

UI Extension Forestry Information Series

Conservation Easements can Benefit Landowners.

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Back in February I offered an evening program on Conservation Easements. I was surprised at not only how diverse the audience was, but also by the fact that several farmers with no timber showed up as well. Being an Extension Forester, I originally thought only those with forested lands would be interested in conservation easements. After hearing from several speakers, particularly one from the Natural Resources Conservation Service, I understood why farmers as well as foresters would be interested in this topic.

The first known easements were actually written in the late 1880's to protect parkways designed by Frederick Law Olmstead in the Boston area. Today, there are over 1,260 land trusts protecting more than 2.6 million acres in the United States. One of the smallest known conservation easements is 0.08 acres in Mantauk Peninsula in New York, while one of the larger easements is a 201,560 acre ranch in New Mexico.

A conservation easement is a legally recorded agreement between a landowner and a land trust or government agency that permanently limits uses of the land in order to protect its conservation values. The conservation easement allows you to continue to own and use your land and to sell it or pass it on to your heirs, while protecting valued features. People grant conservation easements for a variety of reasons, but mostly because they want their property protected from unwanted development while retaining ownership.

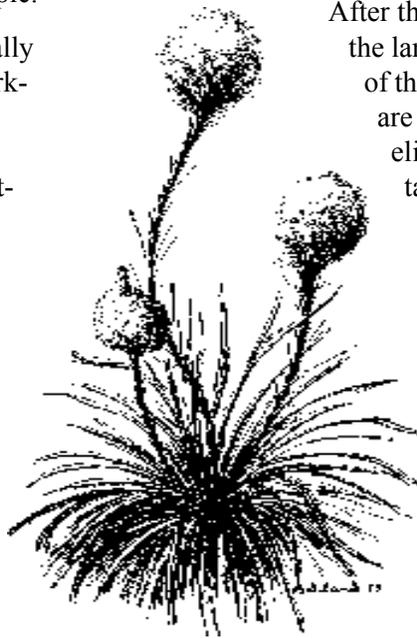
Another way to visualize a conservation easement is to think of owning land as holding a bundle of sticks. Each one of these sticks represents the landowner's right to do something with their property. The right to build a house, the right to farm, the right to harvest trees, the

right to hunt game animals, extract minerals, etc, are all rights the landowner has. A landowner may give up certain development rights, or sticks from the bundle, associated with their property through a document called a conservation easement. A landowner may also ensure that certain rights (farming or tree harvesting) will be perpetuated on their property, or that the property will not be subdivided. Public access is not a requirement.

After the easement is signed, it is recorded on the land deed and applies to all future owners of the land. Provided that certain conditions are met, donors of easements may be eligible for income, estate and/or property tax benefits. One condition is that there must be an established, recognizable public benefit.

An additional benefit is that the conservation easement may provide significant financial advantage to the donor. Although the duration of a conservation easement can vary depending on the desires of the landowner, tax benefits are only available for perpetual easements. Many land trusts only accept perpetual easements, since they provide permanent protection by subjecting all future landowners to the same restrictions.

The Internal Revenue Service allows a deduction if the easement is perpetual and donated "exclusively for conservation purposes." The amount of the tax deduction is determined by the value of the conservation easement. Every conservation easement is unique and tailored to a particular landowner's goals and their land. The value of the gift, for tax purposes, is the difference between the property's full market value before and



after donation of the conservation easement as determined by a qualified land appraiser.

Under IRS code, the donation of a qualified easement may be treated as a charitable contribution. The value of the contribution can be deducted at an amount up to 30 percent of the donor's adjusted gross income in the year of the gift. If the gift exceeds 30 percent of the donor's income, the excess can be carried forward and deducted (subject to the 30 percent limit) over the next five years if needed.

Donation of easements, whether during the landowner's life or by bequest, can reduce the value of the land upon which the estate taxes are calculated. This can greatly benefit the landowner wishing to transfer land to relatives. The estate tax benefits of a conservation easement can often mean the difference between heirs having to sell property to pay estate taxes or being able to keep the property in the family.

The conveyance of a conservation easement may reduce a landowner's property taxes. However, this can depend on a variety of factors. Typically the land qualifies for a reduction in assessed value. Existing tax basis, assessed value, and current zoning of each piece of property are important factors in determining the potential benefits of any easement. The exact terms of each individual easement also have a bearing on its effect on property taxes.

Accepting a donated conservation easement is a tremendous responsibility for a land trust or government agency. It means accepting the obligation of monitoring and enforcing the easement terms in perpetuity. Once

an easement is established, the land trust or government agency documents the site's conservation values, performs periodic site inspections to ensure all the easement's terms and conditions are being honored and keeps all future owners of the site informed on the easement agreement.

If a violation is found, the landowner is notified about documenting procedures and steps taken to repair any damage. Most easement documents contain language that defines the process for resolving disputes between grantor and grantee. The grantor has the right and responsibility to take legal action, if necessary, to enforce easement restrictions. A stewardship fund is often established along with the conservation easement agreement and is used to cover the expense of monitoring, enforcing compliance and legal defense of the easement.

For more information on conservation easements, check out the following web sites:

- The Land Trust Alliance - www.lta.org
- American Farmland Trust - www.farmland.org
- The Conservation Fund - www.conservationfund.org/
- Trust for Public Land - www.tpl.org

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