

Land Protection

news

SPECIAL LANDOWNER'S ISSUE

YOUR LAND, YOUR LEGACY... YOUR CHOICES

WESTERN VIRGINIA LAND TRUST 2003



Historic mill on 289-acre farm preserved through a WVLT conservation easement.

Choices for Preservation & Profit

Decisions you make about your land will shape our landscape for generations to come. The Western Virginia Land Trust respects your property rights, yet hopes that you will be interested in options to conserve land while meeting your personal goals and potentially enhancing your financial situation.

Keep reading this special newsletter if you need to:

- **Protect your land from future development**
- **Keep land in the family**
- **Reduce or eliminate estate taxes**
- **Earn substantial income tax deductions**
- **Gain additional income without selling your land**

The Western Virginia Land Trust (WVLT) is a private non-profit organization formed to preserve our natural and cultural landscape. We work with property owners to help them find voluntary ways of preserving their land so that all of our descendents will have places available to farm, cut timber, hunt, fish, hike and enjoy the beauty of our special part of Virginia.

Conservation easements can be used to accomplish this goal by limiting intensive development while keeping land in private hands and providing landowners with substantial tax benefits and cash compensation.

A conservation easement is a flexible and voluntary tool that lets you determine the legacy of your land. Please review the information in this special edition of *Land Protection News* and return the enclosed form or call us at (540) 985-0000 if you'd like to discuss how conservation options might fit into your plans.

Conservation Easements

Have Your Cake and Eat It, Too!

A conservation easement is a voluntary deeded agreement that permanently protects land from subdivision and development. An easement protects your piece of mind by preserving the scenic, agricultural, forestal or historic qualities of your land while improving your financial security through tax benefits and tax credit sales.

Voluntary: Conservation easements are completely voluntary and initiated by landowners who wish to protect and preserve the land they love forever.

Private: Conservation easements do not require public access, as landowners retain total control of who visits their land. If the landowner wishes, conservation easements can even remain confidential to avoid publicity.

Permanent: Conservation easements permanently protect land. To qualify for tax benefits, an easement must be made in perpetuity binding current and future owners to the easement terms.

Flexible: Conservation easements are as individual as the lands they protect. Landowners and their easement holder negotiate specific terms to meet their mutual goals. Traditional uses such as hunting, fishing, farming and forestry are encouraged.

Financially Beneficial: Donating a conservation easement provides significant financial benefits to landowners and their heirs. Please see details inside that explain the following tax advantages:

- **Federal Income Tax Deductions**
- **State Income Tax Credits**
- **Estate Tax Reductions and Exclusions**
- **Reduced Real Estate Taxes**

Donating an easement creates a permanent legacy; such a decision should not be made in haste. WVLT's experienced staff will be happy to meet with landowners and their families to discuss all aspects of conservation easements.

Cash for Conservation

Virginia Tax Credit Sales Offer Landowners New Options

The primary reason landowners donate conservation easements is to preserve some natural, scenic, agricultural or historic resource of their land forever. Many want to establish a legacy for their children and grandchildren. Most value the peace of mind from knowing that their land will always be protected from development.

However, landowners can't ignore the value of their property. For many rural landowners, real estate is their primary asset and permanent reduction in its value can't be taken lightly.

Fortunately, there are many financial benefits to donating conservation easements.

A certified appraiser must determine an easement's value (the basis of all tax advantages) by showing the difference between what land is worth before being conserved and what it's worth after being placed under easement. For example, if the appraisal shows a \$500,000 "highest and best use" valuation and then a \$300,000 valuation after the owner gives up development rights, the easement is valued at \$200,000.

1. Federal Income Tax Deduction The donation of an easement is treated as a charitable gift and the value of the easement may be deducted from the donor's income for purposes of calculating income taxes.

- Deduction is limited to 30% of the landowner's adjusted gross income in the year the donation is given (the unused portion of the gift may be carried forward to be used as a deduction for an additional five years, subject to the 30% limit each year).
- Alternatively, the landowner may elect to reduce the amount of the deduction to the basis of the property. Then the value of the gift (as reduced to basis) will be deductible up to 50% of the landowner's adjusted gross income (for one plus five years). *This election may be advantageous to the landowner if the donation of an easement is made shortly after acquiring the property.*

2. Estate Tax Reduction Estate taxes often surprise heirs as land values increase. *In some cases, a landowner's heirs must sell the property just to pay estate taxes.* By donating an easement, landowners can reduce these taxes in two ways:

- The estate will have been reduced by the value of the easement (smaller estate value means less—or perhaps no—estate tax due).



- The American Farm and Ranch Protection Act of 1997 allows heirs to exclude up to an additional 40% of the remaining value of their land from estate taxes.

3. Reduced Real Estate Taxes In counties with use value taxation, land under easement is automatically entitled to use value tax rates. Even in places without use value taxation, land under easement should get a lower assessment since the full development potential no longer exists.

4. State Tax Credit Since 1999, Virginia has offered easement donors a tax credit for 50% of their easement value. Carried forward for five years, many easement donors eliminated state income tax for six years but left significant tax credit value unused. **Starting this year, the unused tax credit can be sold.**

Any owner of Virginia land who donates land or an easement for conservation purposes is entitled to a tax credit worth 50% of their gift. Any portion of the tax credit may be sold or given to other Virginia taxpayers.

This credit may also be sold by out of state residents who donate conservation easements to Virginia property. WVLT is not directly involved in the sale of conservation tax credits, but can provide a list of brokers upon request.

WVLT strongly urges prospective easement donors to seek their own professional counsel in matters related to tax, estate, and financial planning.

"I was born on this land and I've lived here all my life, off and on. I didn't want it cut up into subdivisions. I'd like all of my neighbors to donate conservation easements because it's the only way to preserve this part of the country."

Barbara Hatcher of Bedford County preserved her 158 acres near the Peaks of Otter by donating a conservation easement to WVLT and the Peaks of Otter Soil and Water Conservation District.

Please clip and return to receive a one-year complimentary membership, which includes our quarterly newsletter, *Land Protection News*.

- Yes, I accept a one-year free membership to WVLT and wish to receive future issues of *Land Protection News*.
- Please call me to arrange a meeting to further discuss conservation options for my land.
- I'd like to do more. Enclosed is my tax-deductible gift of _____ to support WVLT's land conservation efforts across Southwest Virginia.



722 First Street, SW, Suite L
Roanoke, Virginia 24016-4120

Name _____ Phone _____
Address _____
City, State, Zip _____ Email _____



What's The Fine Print In A Conservation Easement?

Since a conservation easement is forever, families should try to think of every "what-if" when considering specific easement terms.

Each easement is unique, but there are some general starting points. Following are terms of a "typical" easement. Remember, some of these points are negotiable as long as they serve a worthwhile conservation goal. Conservation easements only restrict the specific activities that they mention.

1. Division or subdivision of your land will either be totally prohibited or divisions will be limited to a certain number or acreage.

This is the most critical part of a conservation easement. Some landowners specify that their land can't be subdivided at all. Some reserve the right to split it into 50 to 100 acre tracts or to keep a couple of building lots for future family use or "insurance" to fund unforeseen emergencies.

There is some flexibility with this point, but it's hard to justify a conservation easement that allows more than one subdivision right per 100 acres.

2. No structures can be built except for one single-family home per parcel and associated outbuildings such as garage, guest cottage, sheds, barns and other farm buildings. If your easement allows you to divide your land, each parcel can contain a home and associated structures.

3. Industrial or commercial activities are prohibited except for agricultural, forestry and equine activities, temporary outdoor activities that do not permanently change the appearance of your land, or activities within a permitted building (i.e., house, barn, etc.) without changing its appearance. For example, you could host a temporary music festival, but you couldn't build permanent fairgrounds. A bed and breakfast might be fine but not a new motel.

4. Timber harvests must include Best Management Practices to control erosion and protect water quality. If you wish, logging provisions can protect scenic forests, rare habitat, or other specific resources.

5. Trash, refuse or junk will not be permitted on your land. This restriction does not apply to brush piles, composting, farm machinery storage or other agriculture or wildlife management practices. You will not be responsible for cleaning trash brought in by floodwaters or other situations beyond your control.
6. Billboards are not permitted. You can still post your land and have signs to show your address, advertise the sale or lease of your land or goods or services produced there or to direct visitors. No sign can be larger than nine square feet.
7. Grading, blasting, mining, or earth removal is prohibited, except what is required for utilities, private roads, pond construction, or permitted buildings. This does not in any way restrict cultivation.
8. The easement holder may visit your property annually after getting permission from you and giving reasonable notice.
9. You or your estate will need to notify the easement holder within 60 days of any transfer or sale.



Essentially, easement terms assure that your land will always stay pretty much the way it is now. The only rights you give up are those specifically listed in your easement. If your general goal is to preserve your land but you don't like a specific provision listed above, don't assume that an easement can't work. When a landowner and a land trust have mutual conservation goals, easement details can often be arranged to preserve land and please all parties.

"This is the only open land left in town. I could not see having it developed, for sentimental reasons. I read somewhere that 10 percent of the land in the nation is in asphalt... I just could not see that here."

Eliza Thomas preserved 45 acres – the largest remaining tract of open space in Bedford City – through a conservation easement.

"70% of Virginia's rural land will change hands in the next 10 to 15 years."

Virginia Department of Agriculture



Choices made today will affect our land forever.

"Conservation easements are valuable tools for balancing private property rights with land conservation. I sell land for a living, and I advocate conservation easements as a way to preserve land and to help landowners with tax deductions and credits."

Jim Woltz, WVLT trustee, realtor and auctioneer and donor of over 1,700 acres in conservation easements.

"My land is special to me—I hunt on it, watch wildlife, and manage timber. I enjoy its beauty and wanted to make sure that it'll be here for future generations. Since it borders the Blue Ridge Parkway and Smartview Recreation area, I was also aware of how my decision could affect a valuable public resource."

Jim Wilson, a WVLT trustee, and his wife Esta used conservation easements to preserve 317 acres of Franklin County forest.

"A conservation easement allowed us to preserve our land for future generations and to honor our forefathers who labored so hard to preserve it for us... With the tax advantages from our easement donation, I feel like we sold part of our land and got to keep it all. The easement doesn't restrict any of the plans we had for the land and it protects it from the things that we'd hate to see happen."

Arnold Hurt donated a 169-acre easement in Franklin County to WVLT and the Virginia Outdoors Foundation.

Other Conservation Options

Many good land stewards who want to preserve their rural landscape simply can't justify donating a conservation easement. If this describes you, there are many other conservation measures you may want to consider. The following list includes some of the additional options that WVLT can help you explore.

- Agricultural and Forestal Districts
- Restrictive Covenants
- Federal Conservation Programs
- Conservation Through Wills
- Gifts of Property
- Forest Legacy
- Green Developments
- Riparian Easements
- Life Estates

For more details, please call WVLT at (540) 985-0000.



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