



### NEWS - FOR IMMEDIATE RELEASE

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### **New Conservation Liability Insurance Protects 14,000 Acres in San Luis Obispo County** Small Community Land Trusts Unite to Defend Expensive, Frivolous Lawsuits

San Luis Obispo, CA - The Land Conservancy of San Luis Obispo County has joined a one-of-a kind liability insurance company created by the Land Trust Alliance called Terrafirma Risk Retention Group LLC to defend over 20,000 properties conserved by small community land trusts across the country from expensive, frivolous lawsuits.

The most expensive land trust litigation to date cost more than \$1.5 million, and others have cost over \$250,000, far exceeding the reserves of most land trusts.

For example, the Nevada County Land Trust, and the owners of conserved land near Nevada City, California were sued by an adjacent landowner who attempted to build a road across protected land to gain access to his property. The trial included eight days of testimony by 23 witnesses over an 8-month period, 455 exhibits, and two site visits. The land trust had to conduct a special appeal campaign locally to raise part of the over \$300,000 in defense costs. The land trust, now called the Bear Yuba Land Trust, protects the Bear River and Yuba River watersheds providing over half of California's water. It is one of 53 land trusts in California, which collectively protect three-quarters of a million acres of conserved land statewide, that have joined Terrafirma.

"A lawsuit is the last thing an organization wants to contemplate when envisioning what the future holds for a certain piece of land," said Stacey Smith, Conservation Project Manager at The Land Conservancy of San Luis Obispo County. "The Land Conservancy is thrilled to have the additional protection provided by Terrafirma as it will further protect our local conservation efforts by strengthening our organization's capacity to defend the land in the courtroom, if ever necessary."

Land trusts protect a variety of vital natural resources, including clean air and water, wildlife habitat, farms, ranches, forests, gardens, historic battlefields, nature preserves, parks, shorelines, and trails. In the last 18 months, The Land Conservancy of San Luis Obispo conserved 530 acres of prime agricultural lands at Highland Ranch in Los Osos Valley, 117 acres of forest and marine terrace along Leffingwell Creek in Cambria, and 171 acres of prime coastal dune scrub and shoreline along Paradise Beach in the Guadalupe-Nipomo Dunes Complex. Today, The Land Conservancy is creating a conservation park at Kathleen's Canyon Overlook in Nipomo and working to conserve a portion of Eagle Ranch to establish a trail connecting San Luis Obispo and Atascadero. The nonprofit is also restoring local streams in San Luis Creek Watershed and enhancing sensitive habitat in the Guadalupe-Nipomo Dunes.

Nonprofit land trusts are likely to be the most important tool to conserve land in the 21st century because federal funding for land conservation is drying up. For example, congressional appropriators have withheld \$16 billion in authorized funding over the past 46 years for the Land and Water Conservation Fund, a major funding source for federal and state acquisitions of land and conservation easements (development restricted land).

Each year, an estimated 2 million acres of America's farms, ranches, forests, wildlife habitat, and other open spaces are fragmented into smaller parcels or lost to development, according to the President's Annual Economic Report to Congress in March.

"As land values rise, land trusts will face increasing litigation from deep pocketed opponents who are willing and able to bleed them dry to develop conserved land. Up until now, it has been David vs. Goliath," said Rand Wentworth, president of the Land Trust Alliance and a former president of a commercial real estate development company. "Terrafirma enables land trusts to pool their resources to defend their conserved lands against wealthy developers who want to pave over paradise."

This conservation defense liability insurance coverage is not available from commercial or nonprofit insurance carriers for several reasons. The insurance pool is too small to generate enough income, these carriers don't understand the litigation risks facing land trusts, and they want to settle cases to keep their expenses low and profits high, rather than initiate and defend cases to ensure land is conserved in perpetuity.

Taking matters into their own hands, more than 420 land trusts, including The Land Conservancy of San Luis Obispo County, have joined with the Land Trust Alliance to create Terrafirma to protect more than 6 million acres of conserved land.

"The IRS has stated that a land trust could lose its tax status or ability to accept further donations if it does not have sufficient resources to monitor or defend conservation easements," said Frederic C. Rich, a partner of Sullivan & Cromwell LLP, an international law firm based in New York that provided nearly \$1 million of pro bono services to create a solid legal foundation for Terrafirma. "With insurance from Terrafirma, land trusts can now assure their communities, donors, the IRS, other regulators and legislators that they have the financial capacity to defend their conserved lands in perpetuity."

Terrafirma's business is limited to insuring its land trust owner members against the liability of litigation necessary to protect their conserved lands from threats such as trespassing, vandalism, and adverse claims for damages by developers and other parties. Terrafirma differs from other insurance in that it covers all legal-related fees for both enforcement and defense and includes mediation, negotiation and court fees.

"I am both proud and excited about the Alliance's success in creating Terrafirma," said Andrew Bowman, director of the Environment Program for Doris Duke Charitable Foundation, one of eight major environmental foundations that provided \$4 million in capital funding to launch the service. "This innovative service enables community-based nonprofits to protect wildlife habitat and other conserved lands that represent billions of dollars of public and private investment."

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**The Land Conservancy of San Luis Obispo County** is a local nonprofit land trust working to protect and restore special landscapes for the benefit of people and wildlife. The land trust's efforts help protect drinking water sources, prevent poorly planned development, restore wildlife habitat and promote family farmlands and ranches in our region. Since its formation in 1984, The Land Conservancy has led collaborative efforts to permanently protect over 14,000 acres of land in San Luis Obispo County. Details at [www.LCSLO.org](http://www.LCSLO.org) or call (805) 544-9096.

**The Land Trust Alliance** is a national conservation group that works on behalf of the nation's 1,700 land trusts to save the places people love by strengthening conservation nationwide. The Alliance works to increase the pace and quality of conservation by advocating favorable tax policies and training land trusts in best practices, and working to ensure the permanence of conservation in the face of continuing threats. Details at [www.lta.org/policy](http://www.lta.org/policy).

**Terrafirma Risk Retention Group LLC** was formed by the Land Trust Alliance to help land trusts defend their conserved lands from the liabilities of legal challenges by pooling and insuring their conservation defense liabilities and also provides information with respect to loss control and risk management. Details at [www.terrafirma.org](http://www.terrafirma.org).

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