Stewardship Options

For Private

Landowners in

British Columbia

- Researching, Retaining and Restoring Natural Features and Habitats
- Reserving Natural Values on Your Land: Legal Options for Landowners

Canada

British Columbia

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Stewardship Options for Private Landowners in British Columbia

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Foreward

"THE REAL WILDLIFE MANAGERS ARE THE LANDOWNERS"

Wildlife Habitat Canada

This book helps landowners identify natural features on their property and provides both practical and legal options for private stewardship. Part One provides hands-on suggestions for identifying, retaining and restoring wildlife and fish habitat. Part two describes legal options and current tax incentives available to private landowners to protect that habitat.

Private land stewardship is essential to conserve British Columbia's unique biological diversity and maintain fish and wildlife populations. There are many rewards for land stewards such as personal enjoyment, a better quality of life, creating economic opportunities, and the chance to leave a living legacy for future generations.

We hope you find Stewardship Options both helpful and informative.

Acknowledgements . . . 2
Foreward . . . 3
Introduction . . . 6
Four R's of Stewardship . . . 6
British Columbia and its diversity . . . 7
Glossary of ecological terms . . . 8

PART 1-RESEARCHING, RETAINING AND RESTORING NATURAL FEATURES AND HABITATS

Researching your region . . . 10
Map of ecoprovinces of British Columbia . . . 11
Landscape vignettes of British Columbia . . . 12
General stewardship tips . . . 14
Natural features and habitats . . . 18
1. Home and garden . . . 18
2. Waterways . . . 19
3. Wetlands . . . 20
4. Old fields, fencelines, hedgerows and old buildings . . . 21
5. Grasslands . . . 22
6. Lowland dry coniferous forests . . . 23
7. Broadleaf woodlands . . . 24
8. Rain forests . . . 25
9. Rocky outcrops, cliffs, caves and talus slopes . . . 26
10. Shoreline . . . 27

PART 2-RESERVING NATURAL VALUES ON YOUR LAND: LEGAL OPTIONS FOR LANDOWNERS

Land law: the basics . . . 29
Some working legal terms . . . 30
Legal options for protecting natural resources . . . 31
Stewardship agreements . . . 31
1.) Short-term stewardship agreements . . . 33
Verbal agreements . . . 33
Management agreements . . . 33
Leases . . . 33
Licenses . . . 33
2.) Long-term stewardship agreements . . . 34
Conservation covenants . . . 34
Restrictive covenants . . . 34
Easements . . . 35
Profit à prendre . . . 35
Transfer of title . . . 36
1.) Sale
Outright sale . . . 36
Sale with saleback or lease back . . . 36
Bargain sale . . . 36
Right of first refusal/option to purchase . . . 36
Installment sale . . . 36
2.) Gift
Outright donation or bequest . . . 36
Conditional donation . . . 36
Reserved life estate . . . 37
Part donation . . . 37
Tax incentives . . . 38
Future directions . . . 40

Introduction

conservation organizations are keen to help landowners

This book is written for all private landowners in British Columbia who voluntarily want to protect and maintain wildlife *habitat* on their property. More and more landowners, from rural homesteaders to suburban dwellers, are recognizing the role they can play in protecting and enriching the province's diverse wildlife and fish habitat. This book provides some tips on how to do that.

Although less than 6% of British Columbia is privately owned, this small percentage of land tends to coincide with the richest regions for *biodiversity*. A wide variety of plants and animals rely on habitat on private land—and for many *species and ecosystems at risk*, their range is exclusively over private land, such as the Pacific water shrew or Garry oak meadows. There is a growing awareness that the acquisition of parks to preserve these habitats isn't going to solve the problem, even if we had financial resources to buy them. Landowner participation is an essential part of the work needed to protect all these species and ecosystems.

Stewardship is about actively caring for something of value. *Private land stewardship* is voluntarily taking responsibility for the patch of land over which you as a landowner have some influence. This might range from a backyard garden to a thousand-hectare ranch. The natural world operates at all scales; so does stewardship.

The province has a wealth and diversity of traditions of private land stewardship from the First Nations *traditional ecological knowledge* to modern *adaptive management* practices. Generations of people have extended their care to parts of this land and its inhabitants, whether it is preserving wetlands or tending forests. They have valued the land for its ability to sustain ways of life, food supplies or simply because of its beauty. Pressures on the land from development and the realization that natural systems cannot survive when confined to isolated parks have now forced us to consider adopting stewardship traditions on as wide a scope as possible.

THE FOUR R'S OF PRIVATE LAND STEWARDSHIP

Each category or step has a different degree of involvement and commitment. Different landowners might be at different steps so you can refer to the sections that most interest you.

The first step is to observe your land, identify natural features and native species and get to understand the patterns and processes of wildlife on your land: RESEARCH. The second step is to maintain your land in a natural state, keeping it attractive for wildlife: RETAIN the natural integrity of the land.

The third step is to improve your land for wildlife and RESTORE or enhance habitat that may have been altered, like restoring a wetland that has been drained. A final step is to put into place the legal tools that are required to ensure the long term protection of your land: RESERVE its natural features and productivity for the future.

The first three steps are addressed in Part 1: Researching, Retaining and Restoring Natural Features and Habitats on your Land. The fourth step is contained in Part 2: Reserving Natural Values on your Land: Legal options for Landowners. Within these sections are a smorgasbord of ideas for a wide range of landowners. Part 1 has practical tips ranging from how to encourage native plants in your garden to the role of controlled fires in grasslands. Part 2 covers the variety of legal options available for long term protection of land from management agreements to conservation covenants. There are options for doing it on your own or sharing the responsibility with conservation organizations.

Many conservation organizations are keen to assist landowners with stewardship ideas, so contacts for these organizations are provided throughout this book. Although some support resources are also included in this book, it is best to contact your local organization directly for current information.

British Columbia is an attractive place to live. More types of birds, amphibians, reptiles, mammals, plants and insects have crept, flown, hopped or taken root here since the last ice age than in any other province in Canada. This is due to the nature of the landscape; we have high mountain ranges, deserts, glaciers the size of Prince Edward Island, rolling grasslands and dry forests, vast tundra, an intricate network of rivers, streams, wetlands and bogs, the largest patch of temperate rain forest left in the world, fjords plunging to the sea and everything in between. The great zones of the continent—prairie, tundra and coastal forest—meet here in a jumble of mountains where there are diverse opportunities for organisms to mingle, separate and evolve.

If you could iron out all the bumps and dips of the land in British Columbia, you would have a province that stretched all the way to Manitoba. Its varied topography is what makes the province so diverse a place for wildlife.

The most attractive places for organisms to live are where these zones converge and the climate is good—the estuaries and shorelines, the valley bottoms and the southern grasslands in the interior and on the coast. These places are also the most sought-after places for people to live. We concentrate, as wildlife does, where there is a good source of water, food and favourable conditions to live. Over the last 25 years, this preference for the same land has been one of the chief causes of the loss of biodiversity. We are crowding out our wildlife. This guide provides the means of identifying the significance of your land for wildlife habitat and what you can do to ease the pressure.

British Columbia has...

70% of Canada's nesting bird species

72% of Canada's land mammal species

50% of Canada's amphibian species, 41% of the land reptiles species

60% of Canada's plant species
73% of mosses and liverworts

40,000 species of insects, spiders & mites

ALL THE TERMS IN *ITALICS* ARE DEFINED IN THE GLOSSARY ON PAGES 8-9

Glossary of Ecological Terms:

ADAPTIVE MANAGEMENT - adapting your approach to wildlife management as you observe the effects of your stewardship actions on wildlife and habitat.

biodiversity is the diversity of life in all its forms and processes.

BIODIVERSITY (OR BIOLOGICAL DIVERSITY) - the variety of life on earth and the ecological roles they perform. Biodiversity is recognized at three levels; diversity of species, diversity of ecosystems and genetic diversity within a species.

CANOPY, UNDERSTOREY AND GROUND LAYER - different parts of the structure of a forest. The canopy is the upper storey, the understorey includes the small trees and shrubs and the ground layer describes the grasses and smaller plants covering the ground. Each part of the forest provides different habitat for different species.

CLIMAX ECOSYSTEMS AND SUCCESSION - climax ecosystems refer to the stage when the species within the ecosystem reach an equilibrium and are self-perpetuating such as an old growth forest. Ecosystems arrive at climax through a process of change called succession.

COMMUNITY - the plants and animals, including humans, that interact in a habitat.

CONSERVATION - the management or control of human use of resources and activities to **protect, restore, enhance** and **maintain** natural ecosystems for present and future generations.

CONSERVATION ORGANIZATIONS - are made up of people who have great amounts of enthusiasm and accumulated knowledge on natural history and the environment. There are a wide range of groups that offer expertise in different areas from helping to identify plants and animals (naturalist groups) to offering advice on legal options (land trusts). Expertise and experiences vary, so shop around to find the right organization to suit your needs.

DRY CONIFEROUS FOREST - a forest of evergreen tree species where fire plays a significant role in the natural succession of the forest.

an ecosystem is all living & non-living things in a given area

ECOLOGY - the study of the relation of organisms to their environment.

ECOLOGICALLY SENSITIVE LAND - areas or sites that presently or in the future could significantly contribute to the conservation of Canada's biodiversity and natural environmental heritage. A term used specifically in the Income Tax Act.

ECOPROVINCE - an area with physical features, climate and wildlife that are broadly similar across a large region.

ECOSYSTEM - is the term used for the sum total of vegetation, animals and the physical environment in which they interact. An ecosystem can apply to whatever size segment of the world is chosen for study—as small as a terrarium or as big as the world. Ecosystem is derived from the Greek term oikos for home.

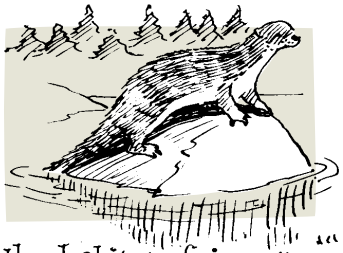
ENDANGERED - any species of plant or animal whose existence is threatened with immediate extinction through all or most of its range.

ENHANCEMENT - actions that increase the quality of habitat for particular species or wildlife in general.

ENVIRONMENTALLY SENSITIVE AREAS - ESAs - a planning term that you might see on your municipal planning maps. The term refers to areas that have been identified by your community as significant local habitat for species or ecosystems at risk. These areas appear on Official Community Plans (OCPs) so that when development is proposed, the potential impact can be minimized. This designation by itself does not provide the area with protection from human development.

EXOTIC SPECIES - alien species that have been introduced into an area from somewhere else–usually from another continent and/or a markedly different habitat.

FRAGMENTATION - when a natural landscape is broken up by areas of development or other land uses that alter the natural elements. Species which rely on large continuous natural areas suffer habitat loss through fragmentation.



the habitat of river otters is sea, river & lakeshores.

the habitat of sea otters is the kelpbeds offshore.

HABITAT - the place where a species or population lives and derives its food and shelter.

INVASIVE SPECIES - are exotics that have moved into a habitat and reproduce so aggressively that they displace native species.

NATIVE SPECIES - a species that originates in a particular place; not having been introduced recently from somewhere else.

NATURAL AREA - an area that is largely undisturbed by human activities and supports primarily species that are native to the area. In some parts of the province, there are few areas free of human interference, so the term is used in a relative sense to refer to more natural environments remaining in landscapes that are otherwise greatly changed by human activities.

NATURAL REGION (ALSO DESCRIBED AS ECOPROVINCE)- an area with physical features, climate and wildlife that are broadly similar across the region.

NURSE LOG - a downed log in a forest that provides habitat and the growing conditions for new trees and forest understorey species.

OLD GROWTH FOREST - the last stage in forest succession. Old growth forests are characterized by a large variety of tree sizes and ages, a great diversity in species of plants and animals, the presence of standing and fallen dead trees and an uneven canopy which allows light to reach the forest floor in small openings. There are also spiritual and intrinsic values attached to old growth forests.

PRESERVATION - long term protection of ecosystems in their natural state.

PRIVATE LAND STEWARDSHIP - is voluntary, active care and sustainable use of land by private landowners based on an ethical commitment to conservation.

RAIN FOREST - a forest that is characterized by high precipitation and the absence of fire as a significant factor in the natural succession of the forest.

RESTORATION - returning a historic site from its present altered condition to its previously existing natural condition.

RIPARIAN ZONE - the area bordering a river, stream or other waterway. Riparian vegetation provides important habitat for wildlife and fish.

SECOND GROWTH FOREST - an even-aged forest that has undergone harvesting, e.g., clearcutting; different from old growth forests in that tree sizes and ages are similar.

SPECIES - a group of individuals that share certain physical characteristics and are capable of producing fertile offspring.

SPECIES AT RISK (OR ECOSYSTEMS AT RISK) - encompasses three different categories that describe the degree of risk that native plants and animals face from external factors like urban development: endangered, threatened and species vulnerable to extinction. Endangered species have the greatest degree of risk of extermination.

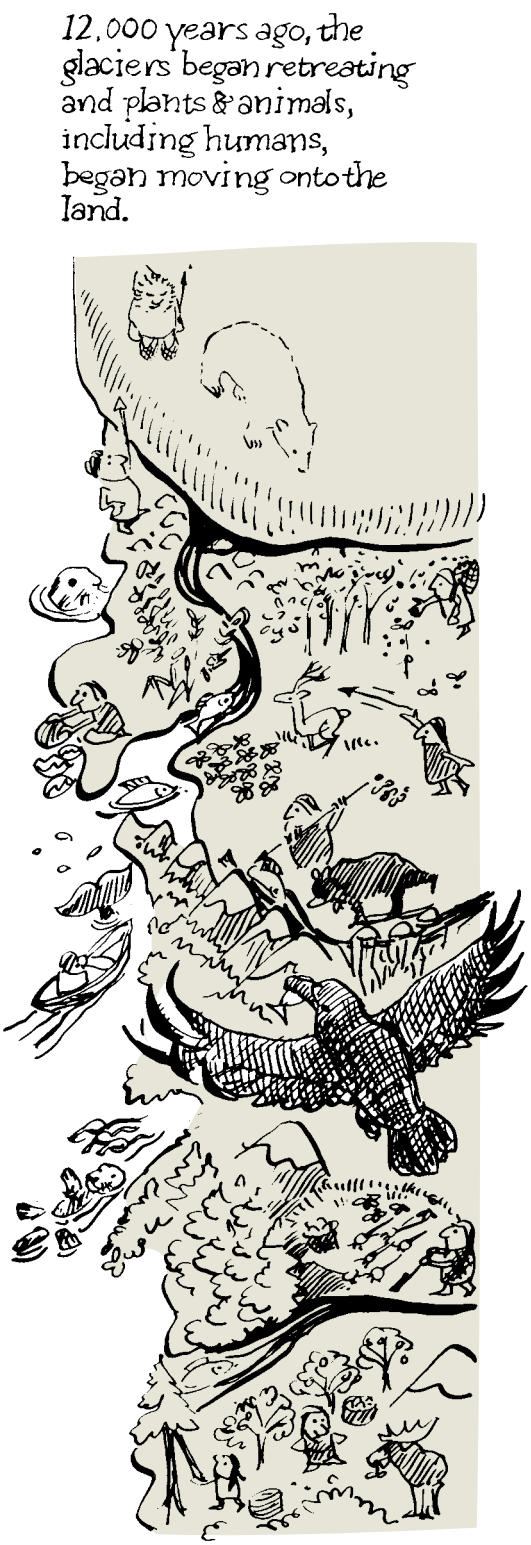
SUCCESSION - the progressive development of different ecosystems through time, e.g., forests might develop from scrub to an alder woodland to a mature coniferous forest through several stages.

TRADITIONAL ECOLOGICAL KNOWLEDGE - describes indigenous people's knowledge of their environment, its processes and interrelationships. This kind of knowledge has come to be recognized as an important source of information about species and ecosystems that parallels and complements scientific knowledge.

WETLANDS - an area that is regularly saturated by surface or ground water that has vegetation adapted for life in these soil conditions. The most common types of wetlands are swamps, marshes and bogs, fens and shallow water. Swamps usually occur along forested river courses, bogs occur in cool wet areas where drainage is poor and marshes usually occur at the margins of larger bodies of water, such as lakes or oceans.

WILDLIFE TREE - a standing dead or live tree with special characteristics that provide valuable habitat for birds, small mammals and other wildlife (also referred to as snags).

Part 1: Researching, Retaining and Restoring Natural Features and Habitat



RESEARCHING YOUR REGION

Refer to page 11 for the map of British Columbia with 10 distinct ecoprovinces or natural regions outlined on it. These lines were drawn by ecologists but they also delineate our human communities too—Georgia Strait people, West Coasters, Kootenay people, Peace River people, northerners. British Columbians have traditionally identified themselves with the plants and animals of their region. Gulf Islanders sigh at the sight of a kingfisher in an arbutus, northerners get goosebumps at the roar of a moose in spruce. The First Nation clan system was based on animals of the region such as the Raven and Eagle clans of the Haida. Many municipalities and towns have named themselves after the original native plants or animals, such as Oak Bay, Aldergrove or Salmon Arm, which provide clues to the original plant and animal communities of the region.

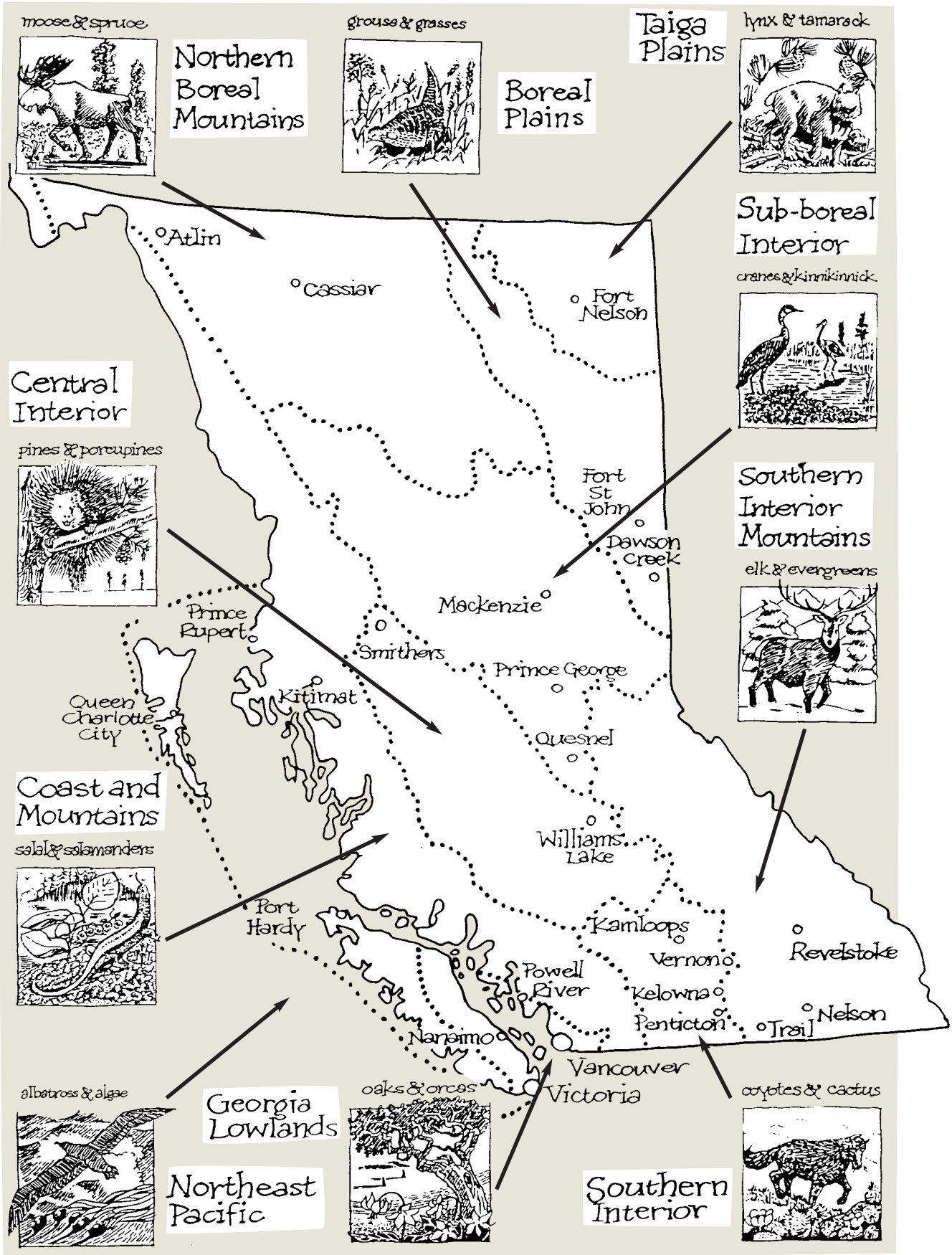
Identifying your ecoprovince is not always straightforward as there are often no clear boundaries between regions. For example, *dry coniferous forests* of predominantly Douglas-fir in the Georgia Lowlands gradually change into *rain forests* of western hemlock as you move towards the ecoprovince of the Coast and Mountains. The ecoprovince classification is really to give ourselves points of reference from which to gather information. You'll find that much of the resource material on plants and animals is also organized into these regions.

Each ecoprovince has a vignette attached to it to illustrate a typical settled, landscape of the region (page 12-13). The Georgia Basin, being the most heavily populated region with the greatest threats to biodiversity, has two vignettes to show characteristic landscapes of the area.

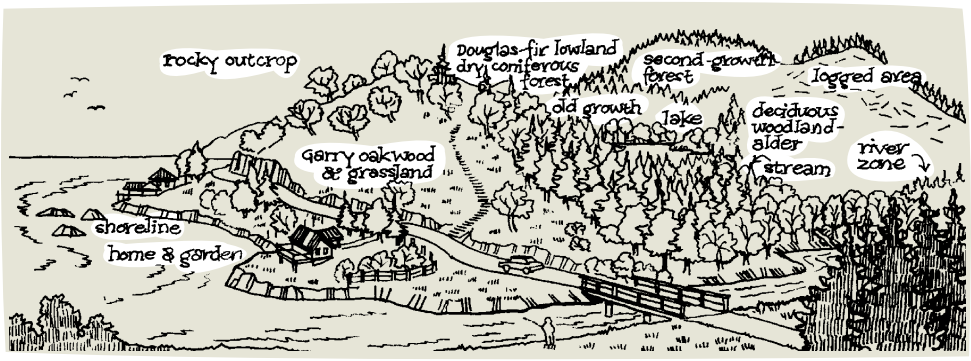
On the vignettes, different natural features of the landscapes that have implications for wildlife are labelled to help you evaluate your land. For example, if you are a landowner in the Okanagan with five acres, your land might consist of a home with garden within an antelope-bitterbrush grassland, a wetland, a patch of dry coniferous forest of ponderosa pine and hedgerows of native shrubs. If you are a landowner on Vancouver Island, then you might live next to a river or waterway with a broadleaf woodland of alder and remnants of a rain forest of western hemlock and cedar. Don't worry if you can't determine clear boundaries between features—ecosystems at all levels rarely have clear boundaries. You'll often find a dry forest or broad leaf woodland merging into a grassland without any clear separation. Similarly, waterways run seamlessly through forests. These titles are general categories to which specific stewardship tasks have been assigned.

When you have determined what features your land consists of, go to the next section (page 18-27) that illustrates these features in detail and provides tips on how to retain and restore and enhance them for wildlife habitat.

Map of Ecoprovinces of British Columbia

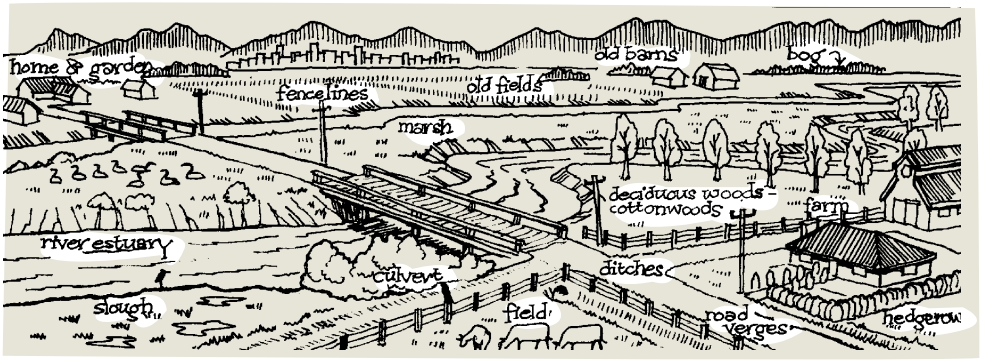


Landscape Vignettes of British Columbia



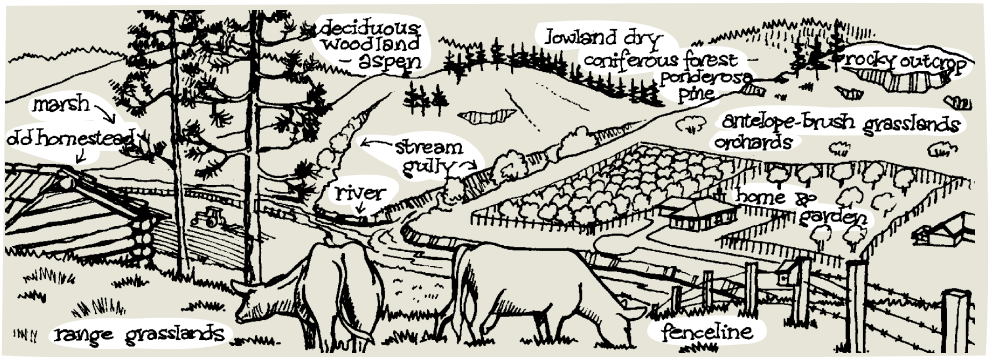
Broad sheltered basin that borders Georgia Strait. Moderate climate. Flat lowlands. Highly populated and ecosystems under threat from urbanization. Unique forest habitats of old growth Douglas-fir and Garry oak. Great diversity of wildlife.

GEORGIA LOWLANDS *Vancouver, Victoria, Nanaimo, Powell River, and the Fraser Valley*



Large coastal mountains and lowlands, islands. Shorelines and deep inlets. High rainfall from the Pacific Ocean. Vegetation ranges from western hemlock to alpine tundra and glaciers.

COAST AND MOUNTAINS *Prince Rupert, Kitimat, Port Hardy and Terrace*

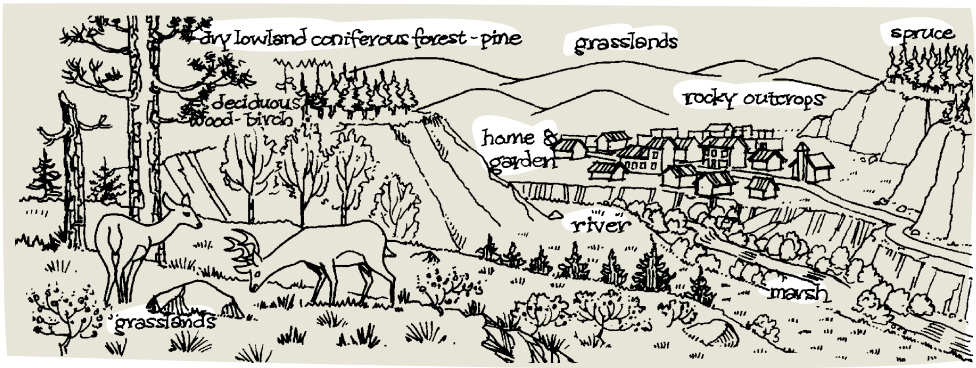


Rainshadow of Coast and Cascade Mountains. Warm and dry, although with outbreaks of cold dense Arctic air. Dry grasslands, ponderosa pine and Douglas-fir forests. Large deep lakes, many small wetlands and rivers.

SOUTHERN INTERIOR *Kamloops, Vernon, Kelowna and Penticton*

Influenced by mild flow of Pacific air. Pine forests with some dry sagebrush and grasslands, many wetlands and small lakes.

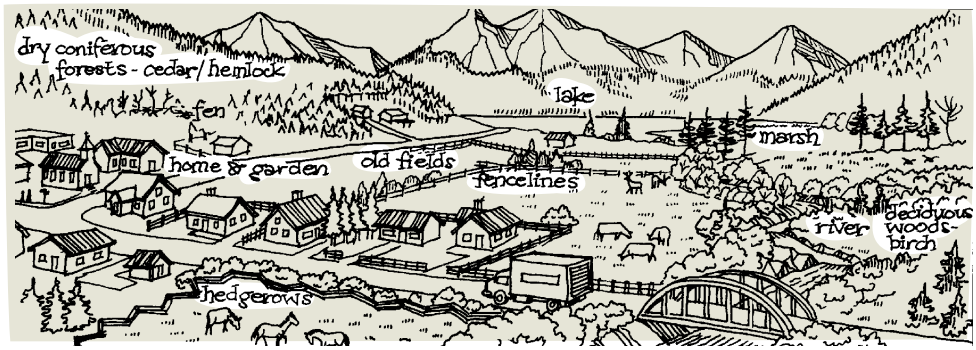
pines & porcupines



CENTRAL INTERIOR *Williams Lake and Smithers (Chilcotin, Cariboo and Nechako)*

Vast mountain ranges, heavy snow on the western slopes. Dense coniferous forests, some mixed and deciduous forests.

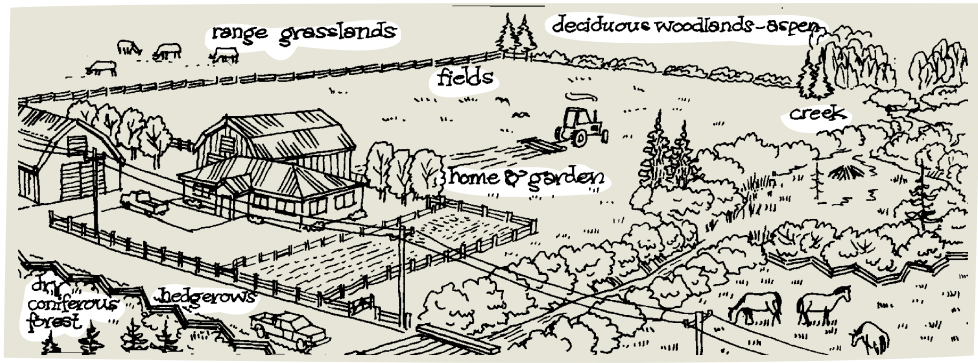
elk & evergreens



SOUTHERN INTERIOR MOUNTAINS
Cranbrook, Nelson, Revelstoke and Trail

Plateaus, plains prairies and lowlands. White and black spruce and aspen parklands.

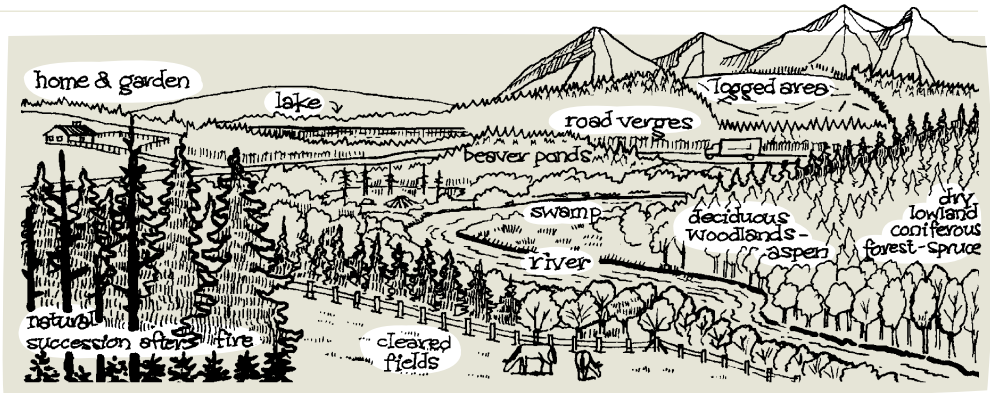
grouse & grasses



TAIGA AND BOREAL PLAINS *Fort St. John and Dawson Creek*

Mountains, plateaus and wide valleys and lowlands. Dry summers and long arctic winters. White and black spruce, willow and birch. Broad level plateaus, dry rainshadows, dense coniferous forests, some mixed forest. Home of the mountain caribou and Stone sheep.

moose & spruce



NORTHERN BOREAL MOUNTAINS AND SUB-BOREAL INTERIOR
Atlin, Cassiar and Telegraph Creek and Prince George, Mackenzie and Quesnel

General Stewardship Tips

tips on getting to know your region

The idea of land stewardship has been around for several thousands of years in British Columbia. The Nuu-Chah-Nulth people in Clayoquot Sound have a traditional system of stewardship and land ownership called *Ha hoolthe* in which the hereditary chiefs have the responsibility to take care of the forests, the land and the sea within their control. The basic principles governing their stewardship is that all things are related, all things are sacred and must be respected, and finally, balance and harmony between all life forms is essential.

These same principles have been brought to British Columbia by other cultural traditions from the Quakers to the Buddhists. And now the scientific community is reinforcing the same goals after years of ecological research. Ideas on land stewardship are coming together from different origins providing a wealth of experience to draw from. These principles, applied to your land, generate simple, practical ideas based on your observation and experience. They don't generate hard or fast rules.

TIP #1 RESEARCH

- spend part of your holidays exploring your home region at regional parks or wildlife management areas.
- learn to recognize native species and the natural areas of your land and the different habitats or features that make up your region.
- read local natural history books. Contact your local library, naturalist group or park naturalist for a reading list.
- talk to people who have lived in the area for a long time.
- learn something about the First Nations of the region and their traditional use of the land.
- walk your land in all seasons, all times of day and night, and take time to enjoy it.
- look for signs of wildlife over the seasons and begin to get a feeling for their patterns and migrations across and within your property.
- get an air photo of your land and use it to identify the features of your land.
- try mapping your property.
  A practical guide to assist individuals in mapping natural features on their property or in their neighbourhood is ***Giving the Land a Voice: Mapping your Home Place*** edited by Sheila Harrington,1994. Copies are available for $14. + $2. postage from Salt Spring Community Services, 268 Fulford-Ganges Road, Salt Spring Island, BC V8K 2K6 Phone (250) 537-9971
- contact local naturalist groups and other conservation organizations.

FEDERATION OF BRITISH COLUMBIA NATURALISTS (FBCN)

If you want to find out what wildlife you have on your land, contact the Federation to put you in touch with a local naturalist club. The Federation is the umbrella organization for 49 naturalists clubs throughout the province. Within individual clubs are a range of naturalists that offer walks, talks and often publications on the natural history of the area. In addition the FBCN has an initiative called Land for Nature which works with communities to raise awareness and find ways to protect critical lands for nature.

Federation of British Columbia Naturalists
321-1367 West Broadway, Vancouver, BC V6H 4A9
Phone (604) 737-3057

Land for Nature
1009-207 West Hastings Street, Vancouver, BC V6B 1H7
Phone (604) 878-0826

BRITISH COLUMBIA ENVIRONMENTAL NETWORK

The British Columbia Environmental Network (BCEN) can help you find a local conservation group within your region.

BCEN
1672 East Tenth Ave. Vancouver, BC V5N 1XS
Phone (604) 879-2279 or Email: bcen@web.apc.org

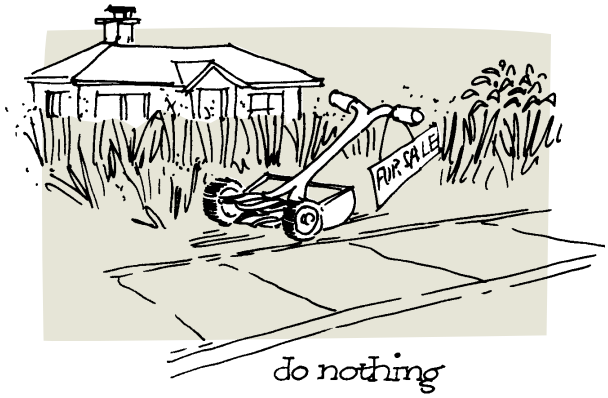
ESSENTIALLY, LAND STEWARDSHIP IS ALL ABOUT ENJOYING YOUR LAND, HAVING A SENSE OF ADVENTURE AND A SENSE OF HUMILITY IN THE FACE OF A MUCH GREATER FORCE—THE NATURAL WORLD.

TIP #2. RETAIN. "DO NOTHING"

The most important thing that you can do as a land steward is often nothing. We are a busy species and not very good at leaving things alone. *Natural areas* that haven't been altered much are generally hard to improve on. They evolved that way for a good reason. As a first principle, **preservation of a natural area is far more important than trying to restore it.** It is always preferable to retain habitat than try and create it, e.g., salmon spawning streams. It is costly to do restoration work and it never approaches the real thing. At best you can restore habitat for a few species.

Be content with natural order. Some cultural traditions brought to British Columbia have given us a great taste for man-made order such as lawns and rectangular beds of *exotic* plants. Leaving a *natural area* seems to go against all our aesthetic tastes. Times and tastes are changing and the beauty of natural order in all our landscapes is being rediscovered.

The practice of doing nothing can be extended to what we put on the land or in the water. This includes chemical fertilizers, herbicides, fungicides, pesticides, whatevericides you can think of. A functioning ecosystem provides all of the above free of charge. For example, alder is a natural fertilizer; birds, ladybirds, bats and wasps make great pesticides; shady cedars act like herbicides.



WILDLIFE TREE PROGRAM

This program identifies trees, both live and dead, that are used by wildlife for nesting, food, shelter, denning, roosting and perching. To create awareness of the role of the trees, signs are available for posting on the trees. Each tree receives an ID number to be used for future identification and record keeping. Landowners wanting to be part of this program can voluntarily register their trees with the program and receive the signs. There are now certified wildlife tree assessors who can assess the wildlife trees for their wildlife values as well as for safety purposes.

WILDLIFE TREE COORDINATOR

Habitat Protection Branch
Ministry of Environment, Lands and Parks
780 Blanshard Street
Victoria, BC V8V 1X4
Phone (250) 356-7719

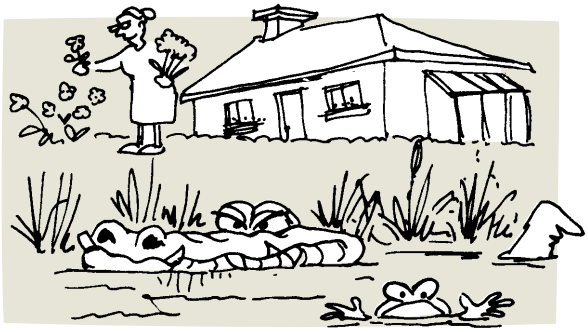
TIP #3 RESTORE AND ENHANCE "DOING SOMETHING"

There are, as always, a few exceptions to the rule of doing nothing. If an area is degraded beyond its ability to recover on its own, then a pair of human hands can be helpful to restore areas, especially with the activities described below. The art of restoration is very new in British Columbia, so a spirit of adventure is the main prerequisite for restoration work. Enhancement can also come under this category because it involves landowners increasing the quality of habitat of a particular species or wildlife in general. With both activities, ecologists suggest *adaptive management* which means you do something, then sit back and watch the results and adapt your next steps to what you have observed. The following are some basic restoration and enhancement tasks.

(a) Plant *native species*.

Once native species are established, they rely on the sun, the rain and their compatriots in the ecosystem to keep them healthy. This is low maintenance gardening at its best—low watering (after they are established), fertilizing or applying pesticides or herbicides. Start with patches adjacent to existing natural areas, if you have them, allowing seeds and root systems to spread. If you don't know what used to grow on your land, go to the nearest natural park and note the species that grow there or phone up you local naturalist group. Only buy nursery grown native plants.

Do not dig up native species from the wild unless the area is about to be bulldozed. Collect seed (never more than 20% of the available seed), take cuttings, buy from nurseries that supply natives or join a native plant group and swap seeds.



Note: Avoid "wildflower" mixes from your local garden store—they are not native wildflowers. The mixes include roadside species from Europe or eastern U.S. and some include *invasive species* like purple loosestrife which chokes out our wetland plant species.

(b) Remove *exotic and invasive species*.

Exotic species are plants or animals that have been introduced from somewhere far away. For example, some literary buff at the turn of the century introduced to North America all the species from England that appeared in Shakespeare—including starlings. Some exotics stay put in a garden, but some, become invasive species, and are no longer controlled by their natural predators and breed to the point of displacing the native species. For example, Scotch broom has spread in exposed coastal areas with the effect of impoverishing the biodiversity of the region. You can give our native species assistance by judiciously removing invasive species and reducing your use of exotics. Twenty-one percent of flowering plants are now introduced species and the impact of them on the native populations is just beginning to be documented.

CANADIAN WILDFLOWER SOCIETY

The Canadian Wildflower Society is the national society that promotes the conservation of native plants and wildflowers. There are provincial chapters which can put you in touch with local native plant groups. Membership includes a subscription to Wildlflower magazine, an excellent publication on native plants, and access to native wildflower seed exchanges.

Canadian Wildflower Society
4981 Highway 7 East, Unit 12 A,
Suite 228
Markham, Ontario L3R 1N1
Phone (905) 294-9075

The publication *Invasive Plants of Natural Habitats in Canada* by David White, Erick Haber and Cathy Kedely describes invasive plants and potential control methods. It is available from North American Wetlands Conservation Council, Suite 20, 1750 Courtwood Crescent, Ottawa, Ontario, K2C 2B5 Phone (613) 228-2601

(c) *Enhance* the habitat for native species by building bird boxes, bat boxes, reptile rock piles and bird baths.

Consult your local naturalists club for some enhancement projects that are appropriate for fish and wildlife in your region. For example, you can prevent *invasive* starlings and encourage native violet-green swallows or mountain bluebirds by building nest boxes with a hole no larger than 1 1/2 inches (35 mm).

THE TOUGHEST INVADERS

The following list indicates some of the exotic species that have had a serious impact on native wildlife and plant populations in the province. This list includes invasive species such as starlings and Scotch broom, as well as exotic species that are a problem if not controlled, such as cats which prey on our vulnerable songbird population. Control of introduced species is a complex issue and individual landowners can assist with increasing the understanding of how these plants and animals displace our native populations and how best to limit the damage they cause.

EXOTIC ANIMALS

- Cat
- Dog
- House sparrow
- House mouse
- Norway rat
- Opossum
- European starlings
- European rabbit
- American bullfrog

INVASIVE PLANTS

- English Ivy
- Purple loosestrife
- Deadly nightshade
- Himalayan blackberry
- Scotch broom and gorse
- Leafy spurge
- Garlic mustard
- Eurasian watermilfoil in waterways
- Holly and laurel-leaved daphne in coastal Douglas-fir forests
- Knapweed in the interior grasslands

put a nurse log in your flower bed

1 HOME & GARDEN

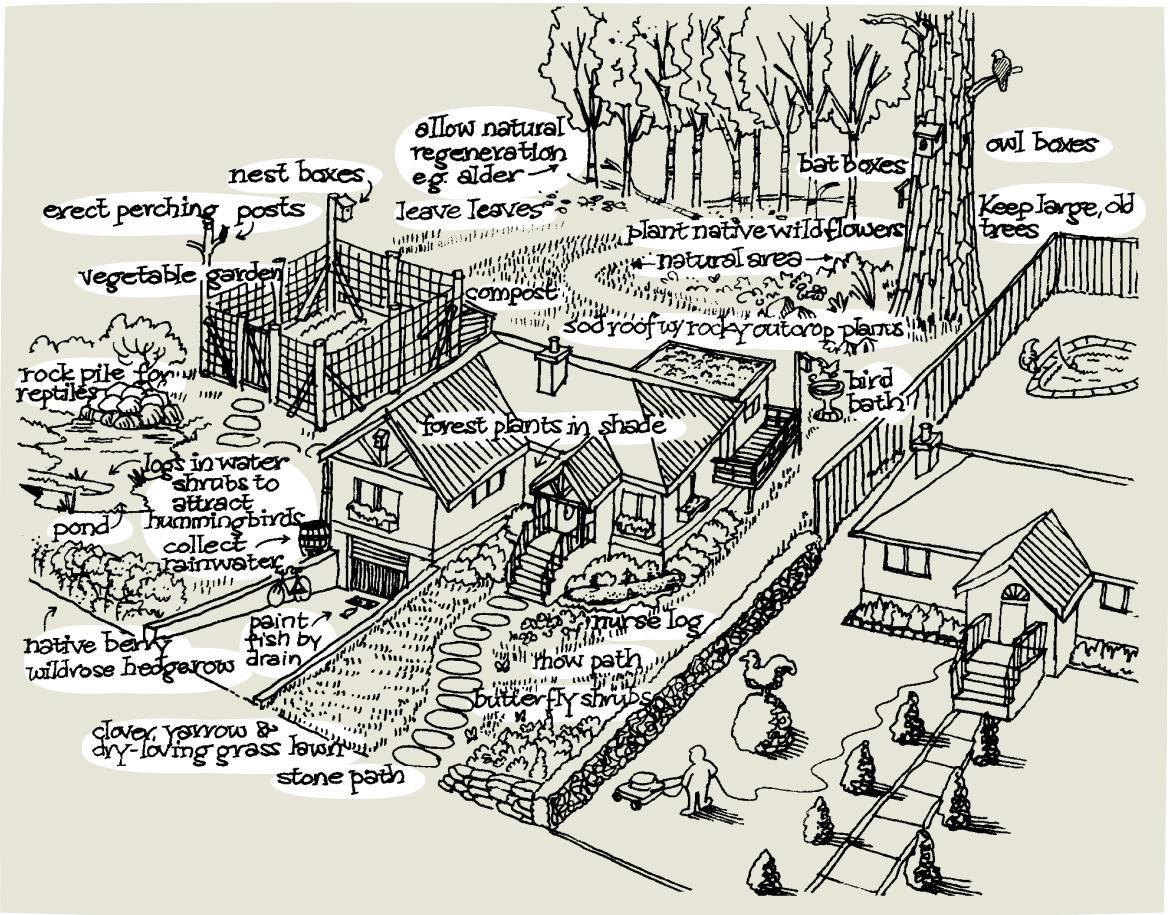
Tastes in garden design in British Columbia for the last 100 years of colonial settlement have ranged from English country to Spanish. Except for the independent-minded gardener, British Columbians have not given the native garden a good try. The lawn, an idea brought over from England where wet summers are the norm, doesn't do much for our native species or our water supplies. So going native in your garden design can create a small oasis for the plants and animals that originally thrived there. Think of biodiversity beginning in your backyard. You get fresher air, help preserve water, and provide a chemical-free environment with an endless source of entertainment through watching native wildlife.

NATURESCAPE
BRITISH COLUMBIA
Caring for wildlife habitat at home

NATURESCAPE BRITISH COLUMBIA is a program for homeowners, gardners and naturalists who want to care for wildlife habitat at home.

The Naturscape Kit provides all the information needed to create habitat in your yard for birds, butterflies and a variety of creatures. The kit also includes specific information about native plants and animals in your region and a resource book listing conservation organizations, wildlife rehabilitation centres, and native plant nurseries.

Naturescape British Columbia
300-1005 Broad Street,
Victoria, BC V8W 2A1
Phone 1-800-387-9853. In Victoria call 387-9853



2 WATERWAYS

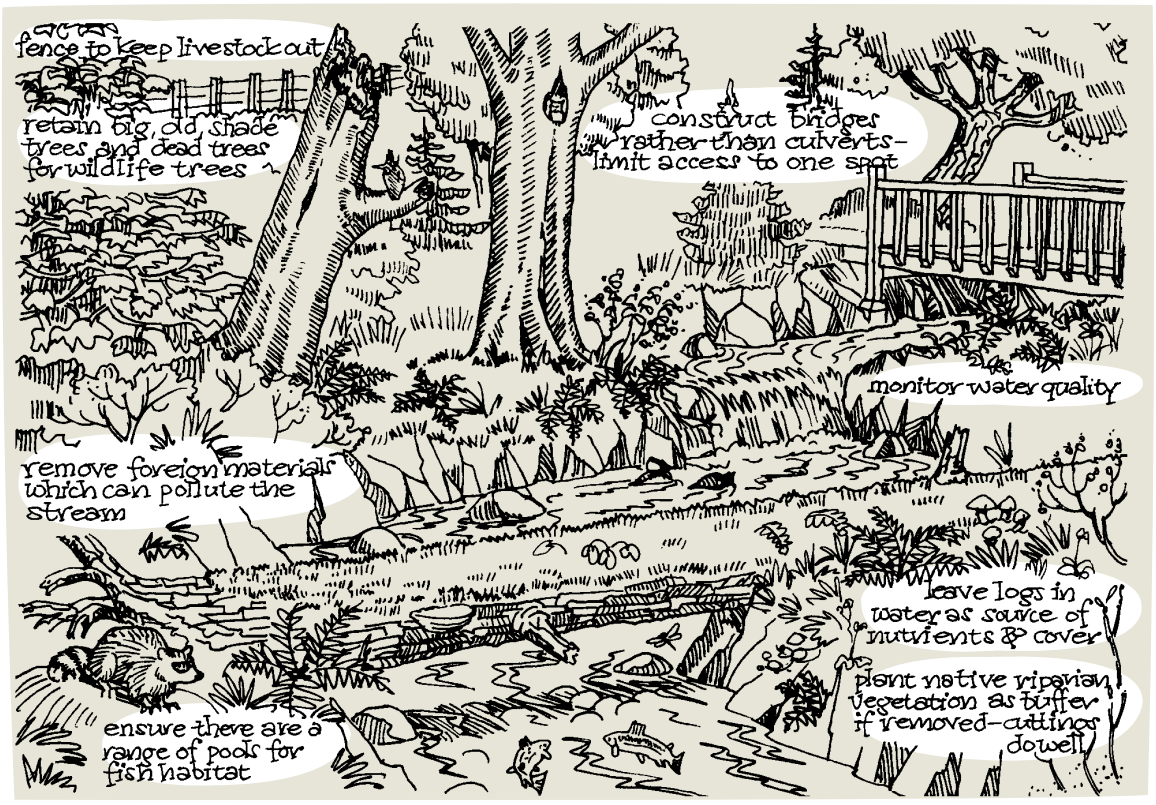
(rivers, streams, creeks, lakes, ditches, sloughs)

Waterways are magnets for life. We have located most of our settlements around them, used them as travel corridors and revered them in various cultural traditions. But somewhere in our urban designs, we have neglected these precious channels. For example, only one of the original forty five salmon spawning streams in Vancouver still exist; the rest have been filled or become ghost streams in culverts that run lifeless beneath the city. Where they still run freely, many rivers have been seriously degraded by the removal of streamside vegetation and the infiltration of pollutants into the water. Many streams now are protected under some form of planning regulation. You will probably need to have a permit to do any stream work. Check with your municipal planning department or local Fisheries officer. There are also an increasing number of programs in British Columbia for salmon conservation. The Province's Urban Salmon Habitat Program is now addressing one of the important challenges for salmon conservation: the loss of freshwater habitat due to urbanization. It's a call to action for communities to learn about, protect and restore freshwater habitat.

STREAMKEEPERS

Private landowners and community groups can together play a role in protecting fish habitat through the Streamkeepers Program developed by the Department of Fisheries and Oceans (DFO). Streamkeepers provides volunteers with training and support required to protect and restore local aquatic habitats. The program has produced a practical handbook, offers workshops and is supported by DFO's Community Advisors and a growing network of streamkeepers. The Pacific Stream Keepers Federation is a newly formed coalition of Streamkeeper groups from throughout B.C. and the Yukon.

For more information call ZoAnn Morten at (604) 986-5059 DFO's Community Advisors are located in different regions of the province. To find the one nearest you call (604) 666-6614.



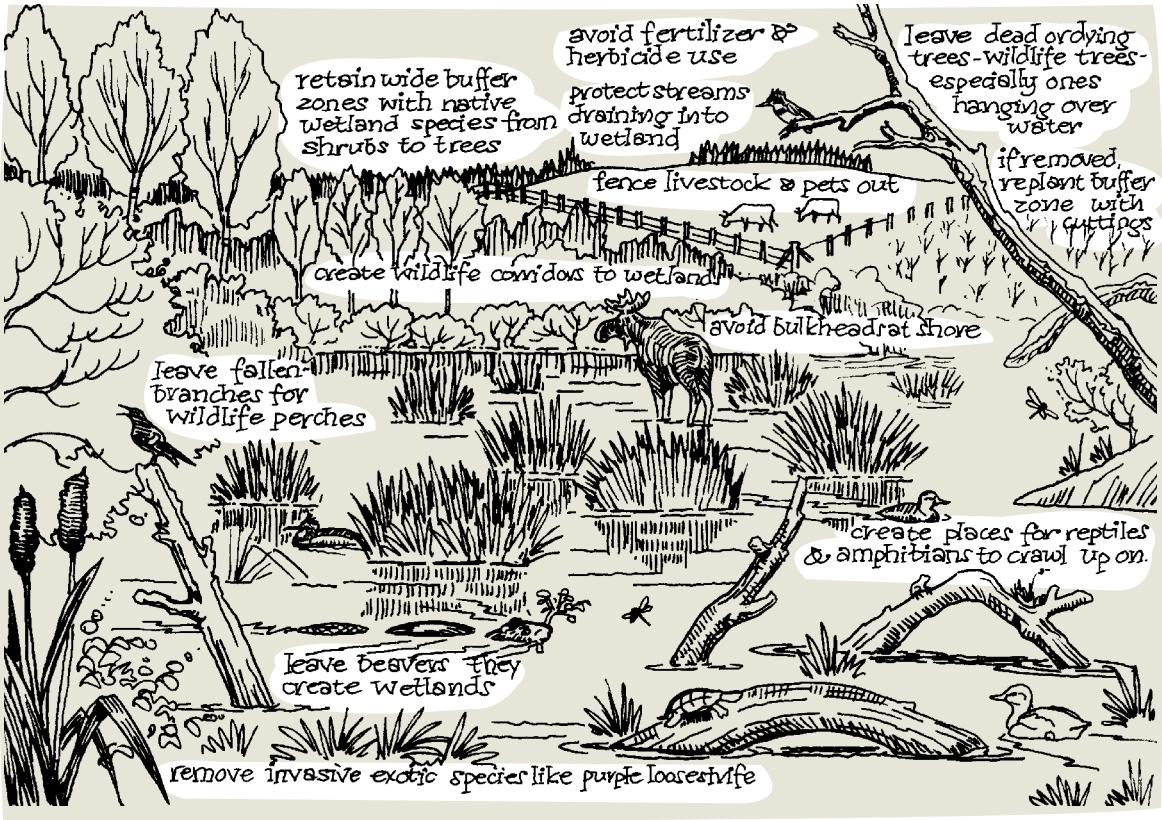
3 WETLANDS
(marsh, bog or swamp)

If you have a marsh, swamp or bog on your property, consider yourself very lucky. Life probably began in one of these primal soups of water and earth so you have the raw ingredients for the continuation of life. Draining, ditching and otherwise damaging wetlands for agricultural purposes and urban development over the last century has diminished these critical wildlife habitats. What is left is exceedingly important to us for ground water, wildlife habitat and as a filtration system for pollutants. If your wetland has been damaged, try some restoration/enhancement tips.

DUCKS UNLIMITED CANADA

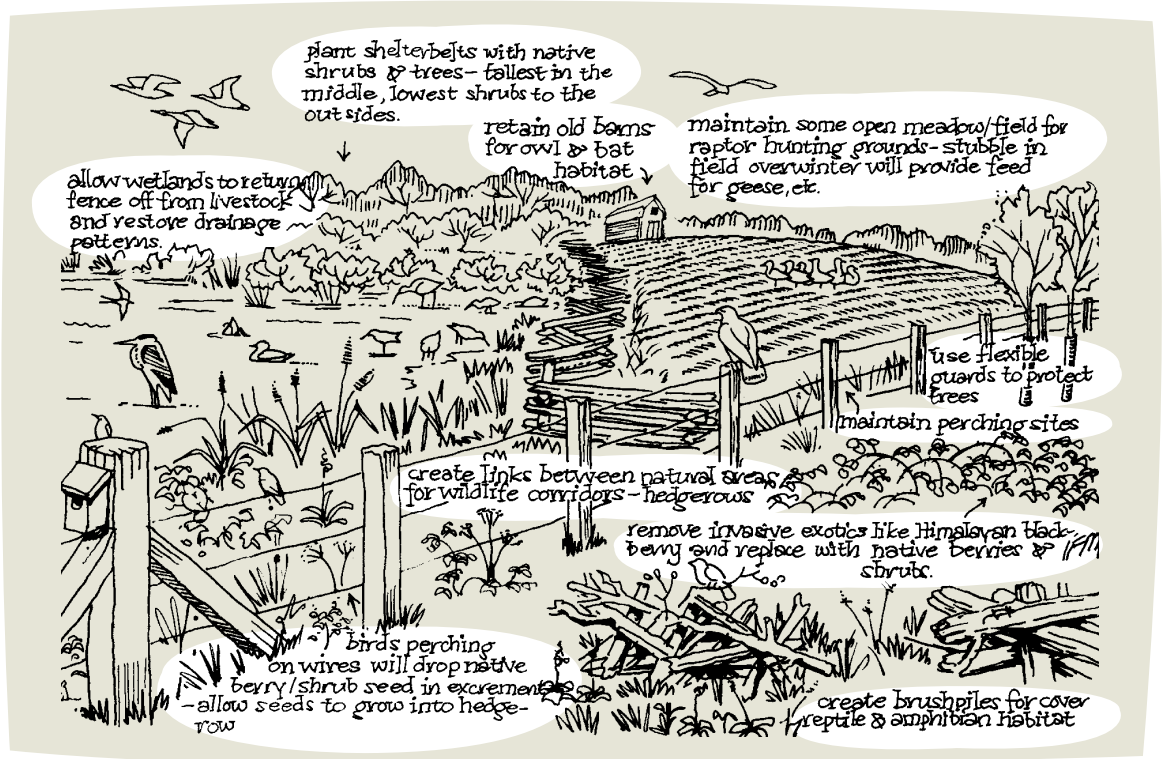
Since 1938, Ducks Unlimited (DU) has been working on the preservation, restoration, enhancement and management of wetland habitat in Canada. DU is a private, non-profit organization that works with landowners to improve habitat areas—marshes, estuaries and associated upland. DU has an extensive inventory of information on wetlands, and offers advice and assistance on a wide range of private stewardship activities. In addition to the provincial office in Kamloops, there are area offices in Surrey, Creston, Williams Lake and Prince George.

Ducks Unlimited Canada
954A Laval Crescent
Kamloops, BC V2C 5P5
Phone (250) 374-8307



4 OLD FIELDS, FENCELINES, HEDGEROWS AND OLD BUILDINGS

In agricultural areas where fields have gone out of farm production and are no longer cultivated or grazed, you have an excellent opportunity to do nothing and allow nature to move back in. Birds of prey are becoming a familiar sight on old fields where grasses supply food and shelter, for small mammals. Most of the old fields were created on floodplains (like the Fraser delta) or were in cleared lowland forest (Cowichan Valley, Kootenays). Fields with fencelines or hedgerows provide important wildlife corridors and cover for a wide range of animals (especially song birds). Old buildings and barns can become roosting sites for barn owls and bats. If you have some of these areas on your property try some of the tips in the diagram to enhance the wildlife habitat.



5 GRASSLANDS
(sagebrush and antelope-brush grasslands)

British Columbia's grasslands are unique in Canada and some of the most threatened ecosystems. Grasslands are particularly vulnerable to damage and degradation as native grasses and wildflowers can't compete with introduced pasture grasses, invasive weeds, intensive livestock uses, irrigation, all-terrain-vehicles and the changes to the soil that these activities cause. Much of the grassland regions of British Columbia have been modified to some extent so stewardship tasks involve restoration or enhancement.

Restoring grasslands is a labour of love and can be done to varying degrees. Some grasslands have been so drastically changed that the best one can do is manage for particular plant species. Even modified grasslands which combine native species with *non-invasive exotic species* can be excellent habitat. Most grasslands have a fire cycle of 5 to 25 years, depending on the type and location. Fire suppression routinely carries out changes the ecosystems natural pattern of succession. First Nations people and some early pioneers understood the need for fire cycles and did their own prescribed burning.

ECOSYSTEMS AT RISK: ANTELOPE-BRUSH ECOSYSTEM

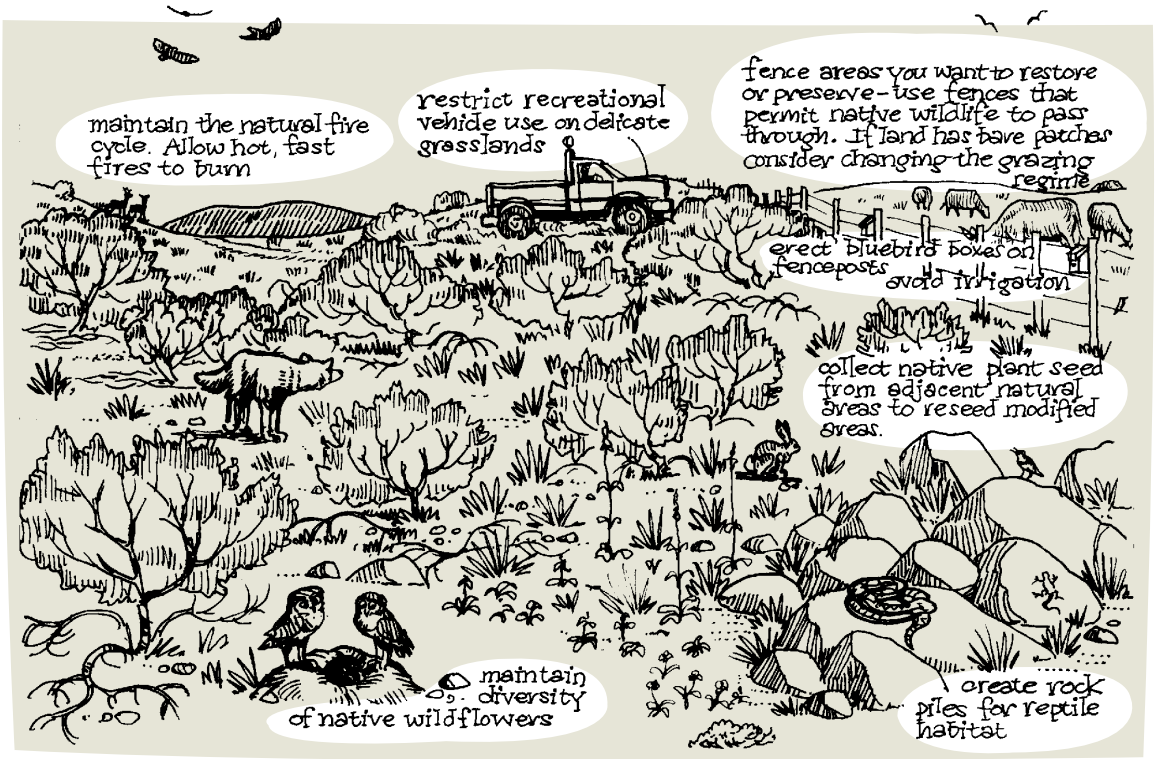
burrowing owl

In the hottest part of the south Okanagan, there is a grassland community that is distinguished by the increasingly rare antelope-brush. Associated with this quiet, subtle landscape lives a fifth of British Columbia's *species at risk* such as the night snake, tiger salamander and pallid bat. A diversity of insects, birds, reptiles and mammals have been attracted to this northern extension of the Great Basin Desert. It is a fragile place, easily disturbed and slow to recover. People also have been attracted to this region and have altered the soils and plant community by intensive agriculture and urban development. This ecosystem is one of the four rarest in Canada, with only 10% of the original South Okanagan grasslands remaining in a relatively undisturbed state.

SOUTH OKANAGAN-SIMILKAMEEN (SOS) STEWARDSHIP PROGRAM

The SOS Stewardship Program is designed to provide information to landowners in these valleys who wish to learn more about how to enhance and protect the natural areas on their property. By tapping into the existing knowledge of landowners in the area and offering some of the latest research on wildlife habitat, the stewardship program is providing encouragement and practical assistance to owners in managing their property for conservation. The program offers a free site visit from a professional biologist to answer your questions on the natural features of your land, provides a conservation plan, advice on sources of funding and technical assistance.

South Okanagan Similkameen Stewardship Program
Nature Trust of British Columbia
102-130 West Nanaimo Ave. Penticton, BC V2A 1N3
Phone (250) 492-2080



6 LOWLAND DRY CONIFEROUS FOREST

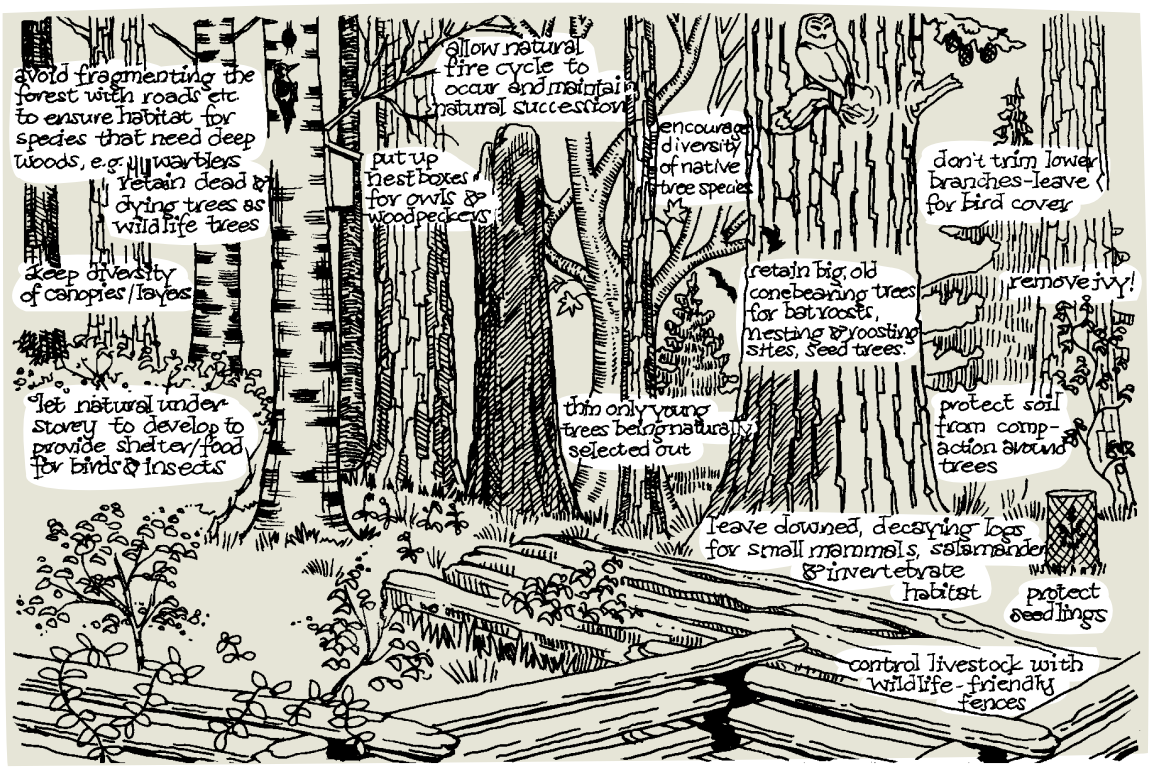
(Coastal Douglas-fir forests, interior Douglas-fir forests, ponderosa pine forests, spruce forest)

Dry coniferous forests (as opposed to rain forests) are defined as forests where fire plays a significant role in the natural succession of the forest. If these forests were left to their own devices, fires would occur regularly every 20-75 years. Much of British Columbia is made up of these dry lowland forests, with different species and different fire cycles depending on the region. The majority of forested land is owned by the Provincial Crown, but there are large areas, especially on the southeast coast of Vancouver Island and in the Southern Interior, that are under private ownership. Landowners interested in forest stewardship face some great challenges to maintain the wide range of wildlife that inhabits these places. Given ample space, these forests support large mammals such as elk, deer, cougar and bear, a host of migratory and resident birds, and a wide diversity of insects and wildflower species.

FIRE AND THE FOREST

Fire is a natural and an essential part of dry forest succession. Fires traditionally burned on a regular basis and opened up the forest for pioneer species without killing the older trees. Some species of trees, such as ponderosa pine, will not even germinate unless they are first triggered by a fire. Allowing natural fires to burn, or doing prescribed burning, is the best form of fire management. Contact your local regional forest office of the provincial Ministry of Forests and ask them for the recent Technical Notes on fire ecology in dry forests. Allowing forests to burn is a relatively new management practice, so be prepared to do some research. You can also try and simulate a fire cycle by selective thinning and/or small controlled brush pile fires.

Call the Ministry of Forests for the phone number of your local regional forest district office. Phone (250) 387-5255 or 1-800-663-7867.



7 BROADLEAF WOODLANDS

(Trembling aspen, red alder, black cottonwood, paper birch, big-leaf maple, Garry oak and arbutus woodlands)

Woodlands of broadleaf trees are not as extensive in British Columbia as they are in other parts of North America. The exception is trembling aspen stands which are abundant in the interior and north. On the coast, you get a variety of types of woodlands. Early successional species such as red alder grow in stands on cutover or disturbed lands. Big-leaf maples grow in clumps in *second growth* forests, arbutus cling to coastal rocky shores and *old growth* Garry oak woodlands grow on the driest sites of the Georgia Lowland and are under severe threat from urbanization. Cottonwoods grow on floodplains throughout the province and birch occurs in the interior with conifers. Most of these woodlands are small and part of the larger mosaic of a coniferous forest and its different successional stages. Think of alder, birch and cottonwood as green fertilizers. They fix nitrogen into the soil and make it ready for the next stage of conifers to grow. Mature alders are a favourite of woodpeckers. Herons also prefer mature alders for roosts near the shore.

ECOSYSTEM AT RISK: GARRY OAK ECOSYSTEM

European colonists were drawn to Victoria and the southeast coast of Vancouver Island for the mild climate and the gentle rolling landscape dotted with oak trees above carpets of camas and lilies that reminded them of Europe. Captain Vancouver thought it was the loveliest landscape he had seen in his travels around the world in 1792. Two hundred years later this small region now has the fastest growing population in North America. As a result, the lovely oak meadows blooming with wildflowers have become one of the four rarest ecosystems in Canada. Ninety-nine percent of the meadows have been covered by houses, lawns and shopping malls.

GARRY OAK MEADOW PRESERVATION SOCIETY

This society has both educational and advocacy roles in the protection of this rare ecosystem of the province's capital region. Members have developed expertise in restoring meadows in your backyard, tree growing, salvage of native plants from construction sites and lobbying to save remaining meadows. Various resource materials are available on Garry oak meadow preservation and restoration.

Garry Oak Meadow Preservation Society
c/o A-954 Queens Avenue Victoria, BC V8T 1M6
Phone (250) 361-1694

8 RAIN FORESTS

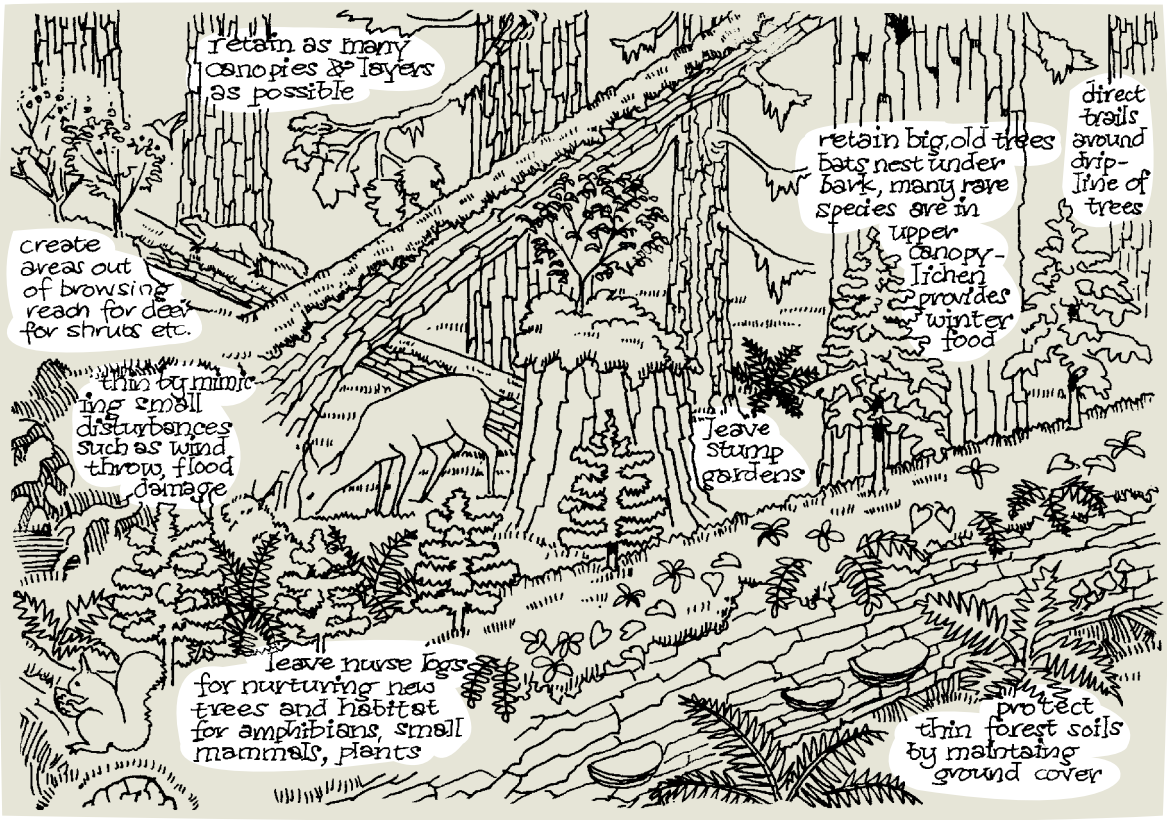
(Western hemlock forests)

Temperate rain forests run along the rugged west coastline of Vancouver Island and then on the mainland from north of Vancouver. The majority of the land is Crown land, but where the odd community clings to the shoreline or forest lands are held privately, there is a great opportunity to become a role model for forest stewardship. A true West Coaster will tell you about the dominant characteristic of a rain forest—the rain. The passage of water through the forest is what creates its lushness but can also be its undoing if the cover of the forest is removed and the thin soil washes away. A rain forest is like a big house with a leaky roof and the odd small patio; your job as steward is tending the architecture of a rain forest.

FOREST PRACTICES CODE GUIDEBOOKS

The Forest Practices Code provide guidelines for maintaining the productivity of British Columbia's forests. Some of the guidebooks may be of interest to private landowners such as: fish stream identification, biodiversity, managing identified wildlife, riparian management, community watersheds, soil conservation and vegetation management.

For a complete listing and current availability of these guidebooks, call 1-800-565-4838 or write to Forest Service, Public Affairs, Suite #300-1675 Douglas Street, Victoria, BC V8W 3E7



9 ROCKY OUTCROPS, CLIFFS, CAVES AND TALUS SLOPES

Rocky outcrops and niches in rock faces can be some of the most pristine wild places around since they are often the only places which haven't had some human use made of them. If the rocky outcrops are mineral rich they also often contain specialized species that are found nowhere else. Overlooked species, such as lichens and mosses that take thousands of years to establish, need these places. Cliffs are important roosting and nesting sites for bats, swifts and birds of prey. In the southern interior, they are the lambing and escape grounds for bighorn sheep and mountain goats.

We are now discovering ways to disturb even these areas, whether it is through all-terrain vehicles, rock climbing or just blasting to create some more room to live on. Take the path of "enlichenment" and become a steward of a rock outcrop.

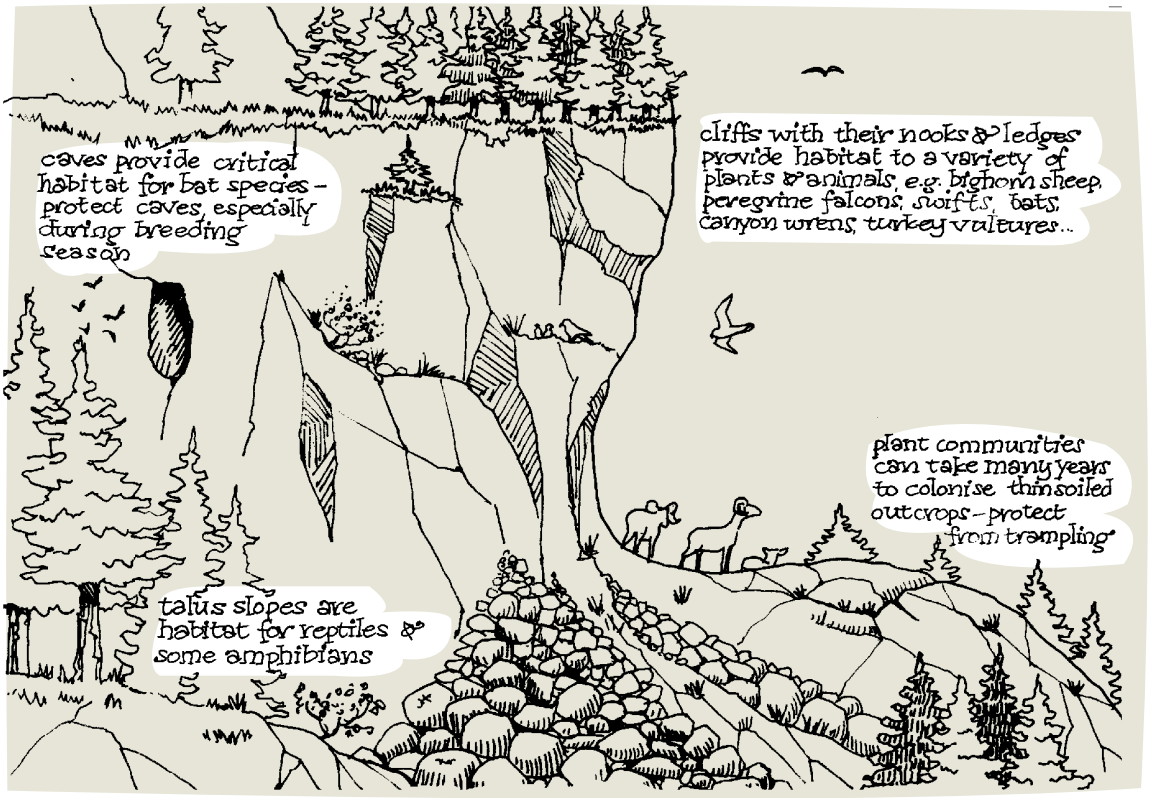
mountain goats won't survive just in small parks if the surrounding habitat is altered or removed

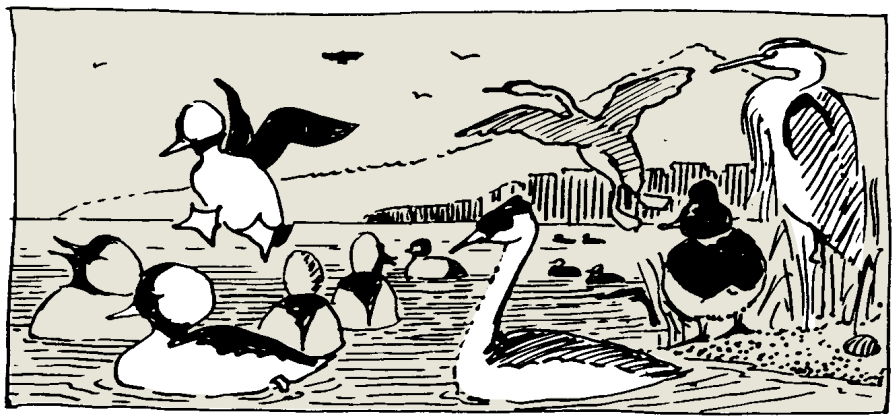
BAT CONSERVATION ORGANIZATIONS

British Columbia has one of the most diverse populations of bats in Canada. Ten different species of bats live on Vancouver Island alone. There are two groups that can provide information on bats. Bat Conservation International documents and promotes the conservation needs of bats, and assists with management initiatives worldwide. The Bat Conservation of Canada is a new organization also dedicated to the preservation and conservation of bats. Both provide information on bat houses and ways to protect colonies in caves

Bat Conservation International
P.O. Box 162603
Austin, Texas 78716
Phone: 1-800-538-BATS
for a free catalogue

The Bat Conservation
Society of Canada
Box 56042, Airways Postal Outlet,
Calgary AB T2E 8K5
Phone: (403) 860-BATS



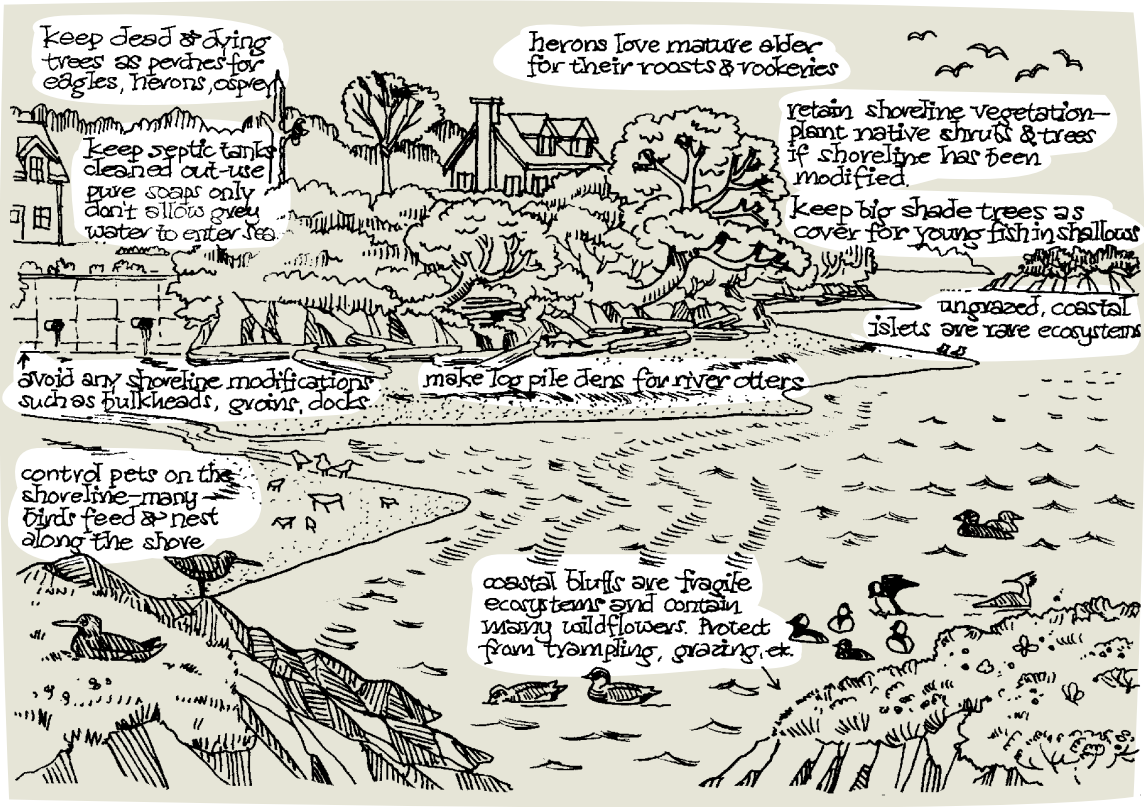


10 SHORELINE

(saltwater marsh, rocky shoreline and sandy beaches)

Traditionally on the coast, a buffer of native shoreline trees and shrubs was always left between the sea and a dwelling so the force of the wind and sea was reduced. Protection was always more important than views. Landowners on protected coastal properties will provide an even longer list of benefits to be had in keeping this buffer. There is a wonderful diversity of plants that thrives along the coast which provides some of the most productive habitat in the province. Wildlife and fish meet and mingle at the shoreline. Marine animals need the nutrients seeping from the land and overhanging vegetation as well as the shade that trees provide. Saltwater marshes are hotbeds (coldbeds actually) of wildlife, and need to be given every protection from their stewards living just above.

Most of the shoreline of southern British Columbia, from the high tide mark up, is privately owned. As real estate pressures rise for waterfront, and the taste for views and docks modifies the shoreline, the pressures on wildlife and fish increase. If you have shoreline that has been damaged, try some restoration and enhancement ideas shown in the diagram.



Part 2: Reserving Natural Values on your Land: Legal options for Landowners

INTRODUCTION

If your commitment to protecting your land, waterways and wetlands extends into the future or involves sharing the responsibility with conservation organizations, you might want to explore the legal options for stewardship. On page 31 is a list of protection options that are currently available to landowners. Choose one or a combination of these options to suit your needs and ensure the long-term protection of natural features on your property.

There are two main options available to you. The first is to enter into some form of stewardship agreement with a conservation organization. This option enables you to retain ownership but at the same time protect portions or all of your land through the terms of your agreement. Agreements can be for the short term, such as *management agreements* and *leases*, or for a longer term, such as a *conservation covenant*. These agreements usually involve an exchange of certain rights of ownership in return for conserving the land, providing for management, and in some cases, providing some form of compensation.

The second option is to transfer title of the area you wish to protect to a conservation organization either through donation or sale. This can be done immediately or sometime in the future, such as through your will. People have been leaving land to others for a long time so the law has worked out a number of ways of doing it to best meet a variety of landowners' needs and wishes. When you transfer title you lose that title, but the option you choose can allow you to decide who is to protect it, how to protect it and what kind of tax relief you might seek. Such transfers can also include the right of the owners to continue to live on the land for their lifetime.

Before going much further you might want to read the following primer on land law to give you a handle on a few legal terms and concepts which are essential for an understanding of these options.

Land law is a quagmire

Land law, to quote a notable writer on law, is a quagmire (marshy area that give away under foot - hazardous or awkward situation). The two most important things to remember about land law are first, that land ownership is not about owning land (the Crown ultimately owns the land); it is about owning a number of separate rights to the land and, second, that there are conservation organizations like West Coast Environmental Law Research Foundation which can help guide you around the quagmire without huge costs.

Grasping the concept of land ownership as a bundle of rights is the key to understanding these stewardship options. Essentially, the options are variations on the theme of granting certain of these landowner rights to conservation organizations. These can range as widely as the landowners wish. For example, if you want to see a forest kept in perpetuity while allowing successive generations of your family to live there, then you might want to remove the rights that are attached to the land to clearcut the forest and to subdivide it, but keep all the other privileges of ownership such as the rights to live and enjoy the land and harvest small amounts of firewood. There are all sorts of ways of doing this but you, the landowner, will pick and choose the rights that best suit your wishes and needs for how the land is to be used over time. The conservation organizations will have the legal responsibility for ensuring your wishes are met and those alienated rights are not exercised by future occupiers of the land.

Another fact to keep in mind when looking at these options is that there are two kinds of law in Canada: *common law*, which is the set of legal rules developed by the courts over the centuries, starting in 1066 and coming across the sea with the British colonists, and *statutory law*, which is comprised of the acts and regulations passed by governments. The provincial legislature can always change laws, including common laws, by enacting statutes.

Some of the stewardship options are available under common law, but since conservation of land has never been a pressing concern of the law courts, we have had to enact some legislation in British Columbia to provide some incentives to conserve land. For example, conservation covenants have been created by statutory law relatively recently, whereas regular covenants have been around in common law for centuries. The only thing you need to know is that there are two different approaches; the pros and cons of the two will be discussed later on.

WEST COAST ENVIRONMENTAL LAW RESEARCH FOUNDATION (WCELRF)

Possession is nine-tenths of the law and possession of wildlife habitat has put another subject to think about into the legal profession's hands . Fortunately, we are privileged to have legal research organizations such as WCELRF that provide free legal advice on matters pertaining to the environment. They have an excellent library and an Environmental Legal Information Base (ELIB) on the internet. They have developed some model covenants for landowners to use as examples, as well as produced some excellent publications on legal options for private stewardship. For $20 a year, you can become a member and receive an informative biweekly newsletter.

West Coast Environmental Law Research Foundation
1001 - 207 West Hastings,
Vancouver, BC V6B 1H7
Phone 1-800-330-9235 (WCEL);
or in Vancouver call 684-7378;
Fax 684-1312
Email: admin@WCEL.org
http://vcn.bc.ca/WCEL/

Some Working Legal Terms

The following terms are the most important ones to learn when exploring legal options.

FEE SIMPLE - when you own all the ownable rights to the land including the right to occupy and dispose of the property (some you can't own, such as sub-surface mineral rights, and local municipal zoning bylaws might prevent you from erecting a chemical factory).

CO-OWNERSHIP - ownership of property by two or more people. There are two forms of co-ownership:
1) joint tenancy, where interest passes to the other upon death of one and;
2) tenancy in common, where tenants own one or a number of shares in the land. Upon death of a co-owner, the decease estate inherits interest in the land, not the other owner.

LIFE ESTATE - when you can use the land during your lifetime, but your legal interest in the land ends when you die. After your death those rights transfer to the owner of the fee simple estate.

TRUST - a legal device that looks after money and property and usually involves three players: the settlor of the trust, the body administering the trust and the beneficiaries of the trust. Since the trust as a legal device has evolved to look after money and property rather than wildlife and ecosystems, there are some complications in using this option. It is very flexible but can be quite complex, especially with regard to the tax implications.

LAND TRUSTS - are non-profit conservation organizations which acquire interest in land for conservation. The name is used because they hold the land 'in trust' for the future, e.g., - The Nature Trust of British Columbia.

LEASE - a lease is a temporary right to possess and occupy land. It is essentially a rental agreement over a specified term. During the term, the tenant has the right to exclusive possession and use of the land but has no right to sell the property or otherwise make agreements concerning its use.

PROFITS À PRENDRE - a right to take things from the land. This legal arrangement allows a person to remove something from the land such as gravel, timber, etc. The law then prevents a landowner from using the land in a way that will adversely affect a profit à prendre holder.

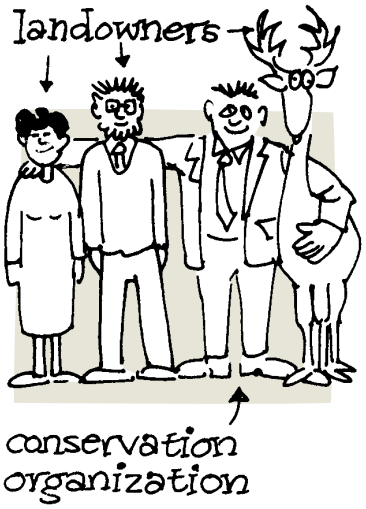
EASEMENTS - easements in simplest terms are the right to go on or pass across another's land. A right-of-way is often obtained by companies such as B.C. Hydro. Think of an easement as an instrument that makes life easy for a neighbour.

COVENANTS - covenants are simply a promise by one landowner to another landowner to do, or not do something in relation to their land, and this promise is legally defined. A covenant is filed in the land title office and binds future owners of the land. Common law covenants are an agreement between adjacent private land owners and have been around for centuries. Covenants created under Section 215 of the Land Title Act (1978) are between private landowners and government agencies (including municipalities).

CONSERVATION COVENANTS - are voluntary, written agreements between a landowner and a conservation organization in which the owner promises to protect the land in a specified way. Recent changes to the Land Title Act (1994) have expanded the group of eligible covenant holders to include designated nongovernment conservation organizations.

A. STEWARDSHIP AGREEMENTS: SHARING THE RESPONSIBILITY

Stewardship agreements provide the most flexible option to landowners for conserving land for a variety of uses such as watershed protection, wildlife habitat and low-density residential use. They are an opportunity to get some help and share the responsibility of stewardship with a conservation organization. These agreements are between you, the landowner, and a conservation organization, and are used to protect the land in a specified way. Conservation organizations can provide some technical assistance to restore a stream, or a third party to ensure your land is protected in perpetuity. If you are looking for some financial assistance in return for keeping land out of development, stewardship agreements with conservation organizations might provide a mechanism for compensation.



a) Stewardship agreements
(Sharing the responsibility)

Short term

- Verbal agreements (not really a "legal" agreement)
- Management agreements
- Leases
- Licenses

Long term

- Conservation covenants
- Restrictive covenants
- Easements
- Profits à prendre

b) Transfer of title by sale or gift
(Handing over the responsibility)

Sale

- Outright sale
- Sale with saleback or leaseback
- Bargain sale
- Right of first refusal/option to purchase
- Installment sale

Gift

- Outright donation or bequest
- Conditional donation or bequest
- Reserved life estate
- Part donation

Depending on the landowner's level of commitment, the agreements can be short term or long term. They can cover all or part of your property. They can define what types of land use are appropriate to ensure the natural areas are protected, and provide guidelines on how the agreements are to be monitored and upheld.

As a general principle, stewardship agreements can either be negotiated with conservation organizations as a type of donation, or possibly for a sum of money. Since these are all agreements between two parties, you can decide what your circumstances allow you to do, and the conservation organizations can decide what they can afford. Conservation organizations often have limited cash flow and rely on fundraising efforts. Because of this, the government is working on some incentives so that landowners don't lose money negotiating these agreements. More will be said in the Tax section but the general principle is where there has been some loss of value in the land by the agreements placed on the land, i.e., a donation, the landowner is generally eligible for tax credits.

Conservation Organizations and Land Trusts

These are the organizations that you can contact for advice about protecting your land. Land trusts generally accept donations of land, buy land, accept conservation covenants, negotiate leases, monitor covenants, etc. Land trusts are not technically trusts; they are non-profit organizations which hold land or negotiate land acquisition for nature. There are national ones (The Nature Conservancy of Canada), provincial (The Nature Trust of British Columbia) and community ones (Cowichan Community Land Trust), all of which work in partnership with each other. Some have very particular missions, like Turtle Island Earth Stewards, for sustainable use of land. They might have some endowments for purchasing and managing land; others might simply assist in the acquisition by contacting landowners and putting them in touch with larger trusts. They may be run by volunteers or staff members depending on the size and amount of funds. New local land trusts are being created every year. The following organizations can provide information on their services and contacts for other local land trusts with whom they work in partnership.

THE NATURE CONSERVANCY OF CANADA

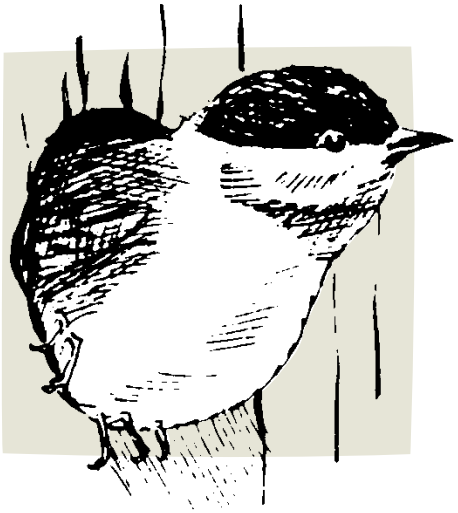
Formed in 1963, the Nature Conservancy of Canada is the national land trust whose purpose it is to preserve ecologically significant natural areas. They provide assistance on various aspects of private land stewardship to both landowners and community land trusts.

Nature Conservancy of Canada
2nd Floor, 827 West Pender Street
Vancouver, BC V6C 3G8
Phone (604) 684-1654

THE NATURE TRUST OF BRITISH COLUMBIA

The Nature Trust is a charitable corporation that is dedicated to preserving areas of ecological significance in British Columbia and encouraging the private and public sectors to set aside such areas for conservation. Since 1971, they have worked in partnership with other organizations and landowners to secure important habitats, primarily through gift or purchase.

The Nature Trust of British Columbia
808-1090 Park Royal South
West Vancouver, BC V7T 1A2
Phone (604) 925-1128



TURTLE ISLAND EARTH STEWARDS

Turtle Island Earth Stewards (TIES) have been involved with the setting up of land trusts and stewardship of the land for over two decades in British Columbia. TIES has had a special interest in coming up with ideas on how land stewards can use the land in ways that don't disturb ecosystems. They have developed a variety of forest stewardship trust models. TIES also has a newsletter, books on a wide range of stewardship topics and has a resource centre near Salmon Arm.

Turtle Island Earth Stewards
Box 3308
Salmon Arm, BC V1E 4S1
Phone (250) 832-3993

There are many community land trusts throughout British Columbia. One example is the:

COWICHAN COMMUNITY LAND TRUST

The Cowichan Valley on southern Vancouver Island stretches from mountain ecosystems to one of the richest shoreline ecosystems in the province. Almost 90% of this land area is privately owned and unfortunately undergoing immense development pressures. The Cowichan Community Land Trust has a stewardship program for landowners in the valley offering assistance and guidance to landowners concerning ecological information and legal options.

Cowichan Community Land Trust
1-55 Station Street
Duncan, BC V9L 1M2
Phone (250) 746-0227

(1.) SHORT-TERM STEWARDSHIP AGREEMENTS

This first group of options is short-term agreements where the landowner simply wants to get some technical or financial assistance from conservation organizations for protecting the land over a short term—their lifetime or for the duration of a project like a stream restoration project. Short-term agreements do not affect the land title. Therefore, they are not enforceable against future landowners. This is a disadvantage if you are interested in protecting land into the future but an advantage if you don't want to affect the value of your land if you wish to sell it. Short-term agreements are also good dry runs for long-term agreements.

VERBAL AGREEMENTS

The W. Family have 12 wildlife trees on their property that adjoins a large ecological reserve. They were having trouble determining the safety of these trees, so they contacted their local conservation organization, Friends of the Forest. They made a handshake agreement that they would assist one another in preserving the trees. Friends of the Forest had the trees annually assessed by a certified Wildlife Tree Assessor and posted wildlife tree signs on the trees to raise awareness of the importance of the trees. The W family felt secure that the trees were professionally assessed for safety and enjoyed the diversity of wildlife that used their trees.

A verbal agreement is a handshake agreement between the landowner and a conservation organization to protect the land in specified ways. The landowner can promise to contact the organization of any threat to the land, or change in land use or ownership, although this is not a legally binding agreement.

MANAGEMENT AGREEMENTS

Mr. T. has a marsh on his ranch that both he and Muskrats Forever, a national conservation organization protecting wetlands, are interested in conserving for wildlife habitat. Together they draw up a written agreement that states that Mr. T. cannot drain the marsh for pasture or let the cattle graze by it. In return for limiting his use of the land, Muskrats Forever agree to look after the marsh and fence it from his cattle.

A management agreement is a simple contract between the landowner and the conservation organization to manage the land in a specified way. This type of arrangement is a good option if you want to get some assistance with stewardship in the short term. The agreement should include a clause which states what would happen if either party broke the agreement.

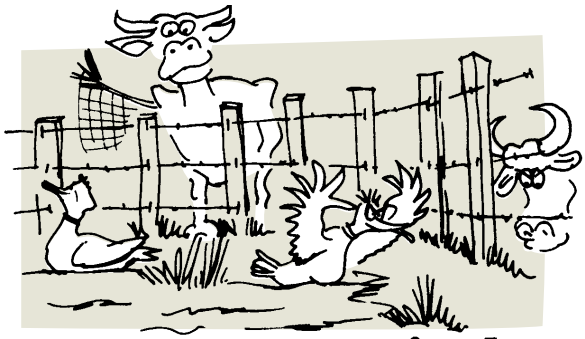
LEASES

Mr. and Mrs. R. inherited a large property that encompassed extensive nesting grounds of sandhill cranes. They wanted to eventually live on the property when they retired and become stewards of the cranes but couldn't afford to just leave it until then. They contacted a conservation organization interested in the protection of habitat for this species, Sandhill Crane Foundation, and negotiated a lease that allowed the Foundation to enter and care for the property and the cranes in return for an annual rent that covered the owner's taxes. This prevented them from having to sell the property in order to pay the taxes.

A lease is a legal agreement where the landowner gives the right to a conservation organization to enter and manage the property for a specified term. Leases are like rentals where the renter has the basic rights of using the land in return for paying a rent. The landowner can always specify certain conditions which become part of the lease agreement. A lease is a fairly flexible option as you can renew and modify it with consent from both parties. You can even register a lease with the land title office, which makes future owners bound to the conditions of the lease. The disadvantage is that the land is only protected as long as the lease exists.

LICENSES

A license provides a legal right to go onto private land and use it for a specific purpose, usually subject to conditions. The landowner is paid a fee determined by the use of the land. A traditional example of a license is for timber harvesting or grazing. Landowners and conservation organizations are using this traditional type of agreement for conservation activities, for example, granting a license to do stream restoration.



management agreements often share cost of improvements like fencing

Stewardship Agreements

(2.) LONG-TERM STEWARDSHIP AGREEMENTS

Long-term stewardship agreements are written agreements attached to the title of the land so they bind future owners to the agreement. This allows the land to be protected into the future and may enable landowners to seek tax relief where the value of the land has been lowered because of the agreements. It is important for all landowners to seek legal advice when considering long-term agreements.

CONSERVATION COVENANTS

Mrs. D. owned 20 acres of aspen woodlands. The woodlands provided nesting sites for a great number of birds, including the migratory bufflehead ducks which were her favourite. She wanted her grandchildren to grow up and experience this woodland and the bufflehead, so she contacted a local conservation organization, Buffleheads Unlimited, that was registered to hold covenants. One of the members came out to visit Mrs. D. and her property. Together they mapped out the critical area of the woodlands and drew up a management plan for protecting the woodland into the future. This included an agreement that one of the members of the organization would visit once a year to monitor the property and ensure that the terms of the agreement were being met. The agreement was drafted and sent to Mrs. D. for approval. The conservation covenant was filed at the Land Title office and Mrs. D. had the satisfaction of knowing her buffleheads would always have somewhere to come every year.

A conservation covenant is a written agreement between a landowner and a conservation organization in which the landowner promises to protect the land in specified ways. The landowner benefits by protecting the special places of their land forever, retaining the regular rights of ownership to live on, enjoy and sell the land.

This type of covenant is a statutory covenant specially created to allow for landowners to conserve land in British Columbia. A conservation organization that is designated to hold these covenants does a baseline survey, then monitors the property according to the terms of the agreement. If necessary, the organization can enforce the covenant against the owner. Covenants can cover all or just a portion of the landowner property. They can be used in combination with the sale or donation of land where the owner wishes to put some control over future land use, since future owners are bound by the terms of the agreement.

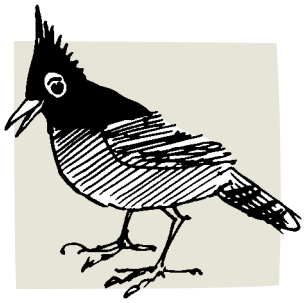
The conservation covenants can themselves be donated or sold by the landowner to the conservation organization. The term donation is used when the value of the land is lowered by the covenant—in these instances the landowner may be eligible for various tax reliefs (see Tax Incentives section). They are now used by local planning authorities as a conservation tool where they will give landowners certain concessions if they place conservation covenants on special features of their land, within *environmentally sensitive areas (ESAs)*.

The West Coast Environmental Law Research Foundation has recently produced a guide on conservation covenants. ***Leaving a Living Legacy: Using Conservation Covenants in British Columbia*** is available in print or on the Internet (see page 29 for contact numbers and address).

RESTRICTIVE COVENANTS

A group of five landowners on Spruce Road lived adjacent to a vacant lot that still contained a rare remnant of old growth forest. When the property was put up for sale, they were worried that the next owner would log it, so they bought it, placed a restrictive covenant on the property, then sold it again to a new owner who was notified of the covenant. The restrictive covenant prevented disturbance of the old growth forest by any future owner. The neighbours ended up saving the forest without great cost and got a new neighbour who willingly bought the property knowing that the old growth forest was a special place for all the inhabitants.

A restrictive covenant is a written agreement made by one landowner to another adjacent landowner not to do something. Restrictive covenants are attached to the land title and bind all future owners to the conditions of the agreement. This is a common law covenant and can only be used by adjacent landowners whose property is affected by the covenant.



EASEMENTS

The neighbours on Spruce Road, at the same time as placing a restrictive covenant on the vacant lot, placed an easement on the property allowing one of the adjacent landowners to inspect the forest to check that the terms of the restrictive covenant were being met, i.e. that the forest wasn't being logged or disturbed. The new landowner suggested that they inspect once a year on Canada Day with an annual forest walk to which all the neighbourhood was invited. It became a greatly loved annual event in the community.

An easement is a written agreement between two adjacent landowners that gives one landowner the right to use the land of the adjacent landowner for a specific purpose, such as a right to cross the neighbour's land. A common law easement is attached to the land which benefits from the easement, i.e., the landowner who needs the right of way.

PROFIT À PRENDRE

Two hundred acres of forest adjacent to an ecological reserve came up for sale. The local residents and municipality could not afford to buy the land but they wanted to prevent the area from being clearcut logged. They approached the new landowner and negotiated buying the right to harvest timber which really gave them the right to decide whether and what trees would be cut or not cut. The XYZ Development Company sold them the profit à prendre to harvest timber. The municipality paid for a forester to draw up a long-term, natural selection harvesting plan that would not impact the reserve and they eventually paid back the costs of the timber grant over the long term with the proceeds.

A profit à prendre is a written agreement between a landowner and another person that allows that person to enter the landowner's land and take something off the land, e.g., the right to fish, use pasture or harvest timber, in return for a fee. The agreement is attached to the title so it binds future owners as well. It is a common law tool and useful only for specific purposes, since the resource must still be removed in some way. If something is to be prevented, e.g., no timber harvesting at all, then a covenant is more appropriate.

B. TRANSFER OF TITLE BY SALE OR GIFT: HANDING OVER THE RESPONSIBILITY

Some landowners might at some time consider transferring the title of their property to a conservation organization. This just means selling it or donating it or something in between the two. With regard to sales, conservation organizations are not able to buy every property that is offered them, however, there are some options which can ease the situation for both parties. Gifts are easy options since you don't have to find a buyer, just an organization to accept the gift.

(1.) SALE

OUTRIGHT SALE

Mr. C. wished to save his property that was of great interest to the local conservation organization, the Aspen Foundation, but couldn't afford not to sell it at fair market value. He approached the Aspen Foundation, which took out a loan and bought it outright, downzoned the property, placed covenants on the special features of the land which they held, then subdivided it to just pay off their loan.

In an outright sale, the landowner deeds all rights *(fee simple)* to the conservation organization for a sum of money. Conservation organizations are finding ways around the huge costs involved by buying the land temporarily, placing the covenants on it, then selling it again to cover their costs (see Sale with Saleback).

SALE WITH SALEBACK OR LEASEBACK

The scenario above, of the conservation organization selling the land after placing covenants on it, describes a sale with saleback. This can be formally agreed as a condition of sale and it can be a sale- or leaseback to the original owner as well.

BARGAIN SALE

A bargain sale or part donation is when the landowner sells the land for less than the market value. The difference between the selling price and the market price can be considered a gift. This gift could lead to some income tax credit (see Tax section).

RIGHT OF FIRST REFUSAL/ OPTION TO PURCHASE

The right of first refusal or option to purchase is an agreement in which a landowner offers a conservation organization the first option to buy the land. The landowner promises not to withdraw the offer until an agreed time has passed. With this option, the landowner is assured that the buyer will be one that protects the land.

INSTALLMENT SALE

If landowners are in no great hurry to sell, they might agree to a schedule of annual or semi-annual payments spread over a period of years. This really helps conservation organizations in raising the cash necessary to buy the land.

(2.) GIFT

The following options outline some of the ways of giving the gift of land.

OUTRIGHT DONATION OR BEQUEST

Miss. G. also made an outright bequest of her house lot to the conservation organization. The house and garden had no great ecological value so the organization sold the house and with the proceeds bought 20 hectares of rare orchid habitat on the outskirts of the city which they called the Miss G. Orchid Sanctuary.

An outright donation or bequest is a gift to someone with no conditions. In a bequest, when the giver of the gift dies the will is probated. The conservation organization can decide at this point if it wants to accept the gift. If they accept it, they become the owners and have all the rights and obligations of ownership, including the right to dispose of the property. If a landowner wishes to see the property kept by the conservation organization, it should be a conditional donation or bequest.

CONDITIONAL DONATION (OR BEQUEST)

Miss. G. inherited a city lot that had hardly been disturbed from its forested state since the lot lines were drawn. She had no heirs and wished the lot to be kept as a scientific benchmark of what the city had once been. She donated the lot to a local university on condition that they manage the property as an ecological reserve for student research. If they failed to honour the conditions, then the lot would revert back to her in her lifetime or a specified conservation organization when she died.

This is a gift of land from a landowner to an organization on certain terms, with a provision that if the terms are not met, the gift goes back to the person who gave it or to another party. The landowner can donate it during their lifetime or leave the gift through their will—a bequest. This is a rewarding thing to do, as few organizations will refuse and you can dedicate the land to someone special.

RESERVED LIFE ESTATE

Mr. and Mrs. J. had recreational property on a lake which they enjoyed, but knew that eventually they would give it to a conservation group since they had no direct descendants. They decided to settle their affairs, while still alive by donating the land and reserving a life interest for themselves. After donating the land to the Lake Trust, the agreement remained until they died, whereupon the title would transfer to the organization.

A reserved life estate is a donation of land to a conservation organization with an agreement that the landowner or the landowner's children be allowed to stay on and live out their lives on the land. While living, the landowner hold all the rights to the land but must abide by the terms of the agreement.

PART DONATION

(Sale on Bargain see page 36)

TRUST FUNDS CREATED BY LEGISLATION

Tax deductible donations, bequests and gifts from concerned citizens are just some of the revenues that can help conservation projects undertaken by trust funs that have been created by British Columbia legislation.

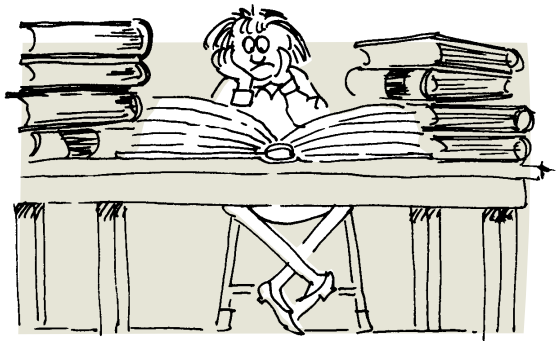
In 1996, the Habitat Conservation Fund became the Habitat Conservation Trust Fund to allow maximum flexibility in how funds are used for the conservation of biological diversity, wildlife, fish and their habitat.

The Islands Trust Fund was set up by the provincial government to protect and preserve ecologically significant lands in the Islands Trust area, which includes most of the Gulf Islands.

Habitat Conservation Trust Fund
3rd Floor, 780 Blanshard Street
Victoria, BC
V8V 1X4
Phone (250) 387-1159

Islands Trust Fund
2nd Floor, 1627 Fort Street
Victoria, BC
V8R 1H8
Phone (250) 387-4000

Tax Incentives



what are the possible tax incentives?

INTRODUCTION

Tax law, like land law, is also a quagmire. In fact it is probably more like quick-sand since the rules are shifting and you never are quite sure of your footing in these matters. The two most important things to remember about tax incentives are first, the laws are always changing and the trend has been more in favour of land stewardship than not, and second, a general rule of thumb is that the more you give up in the way of land value for conservation, the greater the likelihood someone in the tax system will recognize your contribution and not penalize you for it. They might even reward you!

To put it into perspective, remember that tax and land law have evolved for centuries primarily to ensure that land is developed and kept in circulation for economic purposes. Now that the concept of "best use" of land is changing, the tax laws are beginning to acknowledge that "best use" might actually mean leaving land alone. In the past, tax law has discouraged the donation of land or covenants for conservation through taxation of the capital gain on the land. This is where the greatest relief is needed if landowners are going to be able to afford to be altruistic.

Tax incentives might be available to you at two levels. Land taxes (such as Property Transfer Tax and annual property tax assessments) are provincial concerns. Income tax deductions and capital gains exemptions are federal concerns. The following paragraphs describe the existing tax situation followed by future directions.

Keep in mind that personal satisfaction is the most reliable benefit to be had from long-term, voluntary stewardship.

EXISTING TAX SITUATION

A. LAND TAX

(1.) ANNUAL PROPERTY TAX ASSESSMENT

Ms. G. had 15 acres of rare Garry oak woodland with one house on it. She hoped to preserve the land in perpetuity but the rising property taxes were making it difficult for her to do so. Her land was zoned rural residential—which allowed 5-acre average lot size—so the land was valued for its potential to be subdivided into three properties. After consulting a local conservation organization, they drafted a conservation covenant on the whole property that prevented any further development or building of any sort. The value of the property was lowered since she had "lost" two potential lots. She appealed to the property tax assessment authority to be taxed at the lower market value and won the appeal, making her annual property taxes affordable for her to look after her rare woodland.

In very simple terms, property tax assessment is typically based on Fair Market Value, unless you have farm land or timber land which has a different basis for assessment. If you have a regular residential property which becomes devalued by your decision to voluntarily restrict certain uses, then the provincial tax assessment authority must legally take this into account in their assessment, like any other burden on property which lowers the value of land.

One day we hope to have a special assessment category for ecologically sensitive land, protected by a conservation covenant which would be assessed at a lower rate, similar to farm land assessment.

(2.) PROPERTY TRANSFER TAX

This is a tax that you pay when you transfer the title of a property. If you place a common law covenant, conservation covenant, common law easement or profit à prendre on your land title, you don't pay a property transfer tax. If you sell, bequeath or give land to a conservation organization then you must pay the transfer tax. If you register a life estate you also must pay the tax, regardless of whether it has a conservation covenant on it.

B. INCOME TAX

Income tax will be a consideration whether you sell, or donate all, or part of your land. Even if you donate or sell an interest in your land, such as a conservation covenant, income tax will be affected.

Recent changes in the federal budget has provided some much needed tax relief for environmental philanthropy. There are now several ways of treating gifts of land and each has distinct tax benefits. Overall the changes eliminate the possibility of a donor having to pay tax in order to give property away, which is a big improvement from previous years. The treatment of philantropy is a complex area in the Income Tax Act. If you are pursuing any of these options, it is best to get the full story from a tax expert.

(1.) INCOME TAX CREDIT FOR DONATION

There are benefits to be had in the Income Tax Act for donating land or covenants or selling for less than market value to a conservation organization with charitable status. How beneficial this is depends on a variety of factors: the individual landowner's circumstances, the type of land being donated and to whom you donate it. Three examples of land donations are provided below.

GIFTS TO THE CROWN

If you donate land or covenants to the federal or provincial government, you receive a tax receipt. This tax receipt can be used as a credit toward 100% of your net income and carried forward for up to five years up to the value of the gift. For example, if the donor of a million dollar property (with no captial gains) earned $100,000 per year, the deduction was worth $100,000 that year and can be carried over for $100,000 per year for a further five years.

GIFTS OF ECOLOGICALLY SENSITIVE LANDS

In the 1995 federal budget a new category of charitable donations called "ecological gifts" was created to encourage the donation of ecologically significant lands, covenants, easements and servitudes for conservation purposes. These ecological gifts are now in a category similar to gifts to the Crown in the sense that the limit on their deductibility is equilvalent to 100% of income. However, to qualify for this tax benefit, several approvals are required. The property must be certified as ecologically sensitive lands by the Minister of Environment or another designated authority. Generally, ecologically sensitive lands include natural areas of significance, streams, wetlands and other sites that contribute to the maintenance of biodiversity. Furthermore, the recipient of the donation is limited to municipalities or a qualified registered charities whose primary purpose is the conservation and protection of Canada'a environmental heritage (see table). These conservation organizations will be able to advise you on whether your land qualifies as an ecological gift.

QUALIFIED REGISTERED CHARITIES IN BRITISH COLUMBIA AS OF MAY 1, 1996.

Burns Bog Conservation Society
Central Okanagan Parks and Wildlife Trust
Coast Islands Conservancy
Comox Valley Community Land Society
Denman Islands Conservancy
Ducks Unlimited Canada
Federation of British Columbia Naturalists
Friends of Rowbotham Ridge
Galiano Conservancy Association
Heron Rocks Friendship Centre Society
Hornby Island Conservancy
Islands Trust
Nature Conservancy of Canada
Nature Trust of British Columbia
Quadra Island Conservancy
Quesnel Telegraph Trail Preservation Society
Trans-Canada Trail Foundation
Turtle Island Earth Stewards
Vancouver Natural History Society
Wild Bird Trust of British Columbia
Wildlife Habitat Canada

GIFTS OF CAPITAL PROPERTY

There are also some new income tax credits for gifts to charities such as land, buildings, equipment and securities such as stocks and bonds. The limit on usable charitable donations has recently risen to 50% (or 100% in the year of death). However, the tax laws still require donors to offset the tax liability for deemed capital gains (see section on Capital Gains). These new measures do not apply to gifts to municipalities and do not require the certificiation process as with ecological gifts.

(2.) CAPITAL GAINS

When you sell land, the rise in value between its original cost and its current value creates a "capital gain" or profit which is taxable. If you donate land or an interest (covenant) in it (greater than 20% of the value), the Income Tax Act "deems" that you, the donor, received full market value for the thing sold, even though you never received a penny. This can be fairly shattering if you are not very rich but acquired land that was worth little 30 years ago and is now worth a million dollars more. When you sell or donate it, or when you die, you or your estate pays tax on

Tax Incentives

three quarters of the capital gain. So let's suppose you were to donate your property for salamander preservation, you would have to pay tax at the highest rate (50%) on $750,000 - a bill of $375,000 for the privilege of giving your land away. Not a great incentive to save salamanders.

Although the recent changes to the Income Tax Act did not exempt ecologically sensitive lands from capital gains tax, there are new mathematical formulas that ensure taxpayers no longer face the prospect of having to pay tax in order to give property away. Basically, the 50% limit on capital property donations can be further raised by half the amount of taxable capital gains resulting from the donation of capital property. So even though the donation produces a deemed capital gain, it is guaranteed that no less than 100% of that deemed capital gain can be written off. The result would be no tax payable, but you would not have much of a donation receipt left to apply against other income. In any case, these tax incentives are complex so donors should seek legal advice.

The capital gains liability, more than any other factor, has restricted donations of land or even covenants, since covenants can "trigger" capital gains as well. Groups are looking for better solutions so that landowners receive benefits for their donations.

The following conservation agencies can provide more information on the current status of tax incentives.

North American Wetlands Conservation Council
Suite 200, 1750 Courtwood Crescent
Ottawa, Ontario K2C 2B5
Phone (613) 228-2601

Habitat Conservation Division
Canadian Wildlife Service
Environment Canada
Ottawa, Ontario K1A 0H3
Phone (819) 953-0485

Future Directions

There are two critical directions that the tax laws might take to provide some greater incentives for private land stewardship: land tax relief and capital gains relief.

LAND TAX:

- environmental groups/agencies are lobbying for a new category in the property assessment list for *conservation lands*, similar to agricultural lands and timber lands, where property owners are not taxed at the same rate as residential lands if they are conserving natural areas and foregoing development on these areas.
- it is also recognized that we need to reform the assessment of residential lands with conservation covenants on them, so that if market value is lowered due to the covenants, there is a straight forward assessment process that takes this into account.

INCOME TAX:

- several groups at the national level are investigating options for eliminating capital gain tax liability on donated land, or on any donation of land for conservation whether this is in the form of an outright donation, selling for less than market value or a partial donation of interests in the land through conservation covenants. There needs to be greater incentives for donating conservation covenants, giving greater or total tax benefits.

KEEPING IN TOUCH

Keeping in touch with the conservation community can greatly assist landowners for two main reasons:

- Conservation organizations can keep you up to date with latest conservation tools and tax benefits;
- Many of the organizations work with or lobby government agencies and can communicate your opinions and ideas to decision makers.

Landowners can bring about change themselves by writing letters, talking to their neighbours about these ideas and informing the politicians about the pressing need to provide incentives for people to conserve their land. The protection of many of British Columbia's threatened plants, wildlife and fish relies on your help together with the conservation community. Keep in touch to share your ideas and experiences.

Evaluation

This book was produced for private landowners in British Columbia who are interested in attracting wildlife or protecting natural features on their property.

The Stewardship Pledge Program would like to evaluate the usefulness of this publication through comments received from the readers. Could you please fill out the following questionnaire and mail to the address on the back or fax to (604) 946-7022. With your cooperation we will continue to assist landowners and community groups maintain wildlife habitat on private lands.

Thank-you very much for taking the time to complete this questionnaire.

Where did you get this guide from?

_____

_____

Why did you read this guide?

- ☐ interest only
- ☐ looking for practical tips
- ☐ looking for information on legal options
- ☐ want to promote private stewardship with friends and neighbours

Will the information provided in this guide help you start or increase stewardship activities on your property?

_____

What was the most useful section for you?

_____

_____

What did you like best about the guide?

_____

_____

What could be done to improve this guide?

_____

_____

Do you presently own or lease land ☐ Yes ☐ No Approximately how many acres _____

Are you currently a member of a conservation organization? ☐ Yes ☐ No

Do you have any other comments?

_____

_____

_____

_____

_____

Fold

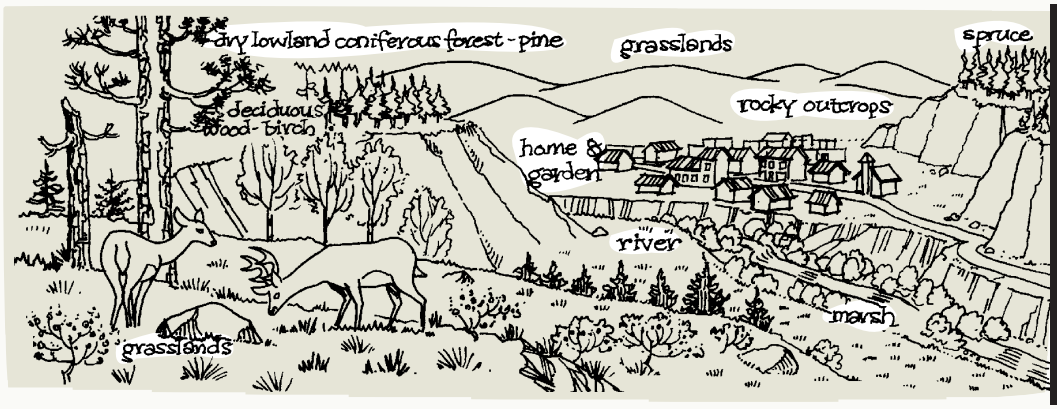
Tape Here - Do Not Staple

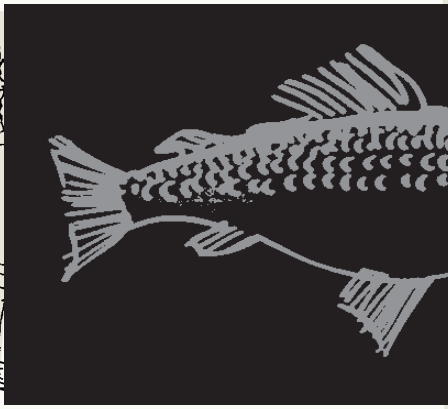
Fold

Stamp

Stewardship Pledge Program
Pacific Wildlife Research Centre
5421 Robertson Road
Delta, B.C.
V4K 3N2

conservation organizations are keen to help landowners





WILDLIFE HABITAT CANADA

Environment Canada
Canadian Wildlife Service

Environnement Canada
Service canadien de la faune

BRITISH COLUMBIA
Ministry of Environment, Lands and Parks

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