



Boone Fork Creek

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Conservation Easements: A New Frontier

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The Nature Conservancy[™] 
Protecting nature. Preserving life.

Presentation Overview

- Definition of conservation easements
- “bundle of rights”
- Why a conservation easement?
- Creating a conservation easement, the process
- Frequently asked questions

What is a conservation easement?

Put very simply, a *conservation easement* is a restriction on the use of property. It is a *recorded deed restriction*, and the right to enforce the restriction is sold/given to a tax-exempt charitable organization (generally in the conservation field) or a government agency. In its most basic form, a conservation easement will *protect* land against future real estate development, industrial use, and many potential commercial uses. A conservation easement generally allows the land owner to continue *current* uses, including, for example, residential and recreational use, agriculture, forestry, or ranching. A conservation easement protects some important conservation or historical quality associated with property, such as habitat, open space or scenic views.

Property ownership

- Real property ownership is a collection of individual rights
- This collection of rights is often referred to as a “bundle of rights” because individual rights can be removed from the collection just as a stick can be removed from a bundle.
- Examples of individual rights are; development, timber, mineral, hunting and fishing and water.

Why a conservation easement?

- Protect property from future undesirable impacts.
- Retain ownership while receiving income.
- Allow continued use in private ownership.
- Potential tax benefits under certain circumstances.

Steps to create a conservation easement

- Identify a receiving entity
- Site visit
- Assessment of conservation benefits
- Identify sources of funding
- Negotiate terms of agreement
- Appraisal
- Title examination, property survey and legal description
- Baseline documentation
- Monitoring plan

Identify a receiving entity

- Must be a qualified non-profit or government agency
- Be willing to purchase or accept donation of a conservation easement
- Capable of monitoring and enforcing

Site visit and assessment of conservation benefits

- Landowner and receiving entity determine if the property is a suitable fit for a conservation easement

Identify sources of funding

- Private funding
- Federal funding, USFS Forest Legacy Program
- State funding
- Donation or combination

Negotiate terms of agreement

- Landowner to determine rights to be retained based on future intended uses
- Receiving entity to determine rights to be acquired that are relevant to its mission
- If donation, a minimum of rights must be included to qualify for charitable contribution

Appraisal

- To determine fair market value of conservation easement. This is determined by establishing before (unencumbered) value and after (impact of conservation easement) value. The difference between these values is the value of the conservation easement.

Title examination, property survey and legal description

- Property must have clear title
- Title insurance may be required
- Boundary survey may be required
- Conservation easement must be legally described
- The conservation easement is recorded with the deed to the property

Baseline documentation and monitoring plan

- Establishes a reference to determine compliance with the terms of the conservation easement
- Necessary for the landowner and receiving entity for enforcement of the terms of the easement

Common questions

- Can conservation easement property be subdivided, sold, mortgaged or bequeathed?
- Can an easement be amended or revoked?
- Is public access allowed or required?

Questions?

