

## Land Trusts and Tricolored Blackbird Conservation

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Land trusts are an increasingly effective force in protecting important biological resources and farmlands throughout the United States. In California there are at least 255 land trusts and 23 in the Central Valley alone. Perhaps the most important ingredient for their success is an established local presence. Land trusts are staffed by local community members who are dedicated to that region. Landowners recognize this and are often more comfortable working within the community than with government agencies.

A principal tool of land trusts is the conservation easement, a voluntary legal agreement between a landowner and a conservation organization in which the landowner is compensated for placing restrictions over their land in order to protect a valued resource such as farmland, habitat for rare species, or both. Land use restrictions often include limitations on construction of new buildings but may be far more specific. Conservation easements are in perpetuity and run with the land so all future owners are bound by the terms.

The Solano Land Trust (SLT) focuses its attention on Solano County, the gateway between the Bay Area and the Central Valley. Solano County is experiencing tremendous growth accompanied by a regular and alarming loss of farmland and habitat.

Over the last 18 years, SLT has protected over 11,000 acres of farmlands, open spaces and important habitats. Roughly 4,500 acres are protected with conservation easements. To date the purpose of most of our easements has been to preserve agricultural values by preventing the conversion of farmland to urban development. When biological resources are the primary conservation value of a property, we have typically opted to purchase the land to enable maximum flexibility in management. Because protection of farmland and habitat are not mutually exclusive, we maintain agricultural practices at some level on all of our lands. For example, managed grazing in vernal pool grasslands is essential in controlling invasive species. All of our land acquisitions are made from willing sellers only.

The observed nesting of Tricolored Blackbirds (Tricolors) in silage fields on large dairies in Fresno, Kern, Kings, Madera and Tulare counties has relevance to Solano County because this industry is growing here; one large dairy is already operational and others have been proposed. A few small colonies of Tricolors have been reported in freshwater marshes from Solano County in the last ten years (California Department of Fish and Game, Natural Diversity Data Base). So far SLT is unaware of Tricolors nesting in

grain fields in Solano County, however, the pattern of nesting in dairy silage fields may soon occur. The question should then be asked how to best protect the bird on private agricultural lands while maintaining a viable operation.

Answering this question requires 1) determining of the conservation objective, 2) outlining the action required to meet that objective, and finally 3) identifying the tools that could be used to implement these actions.

The biggest threat to Tricolor nesting success on these agricultural lands is harvesting of crops before the nesting season is complete, which can result in heavy mortality for hatchlings. Therefore the objective is to preserve agricultural lands that provide nesting habitat and to maintain land uses that promote nesting success.

Meeting this objective requires thinking of the Tricolors as a crop of sorts and the farmer is paid for his crop. A logical method might be to pay the farmer to delay harvest until the nesting season is complete. The amount paid would be equal to the market value of the crop. Alternatively, the farmer could be paid the difference between the value of the crop during nesting season, when it has its highest nutritional and market value, and the value of the crop after nesting season when it is harvested. The farmer could then harvest and sell the reduced value crop after the nesting season. However, this approach does not come without significant challenges to the farmer.

For example, most farmers that harvest silage or hay follow their harvest with a second planting such as corn. If the silage harvest is delayed to accommodate the birds, the timing of the second crop is thrown off and may, therefore, require an additional payment to offset lost income. Furthermore, if a grain crop is left standing beyond the typical harvest time, it will go to seed. These seeds then create problems when they begin to grow amongst the new crop.

These issues require negotiation but are not insurmountable. Bigger challenges arise in considering the best tool to accomplish this conservation action. As mentioned, the principal tools are the purchase of a conservation easement or purchase of the land. When land is protected to maintain its agricultural value, conservation easements are the tool of choice. But when the crop is Tricolored Blackbirds, it becomes more complicated.

Typically the conservation easement process begins with an appraisal of the value of the development rights and concludes with a payment to extinguish those rights. This payment happens only once. Therein lays the most common concern expressed by landowners, one payment in exchange for perpetual restrictions. However, this is frequently overcome by inserting language in the conservation easement that permits limited development so long as it does not affect the agricultural value of the property. There are no restrictions on how the land is farmed.

But when farming for Tricolors, an annual payment as described above must supplement the one time payment to compensate the farmer for lost

income when nesting occurs. While there are a variety of sources for funding for the purchase of a conservation easement, funding sources for a recurring payment are probably limited to state or federal government. This would likely to require a separate agreement between the land trust, the landowner, and the government. This agreement could be renewed annually, every ten years, or any other time increment.

But what if the birds do not nest there in a given season? Many farmers have to arrange for the sale of their crop during the previous fall. Accordingly, the payment would have to be made not just in those years when Tricolors nest in the protected fields, but every year. With this comes a certain degree of uncertainty for the Tricolors; government funding is not reliable over the long term. Still, the conservation easement protects the land in perpetuity and therefore outright destruction of the habitat is ruled out.

The alternative to a conservation easement is to purchase the land if the owner is willing to sell. Because land acquisition by federal and state agencies is often regarded with suspicion and resistance, local land trusts such as SLT may be better suited to fill this role. As the owner, the trust could lease the land for agricultural use but would maintain control over the agricultural practices.

Yet any land trust is limited in the amount of land it can acquire by funds and by public perception. If the land trust is perceived as taking opportunity away from local farmers, its efforts are unlikely to succeed. Based on this, a combination of conservation easements and land acquisition may be the best approach. In this way, the land trust could create a mosaic of land with varying degrees of protection for Tricolors. While the easement land may not always provide ideal nesting habitat, it will never be paved over. Its juxtaposition to fee owned land could act as a buffer against more urbanized land uses. On the fee owned land, the land trust could implement measures to attract the Tricolors such as planting blackberries or developing cattails for nesting, alfalfa or other fields for foraging, and controlling the type and timing of harvests of other cropland that might be used by Tricolors.

Ultimately, local action by local groups will be a key element of Tricolored Blackbird conservation in the Central Valley. Land trusts are ideal to fill this role because of their experience in complex conservation transactions and their local presence. Many trusts have boards that include farmers and ranchers, which grants another tier of credibility within the agricultural community and may be the key to success. Creative solutions that include the larger community are likely to be the most successful.