

Ways to Grant Public Access

Easement – An easement is a legally binding agreement between a landowner and an easement holder that conveys rights, responsibilities, or restrictions to use land to the owner and holder. Easements “run with the land,” surviving changes in land ownership, yet the underlying land may remain privately owned.

Easements are an excellent way to grant and control public use of private property. If conveyed in the form of a conservation easement—an easement given in perpetuity for conservation purposes—granting public access may qualify for tax benefits. Conservation easement holders are required to inspect and enforce their easements.

The Pennsylvania Fish and Boat Commission’s access easement, called a Fishing Access and Conservation Agreement, allows angler access to a designated corridor of land and requires that land to be kept in an undisturbed state. Land trusts may use their own forms of easements, which are often designed to protect larger areas and sensitive natural resources.

Simple Access (License) – Landowners may grant public access for recreational use without granting an easement. The owners retain all rights and can restrict public use of land in any way they wish (e.g. daylight hours only, fishing only, walk-in only, catch-and-release only). Access may be revoked at any time.

Fee Simple Acquisition – Acquisition of land for fishing access and natural resource conservation may be an option preferred by the landowner and access partners. In special cases, public or private funding may be available to acquire land.

More Information Sources on Stream Access & Easements

PA Fish & Boat Commission, Bureau of Boating & Access
www.fish.state.pa.us 717-705-7845

PA Land Trust Association <http://conserveland.org> and
PALTA Conservation Tools <http://conservationtools.org>
717-230-8560

Trout Unlimited Eastern Land Protection Project
www.tu.org/easternlandprotection 703-294-9420

PA Council of Trout Unlimited
P.O. Box 5148
Bellefonte, PA 16823

PATU Stream Access Policy

1. PATU supports creating new opportunities for public access while protecting existing public access to our coldwater streams.
2. We support working with other interested stakeholders, such as PFBC, DCNR, PGC, sportsmen's clubs, conservation districts, land trusts and conservancies to help maintain and create public access opportunities.
3. For privately owned lands, we respect the rights of private landowners and encourage voluntary actions to provide stream access for public fishing. We will work with private landowners to better understand and address their specific concerns with providing public stream access. We support strengthening voluntary programs to secure lands or easements, create rights of way, or other contractual arrangements to provide needed stream access.
4. For public lands, we support programs and funding to acquire more public lands and stream access, to improve access to existing streams (i.e. parking and related improvements), and to assure better information on the availability of fishing opportunities.
5. Generally, we support new governmental initiatives at the federal, state, and local levels that will create more public lands and access. We also support initiatives that will promote and strengthen partnerships between government, businesses, landowners, non-profits, and other organizations and individuals for the long term protection of stream access.



Landowners Guide to Easements and Access Agreements

PA Council of Trout Unlimited

Our mission: “To conserve, protect, restore and sustain Pennsylvania’s coldwater fisheries and their watersheds, especially our wild trout resources.”

www.patROUT.org

January 2012

The Pennsylvania Council of TU and Public Access

The Pennsylvania Council of Trout Unlimited (PATU) is the unified voice for approximately 12,000 Trout Unlimited (TU) members represented by more than 50 chapters. It is the largest state council within TU. The vast majority of TU members are conservation-minded anglers who help conserve, protect and restore our coldwater resources for present and future generations.

We become members of TU because we support the mission and goals of the organization, and are personally connected to our coldwater resources through our love of fishing and a desire to preserve and enhance fishing opportunities in our communities.

Protecting watersheds, improving stream habitat and advocating for protective legislation is the daily business of TU volunteers. We view public access to the waterways of Pennsylvania as key to inspiring the next generation of conservationists who will be instrumental in securing the long-term success of our programs and ultimately the protection of our treasured natural resources. We also view private landowners as critical partners in our work and thank the hundreds of landowners that have helped us conserve, protect and restore Pennsylvania's outstanding coldwater fisheries over the years.

PATU encourages landowners to partner with public and nonprofit organizations to dedicate their lands for recreation and conservation purposes. We invite you to do so by granting an easement on your property or considering the other access options presented in this brochure. As these programs involve costs, benefits, and legal obligations, it is important for you to conduct your own independent due diligence, including, but not limited to, discussion of these items with your legal counsel and tax consultant prior to entering into one of these arrangements.

Benefits to Landowners for Permitting Access

Personal Satisfaction – Granting public access through easements or similar agreements allows landowners to connect the next generation of Pennsylvanians with our angling heritage.

Financial Incentives – Qualified conservation easements, which may allow public access, provide significant income and estate tax benefits when donated to government agencies or land trusts. In special cases, funding may be available to purchase easements.

Reserved Rights – Easements can be customized to suit landowner needs and interests. Rights to public access areas can be retained by landowners, such as the right to close them during hunting season or use them for agricultural purposes.

Limited Liability – Pennsylvania's Recreational Use of Land and Water Act protects public and private landowners, as well as easement holders, from liability for simple negligence.

Signage – Signage can be provided to direct the public in the proper use of the access area.

Maintenance – Access partners can provide trash containers and perform periodic litter sweeps to ensure respectful use of property. Partners may also be available to help maintain trails, fences and related facilities, or help with stream and habitat restoration.

Leaving a Legacy - Granting a permanent easement will allow your property to remain as you have enjoyed it for future generations and ensure sound stewardship of your legacy.

Recreational Use of Land and Water Act

The purpose of the Recreational Use of Land and Water Act (also known as "RULWA") is, "to encourage owners of land to make land and water areas available to the public for recreational purposes by limiting their liability."

RULWA protects public and private landowners from liability for simple negligence for injuries arising out of the free recreational use of lands and waters. Pennsylvania courts have held that an easement holder who has sufficient control over a piece of property so as to be deemed in possession also may benefit from liability protection under RULWA.

RULWA protects owners of "unimproved" property held open for free public use for fishing, boating, hunting and other recreational purposes. However, landowners must recognize that the scope of RULWA's protection is not completely clear. Several court cases have provided guidance in determining its scope and experts suggest that liability can be further reduced through other measures. Landowners should consult legal counsel for advice on RULWA and other techniques to limit liability.

For more information on RULWA and landowner liability related to public access for recreation, visit the Pennsylvania Fish and Boat Commission's RULWA website http://www.fish.state.pa.us/water/public/rec_use_land_water_act.htm or search "Liability Associated with Recreational Use" on the Pennsylvania Association of Land Trust's Conservation Tools website <http://conservationtools.org>.