

LANDOWNER
GUIDE
~ to ~
Conservation
EASEMENTS



LANDOWNER GUIDE TO CONSERVATION EASEMENTS

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TYPES OF CONSERVATION EASEMENTS

EASEMENT DONATION

The most common way of conveying a conservation easement is by donating it outright to a land trust. A donation of a conservation easement means that the landowner may benefit from a federal income tax deduction, providing the easement is donated in perpetuity, the holder of the easement is a qualified charitable organization, and the easement is donated exclusively for conservation purposes.



EASEMENT DONATION BY WILL

A conservation easement can also be donated by will. However, a landowner would not receive income tax and property tax benefits it would have if the easement had been donated during his/her lifetime. Estate taxes would certainly be reduced and the landowner would have the knowledge that his/her land will be permanently protected. The easement document and terms should be negotiated and accepted by the land trust during the landowner's lifetime and attached to the will.

EASEMENT SALE

Although the most common way to convey an easement is through donation, some nonprofit organizations and government agencies purchase easements, either at fair market value or through a bargain sale (less than fair market value). On properties that are of high priority for protection, the land trust may be able to apply for local, state or federal grant funds to purchase a conservation easement at fair market or reduced value. A conservation easement purchased at full value rules out a charitable tax deduction.

Financial Considerations

The donation of a conservation easement offers landowners the opportunity to protect their land and possibly gain significant financial benefits without selling or losing the land.

We strongly encourage landowners to seek professional tax advice to learn how these benefits may apply to you.

CONSERVATION EASEMENT FAQs

What is a Conservation Easement?

A conservation easement is a voluntary legal agreement between a landowner and a land trust that permanently limits a property's uses to protect its natural, scenic, and historic values. Conservation easements offer private landowners flexibility in protecting their land. The landowner retains the title to the property and may use it subject to agreed restrictions, primarily protecting the land from future real estate development, subdivision, or commercial or industrial use. Also, the landowner can sell or pass down the land as private property, subject to the conservation easement. An easement may apply to all or a portion of the property and may or may not allow for public access to the property.

The Conservancy works closely with each landowner to accomplish its conservation goals while adhering to its mission to protect resources on the property.

An easement with the Central Pennsylvania Conservancy typically:

- Limits the uses of a property to protect its important natural, scenic, and historic features.
- Restricts the number, type, and location of dwellings and other buildings.
- Prohibits quarrying and excavation of minerals.
- Limits the removal of trees without a forest management plan.

- Restricts or prohibits industrial and commercial activities, except for sustainable agriculture and forestry.
- Does not permit public access to the protected property unless specifically desired by the landowner and the land trust.
- Does not change ownership of the land.

How long does a Conservation Easement last?

An easement protects the land in perpetuity and all future landowners are bound to the original landowner's restrictions. Only permanent agreements can qualify for income and estate tax benefits. The agreement is recorded at the county records office so that all future owners learn about the easement restrictions when they obtain title reports.

Why Do Private Landowners Donate Conservation Easements?

Conservation easements provide many benefits to landowners. An easement ensures that a landowner's legacy will endure no matter who owns the property in the future. Landowners can feel confident that the land they have lived and worked on for many years will be protected and cared for in the future, and feel secure in leaving a lasting legacy for future generations by protecting scenic viewsheds, natural resources, and cultural heritage in their community. Simultaneously,

easements can provide significant financial benefits through a reduction in federal income taxes, estate taxes and/or gift taxes.

Who owns the land?

The landowner continues to own their property, but is subject to the restrictions agreed upon in the conservation easement. The land can be transferred, sold, and inherited as before. The land trust is responsible for ensuring that successive landowners adhere to the terms of the conservation easement and conducting annual monitoring visits, stewardship activities, and if necessary, easement enforcement.

How is a Conservation Easement monitored?

As part of the easement development process, Central Pennsylvania Conservancy prepares a baseline documentation report that includes a natural resources inventory, photos, graphs and mapping, to establish the condition of the property at the time of the easement agreement and provide the basis for annual monitoring visits. Each year, CPC will perform a site visit and file a report on easement compliance, working together with the landowner to ensure an effective process. Communication between the landowner and CPC is important, as it will promote good stewardship practices.

What are the tax benefits of a Conservation Easement?

Conservation easements can lead to Federal Estate Tax Benefits and Federal Income Tax Benefits. Conservation easements reduce the fair market value of land and

an easement donated by the landowner prior to death or by will can reduce the total value of the taxable estate, which reduces estate taxes. The donation of a conservation easement may qualify as a charitable contribution and can allow landowners to realize significant financial benefits on their federal income taxes. Under the permanent, enhanced tax incentive for conservation easements passed by Congress in 2015, a donor may deduct the value of the easement up to 50% of his/her annual income over a period of 15 years.

What is the value of a Conservation Easement?

The value of a conservation easement is the difference between fair market value of the land before the easement is created and the value of the land after the easement is adopted, restricting certain uses such as subdivision and development. Easement value is primarily derived from giving up the development rights. A "qualified appraisal" determines the value for payment or tax benefits.

How do I get started?

Contact the CPC staff below to become acquainted with our organization and to discuss your property and desires for protection. We are looking forward to preserving land for future generations with you!

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CONSERVATION EASEMENT TAX INFO

FEDERAL ESTATE TAX BENEFITS

Because conservation easements reduce the fair market value of land, an easement donated by the landowner prior to death (or by will) can reduce the total value of the taxable estate, which in turn reduces estate taxes.

In many cases, this allows heirs to keep the property and continue to live there and maintain practices such as farming and agriculture.

Conservation easements provide the opportunity for landowners to leave a lasting legacy that gives them security in knowing that in the future, their families will be able to enjoy the land that they lived and worked on and that the land will be cared for.

FEDERAL INCOME TAX BENEFITS

The donations of a conservation easement may qualify as a charitable contribution and can allow landowners to realize significant financial benefits on their federal income taxes.

The monetary value of an easement donation is established through a real estate appraisal of the property. The value of the donation is the difference between the fair market value of the property without a conservation easement and the value of the property with an easement.

PERMANENT ENHANCED TAX INCENTIVE FOR CONSERVATION EASEMENTS OF 2015

In 2015, Congress enacted one of the most powerful conservation measures in decades: the enhanced federal tax incentive for conservation easement donations.



The permanent conservation easement tax incentive is a powerful tool that helps Americans conserve the land they love along with its natural, agricultural, recreational, scenic, or historic resources, while at the same time realizing significant federal tax savings.

It offers the following benefits to landowners:

- A conservation easement donor may deduct up to 50% of their adjusted gross income in any year;
- Qualifying farmers may deduct up to 100% of their adjusted gross income; and
- Donors may take deductions for their contribution over as many as 15 years.

PROJECT SELECTION CRITERIA

The CPC works diligently with each landowner to identify the best tools to protect their cherished land. Every property is evaluated to ensure that its permanent protection is consistent with our mission, strategic land conservation goals, and the standards that Congress established in order for an easement donation to qualify as a tax deductible contribution with the IRS.

The following are the four strategic goals that guide land protection at the Central Pennsylvania Conservancy:

Our Mission: To conserve natural and cultural resources for the benefit of current and future generations through land acquisition, conservation easements, education and outreach in the Central Pennsylvania region (Cumberland, Perry, Dauphin, Franklin, Northern York and Juniata Counties);

Forested Ridges: Protection of forested mountain ridges, especially the Kittatinny Ridge, a critically important migratory bird route with local, national, and international significance. The South Mountain is also a priority landscape comprised of the northern terminals of the Blue Ridge Mountains, and a network of headwater streams, forestland, and rich farmland.

Agricultural and Farmland Preservation: Protection of farmlands that are located in areas that have been designated for agriculture, have significant soil resources, and have

streams and water sources located on the property;

Water Resource Protection: Protection of high quality streams and springs, forested stream buffers, and limestone and coldwater streams.

STEWARDSHIP

Every time the CPC accepts an easement donation from a landowner, we make a commitment to



look after the land in perpetuity. The CPC is granted the responsibility to ensure that the easement covenants are upheld and the land is maintained in its natural state for the benefit of current and future generations. Along with this commitment is the financial responsibility that CPC has to provide such stewardship. This includes site visits, annual inspections, and correspondence with landowners.

In order for CPC to accept a conservation easement donation, it requests a contribution from the landowner to the dedicated Stewardship Endowment Fund to cover annual monitoring and stewardship costs in perpetuity. The

amount requested is calculated by the CPC's Land Protection Committee on a case by case basis and depends upon on the property's size, location, topography, degree of protection, reserved rights, and review or oversight of property management plans. The stewardship endowment contribution is considered a charitable contribution and often offset by the federal income tax deduction. **Please consult with your tax and legal advisors on all financial matters associated with conservation easement.**

SERVICES COVERED BY THE LAND TRUST

The CPC is a member-supported nonprofit land trust with limited funds to cover its operating costs. Many of the requirements for conservation easements are funded by the CPC through grants. The following are the costs that the CPC incurs:

- Staff time to evaluate the property and meet with landowners to explain the easement process and develop a project proposal for the Board of Directors' approval;
- Staff time to draft and negotiate the conservation easement agreement;
- Title search to ensure that the property is clear of any liens or encumbrances;
- Staff time to prepare the Baseline Documentation Report. This is a report that documents the condition of the property at the time the easement is donated. It includes photos, maps, and a written description of the land. Baseline Documentation is a requirement by the IRS for landowners to be eligible for a tax deduction and provides a comparison for annual monitoring.
- Annual monitoring visits, reports, communication, review, and other stewardship in perpetuity.

Landowner Costs

Landowners should anticipate incurring the following costs:

- Survey Costs. If a good survey is available, these costs should be minimal.
- Appraisal Fee. CPC strongly encourages using a qualified appraiser with experience in valuing conservation easements. An appraisal report is only necessary if the landowner is pursuing a deduction in federal income tax, or if CPC is applying for grant funds for an easement purchase.
- A contribution to CPC's Stewardship Endowment to support perpetual annual monitoring, communications, plan review, and legal enforcement.
- Fees for tax and legal advisors

Notes: _____

CONSERVATION EASEMENT EXAMPLE

JESSIE M. TYLER (168 ACRES, PERRY COUNTY)

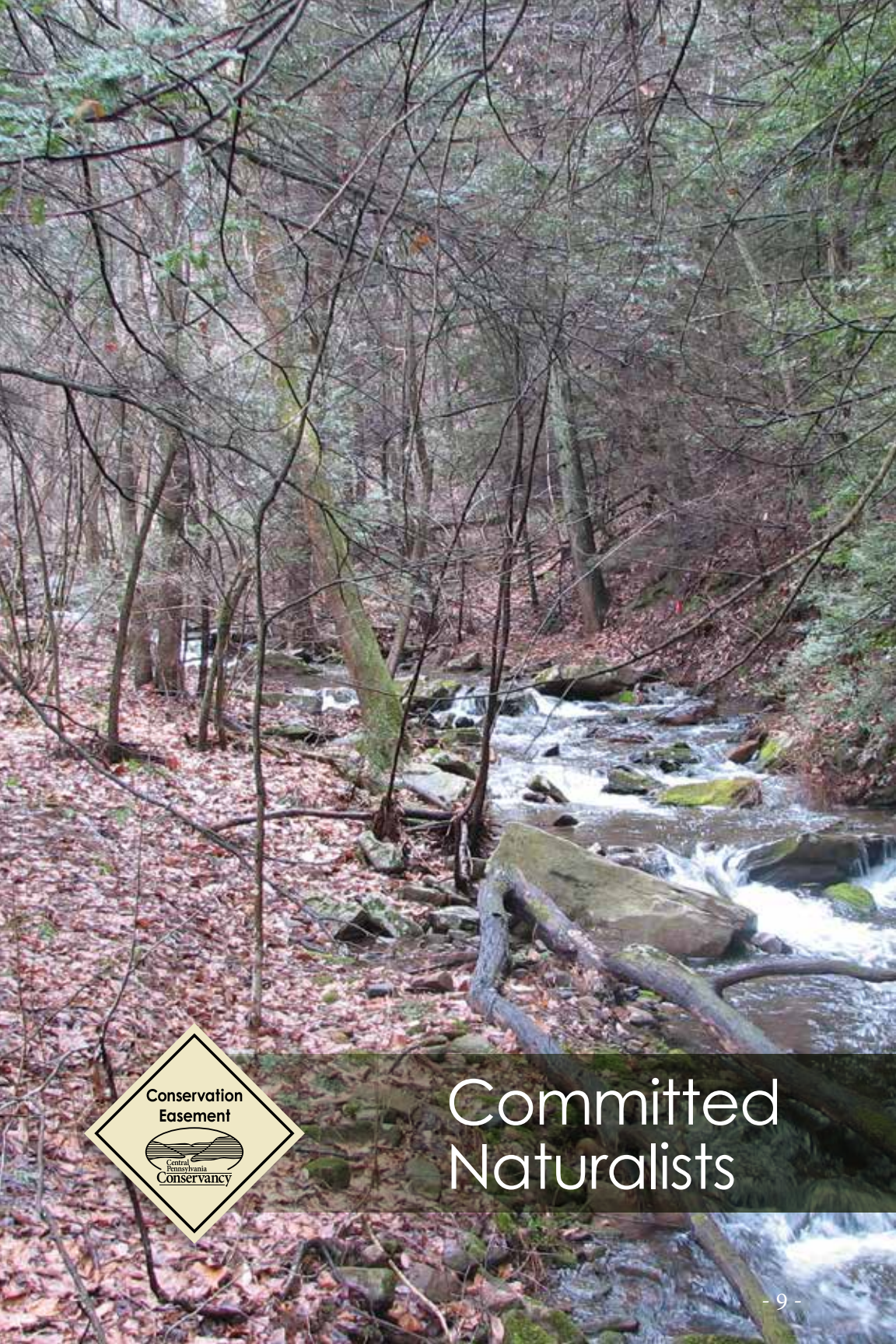
Walter and Jessie Tyler left suburban Philadelphia in the early 1960's when the much-opposed construction of the "Blue Route" expressway condemned a portion of their property. In search of an untouched, natural area to relocate. They found their slice of paradise along McCabe Run in Perry County, a unique property with a 2+ acre pond, a coldwater stream, a 1790 log cabin, barn, and sawmill ruins, meadows, wetlands, and a hardwood forest that extends from the wetland to 1850 feet in elevation along the Kittatinny Ridge. It's the highest point on the ridge, just several hundred feet from McClures Gap and about 2 miles along the Tuscarora Trail to Waggoner's Gap.

In 1997, after Walter's death, Jessie developed a conservation easement with the CPC, and included it in her Will along with a fund for long-term stewardship to ensure a legacy of conservation that will protect the 168 acre property she lovingly referred to as "Valley View" in perpetuity. Jessie passed on in 2010, the conservation easement was recorded, and the property (subject to the easement) was sold to her long-time friend who shares Jessie's values of conservation and stewardship. According to the easement, hunting and sustainable



agriculture are permitted, and in accordance with Jessie's wishes, the 120 acres of mature oak-hickory forest cannot be commercially timbered and should reach old-growth. No development is permitted outside the building envelope around the existing residence. The property abuts other protected lands, including the Florence J. Reineman Wildlife Sanctuary and is close to Audubon Hawkwatch at Waggoner's Gap and the Tuscarora State Forest.

"We are grateful to our conservation easement donors who, like Walter and Jessie Tyler, provide a long-term vision and inspiration to protect the most critical natural resources in our region while we still can." – CPC



Committed Naturalists

CONSERVATION EASEMENT EXAMPLE

DAVID AND JUDY TWINING (55 ACRES, CUMBERLAND COUNTY)

The CPC recorded a conservation easement in 2013 on 55 acres of open space just west of Carlisle, an area of significant development pressure as well as conservation value.

Concerned about the conversion of pastoral lands and forests in their area to residential development and warehouses, landowners David and Judy Twining worked with CPC staff and board on a process that included collecting and developing a baseline documentation report, documenting a building envelope, conservation easement agreement, and final easement recording. As dedicated conservationists and horse lovers, the Twinings created pasture on their property with 3 miles of horse trails, a massive tree farm, warm-season grasses with wildflowers, and a sustainably-managed forest with trails. The easement will encourage future landowners to build on the Twining's



legacy of sustainable forestry, habitat management, and public trail access. Since the easement was recorded, a landowner on a neighboring property also recorded a conservation easement with CPC, sharing the Twinings' concern about protecting the area's unique ecological and scenic values and thereby enhancing the overall conservation benefit.

“We believe that environmental sustainability only works over the long haul, where flora and fauna have a sense of place earned over a span of years. Ecological conscience must respect the cycle of life of which we are a small part. A conservation easement assures and comforts us that at least this one small piece of land will continue unchanged, long after we are gone.”

– David Twining



Permanently Protected

Conservation Easement Procedure Checklist

- Initial Contact:** Landowner contacts the Conservancy for general information and is provided with introductory material (CPC's Project Selection Criteria, a Site Evaluation Form, and a Process Checklist)
- Site Visit:** CPC Land Protection Director and/or Executive Director will tour the property with the landowner to get information about conservation objectives and whether it meets CPC's criteria for protection. Copies of a professional survey, deed and tax parcel identification number (PIN) requested.
- Organization Decision to Proceed:** The CPC's Land Protection Committee will determine whether to accept the project and authorize staff to proceed to the next step in the conservation easement development process.
- Landowner to Consult Professional Advisors:** Once the CPC is committed to proceeding with the project, the landowner is advised to consult legal and tax advisors if they have not already done so.
- Preliminary Agreement of Conservation Easement—** approved by CPC's Land Protection Committee. This is a non-binding document that formalizes the landowner's intent to proceed with the process and the land trust's acceptance of the project. It will also formalize the stewardship endowment contribution amount and terms, as well as present a timeline for completion of the project. CPC utilizes a template developed by the PA Land Trust Association.
- Baseline Documentation Report** is drafted. This report documents the current conditions of the property by identifying the property's important natural resources and evidence of the condition of the property. This report is required by the IRS for tax deduction purposes.
- Conservation Easement is Drafted and Shared with Landowner for Review.** CPC adapts the most recent model conservation easement developed by the PA Land Trust Association.
- Clarify Ownership Questions—** Title Search, Mortgage Subordination, Mineral Interests.
- Donor is Advised** to Obtain a Qualified Appraisal Report.
- Landowner Acceptance and CPC Board Acceptance** of documents to be executed stewardship and endowment contribution to Support Future Monitoring in Perpetuity.
- Record Documents** in County Courthouse.
- Publicize Easement,** Place Easement Signage, File Documents and Prepare for Annual Inspection.

Since the early 1980's, conservation easements have increasingly been used as a tool to protect land. According to the Land Trust Alliance (LTA), a record 40 million acres have been protected through conservation easements by local and regional land trusts, national conservation groups, and state and federal agencies. Conservation easements are flexible tools that provide a permanent guarantee that a landowner's property will never be developed, yet remain in private ownership.

THE CENTRAL PENNSYLVANIA CONSERVANCY (CPC) HAS PRESERVED ALMOST 6,000 ACRES OF CENTRAL PA FORESTS, FARMS, RIDGES, STREAM BUFFERS, AND OPEN SPACES THROUGH A RANGE OF PROTECTION STRATEGIES, SINCE ITS FIRST LAND DONATION IN 1993. Conservation easements have become a common protection method implemented by CPC because of their tax benefits to private landowners, flexibility, lower cost compared to acquisition, and permanent conservation benefit.

IMPACT



ABOUT CENTRAL PENNSYLVANIA CONSERVANCY

The Central Pennsylvania Conservancy has permanently preserved almost 6,000 acres since receiving our first land donation in 1993 through fee simple acquisitions, transfer acquisitions, and conservation easements. We have worked with private landowners in the central Pennsylvania region to preserve the area's natural, scenic, and cultural heritage.

Through a variety of land protection strategies, we have formed partnerships with private landowners in an effort to conserve natural and cultural resources for the benefit of current and future generations through the protection of open space in the Central Pennsylvania region.

THANK YOU!

We appreciate your commitment to land preservation and thank you for the opportunity to provide you with information on how your local land trust can help you permanently protect your cherished land!

For more information, please contact our Director of Land Protection and Stewardship, Benjamin Mummert at (717) 241-4360 or bmummert@centralpaconservancy.org,



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CPC is the local land trust for the south-central PA region with a mission to protect natural resources through land acquisition, conservation easements, education, and outreach. It is active in Cumberland, Perry, Franklin, Dauphin, and Juniata counties.

CentralPAConservancy.org