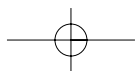
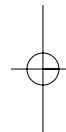
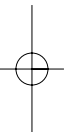
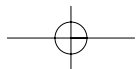
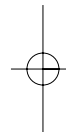
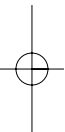


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## Landowner's Options . . .

A guide to the voluntary protection  
of land in Tennessee

Dedicated to Tennesseans,  
some of whom are described in these pages,  
who have protected their own land  
through voluntary action. Thank you for  
the uninterrupted vistas, for the green fields,  
and cleaner creeks, the forests,  
the mountaintops, the wetlands, and the  
shady valleys that you have preserved.

Thank you for your contribution to  
**Keep the Country in Tennessee.**

## **LANDOWNER'S OPTIONS . . .**

A guide to the voluntary protection of land in Tennessee

Revised and reprinted with permission from the Iowa Natural Heritage Foundation, from their publication, "The Landowner's Options . . . A guide to the voluntary protection of land in Iowa." Thank you, Iowa, for your inspiration and your good work for land conservation.

Prepared by the:

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John Sheahan, Chairman of the Board

Thank you, John, for giving your time, support, guidance, money and energy to the cause of conservation in Tennessee.

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Jones of Brunswick, TN

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Thank you all for your contributions to Keep the Country in Tennessee.

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## THE STARTING POINT

Elizabeth Queener and her sister, Alyne Massey, wanted to protect their 230-acre farm where six generations of their family had lived. Also, they wanted their heirs to have some opportunity for income from the land. So they are donating a conservation easement to the Tennessee Parks and Greenways Foundation to protect most of their farm so that it can never be developed and then they are allowing some 75 acres of the farm to be available for future residential development and allowing timber harvesting on another 37 acres.

The McGowans wanted to make a contribution to keeping this old earth and Tennessee forever wild – at least on their 21-acre parcel they call "Paradise." So they donated a conservation easement to their local land trust, Swan Conservation Trust. As a result their property taxes and estate and inheritance taxes are reduced and the property will remain in private ownership by their heirs or they still have the option to sell it to some future conservation buyer.

Perhaps you own a family farm, a woodland, wetland, riverside or other special spot that you'd like to protect. Perhaps you are concerned about your heirs and their ability to pay escalating property taxes and the estate and inheritance taxes that will result at your death. Perhaps you want the option of making some income from your property but don't want to see it all sold off to do it. There are options that will help you meet your financial concerns and protect the land you own.

Exciting conservation options exist for landowners which could lower your property assessments, reduce your estate taxes, earn you federal income tax deductions, generate income now and well into the future and permanently protect all or whatever portion of your land you decide to protect.

Whether you are a landowner with one or two acres or one with thousands, whether your land represents the only asset in your estate or whether it is only one of many assets you hold, we encourage you to learn

more about the options now available to landowners in Tennessee. This is your starting point.

We, at the Tennessee Parks and Greenways Foundation, hope you will find this book a good starting place to discover these options. In this booklet you will find 18 ways to permanently protect Tennessee's special wild places. One of these options – or a combination of options – is right for you and your land. The flow chart on pages 8-9 can help you find the options that will work best for you.

You don't have to explore these options alone. As a first step, you can call the Tennessee Parks and Greenways Foundation and ask for a free, confidential meeting. Their staff is trained to help you compare or combine options, and they can direct you to others who can help. Besides your attorney, you might want to involve conservation organizations or agencies, your tax advisor, or a trust officer as well.

To make the best possible decision, you will want to answer these questions for yourself and discuss them with your advisors:

- How can I best protect the portion of Tennessee's natural resource heritage that I own?
- Is the land I own worthy of being protected to a greater extent than it is now?
- Do I wish to protect all or part of the property?
- Do I wish to protect it forever or for a limited term?
- Do I want the land to remain in individual ownership, or would I consider transferring ownership to a conservation agency to be open to the public?
- Should I consider a sale or a donation?
- If I transfer title, do I want to restrict future uses?



- Are tax implications important to me?
- Do I wish to act immediately, over a period of years, or through my will?
- How will my actions affect my family?
- How will my actions affect my community and its land use and tax considerations?
- Is a landholding agency better able to manage or protect my land than an individual owner?
- Are there conservation agencies or other institutions able to manage or legally protect my land?

Deciding the future of your land may be emotional, bringing your deepest values into focus. It may be financially beneficial to you and your family, and it will certainly be rewarding. Choosing the right option will help you know you're leaving the world a better place than when you found it. You'll be helping to **Keep the Country in Tennessee.**

#### **Combining Options**

While the land protection options described in this booklet can be used alone, many landowners rely on a combination of land protection tools to satisfy their wishes for the land as well as their personal financial needs.

For example, you could consider, like the Jacqueths, donating part of your land and keeping a reserved life estate attached to part of your land.



The Jacqueths knew they couldn't farm their land anymore, and they wanted to see it protected so they gave a portion of the 200 acres to the Tennessee Wildlife Resources Agency. They kept a life estate on a smaller tract that included their home and five rental houses. At their death, this property too will belong to the agency.

This combination allowed them to be sure that their entire property would eventually be protected, while providing for their needs during their lifetime. They were able to claim a federal tax deduction, for their donations, and they reduced their property taxes. The donation and bequest also reduce the size of their estate and could correspondingly reduce the amount of estate taxes and/or inheritance taxes.

Your team of advisors can help you find a personalized protection plan that best suits your land and meets your needs.

**Finding the Right Option**

1. Answer the four questions on the left side of this page.
2. Read first about the land protection methods that seem to fit the majority of your wishes.
3. Read about other options to see if they may also fit your wishes, perhaps in combination with other methods.
4. Discuss your options with trusted professionals, particularly your tax advisor and a conservation professional. Your tax advisor can counsel you on any recent changes in property, income and estate tax laws that may substantially impact your decision.

Do you wish to continue to own or use the land?

Yes

• • • •

• • •

No

• • •

Do you want to restrict future uses?

Yes

•

•

No

• • • • • • • • • •

Do you want compensation?

Yes

• • •

• •

No

• • • • • • • • • •

Are potential tax advantages important to you?

Yes

• •

• • • • • • • •

No

• •

• • •



PROTECT AND OWN	DONATE	SELL	TRANSFER WITH CONDITIONS
<ul style="list-style-type: none"> <li>Conservation Easement</li> <li>Mutual Covenant</li> <li>Greenbelt Registration</li> <li>Lease</li> </ul>	<ul style="list-style-type: none"> <li>For Conservation</li> <li>For Trade</li> <li>Bequest</li> <li>Reserved Life Estate</li> <li>Partial Interest</li> <li>To Establish a Life Income</li> <li>To Pay Inheritance Tax</li> </ul>	<ul style="list-style-type: none"> <li>Fair Market Value</li> <li>Bargain Sale</li> <li>Installment Sale</li> <li>Reserved Life Estate</li> </ul>	<ul style="list-style-type: none"> <li>Deed Restriction</li> <li>Conditional Transfer</li> <li>Conservation Easement</li> </ul>
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## WAYS TO PROTECT LAND AND OWN IT, TOO

### Easement Protects Family Heritage . . . A Landowner's Story

By Elizabeth Queener

"This land you have given me is a pleasant land. Welcome indeed the heritage that falls to me." Psalms 16:6

Watching sprawl spill from Nashville in all directions strengthened my resolve and my sister's to take a stand against uncontrolled development in Middle Tennessee. Armed only with a 230-acre farm, we



The Queener/Massey conservation easement in Maury County protects family lands.

determined our only course was to create a conservation easement on our property. We have been incredibly fortunate to have Kathleen Williams at the Tennessee Parks and Greenways Foundation guide us through the procedure.

Our action was sparked also by the history of the property, which is a part of our history. This property was bought by our great, great-grandfather, Dr. Thomas James Frierson, in 1808.

He brought his bride, Mary Anne Elizabeth Blakely, to it and raised a family of seven children. It grew to close to 800 acres by the time of the Civil War. An 1840 farm census reveals the main crops were rice, oats and livestock. Willis Rodney Frierson, the next owner, built a large two-story, balconied plantation house on the property for his wife, Mary Ann Goodloe. Unfortunately it burned to the ground in 1929 when the next owner, Hinton Strother Frierson, lived there with

his wife, Lucille Gordon, and his niece, Addie Frierson Armstrong, our mother. At the turn of the last century, and until the First World War, racehorses were raised, the most notable being Napoleon Direct who was named for a boy who lived on the place, Napoleon Frierson. He was a descendent of the slaves who shared the farm with the owners. Willis Rodney Frierson freed his slaves in the 1850s but most stayed with him as free men and women on a share crop basis. On the farm is a slave cemetery on land given by his son to the descendents of their slaves as a burial ground. As I walk over paths once used by slaves to bring water from springs or look at the foundation of the house that burned or thrill at the view from a hill, I realize the true value of land. It is a map to guide us and inspire us. We feel good that my sister's grandchildren will someday inherit not only a beautiful piece of property but also a place where they can literally walk in their forbears' footsteps as sixth generation landowners.



Through stream sampling, volunteers for the Tennessee Parks and Greenway Foundation discover the Coppercheek Darter. This easement will help protect this threatened aquatic species.

### Conservation Easement

Ms. Elizabeth Queener and Mrs. Jack Massey, owners of this sixth generation, 230-acre farm in Maury County, are donating a conservation easement to the Tennessee Parks and Greenways Foundation. Also, they are donating funds to cover the cost of establishing the easement and a permanent endowment to ensure its perpetual monitoring and enforcement. Wanting to ensure that the property remains in its natural state, the owners gave the property's development rights to the Tennessee Parks and Greenways Foundation. The Foundation worked with the owners to establish an easement over 155 acres to protect the farm's creek banks, forests and open fields that make up the character of

the farm. An additional 75 acres may be developed only with well-placed, limited residential houses. Most of the farm will never be developed, regardless of its future ownership.

### Keeping "Paradise" Forever Wild

"It's easy to do," said Rob McGowan, "once you find a non-profit partner." Rob and Peggy McGowan searched for several years for a way to protect their "Paradise." They live in Memphis but they retreat to a 21-acre tract in Perry County on the western end of Middle Tennessee, near Linden.

Finally, they found the Swan Conservation Trust. They donated a conservation easement that's called a "Forever Wild" easement to this land trust located in Southern Middle Tennessee.

"We received a federal tax deduction but that wasn't our motivation. We wanted to recreate an old-growth forest. We believe strongly in conservation values – especially biological diversity - and wanted our legacy to be this: In a hundred or two



Rob and Peg McGowan's easement preserves "Paradise."

hundred years, a person could walk into our place and step back into a primeval situation. That's our motivation," said Mr. McGowan.

A "forever wild" easement prohibits any human disturbance of any kind. So when Rob and Peg negoti-

ated the easement with Swan Conservation Trust they excluded two acres for their use. "We might want to plant a fruit orchard or do some landscaping. That's the beauty of conservation easements, you can design it to work for what you want."

Also, the McGowans made a small cash contribution to Swan's permanent defense fund and they support Swan Trust with their annual membership contribution. "Peg and I see this as a legacy for the future. It's a satisfying thing to do -- to leave the world a better place. If you can take the little piece of land that you have power over, and protect it you've done what you can do," concluded Rob.

The McGowans protected their 21-acre property with a more typical example of a conservation easement. The McGowan's conservation easement excluded their house and lot, but no further development is allowed. The easement, which does not allow public use, also ensures that future owners keep the land natural.

**When you grant an easement, you still own the land.**

The most distinctive aspect of protecting land by granting an easement is that the land remains in private ownership, yet its use is regulated and the protection can be stronger than that provided by zoning or state regulations. The responsibilities and rewards of ownership continue, and unless specified otherwise, the landowner retains full control over public access just as he or she did before.

**Each easement is unique to the property it protects.**

The limitations set forth in conservation easements are tailored to suit the unique characteristics of individual properties as well as the different activities and interests of individual landowners. Generally, the limitations (known as covenants) prescribed in an easement limit the number and location of structures and the types of commercial and industrial activity, and specify what can be done to the surface of the land and its natural growth. Its versatility allows it to range from the "forever-wild" easement, which states the land will remain as nature leaves it (with only enough management to maintain the resource itself) to the easement that allows limited residential use, farming, and properly managed commercial timber harvesting. The size of the property under easement can also vary. For example, only the portion with significance

from a conservation viewpoint might be considered. The size can be several hundred acres or less than one acre.

#### **Easements usually provide permanent protection.**

The protection afforded by conservation easements is usually permanent; such easements legally bind all present and future owners of the land. Easements are recorded with the county register of deeds and are permanently attached to the title of the land thereafter, whether the land is transferred by sale, gift, inheritance or bequest. (While it is possible to grant a short-term easement, most agencies are only interested in accepting permanent easements.)

The restrictions and covenants contained in easements are permanent because each conservation easement is granted to an organization or agency interested in preserving the natural characteristics of the land. The sole responsibility of the recipient of an easement is to ensure that neither the present nor any subsequent owners disregard the regulations set forth in the easement.

The recipient agency must have the resources and determination to make sure that the easement is enforced by litigation. Because the agency is assuming a long-lived and important responsibility when it agrees to accept an easement, it makes the decision thoughtfully and in accordance with its own objectives.

Easements may be held by public or private organizations. City or county governments, park or recreation authorities, state, or federal agencies, historic commissions or non-profit organizations for public benefit may also hold a conservation easement [TCA 66-9-301]. Public and private agencies interested in accepting conservation easements are discussed beginning on page 63.

#### **Easements may reduce taxes.**

If a conservation easement is sold, it constitutes a taxable event. If the

conservation easement is donated or sold for less than full market value, it can constitute a charitable contribution, for federal income tax purposes.

A conservation easement will affect the market value of the land to the extent that it limits the property's use. This may affect several types of taxes.

A charitable deduction for income taxes may be allowed for the loss in market value resulting from the grant of a conservation easement. The reduction in income tax that results from taking a charitable deduction can help a landowner cover the costs of owning and maintaining the property. As for any charitable gift of property greater than \$5,000, the value of the asset must be substantiated by a qualified appraisal in order to receive the deduction.

There may also be a property tax reduction. Easements do not remove land from the tax rolls, but assessors do consider the effect of enforceable restrictions, such as conservation easements, on the value of the land [TCA 66-9-308]. Thus, the land should be assessed at its actual value reflecting the limited potential use of the land. Actual value is defined as fair and reasonable market value, or what a willing buyer will pay. Generally, county assessors should be contacted prior to the grant of an easement to enable them to fully understand the potential tax effects.

If land is to be given to an individual prior to death of the owner, state or federal gift taxes may be due. The lower value of the land under easement may reduce the amount of the taxes.

An easement may lower estate and inheritance taxes. Taxes must be paid on the amount an estate exceeds the exemption limits set by state and federal governments, and these taxes may have to be paid based upon the appraised value of the property at the time of death. Thus, any reduction in the value of the property caused by the granting of an easement will similarly lower estate taxes. In certain instances, the reduction in

value might free the heirs from paying estate taxes.

This incentive for granting a conservation easement may be important for not only the heirs, but also for the future of the land. All too often land must be sold to cover the estate taxes.

In summary, a landowner can take this voluntary measure quite easily, but he or she must weigh the decision carefully, for once done, it is difficult to reverse. Landowners should plan carefully and consult with professionals. The financial benefits must be weighed against the realities of a loss in market value; the protection must be weighed against the need for flexibility. In many instances, however, the variety of covenants that can be contained in a conservation easement afford tremendous room for finding a proper balance of personal and conservation considerations.

#### **Easements Monitoring Funds**

Many private organizations that accept easements establish Easement Monitoring Funds. These restricted endowment funds provide resources to both monitor and enforce the provisions of the easement. Landowners donating a conservation easement should consider making a tax-deductible contribution to the organization's easement monitoring fund (some organizations require such contributions). The tax benefits realized from the donation of the easement often make it possible for a landowner to make cash contributions to the monitoring fund.

Landowners may also want to remember the organization in estate plans by making a bequest, transfer of other assets, or naming the organization as a life insurance beneficiary. This gift will help ensure that the recipient of the easement has the resources to continue protecting the property.

#### **Preserving the Village of Leiper's Fork**

In southwest Williamson County, there is a village that looks like time forgot. Leiper's Fork sits nestled between the high ridge that makes up the historic Natchez Trace and the rolling hills of Middle

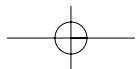
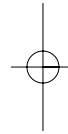
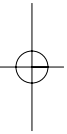
Tennessee. The sweep of green pasture and farm seen from the entrance of the village from the north or off the parkway is courtesy of a very special family that truly has a love for this land. Permanent conservation easements on 274 acres will protect this view forever.

Aubrey Preston, a 40-year-old business man, and his family own several farms in Leiper's Fork in prime development areas. Due to his personal commitment to the special community of Leiper's Fork, Preston has been instrumental in trying to maintain the village and its rural, agrarian community.

"By giving easements on our family's land to The Land Trust for Tennessee, we are helping to ensure that Leiper's Fork remains a truly Tennessee place, in touch with the land, and connected to its historic roots," said Preston. "For about five years, we have been thinking about ways to protect this land. Working with the land trust allowed us to do exactly what we had hoped to all along. They had the tools. We are so pleased that our children and their children will see this same beautiful valley as we do today."

The Preston family's intent was to protect this view of the valley. In determining what that meant, they realized that a portion of the property was not part of this view, so was not included in the conservation easement. The flexibility of the project allows them to decide how they will use that portion of the property in the future.

Leiper's Fork is a Registered National Historic District and contains some of the few remaining examples of late 19th and early 20th century architecture once characteristic of villages in Williamson County. One of the most picturesque exits off the Natchez Trace Parkway enters into the valley south of this historic village.



### A Small Easement with a Big View – Elder Mountain

Howard Bickerstaff, his sister, Hazel, and brother, Gary, gave a scenic conservation easement on Elder Mountain to the Tennessee River Gorge Trust. "It's a fragile piece of property and we



A 274-acre conservation easement protects this farm in Leiper's Fork. Robin Hood, photographer.

didn't want to ever see it developed," said Howard.

Although it's small, at 2.5 acres, the easement is very valuable. The property is highly developable with scenic overlooks of the Tennessee River Gorge, near Chattanooga. The Bickerstaffs received a charitable deduction for donating the easement to the Trust and now that important piece of Elder Mountain is forever protected.

"My mother played there as a child when it was the Jess Burgess home place. Our family has had it since the 1920's. It's a special place with an old cellar on it and a year-round spring and a little



The view from land protected on Elder Mountain

stream – this is unusual on top of Elder Mountain. It's a special place, we wanted to see it protected," concluded Mr. Bickerstaff.

#### **Government Programs Involving Conservation Easements**

Conservation easements are an increasingly important part of federal conservation policies. The financial incentives offered in exchange for the easements can be quite attractive to landowners. Some government programs involving easements are offered for a limited time, while others are available on a regular basis.

Here are examples of government programs available at the time of this booklet's publication. Remember that federal and state programs may be discontinued, and others involving easements may be created. The federal and state agencies listed on pages 72-75 may have current information on available programs.

#### **Farmland Protection Program**



USDA Natural Resources Conservation Service through the Farmland Protection Program provides funds to state, tribal, or local government entities to help purchase development rights to keep productive farmland in agricultural use. Working through existing programs, USDA joins with state, tribal, or local governments to acquire conservation easements or other interests from landowners. USDA provides up to 50 percent of the costs of purchasing the easements.

#### **Wetland Reserve Program**

The goal of the Wetland Reserve Program is to restore wetlands through the acquisition of conservation easements or contract agreements. The national goal is to restore 975,000 acres by the year 2002. In Tennessee, wetland restoration will consist primarily of restoring bottomland hardwoods and reversing all in-field drainage systems currently in existence. A Wetland Reserve Plan of Operations will be developed for the 30-year easement or 10-year restoration agreement. The Natural Resources Conservation Service administers the Wetland Reserve Program.

#### **Conservation Reserve Program**

The Conservation Reserve Program is a voluntary program that offers annual rental payments and cost-share assistance to establish approved cover on eligible cropland. The program encourages farmers to plant permanent areas of grass and/or trees on land that is subject to erosion to improve soil, water, and wildlife resources.

- Up to 50 percent cost-share is available to establish approved practices.
- CRP contracts are 10-15 years in length.
- CRP is administered by the Farm Service Agency in cooperation with the Natural Resources Conservation

Service, Cooperative State Research and Education Extension Service, state forestry agencies, and local soil and water conservation districts.

#### **Environmental Quality Incentives Program (EQIP)**

EQIP is a voluntary conservation program for farmers and ranchers who face serious threats to soil, water, and related natural resources. It provides technical, financial, and educational assistance primarily in designated priority areas. Fifty percent of EQIP combines the functions of the Agricultural Conservation Program (ACP), Water Quality Incentives Program (WQIP), the Great Plains Conservation Program (GPCP), and the Colorado River Basin Salinity Control Program into a single program. The Natural Resources Conservation Service administers and provides technical assistance for the Environmental Quality Incentives Program.

#### **Wildlife Habitat Incentives Program (WHIP)**

WHIP is a voluntary program for landowners who want to develop and improve wildlife on private lands. It provides both technical and cost-sharing assistance to help establish and improve fish and wildlife habitat. USDA and the participant enter into a cost-share agreement (contract) for wildlife habitat development, which lasts for 5-10 years. The Natural Resources Conservation Service administers the Wildlife Habitat Incentives Program.

#### **Forestry Incentives Program (FIP)**

FIP is a USDA program enacted to protect America from wood fiber shortages. The program shares the cost of establishing trees on certain qualifying lands. USDA will pay 50% of the site preparation, seedling purchase, and planting costs. Areas planted must be protected for the next 10 years. It is expected that the trees will be harvested when mature, helping meet the country's need for wood products. The Natural Resources Conservation Service office or Tennessee Division of Forestry office can provide additional information.

### **Natural Areas Preservation**

The Tennessee legislature passed the Natural Areas Preservation Act of 1971, in an effort to protect scenic areas within the state [Tennessee Code Annotated 11-14-101 et seq.]. Under the Act there are two classifications of areas. Class I areas protect waterfalls, lakes, streams, woodlands, caverns, etc. and Class II areas protect floral assemblages, geological phenomena, swamplands, etc. Acquisition is accomplished by purchase, exchange, or donation. In cases where there will be no state ownership of the land, the Act establishes a registry of scenic areas [TCA 11-14-112]. The registry is administered by the Tennessee Department of Environment and Conservation. And while no tax incentives or permanent protections are provided by the registry, landowners are able to make public the fact that their land is listed in the registry provided the land is maintained in a natural state.

### **The Tennessee Scenic Rivers Act**

In an attempt to protect Tennessee's diminishing resources of free-flowing rivers, the general assembly passed the Tennessee Scenic Rivers Act of 1968. The Act established a state scenic rivers system by designating certain river areas for immediate inclusion in the system and also provides a procedure and criteria for adding additional river areas [TCA 11-13-101]. The scenic rivers system is administered by the Tennessee Department of Environment and Conservation in cooperation with the Tennessee Wildlife Resources Agency. This Act does not provide tax incentives nor permanent protection for land adjacent to scenic rivers. But it does establish the state's interest in "scenic rivers" and the preservation of free-flowing natural or scenic conditions. In order to protect scenic rivers, the Act allows for donations or purchases of conservation easements or acquisition of land in fee title by public agencies.

### **Tennessee Trails System Act**

In an attempt to provide outdoor recreation and to promote public travel and enjoyment of natural and remote areas, the general assembly passed

the Tennessee Trails System Act of 1971. The scenic trails are designated by an Act of the general assembly and must traverse natural and scenic areas and must be of sufficient length so that they cannot be traveled in one day or less. Because the trails established under the Act are miles in length, the state will likely purchase the land in fee title or acquire an easement. However, if a landowner's property has been designated as a site of a scenic trail by the general assembly, donation of the land is possible [TCA 11-11-112].

### **Mutual Covenant**

Neighboring landowners with a common conservation interest may sign an agreement containing mutually beneficial protective covenants controlling the future of their land. The agreement is recorded in the county records and is binding upon subsequent owners just as an easement is, and the types of restrictions imposed are similar. The covenants are enforceable by any of the landowners that entered into the mutual agreement or by any future owners of the land.

Mutual covenants may be useful in situations when a conservation easement may not be feasible, either because there is no agency or organization interested in accepting the easement or the landowner does not want to enter into an agreement with an agency. Mutual covenants differ from conservation easements. Easements are permanent and often provide tax advantages, while mutual covenants are not necessarily permanent and do not offer tax benefits. Also, the nature of the enforcer is quite different; it is a person or group of people rather than a conservation agency or organization. Since other people are aware of restrictions on the property, forbidden acts by the owners are less likely. However, enforcement ultimately depends on the determination and resources of an individual. Normally, enforcement of the terms of the covenants by a neighboring landowner is not legally

mandatory; rather, it is optional.

While not as strong as conservation easements, mutually restrictive covenants provide an alternative for instances when easements may not be feasible or necessarily desirable. The covenants do, however, require the presence of the right combination of people and circumstances. When drafting a mutual covenant, consult an attorney.

### **Greenbelt Registration**

In 1976, the Tennessee General Assembly passed the Agricultural, Forest, and Open Space Land Act (Greenbelt law). The Act was passed to protect land that is threatened by pressure from urbanization, scattered residential and commercial development, and the system of property taxation. You may be able to pay less property taxes if your property is dedicated to farm, forestry, or open space uses. Usually the amount a property is taxed is based on what it is worth on the market (highest and best use). The Greenbelt law allows certain land to be taxed on its value based on its present use instead [TCA 67-5-1001].

To qualify for greenbelt registration, agricultural land must be 15 or more acres and must produce at least \$1500 per year over a three-year period in gross income. Forestland must be 15 or more acres, and the tax assessor will consider the type of timber and its growth rate to determine eligibility. Finally in cases of open space land, a county planning commission or state planning office will make a determination if the land should be classified as open space based on the size (minimum of three acres) and the need to preserve the land in light of adjacent development.

To become eligible, you must fill out a form provided by the state. There is no fee to apply, but if the land is approved under the Act, the application must be recorded in the county register's office. For more information, call your county assessor.

## Lease

A lease allows for unrestricted and exclusive use of the land by the agency for a given number of years, and may need to be recorded with the county register of deeds.

By granting a short- or long-term lease to a land management agency, landowners can make sure their land is managed carefully.

A lease provides an alternative for those who may not wish to transfer their land to a conservation agency or organization, but want to see it used or protected by such a group for a period of years.

A lease also allows the landowner to determine the conservation agency's ability to manage the property, and it gives the landowner time to determine a more permanent protection strategy. In turn, a conservation agency may use the lease to develop a long-term relationship with the landowner and manage the special features of the property.

Certain use restrictions can be incorporated within the lease. For example, the landowner can include provisions that stipulate that if the lessee (conservation agency or organization) does not use the property as directed, the lease is automatically terminated and all of the lessee's interest in the property is thereafter forfeited.

Some landowners choose not to receive lease payments from conservation agencies managing their property. Although landowners cannot take a charitable deduction for the value of a lease that is donated, any impact of the lease on the value of the land is taken into consideration for property tax purposes and when the estate and inheritance taxes are calculated.

### Donating Lands for Conservation

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#### A Gift called Watauga Bluffs State Natural Area

General Shale Products donated 50 acres of land along the Watauga River in Johnson City for conservation. Walt Banyas worked for General Shale in Johnson City for 39 years. Walt was pleased when company officials were approached by Ed Williams, a local attorney and the President of the Open Spaces Conservancy, a land trust in Johnson City, about General Shale protecting the stream bank of the Watauga River.

"That place is so pristine, so rich in flora and fauna. Plus, the Watauga is a nationally known trout-fishing stream. We wanted to be good stewards and protect it," said Mr. Banyas. "We first were considering an easement of 15–30 feet along the river, but then we decided to donate the whole 50-acre tract. It makes you feel good to do the right thing."

Now that 50-acre, approximately \$100,000, property will always be there. General Shale donated the property to the Open Spaces Conservancy who gave it to the Nature Conservancy who transferred it the state. General Shale received a federal tax deduction for their charitable gift and Tennessee has a new state natural area. In 1998, the Tennessee legislature approved it as a dedicated natural area called "Watauga Bluffs."

"This dedication was an excellent way to share our appreciation and concern for the environment and give back to our community," said Banyas.

A donation of land or interest in land is usually the simplest way to arrange outright transfers of title because no financing or negotiations about price are necessary. The landowner need only obtain approval from the agency or organization to which it will be given, then deed the land to that recipient.

Donations, by definition, rely on the fact that the landowner is willing to protect his or her land, at the cost of giving it away, without direct financial compensation. However, some of the loss may be offset by the tax benefits the gift provides.

The financial benefits of donating land are straightforward. The donor no longer pays the real estate taxes, income taxes are reduced, and the estate is reduced in size, thereby, reducing estate taxes.


In addition, when the recipient of the donation is a government agency or a publicly-supported private charity, the donor can claim a federal income tax deduction of the market value of the land as determined by a qualified appraiser. (A good appraisal is necessary to substantiate the gift.) In some cases, the landowner may want to donate the land in installments or partial interests over a period of years to maximize the benefit of the deduction. (See pages 37 and 54.)

Landholding agencies review proposed gifts of land carefully, for they are becoming increasingly aware of the financial and management responsibilities that come with the ownership of land. They must look upon gifts of land in light of their ability to care for and use the land properly.

Some organizations encourage or require the establishment of endowment funds when a property donation is made in order to provide funds to meet the management costs. The donor should consider donating funds or leaving a bequest to the receiving agency or organization in order to help with future management of the land.

#### **Donating Other Lands for Trade**

A Farm Forever . . . But Lots for Sale

  
Dr. Jim and Emily Davis donated an easement on their own farm to their local land trust, the Foothills Land Conservancy. In addition, they donated lots that the land trust could sell.

The five subdivision lots are located in Sweetwater and were close to their farm but didn't adjoin it and a road went by there and houses were being built nearby.

"My parents had five lots in Sweetwater that I had inherited. My mother and father were interested in conservation and making things better. I knew they would have approved of this donation," said Emily. "And the charitable donation was part of the motivation for donating the lots."

"Also, we've put our whole farm under an easement and given that to the Foothills Land Conservancy. Everything's being built up so fast; people need for their soul's sake to have some open spaces around them," said Mrs. Emily Davis as she described her motivation for protecting the 580 acre farm.

"Our kids thought it was a good idea and are interested in conservation too. My parents had a farm and we bought farms next to them."

Previously, they raised cattle and now lease some of the farm. The Davis' easement doesn't allow development of any kind. They did, however, leave a few acres out of the easement so they would have the possibility of additional house sites for income.

"I'm so glad the Tennessee Parks and Greenways Foundation is doing this - telling landowners what their choices are – if people don't help by protecting their own land, it'll all be gone," concluded Mrs. Davis.

Most often people think of donating valuable natural lands (i.e. woodlands, wetlands, or stream banks) for conservation. However, a landowner may donate other kinds of land, and in this way still support and promote his or her conservation interests.

Property without significant natural, cultural or recreational values may still be important to a conservation organization. Subdivision lots, farm land, contracts, leases, or undivided interests may be donated for subsequent resale by the organization, with resulting funds used to help purchase special resource lands or support programs. Or the organization may trade the donated land for natural lands in need of protection. The donor is entitled to a charitable deduction equal to the fair market value of the property. The landowner should be sure the organization to which the property is donated has the authority to sell or trade the land and reinvest any proceeds in other properties or programs.

### Donation by Bequest

Protecting the Foothills Land Is His Life's Work and it's Written in His Will

As director of an East Tennessee land trust, the Foothills Land Conservancy, Randy Brown talks to people all the time about options for protecting their land. He should know – he talks from experience – the experience of protecting his own land.

In 1995, when Randy Brown was shopping for his home, he was looking for something special. Something that came with a little land that would inspire his everyday work saving the land around the foothills of the Smokies.

With his realtor, he selected eight properties to visit. The eighth property was the property he had to have. "My grandmother was from Blount County and we used to drive up to the ruins of a place where my great-grandfather was a caretaker. It was a health resort that burned down in the 1920s called Allegheny Springs. I remember driving by and seeing this very place when I was a child," said Randy. "I had to have it."

Located in the Black Sulpher Knobs, his house sits in the middle of 22 acres in southern Blount County. Four Mile Creek runs through the middle of it and his house sits back 300 feet in the middle of a 60 foot wide cove.

Randy's property is protected with a testimonial easement. At his death, his life insurance will pay off his mortgage, and his executor will donate a conservation easement to the Foothills Land Conservancy. Plus he's willed \$1,000 to pay for the expenses of the land trust preparing the baseline. (The baseline is the document that describes the property at the time of the easement gift.)

"Now it can never be subdivided. And because my nearest neighbor has 135 acres and has an easement on his place, it will always look like it does today. I love it," said Randy.

"I'm the luckiest man in the world. I've got the best job and the best property," concluded Randy.

A gift of land may be made at the time of death by making the gift in a will. The advantage to a donation by bequest is that you retain full use and control of the land until your death. You also have the ability to revise your will, allowing you to change your gift as your personal situation changes.

Financially, you can reduce estate and inheritance taxes by removing the land from the estate. The bequest can qualify as a charitable transfer that entitles the estate to a deduction equal to the value of the property, at the time of your death. However, you remain responsible for paying real estate taxes during your lifetime, and you do not benefit from the income tax savings possible from charitable gifts.

Discussing the bequest with the proposed recipient before writing the will enables you to talk with them about your wishes for the land and determine if you share compatible goals. If you have any specific restrictions or management plans you want the recipient to follow, it is imperative that you talk with them to make sure they are able to honor your wishes. Also, by talking with them, you will give them the opportunity to thank you.

The risk involved with a gift by bequest is that the named recipient might not wish to accept the bequest at the time the will is probated. An organization's objectives and financial circumstances can change with the passage of time. If you definitely want the land to be owned by a conservation organization, you should draft the will carefully with this risk in mind, naming your objectives and perhaps an alternate organization that could accept the gift with your terms. Discussing your land management wishes and staying in contact with the recipient helps to ensure that the bequest will be gratefully accepted in the future.

### Reserved Life Estate

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#### Haley-Jaqueth Wildlife Area

When Alfred and Eula Lee (Haley) Jaqueth (pronounced "Jakewith") of College Grove, in Middle Tennessee, were approaching their later years and could no longer actively work their 230-acre farm, they made an important decision. They decided they wanted to permanently protect their farm from the development that they saw encroaching all around them.

They walked into the office of the Tennessee Wildlife Resources Agency (TWRA) and offered 220 acres as an outright gift. Then with TWRA, they arranged to keep a life estate on ten acres and keep living in their home and renting out the five houses that are located on the farm. At their deaths, the additional home sites and ten acres will also be owned by TWRA.

The Haley-Jaqueth farm is located in College Grove in Williamson County, one of the fastest growing and richest counties in Tennessee, about 40 miles from Nashville. The farm is a special place, bordered on two sides by the upper reaches of the Harpeth River. Now managed as the "Haley-Jaqueth Wildlife Management Area," it's rich with wildlife and will be a permanent home to deer, a large turkey flock, quail, songbirds, raccoons, and rabbits.

A landowner may donate property to a landholding agency or non-profit organization with a reserved life estate. The landowner has the benefits of knowing that the land has been accepted by a suitable recipient and can enjoy continued use of all or part of the property during his or her lifetime. The reserved life estate may also allow immediate family members to use the land throughout the family members' life-

times.

The donor usually must pay real estate taxes on that portion of the land retained for his or her family's use. A transfer of property with a reserved life estate can result in the value of the property being included in the gross estate for federal estate tax purposes.

In terms of possible income tax benefits, the value of the gift can qualify as a one-time charitable deduction. The value of the gift cannot include the value of the life estate, as determined from the Internal Revenue Service's actuarial tables. The reservation of more than one life estate can significantly reduce the possible income tax deduction.

The regulations that govern the amount that can be taken as a charitable deduction each year are the same as those that apply to outright donations and conservation easements. (See page 54 regarding charitable deductions.) From the recipient's point of view, donation by bequest or with reserved life estate may be preferable if the agency would like to own the property someday, but does not wish to accept the responsibilities of immediate ownership.

#### **Donation of a Partial Interest**

Henry G. Hill bought 500 acres adjacent to the Wolf River in the 1930s for growing cotton and corn. Part of it was sold for development. The 185 acres that were inherited by Charles Sherrod, his first cousin, Robert, and sisters, Marie Sherrod and Helen Hill Sherrod, was subject to flooding. To develop it would cost \$20,000 - \$25,000 per acre to build it up.

"We decided we didn't want to sell it to developers," said Charles Sherrod as he described his and his family's decision to donate property to two different organizations. The Chickasaw Basin Authority holds title to the land and a conservation easement is owned and enforced by the Wolf River Conservancy. "I'm a member of the Wolf River Conservancy. The easement they hold restricts any development, even billboards," continued Mr. Sherrod.

Dividing the development rights from the land was done for conservation of the Wolf River but Mr. Sherrod admits it was also the tax benefits that helped the family arrive at this conclusion.

Now the land will forever remain with fields and bluffs, a Cypress and Tupelo Gum Swamp, and bottomland hardwoods that provide a home to white-tailed deer, wood ducks, herons, beavers, and mink.

When you own a parcel of land, you own more than the ground you walk on. You also own many land use rights such as hunting, mining and development rights. Holding a property's fee title is like holding a complete bundle of sticks, each stick representing a different land-use right. Just as you can separate specific sticks from the bundle, so also can you separate specific land use rights from the property's title.



This College Grove landmark is part of the Haley-Jaqueth Wildlife Management Area.

Some partial interests in land include real estate installment contracts, mineral rights, and commercial, residential, or agricultural leases. By donating these types of interests to a conservation agency or organization, the landowner can ensure that rights that can damage land are not used. Also, the donation of contracts or leases can support the agency or organization's work. The value of the land use right should be determined through a qualified appraisal.

In some cases, when landowners may not wish to or be able to donate an entire interest in a piece of land, they can accomplish their conservation goals by donating a partial interest.

One way to donate partial interests is through a conservation easement. A conservation easement attaches to the property title and restricts the use of the land forever, yet allows the land to remain in private ownership. See pages 10 through 25 for a full explanation of conservation easements.

A landowner may choose to share property rights and responsibilities by donating an undivided interest. With an undivided interest, each person owns a percentage of the property as a whole. A landowner's donation of an undivided interest is tax deductible and may be made over a period of time to take greater advantage of the tax deductions. (For example, you could give a 50 percent-undivided interest one year, and the remaining 50 percent three years later.) During the period of co-ownership, you and your charity are classified as tenants-in-common. As such, you are each responsible for your share of expenses (including property taxes) and are each entitled to your share of any income from the property.

Remainder interests are the land use rights you still hold after having given some away. Landowners can give away any or all of their remaining land use rights by donating a remainder interest. Donors of remainder interests are entitled to a charitable deduction for the value of the remainder interest contributed.

#### **Donation to Establish A Life Income**

A landowner may, in some cases, be able to contribute his or her interest in property in exchange for a life income agreement. By transferring property in exchange for a charitable gift annuity, deferred charitable gift annuity, charitable remainder annuity trust, or charitable remainder unitrust, the owner of the property establishes a source of income for life, receives significant income and estate tax savings, and eliminates his or her responsibility to manage the property.

These options may be used with non-conservation lands, (e.g., farmland

or a city lot) and with conservation lands. If the land does not produce enough income to fund a life income option, the organization must be able to provide the necessary funds through some other means or be able to resell the property.

In addition, these life income options may be beneficial to donors who wish to support an organization financially with gifts of appreciated assets (such as stocks), need life income, and want to avoid the capital gains taxes involved in the normal sale of assets.

All four of these options allow donors to establish an annual income based on their age and the fair market value of the assets used to establish the trust. Donors also receive income tax deductions.



For generations to come, people will enjoy the Henry G. Hill Wetland Conservation Area, in West Tennessee. The Chickasaw Basin Authority owns title to the land and the Wolf River Conservancy holds the conservation easement on the property.

The charitable remainder annuity trust provides a fixed annual income based on the fair market value of the assets contributed to the trust. The annuity payment must equal at least 5 percent of the assets' value determined at the time the trust is created.

The charitable remainder unitrust provides a fixed percentage of the annual net fair market value of the assets used to establish the trust. Because the trust's assets are reassessed annually, the unitrust payment must equal at least 5 percent of the fair market value of the trust's assets.

Charitable remainder annuity trusts and unitrusts remove the property ownership from the landowner and place it in a trust managed by a trustee (an individual, bank or other financial institution). The trustee then manages the property and is responsible for paying a percentage of the assets to the named persons. At the death of the last beneficiary, the assets are transferred to the organization named in the trust.

A charitable gift annuity is very similar to the charitable remainder annuity trust, with its fixed annual income. The main difference is that a trustee is not involved. Land or assets are donated directly to the charitable organization, which is then responsible for making annual payments to the donor.

A deferred charitable gift annuity is similar in concept to a charitable gift annuity except the initial payments do not begin immediately. This may be attractive if you wish to postpone income payment until a later date, such as when you are retired and your taxable income is reduced. A deferred gift annuity substantially increases your charitable contribution in the year you transfer the property. The annual payment will increase the longer the annuity payments are deferred.

For both the charitable gift annuity and deferred charitable gift annuity, a large portion of each payment to the donor is also tax-free, which increases the effective yield. However, the entire annuity payment becomes taxable if the annuitant outlives his or her life expectancy. The amount of the annual payment, the portion taxable, and the portion considered as a charitable contribution must be calculated for each situation.

If your gift is one of appreciated assets it produces a taxable gain. However, it produces less taxable gain than an outright sale and the gain may be allocated over a donor's lifetime.

#### **Donating Land as Payment of Inheritance Tax**

A little-known provision of Tennessee law is the "Payment of Transfer Taxes in Kind Act" [TCA 67-8-701 – 67-8-705]. It allows estate heirs, under certain circumstances, to pay inheritance tax owed, in kind, by transferring land to a state or local government agency that has "recreational, cultural, conservation or wildlife value, or value to the state for a public purpose." This offers unique opportunities to the heirs of an estate. By donating inherited land in payment of inheritance tax, heirs can target their tax dollars for conservation purposes. Also, heirs who face borrowing funds for, or paying interest on, inheritance tax obligations may consider the cost of borrowing greater than the rate of return on the land.

A landowner may own land that he or she would like to sell to a conservation organization or agency for public enjoyment. There are landholding agencies with funds for the outright purchase of land that has special attributes (such as forests, natural areas or wetlands), or that can be used for an agency purpose (such as a state park or trail). The landowner has the option of selling the property at fair market value, "bargain" price, in installments, or with a reserved life estate.

#### **Sale at Fair Market Value**

Sale at fair market value needs little explanation, but two thoughts are important. The desire to sell at fair market value is hampered by the fact that most landholding agencies have limited funds available for the purchase of land and must be particular about their choices. Also, if the land is sold for its full value and if the property has appreciated since its purchase, the seller will be liable for income tax on the capital gain, significantly affecting the net profit of the sale.

#### **Bargain Sale**

A Bargain Sale is a Gift for the Benefit of all Tennesseans

By Jane Whitson

Back in about 1987, officials of the Tennessee Department of Conservation contacted our family's timber and land business, the Whitson Land Company (WLC), saying they were interested in acquiring 3,000 acres of timberland we owned near the Savage Gulf State Natural Area. They felt our land was a key addition to the area to enlarge the wilderness area and extend the trail system, and also as part of the view from several of the overlooks on the Cumberland Plateau, like Stone Door. If we were ever to log this land, they said, it would have a most unpleasant effect on both the pristine nature of the area and the views from the top of the plateau, near Beersheba

Springs.

Because I had done some conservation work with natural areas in the past, I was thrilled at the possibility that a tract of our family's land holdings might be donated or sold to the state for public use and enjoyment. My sister, Mary, and other family members, who are also limited partners in the business, were also interested in this prospect. However, in the beginning, my father, Billy Whitson, the general partner of WLC, was not sympathetic to the state's plight. He was of the "old school" of businessmen and land owners who were not interested in helping any government agency increase its holdings from private ownership, for any reason. This created somewhat of a bone of contention in our family for a while.

Over time my father began to soften his position a bit and promised me he would not ever log this tract of timber. And then, several years later, with the help of his business partner, Carl Stanley, he made an informal agreement with the state allowing hiking trails to be built across the land.

As time went on and my father's health began to fail, he came completely around to the idea of selling the land to the state for its natural area. WLC's choices were: to sell or donate a conservation easement to the state while retaining ownership of the land, to make an outright gift of the land to the state and take a tax deduction, or to have the land appraised and sell it at full or partial value of the appraisal.

We chose the last option and thereby essentially made a partial sale and partial gift of the land and received some cash and also took a tax deduction on the portion that we donated. This partially offset the capital gains each of the partners incurred.

In April of 1998, seven months before my father's death, we closed the deal with the state and had a beautiful ceremony up at Stone Door commemorating the addition of the 3,000 acres to the Savage

Gulf Natural Area. My sister, Mary, Carl Stanley and I were there to help get my father, Billy Whitson, out to the overlook in his wheelchair. He was truly delighted with what we had accomplished and I was deeply grateful to him and Carl Stanley for ultimately finding a win-win resolution for all the parties concerned. In the last few months of his life, my father often mentioned to me what a lovely day we had up at Beersheba, and how pleased he was that we had sold that land to the state. I thank him and the good Lord that we were able to do just that while he was still alive.

By selling at a reduced rate, the Whitsons and Mr. Stanley not only helped to make sure this area was protected, they also gained substantial tax benefits. The difference between sale price and appraised market value was considered a charitable contribution, allowing them to receive income tax benefits.

However, the tax advantage was not their only consideration. Ultimately, they wanted the satisfaction of seeing Savage Gulf in the South Cumberland Recreation Area protected and expanded with their beautiful 3000-acre addition.

The bargain sale is an alternative that somewhat circumvents the disadvantage of a sale at fair market value, and is one of the most common forms of donation. In a bargain sale the landowner sells his or her land to a government agency or publicly-supported charity for a price less than fair market value. Because the selling price is lower, the landowner may find it easier to locate a landholding agency willing and able to purchase the land.

The bargain sale may be financially advantageous to the landowner. He or she not only receives some money for the land but can also claim an income tax deduction.

The Internal Revenue Code allows a deduction of the difference between the bargain price received and the fair market value as

[REDACTED] appraiser). The recipient must be a government agency or publicly-supported private charity for the landowner to claim the deduction. The financial benefit of the tax deduction can help compensate for the dollars lost by selling at less than fair market value. In addition, capital gains taxes become smaller or non-existent when a landowner sells at less than fair market value.

#### From Blueberry Hill Came Beaman Park . . . Another Bargain for Tennessee

When Dr. John Tudor and Dr. Robert McClellan and the four or five others who comprised the Blueberry Hill Partners bought what's now called Beaman Park, they bought it for an investment. "It was close to the city and the price was right and we bought it with the idea that someday, someone would want to develop it and we would make money from it," said Dr. Tudor.

The 1,400 acres was the largest contiguous undeveloped tract of land in Davidson County. It is located in the northwest corner of Davidson County on a ridge that separates Little Marrowbone Creek and Bull Run Creek on the edge of the highland rim. The partners were approached with interest by different developers throughout the years, but the land's rugged terrain made subdivision plans expensive and difficult. Finally, Dr. McClellan came up with the idea of the bargain sale and John Tudor decided to approach Metro Parks Director, Jim Fyke.

"Discounting the price wasn't totally an unselfish act; the tax write-off made it palatable for us," said Dr. Tudor. The 1400-acre tract was appraised at \$1.5 million and Blueberry Hill Partners sold it to Metro Parks for \$700,000. The difference constitutes a charitable contribution. In addition, the capital gains taxes are reduced when a landowner sells at less than fair market value. "Nashville has too much asphalt. The group generally felt that having it conserved as a greenway park rather than developed into another subdivision was in the best interest of the community. The purpose for which the park will use it is ideal — it's beautiful and rugged," concluded Dr. Tudor.

The Beaman family donated the funds to purchase this land as a park for Nashville — and now it is called Beaman Park.

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And Dr. Tudor was key to another conservation success story . . .

Dr. Tudor was also one of four duck hunters from Nashville that were plaintiffs in a case against the Corps of Engineers in West Tennessee to stop the channelization of the North Fork of the Obion and Forked Deer River. Because of their action, 44,000 acres were set aside as mitigation by the Corps of Engineers in West Tennessee. Now that 44,000 acres is a Tennessee Wildlife Management Area.

### **Installment Sale**

An installment sale may be advantageous to both the landowner and the purchasing agency. In an installment sale, the landowner and the purchaser form an agreement by which the landholding agency pays for the land in installments, or buys a specific portion of the land each year with an option to purchase the remaining tracts in the following years.

Municipalities (when authorized by appropriate ordinance or state law) and private organizations may use either method. However, federal and state agencies cannot buy on an installment plan because they cannot pledge the credit of the federal or state government. Federal and state agencies may purchase a specific parcel or portion of the total land area each year and agree to purchase the remaining parcels on a contractual basis. In effect, they would annually exercise an option to purchase a specific portion of an area.

The landowner and the buyer can negotiate for use of the land and for the responsibility for payment of property taxes until the sale is complete.

There are several advantages in an installment sale for both the landowner and the receiving agency. The landowner benefits by spreading the income over several years. In doing so, he or she can, in some circumstances, spread the taxable capital gains over a period of

years, thus minimizing the amount of tax that must be paid. The purchasing organization or agency benefits by having to pay only a fraction of the entire cost at first. It also may not have to worry about maintenance of the property until the sale is complete or may take management responsibility immediately, depending on the terms of the agreement between the landowner and the purchaser.

**Reserved Life Estate**

When a landowner sells property to a landholding agency with a reserved life estate, the owner can continue to use the land during his or her lifetime. The landowner continues to pay real estate taxes on the property. The federal income tax (capital gains) implications of a sale of a remainder interest, of course, depend on whether the sale was at fair market value, at less than fair market value or completed in installments. For more information on Reserved Life Estate options, turn to page 35.



There are several ways to place limiting conditions on the use of land at the time it is transferred to another landowner. Whether the land is sold on the open market or sold or donated to a conservation agency, the landowner can attach conditions to influence its future use and protect its natural attributes. Conditions may not be needed if the receiving agency is likely to be long-lived and has proven faithful to its purposes. Also, the landowner may prefer not to restrict the agency's use of the land. However, when a landowner wants additional assurance, the following tools are available.

### **Deed Restriction**

Restrictive covenants guiding the future use of the property may be placed in the deed at the time of transfer. These restrictions can be much like those contained in conservation easements or in mutual covenants; however, a court may refuse to enforce the deed restriction if it no longer seems possible to achieve the benefit sought when the restrictions were created.

Deed restrictions may be appropriate if you are planning to transfer land to another landowner or a land-holding agency. Deed restrictions are also different from conservation easements because there is usually not a third party monitoring and enforcing the restriction.

There may be limitations on who can enforce the restrictions. For example, if a couple sells or gives land with restrictions and retains



Beaman Park exists because Blueberry Hill Partners offered it at a bargain price and then the Beaman Family donated all the funding to Nashville for its purchase. Gary Latta, photographer.

no land nearby, they may not be able to enforce the restrictions against the subsequent owners of the restricted land. However, if they continue to own adjoining property, they or their successors in title may enforce the restrictions against whoever owns the restricted property in the future. In this case, the right to enforce rises from the fact that restrictions on the transferred property benefit the landowners' remaining land.

If the land is transferred to a landholding agency, deed restrictions can still be imposed. A landowner can transfer property to an intermediary conservation agency/ organization which owns other land in the area. That agency inserts restrictive covenants in the deed and then transfers title to a permanent landholding agency. Since the intermediary agency inserted the restrictions, it holds the right to enforce the covenants. Presumably the agency will be long-lived and interested in seeing that the restrictions are not broken. Strong enforcement is possible as long as the intermediary agency continues to exist and the ownership remains the same.

Deed restrictions will affect the market value of the land if they significantly limit its development potential or use. Thus, the presence of restrictions may lower the price, if the property is to be sold, or the value of the gift, if the land is donated to a government or charitable agency.

It is important to note the Internal Revenue Service does not allow the loss in value resulting from the imposition of this type of deed restriction to be claimed as a charitable deduction. Because of this, a landowner may choose to donate the land to an intermediary agency or organization, which then inserts the deed restrictions and transfers title. The landowner is able to claim an income tax deduction for the unrestricted value of the land, provided the intermediary agency is a qualified charitable organization or government agency. See page 54 regarding charitable deductions.

#### **Conditional Transfer**

Deeds granting conditional transfers guide the use of property, but allow the landowner to name a party to which the title transfers if the landholding

agency does not use the land in the manner set forth in the conditions. The conditions may be similar to deed restrictions, but they carry more force: breaking them may mean loss of title.

A conditional transfer may be constructed in one of several ways:

- The deed may be worded so that the original owner and heirs reserve the right to reassert ownership at their own choice if the landholding agency disobeys the conditions.
- The transfer may be in the form of a "possibility of reverter," in which case title would revert automatically to the landowner or their heirs.
- The landowner could choose to name another charitable landholding organization to automatically assume title if the conditions for use were no longer being fulfilled.

Conditional transfers may enable the landowner to claim the value of the gift as a charitable deduction if the gift is given to a qualified recipient. By Internal Revenue Service regulations, the recipient must be a government agency or a publicly-supported charity in order for the landowner to claim the value of the gift as a deduction. (See page 54 regarding allowable annual deductions.)

If the landowner inserts conditions, the appraiser has to consider the restrictions on use when determining the value of the gift of land. The landowner wishing to maximize the income tax deduction may want to transfer the unrestricted land to a qualified agency which then imposes the conditions and conveys the land to the agency which is to own it. Courts of law generally tend to disfavor attached conditions. Therefore, conditional transfers cannot be relied upon to restrict uses of land in perpetuity, as can other means of land use restriction.

Conditional transfers are an appealing way of regulating future use because they are created with ease, particularly if an intermediary agency is involved. They also provide strong guidance for the use of the property; loss of title is a severe penalty for breaking the regulations set on use. However, it is important to weigh the practical considerations when analyzing the usefulness of this technique. Would the heirs take the initiative to reassert ownership if necessary? If the land reverted automatically to them, would they treat it wisely? If an intermediary or second agency is desired, is there one which is willing to participate and which would act responsibly in the future?


#### **Conservation Easement Prior to Transfer**

Conservation easements are binding on all subsequent owners of the land. The grant of a conservation easement before transferring ownership provides an excellent way to control the future of land that may be sold on the open market. In most cases it might provide more protection than is necessary when the land is to be transferred to an established private or public conservation agency experienced in acquiring and managing land.

See the section explaining conservation easements on page 10.

For many landowners, financial incentives for private land conservation are an important part of their decisions. Regardless of the land protection method you use, it is important for you to consider available tax advantages and plan for the future before you finalize your decisions.

Consult your tax advisor for details on the possible benefits your decision will bring. Professional advice is needed since the tax laws change frequently. The limited information in this booklet may



Whatever form your charitable gift takes, you should always have a qualified appraiser determine its value. If the value of the gift exceeds \$5,000, the tax law requires that the taxpayer obtain a written qualified appraisal of the value before the tax return is filed for the year of the gift. A summary of the appraisal, signed by the appraiser and the recipient of the gift, must be attached to the return or IRS Form 8283. The cost of the appraisal and any surveying or legal fees you may incur when making a charitable gift are also deductible.

To become familiar with what is involved in a conservation easement appraisal, donors and appraisers may wish to order "Appraising Easements" from the Land Trust Alliance, 1319 F Street NW, Suite 502, Washington, D.C. 20004-1106, (202) 638-4725.

#### **Federal Income Taxes**

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The federal tax law contains provisions that may make your contributions financially attractive. Many of these provisions are available to those of moderate as well as wealthy means.

Gifts of all or partial interests in land that are given to a qualified organization or government entity are deductible (to a certain limit) from your federal income taxes. In most situations, the amount of the deduction is determined by the current appraised value of the gift.

#### **The 30 % Rule**

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If you make a gift of land or other property which is a capital asset in your hands, the amount you can deduct in one year is limited to 30 percent of your adjusted gross income for that year. If the value of your gift exceeds 30 percent of your adjusted gross income, you can carry the excess over for up to five succeeding tax years. Adjusted gross income (AGI) is your gross income minus business deductions, IRA and self-employed retirement deductions, and several other specialized items.

### **The 50% Rule**

You can elect to take a charitable deduction of 50 percent rather than 30 percent of your AGI if you reduce the value of your gift to the basis in the property. Basis is the cost or value of the property when it was acquired plus improvements and less (under certain circumstances) depreciation.

In general, the 50 percent rule might be advantageous when the basis of the property is substantial compared to your income, the appreciation in property value has been small, or the maximum deduction should be taken as soon as possible.

### **Corporate Donors**

Corporate donors are also entitled to deduct the current appraised value of a land gift (up to 10 percent of the corporation's taxable income per year), subject to the five-year carry forward rule.

### **Estate and Inheritance Taxes**

The land protection method you choose is likely to reduce your estate and/or inheritance taxes. For example, methods which reduce the market value of land will reduce the size of the estate.

Estate tax is tax paid by the estate to the federal government. The amount is based on the estate's size and any applicable deductions.

Consult your tax advisor or attorney for details on how your specific land protection decision will affect your estate and inheritance taxes.

### **Property Taxes**

Tennessee landowners with property around metropolitan areas or vacation destinations have experienced dramatic increases in property values and consequently in property taxes. Landowners who restrict use of their

land with conservation easements may be entitled to property tax reductions. The value of the easement interest held by a public body is exempt from property taxation.

Also, Tennessee's "Greenbelt" law provides property tax relief for those lands that are dedicated to farm, forestry, or open space uses. The tax is based on the value of the property with its present use instead of highest and best use. See page 26 for more information.

### Parnassus – A Flower and A Bold Initiative for Protecting Land

John Noel, a well-known conservationist and environmentally-friendly developer in Nashville heard 2,000 acres were for sale in Williamson County, 40 miles west of Nashville. John knew it wouldn't be on the market long. So he partnered with the adjoining property owner, Paul Sloan, and together they bought it. "We knew a developer was interested in this property and would have developed it in a destructive manner. This property couldn't withstand it – it's too sensitive and too important," explained John. John had a hunch it was special and the Nature Conservancy of Tennessee confirmed it. The biodiversity is so great that fewer than 20 such unique areas are known to exist in the world. This property contains over 400 species of trees, wildflowers and other plants. Plus the highest diversity of fish species in Tennessee exists here in the headwaters of the South Harpeth River, called Kelley Creek.

Now the 2,000 acres is called "Parnassus, A Private Preserve" and these two conservation buyers call themselves Parnassus Group, LLC. They are selling approximately 10 tracts (50 to 150 acres) to other conservation buyers and, working with the Nature Conservancy, are encouraging buyers to donate easements so that each owner's privacy and this special place are forever protected.

Additionally, John and Paul are encouraging adjoining landowners to protect their properties that would add a total of 4,000 plus acres for protection.

(Grass of Parnassus is a rare flower that requires a pristine environment to survive. At Parnassus, in the Kelley Creek watershed, it flourishes.)

Now as an advisor to the Tennessee Parks and Greenways Foundation, John Noel is forming a registry of conservation buyers. Call our office at (615) 386-3171, if you are interested in learning more.

## U

Conservation buyers are people who are interested in purchasing natural areas in order to prevent improper management or development of the area. Many conservation buyers enjoy outdoor recreation and purchase an area intending to use it for hunting, fishing, nature study or maybe a weekend get-away.

Environmentally fragile land may not always fit the land acquisition or management plans of city, county or state conservation agencies. These sensitive areas should, however, be put into hands that want to protect them. Usually the only requirement of conservation buyers is a willingness to consider some form of permanent protection for the land in the future.

Conservation buyers who want to improve the natural resources on their property can seek help from a variety of sources. Government agencies like the U.S. Fish and Wildlife Service, the Tennessee Department of Agriculture – Division of Forestry, or Natural Resources Conservation Service, may be able to help. (See page 21 for additional information.)

The Unstoppable Babe

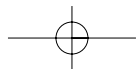
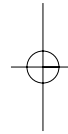
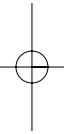
██████████r I'm gone, I don't want my kids talking about what used to be. I'd have a guilty conscience if I could have done something to save these places and didn't."

Babe Howard,  
Conservation Buyer, West Tennessee

Babe Howard is a real Tennessee hero. Because of his singular actions, we now have two wild areas that will always remain: A 1,000-acre goose preserve at the lower end of Shelby Forest at Eagle Lake and 4,000 acres on the Wolf River, near Memphis. Both of these are administered for public use by the Tennessee Wildlife Resources Agency (TWRA). Babe did have help saving these properties. The state and some non-profit partners actually ended up footing most of the bill. But Babe made it happen . . . twice. Below is an account of just one of the two transactions.

Babe had heard about the 4,000 acres that were for sale on the Wolf River, near Memphis. But when Babe became chairman of the TWRA commission, he learned that it "was too late" and had just been sold for \$3 million to a Mississippi timber company who wanted the trees on the property for veneer. That didn't stop Babe. He called the timber company and negotiated a new price and time frame - they wanted \$4 million by December 15th. So far, the state had only committed to \$2 million. That didn't stop Babe. He set out to find the extra two million dollars to save the Wolf River property. By any definition that's a lot of money but Babe felt compelled do it.

At one point during the negotiations, Babe committed to paying interest on the property to give the state and others more time to come up with the money. Babe was paying \$782 per day in interest on \$3 million that the timber company had borrowed.



Babe knew the history of the land might convince state parks to help purchase the property. He met with the department commissioner and told him, "This place shouldn't be just a hunting and fishing property but also for history and trails and canoeing; trails for people to walk where General Sherman walked. It has a cemetery from the 1700s — A state park should be here." He convinced Commissioner Dills and Babe got a commitment on behalf of state parks to pay \$500,000.

Then Babe talked a prominent Memphis family into paying another \$500,000, if the place was named for their father. Now he had \$3 million. Only \$1 million to go.

He was a week away from the final deadline and he needed one million dollars more. Through calls to Lt. Governor John Wilder and the TWRA commissioners he was able to get another million dollars from the building commission for TWRA. Finally, it looked like he had raised all \$4 million.

But then he lost a million dollars in commitments. At the very same meeting when the building commission approved \$1 million for the Wolf through the TWRA budget — they denied state parks their \$500,000. Then the Memphis family that pledged \$500,000 withdrew their offer. So the project gained a million and lost a million all in the same day and it was only two days away until the property was to be auctioned. That didn't stop Babe.

On Saturday, the property was going to be auctioned. "So come Thursday night," said Babe, "before the Saturday sale, I got to thinking. A farmer rents that land for \$72,000 per year. If I took over that \$3 million loan at Sun Burst bank and used the state's \$3 million to payoff the loan. I could take that farm contract and borrow a \$1 million from the bank. The \$72,000 could pay the note." That night at 10:00 p.m. he called the realtor and then the owners and the following morning he was signing the papers. "I took over their \$3 million loan and I paid the \$1 million difference," said Babe.

After Saturday's auction was cancelled, he was offered

[REDACTED] threatening to sue him. "They were mad because they had spent all that week wading in the swamps with all those cottonmouths and mosquitoes," Babe said with a chuckle.

Because of the good work of the Wolf River Conservancy, and a grant from the U.S. Fish and Wildlife Foundation, Babe did get taken out of the deal and paid back most of what he spent.

All it cost him was a little money he paid in interest, a lot of anguish, and some time to make it happen. And we all gained an eerie 4,000-acre section of the Wolf River called the Ghost River. Thank you Babe for this Tennessee treasure.

His advice for other conservation buyers: "Play whatever cards you've got at the time, it changes day to day. When you feel like there's something you can do to make a difference and you don't do it, then the chance is gone forever. You've got to do it."

Babe Howard is a board member of the Tennessee Parks and Greenways Foundation and lives in West Tennessee at Millington.



In the case of many of the protective arrangements discussed here, it is the presence of a strong landholding agency which guarantees the land is indeed protected in the manner the landowner envisions. The following is a brief listing of some of the landholding agencies and

John Noel (pictured here) and his partner, Paul Sloan, are conservation buyers who created "Parnassus, A Private Preserve."

organizations that are active in Tennessee. Each has its own interests and its own areas of responsibility.

#### **Private, Non-profit Organizations**

Many private, non-profit organizations in Tennessee acquire land or interests in land based on the degree that the potential use of the land fits with the objectives of the organization.

Private organizations can accept easements within their common and statutory law authority. Many times when a private organization accepts an easement, the donor will make a contribution to ensure that the future expenses of monitoring and enforcing their easement will be covered.

Whether or not the organization wishes to involve itself in the conditional transfers and the insertion of deed restrictions depends entirely on the property being considered and its relation to the organization's interests.



**Land Trusts and Non-profit Organizations Operating in Tennessee .....**



The Ghost River section of the Wolf River was saved due to the heroic efforts of the unstoppable Babe Howard.

FOOTHILLS LAND CONSERVANCY  
615 SEVIERVILLE ROAD  
MARYVILLE, TN 37804  
PHONE: (423) 681-8326, FAX: (423) 681-1436  
EMAIL: [FOOTHILL@MINDSPRING.COM](mailto:FOOTHILL@MINDSPRING.COM)  
WEBSITE: [HTTP://WWW.FOOTHILLSLAND.ORG](http://WWW.FOOTHILLSLAND.ORG)

The Foothills Land Conservancy's mission is the preservation of the unique ecological, agricultural, and scenic resources of the Foothills of the Southern Appalachian Mountains in Tennessee. They are willing to accept any land in the foothills region.

THE HERITAGE FOUNDATION OF FRANKLIN AND WILLIAMSON CO.  
BOX 723  
FRANKLIN, TN 37065  
PHONE: (615) 591-9500, FAX: (615) 591-8502

The mission of The Heritage Foundation of Franklin and Williamson Co. is to protect and preserve the architectural, geographical and cultural heritage of Franklin and Williamson County and to promote the ongoing economic revitalization of downtown Franklin in the context of historic preservation.

KNOX LAND AND WATER CONSERVANCY  
C/O IJAMS NATURE CENTER  
P.O. BOX 2601  
KNOXVILLE, TN 37901

The Knox Land and Water Conservancy's mission is to protect land and water resources in the Knox County area. They are willing to accept any land in the Knox County region.

THE LAND TRUST FOR TENNESSEE, INC.  
P.O. BOX 23473  
NASHVILLE, TN 37203  
PHONE: (615) 244-LAND, FAX: (615) 726-8726  
EMAIL: [INFO@LANDTRUSTTN.COM](mailto:INFO@LANDTRUSTTN.COM)  
WEBSITE: [HTTP://WWW.LANDTRUSTTN.COM](http://WWW.LANDTRUSTTN.COM)

The Land Trust for Tennessee works to preserve the unique character of Tennessee's natural and historical landscapes and sites for future generations.

LOOKOUT MOUNTAIN LAND TRUST  
P.O. BOX 76  
LOOKOUT MOUNTAIN, TN 37350

PHONE: (423) 821- 3892, FAX: (423) 821-8016

The Lookout Mountain Land Trust's mission is to preserve Lookout Mountain and its slopes. The Trust is willing to accept land which falls in this specific region.

THE NATURE CONSERVANCY OF TENNESSEE  
50 VANTAGE WAY, SUITE 250  
NASHVILLE, TN 37228  
PHONE: (615) 255-0303, FAX: (615) 255-0529  
WEBSITE: [HTTP://WWW.TNC.ORG/INFIELD/STATE/  
TENNESSEE/TENNESSEE.HTM](http://www.tnc.org/infield/state/tennessee/tennessee.htm)

The Nature Conservancy is an international organization dedicated to the preservation of outstanding natural areas and the plants, animals, and habitats they contain. Working only with willing sellers and donors, the Conservancy protects land through gifts, exchanges, conservation easements, management agreements, purchases, debt-for-nature swaps, and management partnerships.

NORTH CHICKAMAUGA CREEK CONSERVANCY  
P.O. BOX 358  
CHATTANOOGA, TN 37343  
PHONE: (423) 870-8575, FAX: (423) 870-8579  
EMAIL: [NCHICK@CHATTANOOGA.NET](mailto:NCHICK@CHATTANOOGA.NET)  
WEBSITE: [HTTP://WWW.CHATTANOOGA.NET/NCHICK/](http://www.chattanooga.net/nchick/)

The mission of the North Chickamauga Creek Conservancy is to protect the pristine wilderness areas within and adjoining the North Chickamauga Creek Gorge.



OPEN SPACES CONSERVANCY  
 C/O ED WILLIAMS, III  
 P.O. BOX 1063  
 BLOUNTVILLE, TN 37617  
 PHONE: (423) 279-1825

The Open Spaces Conservancy is a land trust located in Northeast Tennessee. Their mission is to link public lands in Upper East Tennessee with greenways, blueways, scenic byways, and bicycle routes.

SEQUATCHIE VALLEY INSTITUTE AT MOONSHADOW  
 ROUTE 1, BOX 304  
 WHITWELL, TN 37397  
 PHONE/FAX: (423) 949-5922  
 EMAIL: MEDIARIGHTS@BLEDSOE.NET

The Sequatchie Valley Institute's mission is to help guide society toward a sustainable future through education and land conservation. The Institute is located in Southeast Tennessee and is one hour from the Chattanooga area. They are able to accept land easements from the surrounding counties of Marion, Bledsoe, Sequatchie, and Grundy.

SOUTH CUMBERLAND REGIONAL LAND TRUST  
 P.O. BOX 615  
 MONTEAGLE, TN 37356  
 PHONE: (931) 598-5942  
 EMAIL: FOREVER.WILD@MAILEXCITE.COM

The South Cumberland Regional Land Trust mission is to preserve the South Cumberland Plateau region and its environs. The Trust is able to accept land from anyone in the South Cumberland Plateau region and across the state.

SOUTHEASTERN CAVE CONSERVANCY  
 C/O BILL PUTNAM  
 1865 EAGLE SUMMIT COURT  
 LAWRENCEVILLE, GA 30243  
 PHONE: (770) 822-0003

EMAIL: INFO@SCCI.ORG  
WEBSITE: HTTP://WWW.SCCI.ORG





WEBSITE: [HTTP://WWW.TNLT.ORG](http://www.tnlt.org)

The Tennessee Land Trust is dedicated to the protection and preservation of the natural, scenic, and agricultural lands in Tennessee and will accept land statewide. Local area protection needs are addressed by establishing volunteer chapters or assisting with starting local land trusts, as well as by providing solutions for individual landowners.

TENNESSEE RIVER GORGE TRUST  
25 CHEROKEE BOULEVARD, SUITE 104  
CHATTANOOGA, TN 37405-3804  
PHONE: (615) 266-0314, FAX: (615) 266-1841  
EMAIL: [INFO@TRGT.ORG](mailto:INFO@TRGT.ORG)  
WEBSITE: [HTTP://WWW.TRGT.ORG](http://www.trgt.org)

The mission of the Tennessee River Gorge Trust is to enrich the community by the conservation of the Tennessee River Gorge and by protecting 25,000 acres of the Cumberland Mountains. They are willing to accept any land in the area that would help preserve the Gorge and its wildlife.

WOLF RIVER CONSERVANCY  
P.O. BOX 11031  
MEMPHIS, TN 38111-0031  
PHONE: (901) 763-6500, FAX: (901) 763-2587  
EMAIL: WRC@WOLFRIVER.ORG  
WEBSITE: HTTP://WWW.WOLFRIVER.ORG

The mission of the Wolf River Conservancy is to conserve and enhance the Wolf River and its environs as a natural resource for public education and low impact recreational activities. The Conservancy accepts land around the Wolf River as a means of furthering their mission of protecting its pristine surroundings.

WOODLAND COMMUNITY LAND TRUST  
ROSES CREEK ROAD  
CLAIRFIELD, TN 37715-9601  
PHONE: (423) 784-5304, FAX: (423) 784-5303

The Woodland Community Land trust is acquiring a sufficient land base to allow residents to build a sustainable community. The Trust will accept land in Campbell and Claiborne counties.

#### **Historical Societies**

There are many private not-for-profit historical societies in Tennessee. They may acquire and manage areas containing significant cultural resource features. To find a historical society near you, contact The Tennessee Historical Society, War Memorial Building, Nashville, Tennessee 37243-0084, (615) 741-8934.

### Other Non-profit Organizations

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THE CONSERVATION FUND  
SOUTHEAST OFFICE  
P.O. BOX 1362  
TUCKER, GEORGIA 30085-1362  
PHONE: (770) 414-0211, FAX: (770) 938-0585  
WEBSITE: [HTTP://WWW.CONSERVATIONFUND.ORG](http://www.conservationfund.org)

The Conservation Fund seeks sustainable conservation solutions for the 21st century, emphasizing the integration of economic and environmental goals. Through real estate transactions, demonstration projects, education, and community-based activities, the Fund seeks innovative long-term measures to conserve land and water. Since its inception, the Fund has forged partnerships to protect America's irreplaceable outdoor heritage on a scale that far exceeds its size – 1.7 million acres saved – a tangible legacy for future generations.

LAND TRUST ALLIANCE  
1319 F STREET NW, SUITE 502  
WASHINGTON, D.C. 20004-1106  
PHONE: (202) 638-4725, FAX: (202) 638-4730  
WEBSITE: [HTTP://WWW.LTA.ORG](http://www.lta.org)

The Land Trust Alliance provides leadership, information skills and resources to the 1,227 local, regional and national land trusts across the nation. Its sole mission is to strengthen the land trust movement, helping to ensure that land trusts conserve land for the benefit of communities and natural systems. For more information on how to start a land trust, please call the number above.

THE TRUST FOR PUBLIC LAND  
SOUTHEAST REGIONAL OFFICE  
306 NORTH MONROE  
TALLAHASSEE, FL 32301  
PHONE: (850) 222-7911, FAX: (850) 222-3133

Working with citizen's groups and public agencies, TPL helps communities protect land for the public to enjoy as parks, open space, community gardens, recreation areas and places important to America's cultural and historic heritage.

#### **Government Landholding Agencies**

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Several government agencies have authority to acquire title and interests in land. Like private organizations, their interest depends on the agency's objectives, its practical ability to finance and manage the land, and the significance of the property.

#### **Federal Agencies**

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NATIONAL PARKS SERVICE / SE FIELD AREA  
ATLANTA FEDERAL CENTER  
1924 BUILDING, 100 ALABAMA STREET SW  
ATLANTA, GA 303030  
PHONE: (404) 562-3175, FAX: (404) 562-3246

The National Park Service acquires land for parks, monuments, and other land of national significance. They can accept easements if the land involved is of natural significance or protects areas of national significance.



TVA RESOURCE STEWARDSHIP  
1101 MARKET ST., CST 17D  
CHATTANOOGA, TN 37402-2801  
PHONE: (423) 751-7328

TVA's Resource Stewardship provides resource protection through land use and 26a permitting, natural resource management, and watershed improvement efforts. Rather than purchase land, TVA watershed teams partner with local coalitions to protect and enhance the natural resources of the Tennessee Valley.

TVA SHORELINE MANAGEMENT INITIATIVE  
17 RIDGEWAY RD.  
NORRIS, TN 37828  
PHONE: (800) TVA-LAND

The TVA Shoreline Initiative's mission is to preserve scenic, recreation, and ecological benefits of undeveloped shorelines.

U.S. ARMY CORPS OF ENGINEERS  
NATURAL RESOURCE MANAGEMENT BRANCH  
BOX 1070  
CEORN-CO-T-N  
NASHVILLE, TN 37202-1070  
PHONE: (615) 736-5115

The Nashville District of the U.S. Army Corps of Engineers operates 10 multi-purpose projects on the Cumberland River, whose functions include navigation, hydropower, flood control, environmental quality and recreation, in addition to 15 navigation locks on the Tennessee River, which last year handled more than 45 million tons of cargo. The Corps acquires land for federal projects and local cooperation projects involving flood control, hydroelectric power, navigation, recreation, stream bank and shoreline protection, water quality, water supply, and environmental concerns.

U.S. FISH AND WILDLIFE SERVICE  
TENNESSEE OFFICE  
446 NEAL STREET  
COOKEVILLE, TN 38501  
PHONE: (615) 528-6481, FAX: (615) 528-7075

The Fish and Wildlife Service acquires land of sufficient importance to set aside as National Wildlife Refuges.

The Service can accept conservation easements if the land involves endangered species, is of sufficient size to support segments of a biotic population, or is contiguous to an existing unit of the National Wildlife Refuge System.

USDA FOREST SERVICE  
CHEROKEE NATIONAL FOREST  
P.O. BOX 2010  
CLEVELAND, TN 37320  
PHONE: (423) 476-9700, FAX: (423) 476-9792

The USDA Forest Service acquires land through purchases, donations, and exchanges that provide public recreation, protect threatened and endangered species, protect archaeological or historical sites, or resources such as water, timber, wildlife, minerals and wilderness that can be managed for public use and improved access to resources.

USDA NATURAL RESOURCES CONSERVATION SERVICE  
675 U.S. COURTHOUSE  
801 BROADWAY  
NASHVILLE, TN 37206  
PHONE: (615) 736-5471, FAX: (615) 736-7764

USDA Natural Resources Conservation Service through the Farmland Protection Program provides funds to state, tribal, or local government entities to help purchase development rights to keep productive farmland in agricultural use. Working through existing programs, USDA joins with state, tribal, or local governments to acquire conservation easements or other interest from landowners. USDA provides up to 50 percent of the costs of purchasing the easements.

### State Agencies

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TENNESSEE DEPARTMENT OF AGRICULTURE  
BOX 40627  
NASHVILLE, TN 37204  
AGRICULTURAL RESOURCES DIVISION: (615) 887-5225  
FORESTRY DIVISION: (615) 837-5220

Agricultural Resources Division offers grants for improving water quality and soil conservation through their Agriculture Non-Point Fund and State Non-Point Source Pollution Program. The Forestry Division of the Tennessee Department of Agriculture can acquire land if the land involved is of natural significance and would enhance the habitat of established forested areas.

TENNESSEE DEPARTMENT OF ENVIRONMENT AND CONSERVATION (TDEC)  
L&C TOWER  
401 CHURCH ST.  
NASHVILLE, TN 37243-0439  
PHONE: (615) 532-0103, FAX: (615) 532-0120

The Tennessee Department of Environment and Conservation manages 54 state parks and 54 natural areas across Tennessee. Limited funds are available through the State Lands Acquisition fund for significant cultural and natural resource protection.

TENNESSEE WILDLIFE RESOURCES AGENCY  
BOX 40747  
NASHVILLE, TN 37204  
PHONE: (615) 781-6552, FAX: (615) 781-6551

The Tennessee Wildlife Resources Agency is dedicated to the preservation, conservation, and enhancement of Tennessee's fish and wildlife. The TWRA has limited funding for acquisition of wetlands and land important for wildlife. Gifts of land and easements are accepted if adjacent to public lands or beneficial to wildlife.

## GLOSSARY

adjusted gross income (AGI)- For income tax purposes, gross income minus certain deductions and expenses.

appraisal- An estimated value set on property by a qualified appraiser.

assessment- The valuation of property for property tax purposes in order to apportion a tax on it, according to its value or in relation to the benefit received from it.

bargain sale- The sale of property to a charitable and tax exempt organization for less than its fair market value.

basis- The cost of property at the time of acquisition, or value when inherited, plus the cost of certain permanent capitol improvements.

capital gain- Profit from the sale of property in excess of its basis.

conservation easement- A legal agreement between a landowner and a conservation organization or government agency that permanently limits a property's uses in order to protect the property's conservation values. Called a "conservation restriction" in some states; also may be called an agricultural preservation easement, historic preservation easement, scenic easement, or forever wild easement, etc., depending on the resources it protects.

covenant (or restriction)- A written promise contained in a contract, lease, deed, or other form of agreement.

devise- (v) To give or transmit real estate by will. (n) A gift of real estate by will.

donee- One who receives a donation.

donor- One who makes a donation.

easement- A right that one has in or over the land of another.

estate- The property and possessions of a deceased person.

estate tax- Tax on certain assets that have been transferred from a deceased to his or her heirs. Also called a death tax or inheritance tax.

fair market value- The price that a willing buyer would pay a willing seller, neither being under any compulsion to buy or sell and both having full knowledge of relevant facts surrounding the transaction.

greenway- A corridor of protected open space, usually along a river or other natural feature. Greenways sometimes provide paths for people and/or wild

life and connect public lands together.

interest in property- A right or share in the ownership of property.

land trust- Non-profit organization that protects land directly, usually by helping landowners establish a conservation easement, accepting donations of property and easements, or buying land.

lessee- One to whom a lease is granted; a tenant holding property by lease.

lessor- One who grants a lease.

life estate- (See reserved life estate.)

(in) perpetuity- Forever.

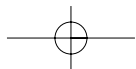
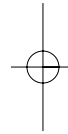
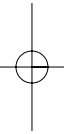
real property or realty- Land and generally permanent improvement erected on it or growing on it.

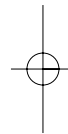
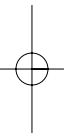
remainder interest- An interest in property which does not become possession of the property until the completion of a prior interest; for example, where a grantor deeds property to an organization subject to a "reserved life estate," the organization has a remainder interest which will become possessory when the life tenant (usually grantor) dies.

reserved life estate- The right retained by the owner or other named individuals to live on property.

title- The right to or ownership of land.

This glossary was originally published by the Land Trust Alliance in the glossary of Conservation Options – A Landowner's Guide (the national version of this booklet). To order, call (202) 638-4725. It is reprinted here with their permission.

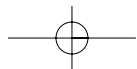




GROUPS ABLE TO ACCEPT LAND OR LAND RIGHTS

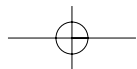
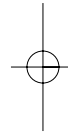
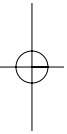


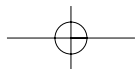
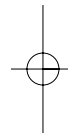
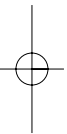
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Tennessee River Gorge







**Sam's tee shirt and Emilie's smiling face say it all.**

Sam and Emilie Powell, founding members of the Tennessee Parks and Greenways Foundation, are conservation heroes in Tennessee.

Mack Prichard, photographer.



## TENNESSEE PARKS AND GREENWAYS FOUNDATION

Call for free, confidential advice on land protection: (615) 386-3171

The Tennessee Parks and Greenways Foundation is a non-profit organization dedicated to preserving the beauty of our state by creating an interconnected system of parks, greenways, and wildlife areas from the Mississippi River to the Great Smoky Mountains. The Foundation also encourages the voluntary protection of private land through our campaign designed to **Keep the Country in Tennessee.**

With support from our volunteer committee of attorneys, the Foundation's professional staff provides free consultation for landowners wishing to protect their property. For more information, call (615) 386-3171.

This booklet was produced for our campaign designed to **Keep the Country in Tennessee.**