

Concept Proposal: Trails Fund

A Joint Initiative of American Trails and Conservation United, Inc.

Overview:

In the fast-paced, mission-driven trails and conservation industry, the intricacies of insurance and bonding and the many variables that influence pricing are often misunderstood. In the trails industry, management often entrusts policies to brokers who often do not understand trail planning, design, building, and maintenance work, cannot fluently explain field activities to carriers, and who do not represent enough similar organizations to generate volume pricing advantages. An emerging grant program known as the “Trails Fund” serves the dual goals of bringing insurance expertise and continuity to the trails industry, while leveraging insurance commission and premium.

The Partnership:

Conservation United, Inc. is a commercial insurance brokerage and risk management consultant specializing in the trail construction/maintenance, conservation, volunteer engagement, and government service sectors. Conservation United respects that conservation and trails organizations are specialists in their unique fields and believe that their insurance and risk management needs should be supported by an equally specialized brokerage. Conservation United believes that insurance is one of the least understood aspects of management and that organizations are entirely too often left exposed to uninsured loss or inadvertently squander hard earned income on overpriced policies. Serving as an advocate for conservation and trails organizations, Conservation United allows management to focus on advancing their missions rather than navigating the confusing landscape of insurance.

American Trails is the collective voice for a diverse coalition of enthusiasts, professionals, advocates, land managers, conservationists, and friends of the outdoors and livable cities. As a national nonprofit organization working on behalf of all trail interests, American Trails advocates for the cooperative establishment and support of hiking, bicycling, mountain biking, horseback riding, snowshoeing, cross-country skiing, trail motorcycling, ATVing, snowmobiling, water, and all other trail types. American Trails strives to enrich the quality of life for all people and the sustainable development of communities by advancing and promoting the development, preservation, and enjoyment of diverse, high-quality trails and greenways. Promoting best practice among all stakeholders and promoting specialty products and services in the trails community is a vital aspect of American Trails’ mission.

Giving Back:

Conservation United aligns with the spirit of a “social enterprise”, in which a defining mission of business is to support a public cause and give back to the greater community. American Trails has partnered with Conservation United to develop a full-service insurance and bonding program tailored to the unique needs and considerations of the trails industry. Our model gives back to the trails and conservation communities by donating a percentage back to form the basis of the “Trails Fund.” This Fund will be administered by a diverse coalition of trail user groups, and will support grants for trail planning, design, building, maintenance, acquisition, and education opportunities across the country, serving all types of trail users.

Lines of Coverage:

An organization’s insurance is its protection. A well-structured suite of insurance policies safeguards against the financial ravages of human error or simple bad luck, provides peace of mind, and ultimately ensures that each organization’s impact on the environment and society carries on through challenging times. The Trails Fund insurance program offers the following policies through Conservation United to protect the community of trails stewards:

- 1) **Workers Compensation:** Workers Compensation Insurance is the legal right of every employee, whether engaged in a grass roots nonprofit organization or in the nation's largest corporations. Workers Compensation Insurance is required by law to provide unlimited coverage for injuries or illnesses occurring in the workplace, along with partial or complete disability benefits or death benefits to protect the worker's rights in the event of catastrophic loss. Conservation United works with carriers to provide workers compensation coverage for employees, as well as AmeriCorps participants and stipended interns. Conservation United understands the work your organization undertakes, and can recommend the most honest, appropriate, and cost effective workers compensation's class codes.
- 2) **Directors and Officers:** Many idealistic board members are not aware of the fiduciary and tort liability they adopt as individuals. If an organization makes a mistake that is alleged to have been caused by negligence, Directors and Officer's insurance could be the only layer of protection against a lawsuit implicating not only the organization, but the individual officers and directors who serve in good faith. Limits of Liability on Directors and Officers Insurance should be scaled to reflect the complexity and scope of your organization's activities and exposures. As a nonprofit Founder and long-time Executive Director, Conservation United co-founder, Chris Baker, is acutely aware of your sacred responsibility to protect your organization's board members and officers, including senior staff, from the consequences of mistakes.
- 3) **General Liability:** In the event that an accident caused by one of your staff or even volunteers causes injury to a member of the general public (third party), General Liability insurance may be your first line of defense. However, your policy is only as effective as its limit of liability and exclusions. Conservation United will draw on decades of first hand management experience to help explain your options and help weigh the pros and cons of purchasing policies with specific exclusions or endorsements.
- 4) **Professional Liability:** Most General Liability policies include exemptions for professional liability. Any organization that professionally designs trails or facilities that support trails is exposed to loss arising from alleged failure of design. Conservation United has negotiated with General Liability carriers to include strong professional liability coverage for conservation and trails organizations in a package tailored to the industry.
- 5) **Commercial Auto:** In the outdoor and trails industries, in which volunteers and professional crews access routinely access project sites in remote locations, peace of mind is only achieved by working with specialists. Conservation United helps organizations ensure that an accident would not be caused by my failure to train drivers, maintain your fleet, and prevent accidents through sound driving policy. In addition to aligning your organization with the best auto insurance coverage, Conservation United works to connect you with GPS tracking technology, 4 WD training, van and large vehicle training, and vehicle maintenance programs. Conservation United serves as a partner in prevention, not merely as a broker.

Auto (and property) rates are less formulaic than most managers likely assume. Rates are not just determined by the value and age of vehicles, or by an organization's claims history. They are also influenced by the number of staff or volunteers that are transported, the distances your staff typically drives, the types of roads driven, strength and consistency of driver training, vehicle maintenance programs, whether members of the general public are transported, whether children or minors are transported, and even the cumulative track record of an organization's insurance broker. Conservation United asks the right questions and presents each organization's best practices to ensure the best possible combination of coverage and rates.

- 6) **Umbrella Insurance:** The best informed and most professional organizations cannot always predict the full extent and potential for loss. Even well crafted, thorough policies with reasonably determined limits of liability can still leave you exposed to catastrophic losses. Umbrella policies provide a final layer of protection and ultimately peace of mind. When losses arising from a catastrophic event exceed limits of liability on general liability, directors and officers, or property/auto policies, an umbrella policy kicks in to cover the excess. Umbrella policies are themselves subject to negotiated limits, so Conservation United presents options to help organizations make informed decisions.
- 7) **Volunteer Accident Insurance:** Engaging volunteers is a motivating and defining aspect of the trails and conservation communities. Yet workers compensation policies do not cover volunteers, leaving the individual and organization vulnerable to an accident that may occur during the execution of their volunteer duties. Many nonprofits purchase Volunteer Accident policies to cover this gap. Conservation United will work closely with nonprofits to determine the appropriate limits and to explain all the terms and conditions of this often misunderstood line of insurance.
- 8) **Nonprofit Bonds:** Conservation United has developed a line of bonds tailored to nonprofits. Our nonprofit bonding program does not require a personal guarantee. Surety (bonding) companies generally require a personal guarantor to indemnify every bond, while failing to understand that nonprofit organizations do not have owners. Executive Directors and Presidents of nonprofit organizations are almost always asked to sign a

personal guarantee, and to provide their social security numbers, to secure a necessary bond. Conservation United's Nonprofit Bonding program has overcome this dilemma by working with surety companies to allow the organization as a whole to indemnify (guarantee) performance, bid, and contract bonds.

The Difference a Specialized Broker Can Make:

Conservation United and American Trails recognize that the insurance industry faces a crisis of negative perception, and that brokers are often seen as pawns in a game designed to maximize premium and commission. Insurance companies are sometimes seen as predatory, monolithic titans of a corrupt industry, expert at mining policies with exemptions and justifying denial of claims to maximize corporate profit. As the Founder and past President of American Conservation Experience who has developed and managed conservation and trails organizations for the majority of his career, Chris Baker with Conservation United can certainly appreciate this opaque and uncomfortable view of brokers and the insurance companies whose policies they represent. In reality many brokers work hard to prosper in a highly competitive industry, serving their clients with honesty and respect. Insurance companies encourage brokers to delve deeply to learn their client's specialized needs and offer a vast array of policies and "endorsements" to cover almost any foreseeable risk. However, insurance companies are wholly dependent on brokers to accurately assess each model, and to assess the organization's exposures and needs. Good intentions often break down because insurance brokers have not yet caught up with a world of increasing specialization. As long as insurance brokers continue to represent a portfolio of companies across a multitude of unrelated industries, gaps in coverage will be common place and negative perceptions of brokers and insurance companies alike will prevail.

Working with an insurance broker specialized in the trails and conservation industry brings the following advantages:

1) Avoiding Assigned Risk Pool and Rate Debits:

There is common misunderstanding about the relationship between organizations, their broker, and insurance carriers. Many assume that all brokers are created equal, serving merely as an intermediary or "middle man" to access insurance policies sold by carriers, with no influence whatsoever over pricing or quality of coverage. This could not be further from the truth. The reality is that an organization's ability to access coverage in the open market rather than in an "assigned risk" pool partially depends on the level of trust the carriers have in the ability of the broker to accurately understand and represent risk. Brokers with no interest or insight into the field activities that drive conservation and trails work often lack the credibility to earn the trust of the carriers. Organizations represented by brokers who are generalists can find themselves relegated to the assigned risk pool, adding 33 percent or more to the cost of coverage. They may also be offered coverage in the open market, but "debited", meaning that the rates are subjectively increased because the carriers are simply not comfortable that the broker has helped underwriters truly understand the organization's activities and exposures.

2) Advocacy and Support in an Emergency

An insurance broker is the immediate point of contact when it matters most. If an organization suffers an injury, experiences property damage, or faces the threat of a lawsuit, its broker is the first point of contact and first layer of support. Brokers serve as the liaison to the carriers, guiding organizations through the process to file a claim and ensuring that each claim is promptly handled. When the worst case scenario unfolds and emotions are at their highest, organizations need an active, engaged, informed advocate who truly understands their organization.

3) Advocacy in an Audit

Carriers audit their insured, often arriving in person to go over their records. These events are often stressful and fraught with uncertainty for nonprofit management teams. Conservation United attends carrier audits, either by phone or in person, ensuring that the process is clear and the outcome is accurate.

4) Accident Avoidance through Risk Management

Brokers are judged by the quantity and severity of the losses suffered by the organizations they represent. Virtually all brokers are motivated by a genuine human interest to help their clients avoid injury and avert loss. However, not all brokers are equally capable of offering advice, guidance, and resources to help conservation and trails organizations recognize and avoid risk. If your nonprofit organization or company engages volunteers, holds special events for the community, operates chainsaws or other power tools, drives 4WD vehicles or other large passenger vehicles, moves or splits stone to construct retaining walls, applies herbicide, or engages in any number of other specialized field skills, Conservation United is likely to work with other organizations with similar risks. Through a growing network of clients in the conservation space, and informed by our extensive real world field experience, Conservation United can aggregate best practices, perform valuable site visits to the field, and share safety approaches that similar organizations have found to be most effective in preventing accident, injury, and loss. Conservation United serves not merely as a broker, but also as a safety partner, consultant, and clearinghouse

for best practices, helping your organization recognize and mitigate risk in your unique outdoor workplace.

5) Understanding Workers Compensation and General Liability Rating and Codes

Many organizations are unaware of the range of workers compensation codes possible for outdoor work. The vast majority of brokers are honest and very few intentionally steer organizations to more expensive codes generating higher premiums in order to maximize their own commissions. However, unless they are actively engaged in understanding all the facets of field work and associated exposures in the trails industry, they may not be able to recommend the appropriate codes saving the most money. Applicable compensation codes vary, state by state, and the application of these codes to specific organization's activities sometime require the approval of the NCCI (www.ncci.com) or state-specific workers compensation boards. Conservation United's specialized client base allows us to identify common risk, choose state specific codes, and where necessary help organizations gain approval through NCCI and the carriers to apply the most advantageous and accurate codes to each field activity. Proactively monitoring and selecting the best compensation codes can eliminate a tremendous point of pain in many conservation organizations' bottom line. Conversely, brokers sometimes steer nonprofit organizations to the use of workers compensation codes that do not adequately reflect actual field activities. While this mistake may appear beneficial, saving organizations and companies on workers compensation premiums, the practices of intentionally misrepresenting codes provides ample fodder for claims adjusters to deny coverage, putting the entire organization at risk.

6) Explaining Policy Exemptions:

Insurance policies are defined by their "Exemptions". An insurance policy can be superficially inexpensive, but laden with exemptions that conspire to eliminate important layers of coverage. Brokers sometimes present inexpensive policies to win business, accept accolades for saving money, but leave their clients catastrophically exposed. Conservation United explains every exemption and its potential impact should incidents or loss occur.