

Putting it into Practice

Accreditation and Signatures on Older Baseline Documentation Reports

Land Trust Standards and Practices and the accreditation requirements call for every baseline documentation report to be signed by the land trust and the easement grantor or current landowner. What should a land trust do if it has older baselines that are not signed? This fact sheet provides tips on how to secure signatures on older baselines or document the process to secure the signatures for accreditation.

Purpose of the Practice

Baselines, if consistently and professionally prepared in the ordinary course of business, can help defend the conservation easement by creating an exception to hearsay rules, allowing the baseline to be introduced as evidence in court even though the preparer(s) of the baseline may no longer be available to testify to its accuracy. Signatures of the parties acknowledging the baseline can strengthen the document's admissibility.

Accreditation Requirements

Practice 11B of *Land Trust Standards and Practices* requires a baseline be completed and signed by the landowner at closing. Signed baseline documentation is also required to meet Treasury Regulation requirements for donated easements and to meet accreditation requirements. The accreditation requirement is excerpted below. See the [Requirements Manual](#) for more detail.

Dated signatures of the landowner and organization acknowledging that both attest to the accuracy of the information contained in the report

- o If the landowner is receiving tax benefits for a donated conservation easement, the acknowledgement must be compliant with the Treasury Department Regulations [§1.170A-14(g)(5)(i)(D)]

Tips for Meeting the Requirements

While signing the baseline prior to, or at, closing is ideal, many land trusts have older baselines that are not signed by the landowner. The lack of signatures can be addressed by the land trust in a variety of ways. For accreditation purposes the land trust needs to secure the signatures from the original or subsequent owner or document its attempts to do so. How does this work in practice?

Scenario 1: Relatively recent donation, original owner

If the easement closed within the last few years and the land is still owned by the original grantor, many land trusts find it is relatively simple to ask the donor to sign an acknowledgement statement indicating that the original baseline still reflects the condition of the property at the time the easement was granted. Land trusts sometimes incorporate the request for the signature into the annual monitoring visit.

Scenario 2: Older baseline, new owner

What happens when you have an older baseline and a new owner? Some land trusts are reluctant to ask a new owner to sign a baseline that was created before the person owned the property. In

this situation, land trusts generally create a current conditions report or supplemental baseline report and ask the new owner to sign it.

The standards for creating and authenticating a current conditions or supplemental baseline are the same as for new baselines (for more information, see the resources below). The current conditions or supplemental report, however, may not need to contain all of the detailed inventory information in the original baseline. Land trusts often find this is a good opportunity to update property descriptions, maps and photos, which can be gathered during a monitoring visit. Sharing this important information about the property with a new landowner can help build stronger relationships with the owner.

Scenario 3: Landowner refuses to sign

The accreditation program recognizes that it may be impossible to get some landowners to sign the baseline or current conditions or supplemental report. In that case, a land trust needs to keep documentation of its attempt to secure the signatures. What does this documentation look like for the purposes of accreditation? It takes a variety of forms.

- If a land trust only has a few baselines needing signatures, it may keep correspondence, emails or internal notes about its attempt to secure the signature on each.
- If a land trust has a number of baselines needing signatures, it may create a chart to track the date the landowner was asked to sign, an indication if it was signed and/or the date a subsequent request was sent and a note if the signature was never received and/or the owner refused to sign.

By taking these simple steps, land trusts can help ensure their baselines will meet evidentiary, Treasury Regulations and accreditation requirements.

RESOURCES

For additional articles and other information on baselines, see these resources:

- Hamilton, J. E. Land Trust Alliance. 2008. Chapter 3. Baseline documentation reports. *Conservation Easement Drafting and Documentation* (S. Bates, ed.). Available at <http://www.landtrustalliance.org/resources/publications/pubs-alphabetical-listing#c>.
- Land Trust Accreditation Commission [*Requirements Manual*](#) 11B.
- Open Space Institute. 2012. Appendix 2. Baselines and Current Conditions Reports: Authentication and Admissibility. [*Easement Revitalization: A problem solving guidebook for land trusts*](#).

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