Definitions of Terms Used in Trout Unlimited's "Policy on the Ownership of Interests in Real Property"
Adopted by the Board of Trustees on February 3, 2012

The following definitions are intended to be helpful to those not familiar with real estate and property law. They should not be considered legal definitions, and the definitions may vary from state to state. For further elaboration or detail, consultation with an experienced real property attorney in your state is recommended.

1) Real Property: In this document, "real property" is a term used to describe land, buildings, structures (such as wells, culverts, bridges, dams, etc.) that are firmly attached to the land. Real property can be owned in various ways. Typically fee title deed is ownership of land, buildings, etc. and provides with it a collection of rights to do things with the property (farming, forestry, mining, building, etc.). Some real property interests can be the right to future ownership (remainder interests) after a current owner dies or takes some specified action. Another is the right to occupy a property for a period of time (e.g. life tenancy), which often involves an owner transferring title to the property while retaining the right to live there for the reminder of his/her life. The rights to extract minerals, gas, oil or other resources from a property are real property interests. The right to cross a property with power lines, pipelines and such constitute real property interests. Similarly, the right to cross a property for recreational access for hiking, cycling, fishing or other pursuits is a real property interest.

Personal property, meaning movable items not attached to land, is distinguished from real property.

2) Real Property in Fee: A deed to a property conveying ownership of land is commonly called 'fee simple' title. In most cases it confers a complete set of rights to use and manage the land. Some fee ownership does not control all the uses of the land. For example, in many places one can own the fee simple title but not the mineral (coal, oil, gas, hard rock mineral) rights. Of course, owning fee simple rights does not mean one can do anything with the property, because it is limited by government powers of taxation, eminent domain, police authority, zoning, etc.

3) Ownership of Life Estates: Life estates are most commonly used to grant a person the right to use a property he or she may not own. For example, sometimes these are created when a donor gives a property to a charity and retains the right to live on the property for the rest of his/her life. A life estate ends upon the death or the release of the life estate by the individual holding the life estate. At that point the use of the property passes to the holder of the "remainder estate or interest."

4) Gift or Bequest: Gifts of real estate can be made during a person's lifetime or through a will. Bequests of real estate (sometimes called "devises") are made through a will and can contain conditions or restrictions that determine how the entity receiving the property may use it. Other bequests of cash, stocks, bonds or other assets are often made to charities. When gifts or bequests are proposed, the charity usually prefers they be 'unrestricted" but will often accept restricted gifts/bequests if the donor and charity agree to the terms beforehand.

5) Leasehold Interests: Leases provide the right to enjoy the exclusive possession and use of an asset or property for a defined period, as created by a written lease. A long-term lease interest is a valuable asset in its own right that can be traded or mortgaged as a physical asset unless restricted by the lease document.

6) Easements: In general easements create the right to use real property of another for a specific purpose. For example, power lines are frequently built on easements over privately owned land. The easement is itself a real property interest, but the original owner retains legal title to the underlying land for all other purposes.

A conservation easement (also called a conservation covenant or conservation restriction) is an encumbrance—a set of restrictions -- which creates a legally enforceable land preservation agreement between a landowner and a government agency (municipality, county, state, federal) or a qualified land protection organization (often called a "land trust"), for the purposes of conservation. It restricts real estate development, commercial and industrial uses, and certain other activities on a property to a mutually agreed upon level. The property remains the private property of the landowner. Conservation easements are normally created as permanent or perpetual restrictions and run with the land regardless of who owns the fee title.

7) Water Rights, Mineral Rights, Other Land Rights: Water rights are concerned with the removal (and subsequent use) of water from a property or for its use on a property. A water right can be to extract or divert water from it natural source (river, lake, groundwater), to impound water behind a dam or other structure or to retain water in its natural location such as to ensure stream flow.

Ownership of mineral rights (more properly "mineral interest") is an estate in real property. It is the right of the owner to exploit, mine, and/or produce any or all of the minerals lying below the surface of the property. In many states, separate individuals or business entities may hold surface property and mineral interests.

8) Checklist A: Checklist A is the TU document provided for reporting under the Real Property Policy adopted by the Board of Trustees on February 3, 2012. A complete Checklist A must be submitted for existing real property, or for the consideration of real property acquisition through purchase or bequest. Checklist A can be found in the Tackle Box on the TU website under Important TU Policies.

9) 501(c)(3): To be tax-exempt under section 501(c)(3) of the Internal Revenue Code, an organization must be organized and operated exclusively for exempt purposes set forth in section 501(c)(3), and none of its earnings may go to any private shareholder or individual. In addition, it may not be an *action organization, i.e.,* it may not attempt to influence legislation as a substantial part of its activities and it may not participate in any campaign activity for or against political candidates.

Organizations described in section 501(c)(3) are commonly referred to as *charitable organizations*. Organizations determined by the IRS to meet the terms of section 501(c)(3), are eligible to receive tax-deductible contributions.

10) Recordable Form for Leases – State Laws: Recording a deed, easement or other transfer of a real property interest normally involves placing that document into the official records of a municipality, county or state at the office of the Recorder or Recorder of Deeds. (Most states provide for deeds to be recorded at County Registry of Deeds or with the County Clerk). The process is that the document is taken or sent to the Recorder's or Clerk's office, a recording fee paid, the document is given a number (a document number, volume or reel number and page number), stamped with the date (and usually the time) of recording and then in most modern offices, scanned and the document returned a short time later. Normally recorded is any document affecting title to real property such as a deed, deed of trust, mortgage, reconveyance, release, declaration of homestead, easement, judgment, lien, request for notice of default, foreclosure, satisfaction of judgment, decree of distribution of a dead person's estates and sometimes long-term leases. It is important to check the laws and requirements in individual states.

11) Leases – 12 Month Duration: For the purposes of the Trout Unlimited Policy on the Ownership of Interests in Real Property, any lease agreement extending beyond 12 months is considered to be a long-term lease requiring a review with more specific information provided. A long-term lease must also be reported and documented with TU's insurance carrier and would be a part of the lease review process.

12) Tenant Improvements and Allowance: Tenant improvements are physical changes made to the interior of a commercial or industrial property by its owner to accommodate the needs of a tenant. These could include floor and wall coverings, ceilings, partitions, air conditioning, fire protection, and security. Who bears what portion of tenant improvement costs is negotiated between the lessor and the lessee, and is usually documented in the lease agreement.

13) TU Conflict of Interest Policies: In order to comply with state and federal charitable trust laws, no part of the income, earnings or assets of the Chapter shall inure to the benefit of, or be distributed to, any member, director or officer of the Chapter or any private individual. The only exception is that reasonable compensation may be paid for services rendered to or for the Chapter in effecting one or more of its purposes. Chapter members, officers and directors may be reimbursed for expenses incurred for or on behalf of the Chapter.

A TU member may purchase an asset, such as real property, from a chapter or council for a fair market value based on the local real estate market. The member with interest in purchasing an asset owned by TU may not participate in votes or other activities that would influence the sale of the asset.

***** It is very important to check the laws and requirements of a respective state and locality when dealing with any type of property as a non-profit. The regulations vary by state and local entity, and one should never assume that they will be consistent from one state or locality to another.**