



Frequently Asked Questions About Conservation Easements

What is an EEP conservation Easement?

A conservation easement is a written agreement between a landowner and the State of North Carolina that protects water quality by maintaining or establishing natural vegetation in a streamside or wetland parcel or buffer. All conservation easements used for Ecosystem Enhancement Program (EEP) purposes are perpetual and will forever transfer with the land. The property under conservation easement cannot be used for commercial, residential or industrial development or cultivation.

The State is required by N.C. General Statutes to acquire a conservation easement on all sites qualifying for an EEP project to permanently protect the site. The landowner should know that condemnation authority is not applicable and is prohibited by statute for EEP projects. Negotiations must be amicable and, in the event that negotiations fail, the State will not be able to acquire the property, and EEP will not be able to implement the project.

Does donating a conservation easement mean I give up my title to my property?

No, the fee-simple title to the land still resides with the landowner. The landowner has the use of the property consistent with the rights specifically reserved in the easement. For example, this might include hunting, hiking and fishing, control of access, and the passive enjoyment of the property under the easement. In general, the landowner may continue to use the land consistent with the conditions agreed upon in the easement. A **permanent** conservation easement applies in perpetuity and follows the land from owner to owner via the deed. The conservation easement does not restrict the owner from selling or willing their property.

The conservation easement provides for permanent access to the easement area so that the State can ensure the success and protection of the EEP project. The easement does not require or imply any public access to your land.

Why would I want a conservation easement?

Conveying a conservation easement on wetlands or stream buffers may increase the value of the remainder of your land. Buyers will often pay more for homes near permanently protected open space.¹ A landowner may also realize many tax benefits from dedicating a permanent conservation easement (see page 3). Conservation easements are also important for protecting environmental and historical values.

Does a conservation easement apply to all of my property?

No, the easement would only apply to the portion of land specifically identified and agreed upon in the easement. The easement area acquired is surveyed by a licensed N.C. land surveyor, and a plat is prepared of the total land area.

What kind of land interests EEP?

The EEP is interested in property that could be restored and preserved to provide for the protection or improvement of water quality. The EEP wants sites that have a high probability of restoration success based on hydrology, soils and vegetation. Priority is given to sites that need re-vegetation or erosion control. The EEP is also interested in areas that have rare plants or animals, endangered aquatic species or land adjacent to degraded streams.

How may I contact the EEP to have the restoration potential of my property investigated?

Interested parties should fill out a Site Proposal Form. The forms may be obtained by calling (919) 715-0476 or from the EEP Web site. <http://www.nceep.net/business/landowner/siteform.pdf>

After the receiving the form, EEP staff will first determine whether the site is within a priority watershed. Staff will contact each landowner who submits a form. For those sites within priority watersheds, staff will likely arrange a site visit to determine the merit of the proposed easement.

After EEP staff have determined that the site meets the criteria for a project, the State Property Office will contact the property owners to answer questions, discuss terms and explain processes for the State to acquire the conservation easement.

What other economic benefits may I gain from a conservation easement?

There are several economic benefits of placing a conservation easement on your property. Some of these benefits are listed on the following page. You are advised to consult an attorney and a financial advisory/estate planner concerning these programs.

North Carolina Income Tax Credits

The landowner may apply for a state conservation tax credit on lands put under easement. A landowner may receive a tax credit up to 25 percent of the value of the donated interest in the land (up to a maximum credit of \$25,000 for individuals and \$500,000 for corporations). The credit may be carried for five succeeding years on their state income taxes until it is used up.²

Federal Income Tax Deductions

A landowner may claim a federal tax deduction dedicating a conservation easement on his/her land. The value of the easement is considered a charitable contribution that may be deducted from federal income taxes by attaching a Form 8283 to an income tax return. The federal tax deduction can be used against 30 percent of the landowners adjusted gross income³ that may be used for six consecutive years (until the value of the easement is used up).⁴

Federal Estate Tax Deduction

Landowners may also use the value of the donated conservation easement against their estate taxes.⁵ For estates valued at more than \$650,000 (for 1999) where land is the major asset, this tax deduction can lean to a major reduction or elimination of estate taxes.⁶

Additional estate tax savings provisions are available under I.R.C. 2031(c) that afford additional tax relief with land under conservation easements (up to \$200,000 for 1999). See your accountant for more details.

County Tax Reductions

Although every county has a different tax system, some county property tax relief may be expected for the portion of land under conservation easement. The conversion from open land to forest in perpetuity may reduce the taxable fair market value of the land. People should contact their local tax office for more details.

For more information contact: Blane Rice, Ecosystem Enhancement Program Supervisor, State Property Office; (919) 807-4663

ENDNOTES

¹ Conservation Easements: An Introduction for North Carolina Landowners. Conservation Trust for North Carolina, P.O. Box 33333, Raleigh, NC, 27636-3333, p. 16.

² N.C.G.S. 105-151.12 and G.S. 105-130.34

³ 26 U.S.C. 170(b)(1)(C)(i)

⁴ 26 U.S.C. 170(b)(1)(C)(ii)

⁵ 26 U.S.C. 170(h); 2055(a)

⁶ How to profit from the Taxpayer Relief Act of 1997. 1997. Investor's Spectrum Vol. 19(9):4.