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CHIEF COUNSEL

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

CC:ITA:B01:KGGross
MASP-157371-06

December 18, 2006

Via Regular Mail

Russell Shay
Director of Public Policy
Land Trust Alliance
1331 H Street, NW Suite 400
Washington, DC 20005

Dear Mr. Shay:

Thank you for your recent inquiry as to whether the natural habitat conservation purpose under IRC § 170(h)(4) may be satisfied in some cases in which there is no evidence of a rare, endangered, or threatened species. We are pleased to provide you with the following general information.

The language of IRC § 170(h)(4)(A)(ii), read together with Treas. Reg. § 1.170A-14(d)(3), provides the answer to your question. Section 170(h)(4)(A)(ii) states that the protection of a relatively natural habitat of fish, wildlife, or plants, or similar ecosystem is a conservation purpose. Treas. Reg. § 1.170A-14(d)(3)(i) states that the donation of a qualified real property interest to protect a significant relatively natural habitat in which a fish, wildlife, or plant community, or similar ecosystem normally lives will meet the conservation purposes test.

Treas. Reg. § 1.170A-14(d)(3)(ii) states, in part, that significant habitats and ecosystems include, but are not limited to, habitats for rare, endangered, or threatened species of animal, fish, or plants.

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We hope you find this letter responsive to your inquiry. Please note that the purpose of this letter is to call to your attention certain general principles of the law and does not constitute a ruling. If you have additional questions, please feel free to call me at 202 622-8407.

Sincerely,



Karin Goldsmith Gross
Senior Technical Reviewer, Branch 1
(Income Tax & Accounting)
IRS I.D. No. 50-02879

cc: Steven T. Miller, Commissioner, Tax-Exempt and Government Entities