

EXHIBIT B

Legacy Land Trust
Conservation Easement
BASELINE INVENTORY REPORT
Spring Creek Bend Preserve

Date of Site Visits: December 19, 2008, January 9, 2009, and July 30, 2009

Anticipated Date
of Conveyance of
Conservation
Easement: September, 2009

Property Ownership
Grantor: Montgomery County
1130 Pruitt Road
Spring, TX 77380
(936) 539-7817

Name of Proposed
Easement Area: Spring Creek Bend Preserve

Legal Description: Being a 100.17 acre parcel of land located in the R.O.W. McManus Survey, Abstract Number 346, Montgomery County, Texas, and being out of and a part of a certain tract of land called 124.44 acres conveyed by deed to Montgomery County as recorded under Clerk's File Number (CF No.) 2008-106829 of the Montgomery County Official Public Records of Real Property (MCOPRRP), said 124.44 acres being out of a parent tract called 330.62 acres ("Tract 2") described in a partition deed recorded in Volume 500, Page 221, of the Montgomery County Deed Records, said 100.17 acre parcel being more particularly described by metes and bounds.

Directions to: FROM HOUSTON: Take I-45 (North-West Freeway)
Take exit 70A to Tomball (FM-2920) - go 0.1 mi
Continue on I-45 - go 0.4 mi
Take the Louetta Rd - East ramp - go 0.2 mi
Bear right at E Louetta Rd - go 1.3 mi
Turn hard left at Aldine Westfield Rd - go 0.9 mi
Bear right at Riley Fuzzell Rd - go .5 mi
Turn left at Old Riley Fuzzell Rd - go .2 mi
Take the first Right onto an unpaved driveway with a government

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property sign, continue on this path through the gate until a large drainage ditch appears on the right hand side.
The Preserve is the property across the drainage ditch and can be accessed by crossing the dam on foot.

Description
of Property:

An irregular rectangle shape lying NW to SE on Spring Creek

Conservation
Purposes:

1. Conservation of important migratory stop-over and wintering area along Spring Creek for waterfowl and songbirds as well as providing connected wildlife corridor for terrestrial species, and preventing habitat fragmentation
2. Protection of forested riparian area from development encroachment, including sand and gravel mining, and clear-cut timbering
3. Protection of floodway and the 100-year-floodplain of Spring Creek within the property from clearing so as to retain optimum floodwater retention capacity of property.
4. Inclusion in Spring Creek Greenway Project, a comprehensive conservation effort to protect both north and south banks of Spring Creek from FM 2978 to I-59, protecting water quality as it flows downstream into Lake Houston, one of Houston's primary water sources

Critical Elements
of the
Conservation
Easement:

1. Retain property in its open space condition in perpetuity.
2. Grantor reserves the rights in perpetuity to conduct educational uses and to restore and enhance native plant and wildlife habitat.
3. The property will not be subdivided in any manner and no building envelopes are allowed.
4. Neither grazing nor timbering is allowed on the property.

Land use:

Open space land

Current use:

Open space

Reserved use:

Open space land in perpetuity

Adjacent land use:

South of the preserve is Montgomery County-owned parkland. southeast, but not adjacent, to the preserve is the Old Riley Fuzzel

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Preserve, north of the preserve is a planned subdivision, east and southeast of the preserve is the Sam Bell Gully Diversion Channel owned and managed by Montgomery Co. Drainage District #6, due west of the preserve is bordered by an active sand and gravel operation, the southwest border of the preserve is on a bend of Spring Creek (hence the name of the Preserve – Spring Creek Bend)

Property structures,
Developments, &
Man-made features:

No man-made structures are located on the property, with exception of a number of significant ATV ruts that were present on the property at the time of the baseline as well as an older logging road. A GPS map of the coordinates of the most significant ruts are on file at the Legacy Land Trust office for future reference.

Three easements are contained on the Preserve:

A 100' pipeline right-of-way granted to Texas Illinois Natural Gas Pipeline Company recorded under Montgomery County Clerk's File No. 2007-135874. This easement crosses the northern portion of the preserve.

A right-of-way granted to Trunkline Gas Company under Montgomery County Clerk's File No. 2007-130139 transects the northern most portion of the top of the preserve. Of the 110' easement, only a few feet are located within the preserve.

Drainage easement executed by Bahr Capital Interests, Ltd, recorded under County Clerk's File No. 2008-031050 for surface water sheet flow drainage purposes into Spring Creek. The channels created north of the preserve were designed to "daylight" prior to reaching the preserve, with channels gradually reaching surface level to promote a transition to surface flow. The point of drainage daylight of the easterly channel is located approximately 500 feet north of the preserve and the outfall is planned to conform to the existing topography and to follow the natural drainage paths through the preserve. The second proposed channel is not yet constructed as of this signing.

[On July 30, 2009, Legacy Land Trust photo-documented with GPS coordinates multiple locations of outfall area within the Preserve prior to any significant rain events. Photos and coordinates held at Legacy Land Trust office.]

Geology/Soils:

A review of the USGS NRCS Web Soil Survey 2.1 for Montgomery County, Texas depicts the property as being comprised of four soil series;

1. Ab – Landman fine sand, 0 to 3 percent slope. Map Unit Ab, the depth of the restrictive feature is >80 inches. Drainage is moderate, and permeability is moderately high (0.20 to 0.57 in/hr). A water table when present is located at a depth of about 48 to 72 inches. The soil has a capability subclass of 3s nonirrigated, with a not hydric soil rating. The Landman series makes up stream terraced landforms, and consists of fine sand and fine sandy loam, with fine sand down to 47 inches, and fine sandy loam from 47 to 83 inches.
2. So – Sorter silt loam, 0 to 1 percent slope. Map Unit So, the depth of the restrictive feature is >80 inches. Drainage is poor, and permeability is moderately low to moderately high (0.06 to 0.20 in/hr). Depth of water table is 0 inches. The soil has a capability subclass of 4w nonirrigated, and a partially hydric rating. The Sorter series contributes to flat landforms. Silt loam is found down to 68 inches, 68 to 80 inches is a very fine sandy loam.
3. Br – Bruno loamy fine sand, 0 to 1 percent slope. Map Unit Br, the depth of the restrictive feature is >80 inches. Excessively well drained, and high to very high permeability (5.95 – 19.98 in/hr). Depth of water table, if present, is 48-72 inches. The soil has a capability subclass of 5w nonirrigated, and is classified with a non-hydric rating. The Bruno series creates a floodplain landscape, and consists of loamy sand down to 8 inches, loamy fine sand from 8 to 42 inches, then sand from 42-60 inches.
4. Lu – Briley loamy fine sand, 0 to 1 percent slope. Map Unit Lu, the depth of the restricted feature is >80 inches. Well drained soil, with moderately high to high permeability (0.57 to 1.98 in/hr). Depth of water table, if present, is 80 inches. The soil has a capability subclass of 3s nonirrigated. Briley series has a interfluves landform, and consists of loamy fine sand down to 23 inches, then sandy clay loam 23 to 76 inches.

Floodway/Floodplain:

The FEMA FIRM (Flood Insurance Rate Map) item #48339C0685F shows 94% of Spring Creek Bend Preserve is within the 100-year-floodplain (94.24 acres) and 51.2% is in the floodway (51.3 acres) out of the 100.17 acre preserve.

Linear Stream Frontage:

There is approximately 1,571 linear feet or 0.297 mile of frontage along the banks of Spring Creek.

Wetlands:

U.S. Fish and Wildlife Service, National Wetland Inventory, Wetlands Online Mapper, depict the property as having Palustrine Scrub-Shrub wetlands (PSS), Palustrine Forested wetlands (PFO), and Riverine wetlands. Based on the information provided by U.S. Fish and Wildlife Service Geocortex Internet Mapping Framework (IMF), and a Geographic Information Systems analysis, the property contains 1.107 acres of (PSS), 4.85 acres of (PFO), and 3.534 acres of Riverine wetlands

The Riverine Wetlands are more fully described as:

Water is usually, but not always, flowing in the Riverine Systems. Upland islands or Palustrine wetlands may occur in the channel, but they are not included in the Riverine System. Palustrine Moss-Lichen Wetlands, Emergent Wetlands, Scrub-shrub Wetlands, and Forested Wetlands may occur adjacent to the Riverine System, often on a floodplain. However, we concur with Reid and Wood (1976,84) who stated, "The floodplain is a flat expanse of land bordering an old river... Often the floodplain may take the form of a very level plain occupied by the present stream channel, and it may never, or only occasionally, be flooded... It is this subsurface water [the ground water] that controls to a great extent the level of lake surfaces, the flow of streams, and the extent of swamps and marshes.

The Palustrine Wetlands are more fully described as:

The Palustrine System was developed to group the vegetated wetlands traditionally called by such names as marsh, swamp, bog, fen, and prairie, which are found throughout the United States. It also includes the small, shallow, permanent or intermittent water bodies often called ponds. Palustrine wetlands may be situated shoreward of lakes, river channels, or estuaries; on river floodplains; in isolated catchments; or on slopes. They may also occur as islands in lakes or rivers. The erosive forces of wind and water are of minor importance except during severe floods. The emergent vegetation adjacent to rivers and lakes is often referred to as "the shore zone" or the zone of emergent vegetation and is generally considered separately from the river or lake. There are often great similarities between wetlands lying adjacent to lakes or rivers and isolated wetlands of the same class without open water.

Recreation/Scenic Values:

Public access is granted for educational purposes by the landowner. There are no primary roads connected with this property so no scenic values are implied.

Flora/Fauna:

General description of habitat: Currently habitat for a variety of native terrestrial and non-terrestrial species as well as stop-over habitat for migrating waterfowl. The Preserve's location adjacent to Spring Creek provides important habitat near a year-round water supply, and provides habitat for bank-nesting birds.

The flora/fauna list which follows was documented (seen and identified) on Spring Creek Bend Preserve by Legacy Land Trust's Baseline Inventory crew of biologists and naturalists on December 19, 2008, January 9, 2009, and July 30, 2009.

Birds:

Great Blue Heron, *Ardea herodias*
Great Egret, *Ardea alba*
Black Vulture, *Coragyps atratus*
Turkey Vulture, *Cathartes aura*
Red-shouldered Hawk, *Buteo lineatus*
Killdeer, *Charadrius vociferus*
Mourning Dove, *Zenaida macroura*
Belted Kingfisher, *Ceryle alcyon*
Red-bellied Woodpecker, *Melanerpes carolinus*
Downy Woodpecker, *Picoides pubescens*
Northern Flicker, *Colaptes auratus*
Pileated Woodpecker, *Dryocopus pileatus*
Eastern Phoebe, *Sayornis phoebe*
Blue Jay, *Cyanocitta cristata*
American Crow, *Corvus brachyrhynchos*
Carolina Chickadee, *Poecile carolinensis*
Tufted Titmouse, *Baeolophus bicolor*
Brown Creeper, *Certhia americana*
Carolina Wren, *Thryothorus ludovicianus*
House Wren, *Troglodytes aedon*
Ruby-crowned Kinglet, *Regulus calendula*
Blue-gray Gnatcatcher, *Poliptila caerulea*
American Robin, *Turdus migratorius*
Northern Mockingbird, *Mimus polyglottos*
Brown Thrasher, *Toxostoma rufum*
Orange-crowned Warbler, *Vermivora celata*
Yellow-rumped Warbler, *Dendroica coronata*

Swamp Sparrow, *Melospiza georgiana*
White-throated Sparrow, *Zonotrichia albicollis*
Northern Cardinal, *Cardinalis cardinalis*
American Goldfinch, *Carduelis tristis*

Mammals:

Feral Hog *Sus scrofa*
White-tailed Deer *Odocoileus virginianus*
Eastern Fox Squirrel *Sciurus niger*

Amphibians:

Bronze Frog *Rana clamitans clamitans*
Blanchard's Cricket Frog *Acris crepitans blanchardi*
Northern Cricket Frog, *Acris crepitans*

Fish:

Mosquito Fish, *Gambusia affinis*
Bluegill Sunfish, *Lepomis macrochirus*

Reptiles:

Red-eared Slider, *Trachemys scripta elegans*
Ground Skink, *Scinella lateralis*

Insects:

Tiger Beetle, *Cicindela pilatei*
Ground Beetle, *Harpalus* sp.
Town Ant (Leaf-cutting Ant), *Atta texana*
European Honey Bee, *Apis mellifera*
Jumping Spider, *Phidippus* sp.
Wolf Spider, *Rabidosa* sp.
Cloudless Sulfur, *Phoebis sennae*
Green Darner, *Anax junius*
Crane Fly, *Tripularia* sp.

Vegetation

Trees:

Boxelder, *Acer negundo*
Red Mulberry, *Acer rubrum*
River Birch, *Betula nigra*
American Hornbeam, *Carpinus caroliniana*
Water Hickory, *Carya aquatica*
Bitternut Hickory, *Carya cordiformis*
Black Hickory, *Carya texana*
Sugarberry, *Celtis laevigata*

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Parsley Hawthorn, *Crataegus marshallii*
Little Hip Hawthorn, *Crataegus spathulata*
Common Persimmon, *Diospyros virginiana*
Green Ash, *Fraxinus pennsylvanica*
American Holly, *Ilex opaca*
Sweetgum, *Liquidambar styraciflua*
Southern Magnolia, *Magnolia grandiflora*
Chinaberry, *Melia azedarach* NN
Blackgum, *Nyssa sylvatica*
Eastern HopHornbeam, *Ostrya virginiana*
Redbay, *Persea borbonia*
Shortleaf Pine, *Pinus echinata*
Loblolly Pine, *Pinus taeda*
Water Elm, *Planera aquatica*
American Sycamore, *Platanus occidentalis*
Eastern Cottonwood, *Populus deltoides*
Cherry Laurel, *Prunus caroliniana*
Blackcherry, *Prunus serotina*
Pear, *Pyrus calleryana*
White Oak, *Quercus alba*
Southern Red Oak, *Quercus falcata*
Blackjack Oak, *Quercus marilandica*
Water Oak, *Quercus nigra*
Cherrybark Oak, *Quercus pagoda*
Willow Oak, *Quercus phellos*
Post Oak, *Quercus stellata*
Winged Sumac, *Rhus copallinum*
Black Willow, *Salix nigra*
Chinese Tallow, *Triadica sebifera* NN
Winged Elm, *Ulmus alata*
American Elm, *Ulmus americana*
Rusty Blackhaw, *Viburnum rufidulum*
Hercules Club, *Zanthoxylum clava-herculis*

Shrubs:

Switch cane, *Arundinaria gigantea*
Eastern Baccharis, *Baccharis halimifolia*
Beautyberry, *Callicarpa americana*
Coral Bean, *Erythrina herbacea*
Yaupon, *Ilex vomitoria*
Ligustrum, *Ligustrum japonicum* NN
Chinese Privet, *Ligustrum sinense* NN
Wax Myrtle, *Morella cerifera*
Palmetto, *Sabal minor*
Elderberry, *Sambucus canadensis*

Rattlebox, *Sesbania drummondii*
 Arrowwood, *Viburnum dentatum*
 Heavenly Bamboo, *Nandina domestica* NN
 Glossy Privet, *Ligustrum lucidum* NN

Forbs:

Alligatorweed, *Alternanthera philoxeroides* NN
 Manyflower Marshpennywort, *Hydrocotyle umbellata*
 Giant Ragweed, *Ambrosia trifida*
 Tickseed Sunflower, *Bidens aristosa*
 Leafy Elephant-Foot, *Elephantopus carolinianus*
 Yankeeweed, *Eupatorium compositifolium*
 Cudweed sp., *Gnaphalium sp.*
 Aster sp., *Symphotrichum sp.*
 Oriental False Hawksbeard, *Youngia japonica* NN
 Roadside Bittercress, *Cardamine debilis* NN
 Spanish Moss, *Tillandsia usneoides*
 Climbing Dayflower, *Commelina diffusa*
 Whitemouth Dayflower, *Commelina erecta*
 St. Andrew's Cross, *Hypericum hypericoides*
 Slender Threeseed Mercury, *Acalypha gracilens*
 Bladderpod, *Glottidium vesicarium (Sesbania vesicaria)*
 Rattlebush, *Sesbania drummondii*
 Louisiana Vetch, *Vicia ludoviciana*
 South American Skullcap, *Scutellaria racemosa* NN
 Florida Betony, *Stacchys floridana* NN
 Arrowleaf Sida, *Sida rhombifolia*
 Narrowleaf Primrose-Willow, *Ludwigia linearis*
 Violet Woodsorrel, *Oxalis violacea*
 Dotted Smartweed, *Polygonum punctatum*
 Dock species, *Rumex sp.*
 Resurrection Fern, *Pleopeltis polypodioides*
 White Avens, *Geum canadense*
 Dewberry, *Rubus trivialis*
 Hairy Bedstraw, *Galium pilosum*
 Licorice Weed, *Scoparia dulcis*
 Brazilian Verbena, *Verbena brasiliensis* NN
 Common Blue Violet, *Viola sororia var. sororia*
 Missouri Violet, *Viola sororia var. missouriensis*

Grasses And Similar Plants:

Deep-Rooted Sedge, *Cyperus entrerianus* NN
 Yellow Nutsedge, *Cyperus esculentus*
 Common Rush, *Juncus effusus*
 Giant Cane, *Arundinaria gigantea*

Inland Sea Oats, *Chasmanthium latifolium*
Bermudagrass, *Cynodon dactylon* NN
Lindheimer Panicgrass, *Dichanthelium acuminatum* var. *lindheimeri*
Junglerice, *Echinochloa colonum* NN
Basketgrass, *Oplismenus hirtellus*

Vines:

Poison Ivy, *Toxicodendron radicans*
Climbing Hempvine, *Mikania scandens*
Crossvine, *Bignonia capreolata*
Japanese Honeysuckle, *Lonicera japonica* NN
Morning Glory species, *Ipomoea* sp.
Japanese Climbing Fern, *Lygodium japonicum* NN
Carolina Snailseed, *Coccilus carolinus*
Yellow Passionflower, *Passiflora lutea*
Ladies' Eardrops, *Brunnichia ovata*
Saw Greenbrier, *Smilax bona-nox*
Cat Greenbrier, *Smilax glauca*
Roundleaf Green-brier, *Smilax rotundifolia*
Lanceleaf Greenbrier, *Smilax smallii*
Peppervine, *Ampelopsis arborea*
Graybark Grape, *Vitis cinera*
Muscadine Grape, *Vitis rotundifolia*

Funghi

Ganoderma lucidum
Trametes versicolor
L.B.M spp.

NN = non-native

Agency/Organization Baseline Inventory Contributors:

Native Plant Society: Katy Emde
Certified Texas Master Naturalist: Teri MacArthur
Lake Houston Area Nature Club: Damien Carey, birder
Certified Texas Master Naturalist, geologist: Geoff Newton
Legacy Land Trust: Stephanie Prosser, Conservation Lands Biologist
Legacy Land Trust: Bruce Bodson, Lands Committee Chair, Board Member
Environmental Consultant, Biologist
Legacy Land Trust: Susan Rudolph, Board Member, Certified Texas Master Naturalist

Certification

We, the undersigned signatories, do hereby certify, that the natural resources inventory contained in this Baseline Inventory Report, including referenced attachments, as collected on Dec. 12, 2008, January 9, 2009, and July 30, 2009 is an accurate representation of the Easement Area to the best of our knowledge at the time of the grant of this Conservation Easement on ~~September 5th~~, 2009.

Grantor:

October

Grantee:

Ed Chance

Montgomery County Pct. 3
Commissioner Ed Chance

Sandy Kantor

Chair, Legacy Land Trust
Sandy Kantor

10/5/2009
Date

10/5/2009
Date

I, Stephanie Prosser, was present for the collection of the natural resources inventory data contained in this Baseline Inventory Report, as well as being the person responsible for the research and compilation of this Report. I have a degree in Biology, B.S., achieved from the University of Texas in San Antonio, as well as a Master's Degree in Biology from Texas A&M University – Corpus Christi where my studies and research were focused on Ecology and Ornithology.

Stephanie Prosser
Stephanie Prosser
Conservation Lands Biologist

10-5-2009
Date

RECORDING MEMORANDUM:
At the time of recordation, this instrument was found to be inadequate for the best photographic reproduction because of illegibility, carbon or photo copy, discolored paper, etc. All black-outs, additions and changes were present at the time the instrument was filed and recorded.

Spring Creek Bend Preserve Conservation Easement
Exhibit B – Baseline Inventory Report

EXHIBIT "C"

PROHIBITED USES AND PRACTICES
Spring Creek Bend Preserve

The following uses and practices, though not necessarily an exhaustive recital of inconsistent uses and practices, are inconsistent with the purposes of the Easement and shall be prohibited upon or within the Easement Area.

1. **Conservation Values.** The destruction or impairment of any conservation value, except as reasonably determined by the Grantee and Third Parties to be necessary to support or maintain another conservation value of greater importance to the conservation purposes of this Easement, is prohibited.
2. **Subdivision and Development.** The Easement Area shall not be further subdivided or otherwise partitioned in ownership.
3. **Agriculture, Commercial, and Industrial Use.** The construction or establishment of any facility or structure for the research and development, manufacture or distribution of any product on the Easement Area is prohibited.

Billboards and other commercial advertising media are prohibited. Telecommunications facilities (including antennae or relay stations and accessory towers, satellite dishes or utility of any type) are prohibited.

Timbering of any trees for any purpose is prohibited.

Mowing or tilling is prohibited, except as necessary to maintain or enhance the conservation values of the Easement Area. Farming is prohibited.

4. **Application of Pesticides.** The application of pesticides, including, but not limited to, insecticides, fungicides, rodenticides and herbicides, except as may be required by law or as may be determined by Grantee and Third Parties to be necessary for Easement Area management purposes, consistent with the intent of this Easement.
5. **Grazing and Feed Lots.** With the exception of daytime recreational horseback riding and leashed dog walking, placement or grazing of domestic livestock or other domesticated animal species shall not be permitted. The establishment or maintenance of any commercial feed lot shall not be permitted. A commercial feed lot shall be defined for purposes of this Easement as a confined area or facility within which the land is not grazed or cropped annually and which is used to receive livestock that have been raised off the Easement Area for feeding and fattening for market.
6. **Dumping and Storage.** Dumping or storing of trash, wastes, ashes, sawdust, non-composted organic wastes, sewage, garbage, scrap material, sediment discharges, oil and petroleum by-products, leached compounds, toxic fumes, and any "hazardous substances" shall not be permitted. For the purposes of this paragraph, the phrase "hazardous substances" shall be defined as in the federal Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9601 et seq.) and/or a substance whose

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Exhibit C- Prohibited Uses

manufacture, processing, distribution in commerce, use, possession or disposal is banned, prohibited or limited pursuant to the federal Toxic Substances Control Act (15 U.S.C. 2601 et seq.).

7. **Mineral Extraction.** There shall be no mining or exploitation of minerals or mineral rights by Grantor. Mining or exploitation of sand, gravel, or other minerals of the surface estate, including near-surface lignite, iron, or coal, is expressly prohibited. Grantor shall enforce the provisions of any current mineral leases, surface use agreements, or easements affecting the Easement Area as necessary to protect the conservation objectives of this Easement.
8. **Hunting/Animals.** Discharging of firearms or other weapons, hunting, and trapping are prohibited, except to the extent appropriate for the management purposes consistent with the intent of this Easement and with prior approval or as approved of by the Grantee and Third Parties. Commercial leasing for hunting, fishing, or trapping is prohibited on the Easement Area. No dog walking without leashes.
9. **Vehicle Traffic.** The operation of dune buggies, motorcycles, all-terrain vehicles or other motorized recreational vehicles, automobiles, trucks, vans or other motor vehicles is prohibited, except as is determined by Grantee and Third Parties to be necessary for inspection, maintenance, fire protection or emergency purposes, or to otherwise carry out the provisions of this Easement.
10. **Construction and Usage.** None of the following shall be allowed to be built or be brought onto the Easement Area including: concrete and/or non-permeable trail surfaces, barbeque pits, grill pits, picnic tables, trash containers or receptacles of any kind (unless used temporarily for litter clean-up); no restroom facilities; no buildings of any sort unrelated to nature-observation activities.

Construction or placement of any structure on, below, or above ground, including but not limited to, residential dwellings, apartment buildings, multifamily units, motels or hotels, advertising signs, billboards or any other advertising materials, or any storage units or new fencing is prohibited.
11. **New Utility Conveyances.** Voluntary conveyance of new telephone, telegraph, cable television, electric, gas, oil, chemical, water, sewer, or other utility line corridors over, under, in, upon or above the Easement Area. Subject to the provisions of paragraph 6.1, this prohibition shall not restrict the maintenance, replacement or repair of utility lines or pipelines within existing corridors that already contain such lines or pipelines if required by the terms of an existing easement.
12. **Excavation.** Dredging, filling, excavation, and alteration of natural watercourses running on or across the Easement Area, and construction of ponds, groins or dikes, is prohibited except as may be consistent with the intent of this Easement and approved in advance by the Grantee and Third Parties.
13. **Paths and Trails.** New permanent paths or trails or the widening of existing paths or trails, are prohibited. Maintenance of existing paths and trails shall be limited to removal of dead vegetation, necessary pruning or removal of trees or plants that could present a

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Exhibit C- Prohibited Uses

hazard, and/or application of permeable materials (e.g. sand, gravel, crushed stone) necessary to correct or prevent erosion.

14. **Pollution, Disturbance to Hydrology.** There shall be no pollution, alteration, depletion, or extraction of surface water, natural water courses, lakes, ponds, marshes, wetlands, subsurface water or any other water bodies, nor shall activities be conducted on the Easement Area that would be detrimental to water purity or that could alter the natural water level or flow in or over the Easement Area. Grantor shall not transfer, encumber, sell, lease, or separate any surface water, groundwater, surface water rights, or groundwater rights, including but not limited to rights to capture or produce groundwater, associated with this Easement Area.
15. **Invasive Species.** Within the Easement Area, there shall be no planting or deliberate introduction of invasive or non-native plant or animal species including, but not limited to, the species listed in Title 4 of the Texas Administrative Code, Chapter 19.300(a) and as amended.
16. **Removal of Native Vegetation.** There shall be no destruction or removal of native vegetation anywhere on the Easement Area, except as necessary for activities expressly permitted in this Easement and with written permission from Grantee and Third Parties.

EXHIBIT "D"

PERMITTED USES AND PRACTICES

Spring Creek Bend Preserve

The following uses and practices, though not necessarily an exhaustive recital of consistent uses and practices, are permitted under this Easement, and they are not to be precluded, prevented or limited by this Easement.

1. **Consistent Use.** To use or lease the Easement Area consistent with the conservation purposes of this Easement is permitted.
2. **Sale or Gift of the Easement Area.** To sell or gift the real property conveying the whole of the Easement Area to another person or entity is permitted, except as restricted in paragraph 2 of Exhibit C.
3. **Low-impact Educational and Recreational Uses.** To use the Easement Area for low impact educational and recreational purposes, including, but not limited to nature hiking, fishing, horseback riding, bicycling, and nature observation including existing natural surface trails and interpretive signs, providing such use is conducted according to applicable government regulations. Horseback riding and bicycling will only be permitted on existing paths and trails within designated portions of the Easement Area.

Grantor may maintain, remodel, realign, and repair existing structures, fences, utilities, soft-surface trails, and other improvements, and in the event of their destruction, to reconstruct or replace said improvements with another of similar size, function, capacity, location and material that do not alter the existing footprint of such structures. Maintenance of existing trails shall be limited to removal of dead vegetation, necessary pruning or removal of obstructing trees and plants.

4. **Restoration and Enhancement.** To restore and enhance native plant and wildlife habitat, including, but not limited to, wetland restoration and enhancement; and all associated management practices consistent with approved wildlife management and soil and water conservation guidelines of the USDA-NRCS, adopted policies of the SWCD, United States Department of Interior Fish & Wildlife Service (USDI-FWS), Texas Parks & Wildlife Department (TPWD), or other equivalent technical reference acceptable to the Grantee.
5. **Construction and Repair.** To maintain, improve, replace, relocate and repair fences on the Easement Area.
6. **Biological Controls and Agrichemicals.** To use biological controls and agrichemicals as specified in the Management Plan and approved by the Third Parties, including, but not limited to, predatory insects, fire, fertilizers, soil amendments and pesticides as approved by the United States and the state of Texas as necessary to accomplish permitted restoration and enhancement practices and according to applicable government regulations.

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Exhibit D- Permitted Uses

7. **Storage of Materials.** To temporarily store fencing materials, posts, equipment and other property necessary to conduct recreational uses or restoration, maintain low-impact recreational trails, and enhancement practices on the Easement Area.
8. **Compost and Refuse.** To compost bio-degradable materials resulting from the permitted recreational uses or the restoration or enhancement practices on the Easement Area.
9. **Off-Road Vehicles.** Off-road use of automobiles, trucks, vans or other motor vehicles on the Easement Area is prohibited, except as is necessary for inspection, construction or maintenance of permitted improvements, fire protection, law enforcement, or emergency purposes.
10. **Unauthorized Persons.** To prohibit entry on the Easement Area of unauthorized persons.
11. **Oil and Gas Exploration.** Grantor does not own mineral rights. Surface rights have been waived for the tract to designated wellsites on an adjacent tract. Oil, gas and other subsurface materials exploration are permitted for diagonal subsurface access provided that best efforts are made to preserve the conservation values described in this Conservation Easement.
12. **Nuisance Species Control.** Grantor, with written approval of Grantee and Third Parties, shall have the right to control, destroy, or trap exotic, invasive and problem animals that pose a material threat to people, other animals, or habitat condition in accordance with applicable state and federal laws and requirements.
13. **Plant Management.** With written approval of Grantee and Third Parties, Grantor may remove diseased, invasive or non-native trees, shrubs, or plants; and remove trees, shrubs, or plants to accommodate maintenance of permitted improvements or for other uses expressly permitted under the terms of this Easement. With approval of Grantee or Third Parties, Grantor may remove potentially invasive plants from the Easement Area for habitat management purposes consistent with the intent of this Easement.

Exhibit E

MANAGEMENT PLAN
Spring Creek Bend Preserve

Dated July 30, 2009

(May be amended for new issues and/or resolved issues)

The following practices should be utilized to manage and enhance the conservation values of the Preserve.

Invasive/Exotic Species Control

Non-native, invasive species have emerged as the second most serious threat to biodiversity, after habitat destruction. Forty percent of all species listed in the United States today as endangered or threatened are so listed primarily because of the threat posed by invasives. Invasives now cover 100 million acres across the United States and cost the country an estimated \$137 billion annually. Because of their significant negative effects on wildlife habitat, their control is most critical with regards to the overall management plan of a conservation easement area.

The Spring Creek Bend Preserve currently contains a number of invasive species including: Chinese tallow trees, Chinese privet, and deeprooted sedge. The privet and tallow are located in various stands throughout the tract; these weedy woody plants have a foothold in certain areas and need to be dealt with sooner rather than later.

There are a few colonies of deeprooted sedge. If the opportunity is missed to get deeprooted sedge under control, it will eventually spread and can take over the forest understory.

The means for taking out the invasive deep-rooted sedge and privet include manual extraction. The tallow must be attacked with herbicides (an updated method manual for which Grantee will supply to Grantor).

The Grantor will control these exotic and invasive plant species on the site to such an extent as to ensure the conservation values of the Preserve are not diminished. Eradication and control practices, such as the use of biological and agrochemical controls, may be implemented in accordance with guidelines and regulations adopted by the United States and/or the State of Texas. The introduction of predatory insects, fertilizers, soil amendments, pesticides, and fire are examples of biological and agrochemical practices that may be utilized. These practices may be employed as necessary and only to accomplish restoration and enhancement as permitted in the conservation easement.

Posting/ ATV use

The boundaries of the Preserve will be appropriately posted and reasonably maintained to deter trespassing by unauthorized persons, particularly by users of all-terrain or off-road vehicles (ATVs) which can cause and have caused significant damage to the property. These destructive, illegal activities should be monitored and controlled by Grantor in order to protect the conservation values of the property.

Signs identifying the area as a Legacy Land Trust Preserve will be posted at least at four corners of the site and 2 in the middle of the eastern and western portions of the property. The "No

Spring Creek Bend Preserve Conservation Easement
Exhibit E – Management Plan

Motorized Vehicle” and LLT identification signs will be placed by the Grantor by October 1, 2009 and will be reasonably maintained.

Wildlife Management

There is current and past evidence of feral hogs on the property which can inflict major ecological damage on the property. A program for hunting and/or controlling wildlife species that may jeopardize the conservation values of the Preserve should be implemented. Such species may include feral hogs and nutria. An active hunting and/or trapping system should be initiated, as necessary, to control species that threaten the conservation values of the property. No commercial hunting of any native species, including deer or birds, is allowed on the site.

Timber Management

Native trees and vegetation as they die in the natural ecological system should be left in place or can be pushed into brush piles for small mammal habitat areas.

Usage Issues:

- Minimal, temporary parking is allowed on the site for restoration and enhancement purposes.
- Place majority of low-impact trails on already-made trails.

FILED FOR RECORD

2009 OCT -6 PM 4:10

Mark Turnbull
COUNTY CLERK
MONTGOMERY COUNTY, TEXAS

Return to:
Legacy Land Trust
10330 Lake Rd., Bldg. J
Houston, TX. 77070

STATE OF TEXAS
COUNTY OF MONTGOMERY

I hereby certify this instrument was filed in File Number Sequence on the date and at the time stamped herein by me and was duly RECORDED in the Official Public Records of Real Property at Montgomery County, Texas.

OCT - 6 2009



Mark Turnbull
County Clerk
Montgomery County, Texas

Spring Creek Bend Preserve Conservation Easement
Exhibit E – Management Plan