group of citizens wishing to form a land trust) should (1) evaluate its goals and capabilities and (2) evaluate the easement. Certain key questions should be considered:

1. Does the land trust have tax-exempt status under Section 501(c)(3) of the Internal Revenue Code?

The Coastal Conservancy requires that its nonprofit partners have this status, as do many other funding agencies. The Conservancy also requires that a nonprofit organization's articles of incorporation specify as among its principal charitable purposes the preservation of land for scientific, historic, educational, recreational, agricultural, scenic, or open space opportunities.

For information on the process of incorporating as a land trust see *The California Nonprofit Corporation Handbook* and *Starting a Land Trust* (See "Useful Reading," p. 20). The Coastal Conservancy can help with the process. Call Janet Diehl, (510) 286-1015.

2. Does this land trust have an active board of directors that will do the work of managing the accessway or get others to pitch in?

The board's participation, follow-through, and enthusiasm are essential to success. This isn't to say the board has to do all the work—nor should it if board members are to avoid burnout. Remember that these OTDs are located on private land—hands-on management is essential to protect both the property owner and the public's access rights. The Mendocino Land Trust, for example, successfully recruited volunteer accessway managers at a community meeting (see p. 16). If board members do assume all responsibility for managing the accessway, they must be sure to allot sufficient time and energy to the project. One option for maintaining control over the process is to work in stages. The Redwood Coast Land Conservancy, for instance, accepted an OTD but decided to open it in several phases. It will start by opening an overlook; then, as it develops its capacity to do more, it will turn its attention to adjoining trail segments.

3. Can the land trust expect broad community support for managing this accessway?

It is important to find out whether enough local residents will support the new accessway by volunteering time and donating money to maintain it. There are ways you can get a good idea of potential support. Consult with land trust members who are active in their communities. Talk to interested local citizens. In addition, you may want to hold some public workshops to discuss what you have in mind. It may take more than one persuasive explanation of the accessway's benefits to win broad community support.

4. *What are the legal and physical aspects of the easement?*

Call Linda Locklin at the Coastal Commission to find out the exact physical location, what the Commission's relationship is with the landowner, and any other relevant particulars.

At this point you may be ready to embark on your accessway project. Or, if issues arose as you answered these questions, you may want to settle them before continuing. It's a good idea to consult now with the Coastal Conservancy.

6.

Preparing to accept and open an easement

1. Review all legal documents. Are the terms for public use of the OTD clear? What are the rights and responsibilities of the easement holder?

Are there problems with the title that could jeopardize the land trust's (or agency's) title to the easement at some future date? Because each OTD is unique, it is important to carefully review the document recorded for the easement that you are interested in.

2. Inspect the site. Remember that the OTD is private property until it is accepted. Contact the Coastal Commission to help arrange access. Are there any encroachments on the easement? It's often a good idea to have the easement professionally surveyed.

3. Evaluate what improvements are needed to open the easement for safe public use. Will any construction be necessary—for example, parking lots, stairways, gates, or restrooms? If so, how will this construction be paid for? Are grant funds available? Can volunteers make the necessary improvements? Will any environmental review or permits be required before the improvements can be made? Although at this stage you don't have to have all the answers, being aware of the physical requirements of opening the easement will make your job easier in the long run.

The Coastal Conservancy is able to fund coastal access improvements. Please note that if a land trust receives funds for construction from the Conservancy (or any other governmental agency), it may be required to analyze the potential impacts of that construction on the environment.

4. Determine how you will manage the easement. What tasks will be required, and who will perform them? For example, will there be trash to pick up daily? How

TWO COASTAL AGENCIES

TWO COASTAL AGENCIES WORK with citizens on opening access easements. Both offer technical and other assistance throughout the process.

The California Coastal Commission is a regulatory agency responsible for both permitting and planning programs for California's Coastal Zone. As a part of the permit process, the Commission can impose conditions to mitigate the impacts of development. To mitigate public access impacts, the Commission has required some developers to record an OTD. The Commission maintains the legal documents for each of these OTDs.

It also maintains an Access Inventory, which lists recorded legal documents that protect and provide public access. Linda Locklin is the Commission's Access Program manager.

The Coastal Conservancy undertakes projects that protect and restore coastal resources and provide or improve public access. One of the Conservancy's priorities is to help and encourage local land trusts and local governments to accept and open OTDs. Joan Cardellino is the Coastal Conservancy's Access Program manager.



What a view of the Albion headlands!

Only problem: you need to be up in the air to see it. There's an OTD from the highway to the bluff. Opening it may be easier than getting a pilot's license.

will you respond to problems or emergencies? How will you cover management costs, both in the immediate and the more distant future? Again, being prepared for as many contingencies as possible will smooth the process considerably.

As you go through this process, the Coastal Commission and Coastal Conservancy should be able to help you resolve any problems that arise.

7.

How to accept an OTD

For those land trusts or agencies ready to take the plunge, here's a step-by-step guide to the process:

1. Send the following documents to the Coastal Commission and the Coastal Conservancy for review and approval:

- a. A resolution from the board of directors of the land trust (or agency governing body) agreeing to accept the OTD and designating an individual to sign legal agreements for the accepting organization.
- b. Evidence of insurance.
- c. A management plan for the OTD (see p. 15).

Linda Locklin at the Coastal Commission can provide sample documents.

2. Conservancy and Commission staff will review these documents. Most OTDs require that the Commission's executive director determine that the nonprofit organization in question is an acceptable "grantee" of the easement. To ensure that the dedicated easement will provide permanent public access, the executive director will

approve a specific management plan for the easement and require assurance that if the accepting nonprofit fails to manage the accessway according to the submitted plan, or ceases to exist, the Conservancy or another appropriate entity will acquire the easement.

3. Now the land trust or accepting agency and the Coastal Commission are ready to sign the Certificate of Acceptance. This document conveys the easement to the land trust, subject to the condition that the land trust will manage the accessway according to the management plan and terms of the OTD.

Once it is conveyed, the OTD becomes a permanent public access easement held and managed by the land trust or agency that has accepted it.

4. If the easement has been accepted by a land trust, this organization and the Conservancy sign a limited tort immunity agreement that will protect the land trust from certain kinds of liability. This agreement, which grants the land trust the same limited tort immunities that public agencies have, must be authorized by the Conservancy. (See p. 12 for more on these agreements.)

The Coastal Conservancy will periodically inspect the accessway to evaluate its management. If the Conservancy formally determines at a public meeting that the organization holding the easement is not managing it according to the management plan, it can take title to the easement (or designate another acceptable entity to do so).

8.

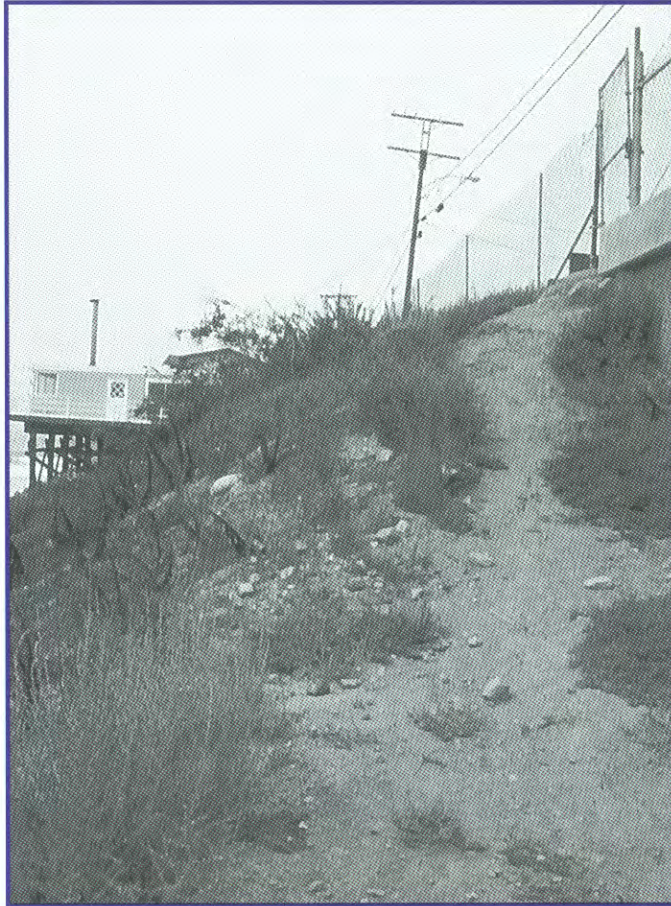
Liability

Liability is often among the most intimidating aspects of land management to a nonprofit organization that holds an easement on property open to the public. However, California law recognizes several immunities that protect public and private landowners that hold or manage land for recreational purposes. Where these immunities apply, the landholder is not liable for personal injury that occurs on the property. This does not mean that landholders cannot be sued, but it does mean that the chances of their losing a personal injury lawsuit are greatly reduced.

Rare find in eastern Malibu—10-foot wide vertical easement.

Next to an undeveloped lot. Easement is currently held by government agency that is unable to open to the public. Willing to transfer to land trust and pay for improvements.





Tired of easements?

Imagine easy access from the highway to the long wide beach below. There's an Offer to Dedicate Fee-Title waiting for a land trust to accept it.

THE RECREATIONAL USE STATUTE: CALIFORNIA CIVIL CODE SECTION 846

Civil Code Section 846, known as the Recreational Use Statute, protects any private owner of any interest in land used for recreational purposes. In the case of a public access easement, the law applies equally to the nonprofit easement holder and the landowner. It may be useful to point out this fact to the landowner to ease potential fears regarding liabilities.

The Recreational Use Statute states that the landowner or easement holder "owes no duty of care to keep the premises safe for entry or use by others for any recreational purpose." In other words, a land trust holding an easement for public access purposes can not be held responsible, with a few exceptions, for injuries someone sustains while using the property for recreation.

The statute sets forth a lengthy list of recreational uses to which it applies, but courts have held that its protection extends to other recreational uses as well. Generally speaking, it applies equally to developed and undeveloped land that is used for recreation, but does not apply where the property is used for a purpose other than recreation.

The exceptions to the statute apply if the property owner (1) willfully or maliciously fails to guard or warn against a known dangerous condition; (2) has

received a fee or other "consideration" for use of the property; or (3) expressly invited, rather than merely permitted, the injured person to enter the property.

A more detailed discussion of the Recreational Use Statute can be found in a publication of the Bay Area Ridge Trail Council, *California's Recreational Use Statute and Landowner Liability* (2d ed., June 1994). To order a copy, send a check for \$3 to the Council at 311 California St., Suite 300, San Francisco, CA 94104, (415) 391-0697. This publication, as well as the advice of counsel, can be of great assistance to a land trust in assessing the risks of liability and considering the management of dedicated easements.

LIMITED LIABILITY AGREEMENTS: CALIFORNIA GOVERNMENT CODE SECTION 831.5

The Recreational Use Statute does not apply to public agencies (other than the federal government) whose general liabilities are covered by Government Code Sections 810 et seq., often referred to as the California Tort Claims Act. Nonprofit organizations that hold or manage land for open space or recreational purposes can enter into agreements with the State of California which will provide them with some of the same immunities that apply to public entities under the Tort Claims Act. Nonprofit organizations operating coastal public accessways or managing open space lands in the Coastal Zone can enter into these agreements with the Coastal Conservancy; those receiving public access grants from the Conservancy must do so. Under Section 831.5 of the Government Code, a qualifying nonprofit organization

can by agreement obtain the status of “public entity” for purposes of enjoying the following specific immunities:

1. Immunity for injuries caused by a natural condition of unimproved property (Government Code Section 831.2). Government Code Section 831.21 specifies that public beaches are deemed to be in a natural, unimproved condition notwithstanding the presence of signs, beach cleanup, lifeguards, or other public safety services.
2. Immunity for injuries caused by a condition of any unpaved road or trail that provides access to recreational activities, or, under certain conditions, of paved trails, walkways, or paths. This immunity is somewhat limited, in that the public entity must “reasonably attempt to provide adequate warnings” of any condition on a paved path or trail that creates a hazard to health or safety (Government Code Section 831.4).
3. Immunity against injury or damage suits brought by participants or spectators at a “hazardous recreational activity” (Government Code Section 831.7). The statute includes a lengthy list of recreational activities that are deemed hazardous, as well as exceptions.
4. Immunity against injury or damage occurring off the public entity’s property caused by land failure of any unimproved public property, if the land failure is the result of a natural condition (Government Code Section 831.25).

These public immunities can supplement the protections available under the Recreational Use Statute for a nonprofit organization that enters into an agreement with the Conservancy pursuant to Section 831.5. They will apply regardless of whether the nonprofit organization “invites” the public onto the land, so long as it does not thereby recklessly promote a hazardous recreational activity, and they may apply to lands for which an admission fee is charged, so long as the fee is not paid to engage in a hazardous recreational activity. Section 831.2 and 831.4 immunities will apply even if a person is injured while using the property for a nonrecreational purpose.

As with the Recreational Use Statute, the application of these immunities will vary with the facts of each situation, and advice of counsel should be sought with respect to any particular circumstances. For a more detailed discussion of these immunities, their application, and exceptions, and for further information on limited liability agreements under Section 831.5, see the Coastal Conservancy’s publication, *Limitations on Liability for Nonprofit Land Managers* (2d ed., 1997).

DEFENDING A PERSONAL INJURY ACTION

The application of any of these statutes to any given factual situation can be complex, and the defense of a personal injury lawsuit can be costly and time-consuming even if successful. The State of California has apparently recognized this problem, and underscored its policy of encouraging land trusts and other private owners to make their lands available for public access and recreation by providing for the State to share in the costs of defending a personal injury lawsuit under certain circumstances. Since January 1, 1997 (per Section 846.1 of the Civil Code), a claim can be presented to the State Board of Control to recover reasonable attorney fees incurred in the successful defense of a personal injury action brought against a property owner who has agreed to recreational trail use on the property, as well as any public entity that permits public recreational use of its property (including, as defined in Government Code Section 831.5, a land trust that has entered into a limited liability agreement with the Conservancy).

9.

Insurance

Even the land trust managing the smallest, least-used accessway along the coast needs insurance. While obtaining coverage may seem like a daunting task, the good news is that low-cost insurance programs exist for nonprofit organizations. These programs can cover legal expenses associated with litigation as well as claims against the organization. Land trusts should discuss their insurance needs with their agent, who can explain coverage and the different types of insurance. The following two programs have insured California land trusts:

Land Trust Alliance's comprehensive insurance program—designed primarily for land trusts holding “preserve” lands, but may also cover other land uses, including trails and urban gardens. To be eligible for this program, a land trust must work on the local, regional, or state level; must acquire, hold, or manage land or easements for conservation purposes or help negotiate land conservation transactions; and must be a member of the Alliance.

For information about the Alliance and eligibility, contact Mary Caza at the Land Trust Alliance, 1319 F Street NW, Suite 501, Washington, DC 20004-1106; phone: (202) 638-4725; fax: (202) 638-4730; e-mail: mcaza@lta.org. For an insurance quotation or more specific information on insurance policies, contact Jim Meshanko at Franey, Parr & Muha, Inc., 11781 Lee Jackson Memorial Hwy., Suite 220, Fairfax, VA 22033; tel: (800) 298-7373; fax: (703) 934-0147; e-mail: landcons@aol.com

The Nonprofits' Insurance Alliance of California (NIAC)—a liability risk pool available to 501(c)(3) organizations incorporated in California. This program is owned by its diverse nonprofit members.

Contact Steve Moody at NIAC, P.O. Box 8507, Santa Cruz, CA 95061-8507; phone: (408) 459-0980; FAX: (408) 459-0853; e-mail: smoody@niac.org

As the years accumulate, so do encroachments. Here's an accessway that was dedicated in 1980 and still has not been opened. The passage of time has helped the property owners to forget that there is a right to public access to the beach at this site.



Sold! The Redwood Coast Land Conservancy snapped up this blufftop easement with stunning views of the Gualala River. The improvements were built by the land developer. The land trust's management plan calls for weekly inspections and repair as necessary by a volunteer maintenance committee.



10.

Management plans

When a land trust or public agency has finally decided how it will construct, manage, and fund the accessway, it is ready to write the management plan, which outlines how the responsibilities of operating the accessway will be handled. After the Commission and the Conservancy approve the plan, it becomes a standard for the periodic evaluations made by the Conservancy.

Both the Conservancy and the Commission will need to review and approve (or participate in developing) a management plan when nonprofit organizations apply to take on the management of an access easement. The management plan is designed to accomplish two goals: (1) to guarantee that the accessway will provide permanent public access, thereby enabling the Commission and the Conservancy to protect the public's interest, and (2) to give the accessway manager an opportunity to think through issues and responsibilities that must be faced to prevent potential problems.

Each plan is unique because the management requirements for every accessway depend on a mix of many factors—number of users, proximity of neighbors, safety concerns, terrain, and types of improvements. While there is no standard format for management plans, they need to address the following questions:

1. What improvements (if any) will the land trust or agency make to open the accessway for safe public use?
2. What maintenance tasks will be performed, how often, and by whom? Bear in mind that, no matter how minimal the improvements, regular inspections will be needed.
3. How will less routine situations be handled, such as emergencies, repair needs, and complaints?
4. What are the expected costs of maintenance, and how will the land trust or agency cover them? What funds will be available for unforeseen needs, such as storm damage?

ONE LAND TRUST'S EXPERIENCE

THE ALL-VOLUNTEER MOAT CREEK Management Agency operates a creekside trail to one of the best surfing and abalone-diving spots in southern Mendocino County. The Conservancy helped this land trust to get started and is backing it up with a guarantee that if it goes out of existence or somehow defaults, the Conservancy will assume responsibility for the accessway.

Mendocino County Supervisor Charles Peterson, member of the board of directors of the Moat Creek land trust, believes that such groups are uniquely qualified for taking on OTDs. They know their community, care about it, can tap local resources, and reap the rewards of seeing a trail well kept, he says.

The Moat Creek group formed in response to the temporary closure of the popular creekside trail in 1981. For years surfers, abalone divers, and others had used it, paying a small fee to a rancher to cross his land. Then, in 1981, the Coastal Conservancy bought the property to protect it against an unsuitable development that had been approved before the passage of the California Coastal Act. While plans for future use were taking shape, the trail was closed. The agency later sold most of the land for a much smaller development, maintaining 14 acres along Moat Creek and nearby Ross Creek to protect riparian habitat and provide public access.

Local residents offered to improve and maintain trails along both creeks under the umbrella of the nonprofit Surfrider Foundation. In 1989 the Conservancy signed a contract with Surfrider and also provided \$48,000 to improve the Moat Creek access and to protect and restore riparian habitat that had been destroyed by vehicles driving off the trail.

A group of about a dozen volunteers put up vehicle barriers and built a gate to keep vehicles from driving beyond the parking lot, erected signs,

restored vegetation along the creek, and made other improvements. Ever since, they have maintained and monitored the Moat Creek trail, as well as a smaller trail along Ross Creek, with the help of students from a local elementary school who pick up litter as part of the Coastal Commission's Adopt-A-Beach program. In 1994 these stewards of Moat Creek organized as a local nonprofit organization and signed a new contract with the Coastal Conservancy. They joined the Land Trust Alliance and, through the Alliance, bought a group policy that reduced their insurance costs.

The Conservancy contract permits the Moat Creek group to charge an access fee of up to \$2, but it has not done so. It has proudly, "through direct gifts and donations, provided low-key public access at a time when most free access to the coast is being lost," Peterson explained. Volunteers sometimes ask for donations, especially from abalone divers during low tide, and some gifts have been generous.

Peterson has noted that abalone poaching has almost disappeared at Whiskey Shoals, offshore from Moat Creek, and that illegal campfires have become rare. Creekside vegetation has come back. "People have gotten the message," he said. "It would be a mistake to say [that managing an accessway] is easy, but it's good work and intensely rewarding."

The Moat Creek group is interested in possibilities for picking up OTDs elsewhere in Mendocino, and perhaps in Sonoma County. "But we would need some funds," said Peterson. "We can do a lot with volunteers, but there are the costs of initial development and—if we take on a longer stretch—of insurance. That would have to come from somewhere."

For more information, call Bryan Thurmond at the Moat Creek Management Agency: (707) 884-1300; or Joan Cardellino, Access Program manager at the Coastal Conservancy: (510) 286-4093.



HOW MUCH MANAGEMENT IS NEEDED

The level of management required depends on the local community's population density and the anticipated number of users. Urban coastal accessways often have close neighbors and lots of use—a combination that requires more intensive management. In some urban communities, beaches are closed at night. Where this is the case, gates must be installed, then opened and closed daily. Trash must be picked up regularly, and the accessway manager must make sure the pathway is clean. Land trusts choosing to manage accessways in popular urban sites may want to contract with a management company for some of the routine tasks. Such an arrangement will make the management more expensive, but it will also prevent a largely volunteer organization from being overwhelmed.

Coastal accessways in more rural areas may entail fewer management tasks. Where visitors are fewer, gates may not be necessary, and a posted request to “pack it in, pack it out” helps to minimize litter. Volunteers may easily manage such accessways.

HOW TO BE A GOOD NEIGHBOR

It is a good idea for a land trust to meet with neighbors of the accessway and with members of the community to learn about expectations. For example, the neighbors may expect that litter will be picked up regularly, or that signs will be posted requesting the public not to trespass onto private lands. Such requests are reasonable and not difficult to meet. By talking face to face with people who will be affected by the accessway's opening, a land trust can build good relations. Some land trusts may choose to call a public meeting; others may prefer to talk with people informally. Although it may not be possible to satisfy every expectation, a land trust needs to hear the concerns of neighbors and people in their community and to explain its plans for the accessway.

11.

Funding

The Coastal Conservancy may be able to provide funding, and can also help you to find other sources of funding. Call Joan Cardellino, Access Program manager at the Coastal Conservancy, (510) 286-4093.

12.

Designing, constructing, and opening an accessway

Now that your management plan has been approved and you have accepted the OTD, you are, at last, ready to design and build your accessway. Each site is different and has its own requirements. Some access easements need merely to be marked, others need a little improvement, still others require major construction.

If your easement runs across a flat coastal meadow and already has an informal trail, you may need only to put up a sign or two, mark the pathway boundaries, and install a trash can. All this may be accomplished by a volunteer work party in one day. If you have undertaken to open and manage a steep trail down a bluff, a stairway may be required, and for that you may need to hire a contractor. You may also need to obtain permits. If you have an easement that runs in an alley between two houses, you will have other design concerns.

Here is a general outline of the steps to take in constructing and opening an accessway.



**Want a stairway to heaven?
Would you settle for a
beautiful uncrowded beach?**

Accessway is constructed
and ready for a land trust.
Act soon; vertical OTD
expires May 2007.

1. Consult with Coastal Conservancy staff. The Conservancy has more than 20 years of experience in building and opening accessways.

2. Determine what improvements are needed, and whether permits are required. You have already done most of this in your earlier planning.

3. Prepare a site design. What will be built, what materials will be used, where will the improvements go? Call on local expertise. Consult with board members and volunteers who are familiar with construction techniques. Unless you are undertaking improvements that require engineering or architectural work, your land trust may be able to create the site design without hiring professional help.

It's wise to use sturdy, long-lasting materials that will stand up to wear and weather. They may be expensive, but they will save on maintenance and repair costs.

4. Secure funds to cover construction costs. Again, you will probably have arranged for this by now, with the Coastal Conservancy's assistance.

5. If you're making the necessary improvements with volunteers, plan well before you ask people to come out and work. Before calling a work party, make sure you have (1) a clearly stated goal for the day, (2) someone in charge of the work, (3) a clear explanation of the work to be done, (4) continuous supervision, and (5) a party or some other way to thank your participants. Also remember to use the occasion as a media opportunity to advertise your efforts and the new accessway.

If you are hiring a contractor, select someone familiar with construction techniques to manage the project for you. If no one is available from your land trust, public agency, or the community, you may want to hire a project manager. This will add to the project's costs, but it will ensure quality control. You may want to ask for bids on jobs you contract out.

6. Get ready to operate and maintain the accessway. Once construction is complete, the land trust or agency will need to have the management team (whether volunteers, private contractors, or agency staff) in place to keep up the fine new pathway to the beach or bluff.

As at earlier stages, Coastal Conservancy and Coastal Commission staff will be available to help you through these last stages of opening the easements. Don't forget to invite them to your celebration.

13.

What's next?

A celebration is in order! A grand opening event is an opportunity to publicize the new accessway, acknowledge key participants, and raise the land trust's visibility in the community.

Don't stop with one celebration. Look for events that might provide an annual opportunity to publicize your accessway. Coastwalk, a nonprofit organization, leads walks along the coast every summer in its efforts to promote the completion of the California Coastal Trail, which is being built, piece by piece, along the state's entire coast. Let Coastwalk know about your accessway. Contact Richard Nichols, Coastwalk executive director, phone: (800) 550-6854; e-mail: coastwalk@sonic.net; web page: www.sonic.net/coastwalk. California Trail Days and National Trail Days bring crowds of people out to enjoy and work on trails. Contact California Trails and Greenways Foundation, P.O. Box 183, Los Altos, CA 94023; phone: (415) 948-1829; e-mail: caltrail@best.com. You might want to link up with these events.

The accessway is a benefit to the public, but it is also a fundraising opportunity for the land trust. Although it is unlikely that a land trust would want to charge admission (see Liability), it can point to the accessway as a good example of its contribution to the community. If the accessway is useful and well maintained, it will help to build a good reputation for the land trust managing it.

Finally, don't forget to keep promoting the accessway after the excitement of the grand opening has faded. If it is hard to find, you may want to post signs or publish brochures that give directions. If there are significant historical or natural resources on the site, you may want to host educational docent walks.

By taking on an access easement, you have taken ownership of a piece of the coast for everyone's benefit. That's a responsibility, but it's also something to enjoy and be proud of. ■

Thar she blows! That's right, you could be whale watching from your own public trail in the scenic Albion headlands of Mendocino. Act now! This trail OTD won't remain a secret much longer and will soon be snatched up by some savvy land trust.



INFORMATION SOURCES FOR LAND TRUSTS

Land Trust Alliance is the national organization of local and regional land trusts. It provides information and technical support by publishing a quarterly journal, *Exchange*, as well as books and pamphlets on conservation issues, and by organizing an annual national Land Trust Rally. Low-cost insurance is available to land trusts that join the Alliance. For more information contact: Land Trust Alliance, 1319 F St. NW, Suite 501, Washington, DC 20004; (202) 638-4725.

Rivers, Trails, and Conservation Assistance Program of the National Park Service provides technical assistance to states, local governments, and citizens groups to protect and restore river corridors and to establish trail systems. Contact: Western Region, National Park Service, 600 Harrison St., Suite 600, San Francisco, CA 94107; (415) 744-3975.

Trust for Public Land, a national nonprofit organization, provides land acquisition assistance and land trust training. The group's Western Regional Office coordinates meetings of the **California Land Trust Council**, a quarterly gathering of California land trusts and others interested in land conservation. Contact: Trust for Public Land, Western Regional Office, 116 New Montgomery St., Suite 300, San Francisco, CA 94105; (415) 495-5660.

California Coastal Conservancy, a state agency, offers grants and technical assistance to nonprofit organizations seeking to provide public access, preserve open space, or restore habitat in the coastal zone. Contact: Janet Diehl, Coastal Conservancy, 1330 Broadway, Suite 1100, Oakland, CA 94612; (510) 286-1015; e-mail: jdiehl@igc.org.

Center for Natural Lands Management works to protect biological resources through long-term management of mitigation and conservation lands. The Center provides land trusts, conservation organizations, public agencies, developers, and other land managers with expertise in the management of environmentally sensitive lands. It prepares habitat management plans and cost analysis reports. This nonprofit organization focuses on natural resource habitats but has experience with recreational lands as well. Contact: Center for Natural Lands Management, 1808 Tribute Road, Suite B, Sacramento, CA 95815-4312; (916) 567-4180.

California Trails and Greenways Foundation promotes the development, stewardship, and use of trails and greenways in California. It also sponsors the annual California Greenways Grants Program and publishes a newsletter, *Trails for California*. Contact: California Trails Foundation, P.O. Box 183, Los Altos, CA 94023; (415)-948-1829; or California Greenways Board, c/o Richard Trudeau, 633 Los Palos Drive, Lafayette, CA 94549; (510) 284-5120.

California Coastal Commission, a state agency, works to maintain public access to and along the coast, and to maintain public recreational opportunities, consistent with resource conservation and rights of private property owners. Contact: Linda Locklin, California Coastal Commission, 725 Front Street, Suite 300, Santa Cruz, CA 95060; (408) 427-4863.

USEFUL READING

The following are available from the Land Trust Alliance, 1319 F St. NW, Suite 501, Washington, DC 20004-1106; phone: (202) 638-4725:

Statement of Land Trust Standards and Practices: A Self-Assessment Form, rev. 1993, \$2

The Standards and Practices Guidebook: An Operating Manual for Land Trusts, \$65 (\$45 for sponsor organizations)

The Conservation Easement Stewardship Guide: Designing, Monitoring, and Enforcing Easements, by Brenda Lind, 107 pp., \$16 (\$12 for sponsors)

Starting a Land Trust: A Guide to Forming a Land Conservation Organization, 175 pp., \$16 (\$12 for sponsors)

The Conservation Easement Handbook: Managing Land Conservation and Historic Preservation Easement Programs, by Janet Diehl and Thomas S. Barrett, 269 pp., \$28 (\$19.50 for sponsors)

The following are available from the Coastal Conservancy; phone: (510) 286-1015; e-mail: calcoast@igc.org:

The Nonprofit Primer: A Guide Book for Land Trusts

Limitations on Liability for Nonprofit Land Managers

Nonprofit Accounting Procedures

California Coast & Ocean, the Conservancy's quarterly magazine, often contains articles about public/private partnerships in land management as well as other features of interest to land trusts. Available by subscription, \$18 a year.

The California Nonprofit Corporation Handbook, by Anthony Mancuso, \$29.95, available from Nolo Press, 950 Parker St., Berkeley, CA 94710; phone: (800) 992-6656; web site: www.nolo.com

On Saving Land. This newsletter for California land trusts, published by the Trust for Public Land; covers funding, management, and other issues of interest. To be added to the mailing list, call (415)495-5660.

California's Recreational Use Statute and Landowner Liability (2d ed., June 1994), \$3, available from the Bay Area Ridge Trail Council, 311 California St., Suite 300, San Francisco, CA 94104, (415) 391-0697.

Useful manuals for designing, building, and maintaining trails:

Lightly on the Land: The Student Conservation Association Trail-Building and Maintenance Manual, by Robert C. Birkby, 267 pp., \$19.95, The Mountaineers, 1001 SW Klickitat Way, Seattle, WA 98134.

Klamath District Trail Manual, North Coast District, State Parks Department, \$16.50, available from California Trails and Greenways Foundation, P.O. Box 183, Los Altos, CA 94023.

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Designed by Seventeenth Street Studios

This publication is funded by a grant from the National Oceanic and Atmospheric Administration. The views expressed herein are those of the authors and do not necessarily reflect the views of NOAA or any of its sub-agencies.

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