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NORTHCOAST REGIONAL LAND TRUST

# CONSERVATION EASEMENTS

A Guide for Landowners

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*We have compiled this packet of information to help you understand what a conservation easement is, and to assist you in ascertaining whether or not a conservation easement is appropriate for you and your property. The Northcoast Regional Land Trust's Staff is available to discuss any questions or concerns you may have.*

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# THE NORTHCOAST REGIONAL LAND TRUST

*Keeping wild and working landscapes intact for community benefit*

**OUR MISSION:** The Northcoast Regional Land Trust is dedicated to the protection of working landscapes, family farms, forests and grazing lands and to the preservation and protection of land for its natural, educational, scenic and historic values. We work with landowners on a voluntary basis to promote stewardship of Northern California's healthy and productive resource base, natural systems and quality of life.

**OUR VISION:** To create a sustainable community with a vibrant economy and landscape.

**WHO WE ARE AND WHAT WE OFFER:** The Northcoast Regional Land Trust comprises a diverse group including people with backgrounds in land use planning, ranching, farming, fisheries, forestry, cultural resources, local business, and real estate as well as members of existing small land trusts and others concerned about protecting the North Coast's extraordinary environment and quality of life. We work with landowners on a voluntary basis and offer consultation with land trust professionals for opportunities and strategies in private land conservation. As a nonprofit land trust, we are legally entitled to hold conservation easements and accept gifts of land and tax-deductible donations. We can provide stewardship for protected areas. Our network of natural resource, financial and legal consultants is available to interested landowners. We are privileged to live in a remote area that still has a low population, wildlife, abundant open space, clean air and water accessible, and high quality recreation. We do not want to lose the qualities that make our region unique. We want to establish a legacy of protected land and help shape a sustainable future for our region's family-owned ranches, farms and forests.

**Our Accomplishments to Date:** In just ten years, NRLT has permanently protected 12,483 acres of land through conservation easements and acquisitions. This includes 320 acres of old-growth and second-growth forestland and salmon-spawning tributaries in the Mattole River watershed, 131 acres of estuarine habitat and former tidelands in the Humboldt Bay and Redwood Creek watersheds, and more than 11,958 acres of working ranch, forest and wildlands on five private properties as part of the Six Rivers to the Sea Initiative, the largest-scale land-protection effort on the North Coast.

# WHAT IS A LAND TRUST?

Land Trusts are nonprofit, voluntary organizations that work hand-in-hand with landowners. Land trusts use a variety of tools, such as conservation easements that permanently restrict the uses of the land, land donations and purchases and strategic estate planning, to protect America's wild, open and green places, increasingly threatened by sprawl and development. Local, regional and national land trusts, often staffed by volunteers or just a few employees, are helping communities save America's land heritage without relying exclusively on the deep pockets of government.

**HOW CAN INDIVIDUALS WORK WITH LAND TRUSTS TO PROTECT THEIR LAND?** Land trusts help landowners find ways to protect their land in the face of ever-growing development pressure. They may protect land through donation and purchase, by working with landowners who wish to donate or sell conservation easements (permanent deed restrictions that prevent harmful land uses), or by devising other plans to maintain open space.

**WHAT KIND OF LAND DO THEY PROTECT?** Land trusts protect open space of all kinds – wetlands, wildlife habitats, ranches, shorelines, forests, scenic views, farms, watersheds, historic estates, and recreational lands – land of every size and type that has conservation, historic, scenic or other value as open space.

**ARE LAND TRUSTS SUCCESSFUL?** Absolutely. The first land trust was founded more than 100 years ago in New England. As of 2005, local and regional land trusts have protected approximately 37 million acres of wetlands, wildlife habitat, ranches and farms, shorelines, forests, recreation land other property of ecological significance. Indeed the number of local land trusts has grown phenomenally, from 743 in 1985 to more than 1,600 today. Land trusts operate within all fifty states in our nation.

**CONSERVATION EASEMENTS & FINANCIAL BENEFITS TO LANDOWNERS:** A conservation easement is a legal agreement between a landowner and an entity such as a land trust that permanently protects special features of a property such as farming, ranching and forest production, open space, scenic vistas and wildlife habitat. Each conservation easement is tailored to the specific needs and desires of the landowner and the unique qualities of the property. Conservation easements become part of the property title. The land trust ensures that the terms of the easements are honored by present and future landowners. The property remains in private ownership and can be sold, leased, or passed on to heirs. A conservation easement does not grant public access unless desired by the landowner. Conservation easements can provide the following benefits: Income taxes may be reduced by deducting the value of the conservation easement as a charitable gift. Estate taxes may be reduced by lowering the appraised value of taxable land assets. Property taxes may be reduced. In some cases conservation easements are purchased by land trusts and public agencies to ensure long-term public benefits and funds needed by landowners for their economic stabilization and security.

# IS A CONSERVATION EASEMENT THE RIGHT CHOICE FOR MY PROPERTY?

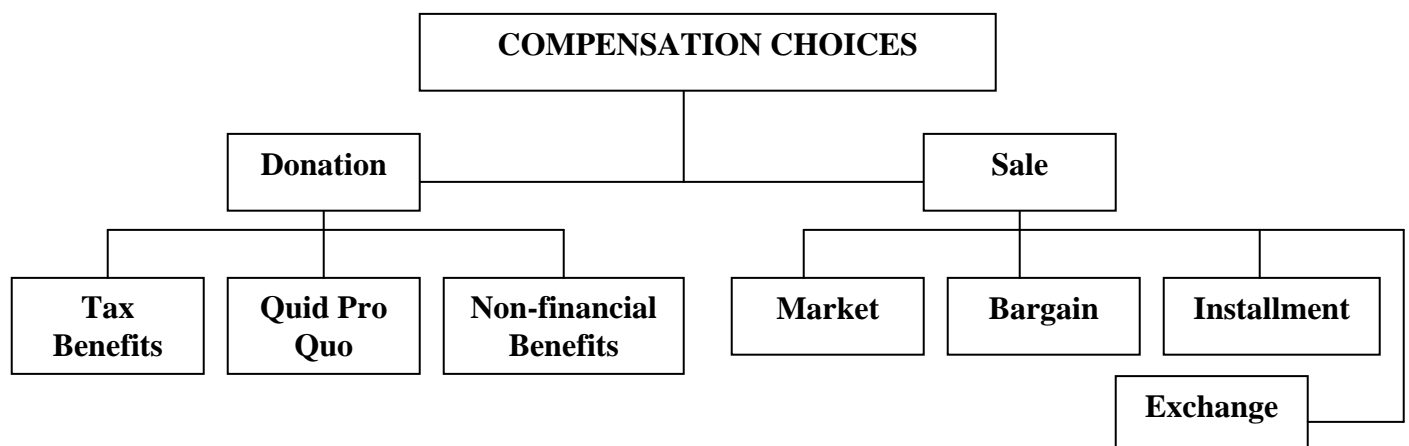
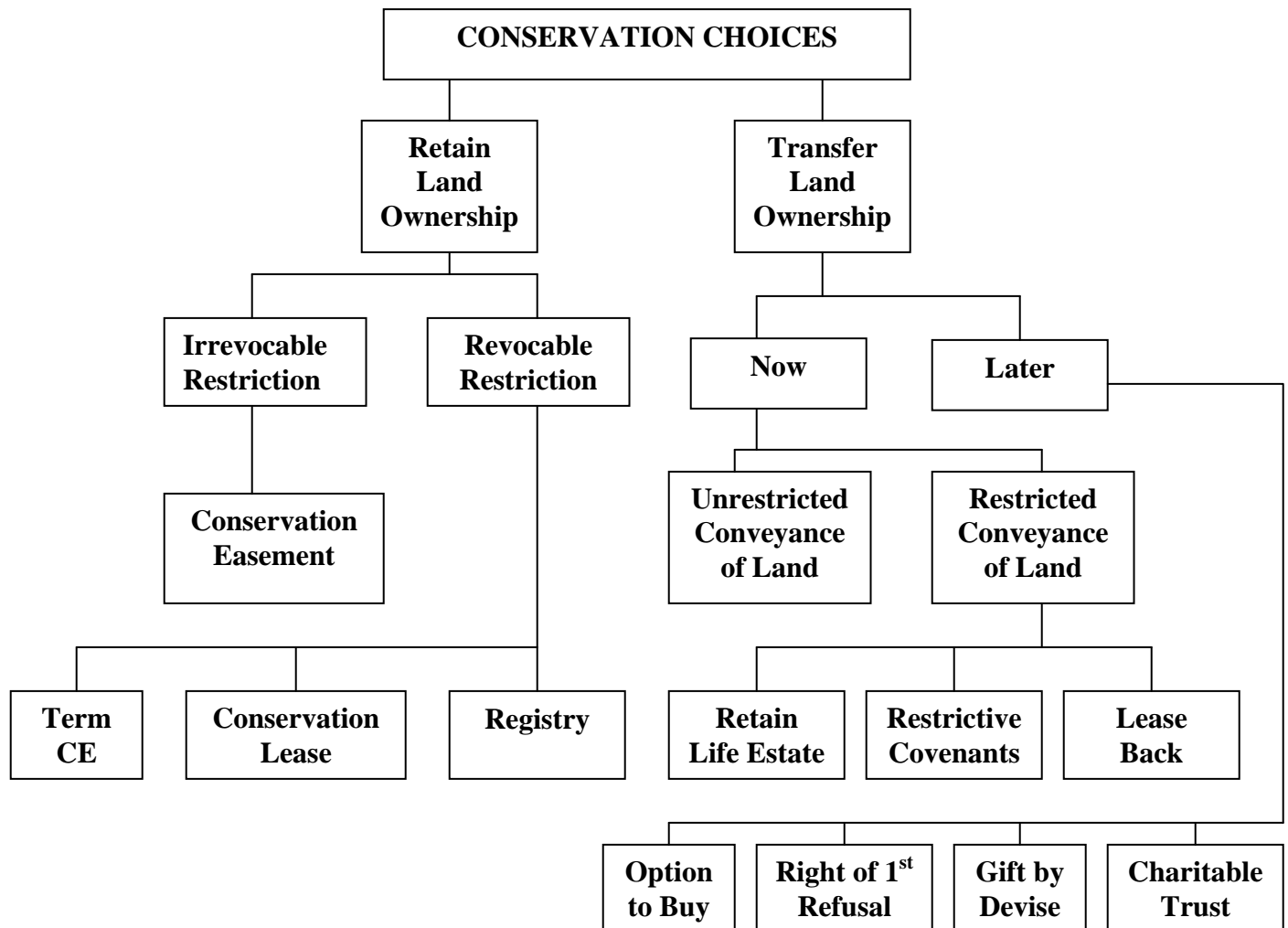
*The following is a short list of questions you should ask to help decide if a Conservation Easement is right for you, your family, and your property.*

- ✧ Do you want certain natural features of your property to be protected into the future yet retain private ownership of your land?
- ✧ Do you want to prevent your property from being converted to non-agricultural uses?
- ✧ Are estate taxes a threat to keeping your farm, forest, or ranch in the family when you pass on?
- ✧ Could you benefit from significant income and estate tax deductions?
- ✧ Do you want to protect the natural or ecological benefits your land provides?
- ✧ Do you want the scenic and historic values of your land to remain intact for future generations to enjoy?

*If you answered “yes” to any or all of the above questions, then a Conservation Easement may be worth investigating further.*

# OPTIONS FOR LANDOWNERS

## Strategies for Land Conservation



# A GUIDE TO CONSERVATION EASEMENTS

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Each year, the United States loses hundreds of thousands of acres of productive farmland, forest, wildlife habitat and scenic open space to development and land conversion. To prevent or limit further development of farmland and open space, individuals and communities across the country are exploring the use of working lands and open space conservation easements. For many, a conservation easement is a practical protection tool which offers benefits for land owners and their land.

## What is a conservation easement?

A conservation easement is a voluntary agreement that allows a landowner to limit the type of development or resource use on their property while retaining private ownership of the land. When completed, the conservation easement becomes part of the property deed. A way to visualize this is to think of owning land as holding a bundle of sticks. Each stick represents the landowner's right to do something with their property--the right to build a house, subdivide the land, extract minerals, build roads, harvest timber, allow hunting, etc. A landowner may give up certain rights (sticks from the bundle) associated with their property through a conservation easement.

An *agricultural and open-space* conservation easement restricts land to agriculture and open space uses. The easement generally prohibits any subdivision or development or any practice which would damage the agricultural and open space value of the land.

By donating certain relinquished rights to a qualified organization (a land trust or government agency), and by meeting specific conditions, a landowner may become eligible for certain tax benefits. The organization which receives (is granted) the easement (the land trust) accepts responsibility for monitoring and enforcing the restrictions in perpetuity. Tax benefits are available only for perpetual easements that subject all future landowners to their restrictions.

## How does a conservation easement affect my property rights?

A landowner who participates in a conservation easement retains all rights to use the land for any purpose that does not interfere with the purpose and specified restrictions laid out in the conservation easement. The specific rights that a property owner is restricting or retaining are spelled out in each individual easement. While an easement could remove development rights, the landowner still holds the title to the property, the right to restrict public access and the right to pass the property to whomever. The property can be mortgaged, transferred or sold just as it normally would, whether it is encumbered by a timber harvest plan, a power-line right-of-way, or a conservation easement.

## What are the benefits of a conservation easement?

**Benefits to landowners** -- donating a conservation easement to a qualified nonprofit organization can significantly reduce federal and state *income taxes*, local *property taxes*, and *estate and inheritance taxes*. The Internal Revenue Service allows a deduction if the easement is perpetual, is donated "exclusively for conservation purposes" and meets certain criteria for those conservation purposes. The amount of the tax deduction is determined by the value of the conservation easement. The value of a donated easement is deductible from federal income taxes just like a contribution to a church or charity. Estate planning on family farms and ranches may use conservation easements to promote family ownership for future generations.

In addition, profitability and economic survival are critical concerns in farming and ranching, as in any business. However, unlike other business, you work directly with the land. Through a conservation easement, a landowner can protect his property to ensure that future generations have continued opportunities to ranch, farm and practice good stewardship.

**Benefits to the community** -- Protecting working lands and open space through conservation easements can help maintain our region's agriculture businesses. Additionally, easements offer a way for private individuals and neighbors to work together to protect their area's scenery, agricultural heritage and rural quality of life. Public benefits include protection of land for open space, wildlife, ecological protections, responsible resource production and scenic enjoyment – all of which can be lost through unrestricted development. In addition, land placed under a conservation easement remains in private ownership meaning the costs of stewardship for land with a conservation easement continue to be the responsibility of the landowner and not a public entity. This also means that the land continues to contribute to the local tax base as opposed to land transfers to public ownership where the tax base may be eroded.

## How is the value of an easement determined?

Land ownership can be viewed as owning a variety of separate rights on the property. When an easement limits any of these rights, the value of the land is affected. The value of the conservation easement is the difference between the value of the land without the conservation easement restrictions and the value of the land after the restrictions have been applied and certain rights (i.e., development) removed. When the easement qualifies under IRS regulations, this amount is also generally the value of the charitable donation. The conservation easement value must be determined by a qualified appraiser.

The Smith family has decided to convey an agricultural easement on its 500-acre ranch to the Northcoast Regional Land Trust. If the property's current value is \$5,000 an acre, its total fair market value would be:  $500 \text{ acres} \times \$5,000 / \text{acre} = \$2,500,000$  (before an easement is in place).

If placing an easement on the property (and removing the non-farm development rights, protecting riparian areas etc.) lowers the per acre value to \$2,500 an acre, then the total market value of the restricted property would be:  $500 \text{ acres} \times \$2,500/\text{acre} = \$1,250,000$ . The difference between the before and after values would be the value of the easement donation:  $\$2,500,000 - \$1,250,000 = \$1,250,000$

## How are the tax benefits of an easement calculated?

**Federal income-tax benefits** -- Under the current IRS code qualified conservation easement contributions can be treated as charitable gifts. The value of the gift can then be deducted at an amount of *up to 50 percent of the donor's adjusted gross income* in the year of the gift (up to 100% for ranchers and farmers). If the easement's value exceeds 50 percent of the donor's income, the excess can be carried forward and deducted (subject to the 50 percent limit) in each of the fifteen succeeding tax years.

The value of the Smiths' easement, as figured above, is \$1,250,000. If their combined income in the year of the easement transaction is \$80,000, they would be able to deduct \$40,000 (50% of \$80,000) in the first year (up to 100% for ranchers and farmers).

Since the value of the easement is greater than their allowable deduction, the Smiths' would also be able to deduct \$40,000 for each of the next fifteen years (assuming a constant adjusted gross income of \$80,000). Their total income-tax deduction for the sixteen-year period would be \$640,000. If they qualified as ranchers/farmers, their tax deduction over this same period would be equal to the value of the easement: \$1,250,000.

**State income-tax benefits** -- Most state income-tax laws mirror federal law and provide an additional deduction for easements.

**Property tax benefits** -- Some states direct local tax assessors to take into account the existence of conservation easement restrictions when assessing property. If the property is not already receiving farm-use valuation, this can result in lower property taxes.

**Inheritance tax benefits** -- The donation of an easement, whether during a landowner's life or by bequest, can reduce the value of the farm upon which estate taxes are calculated. Some farm operations are not subject to federal estate tax because the assets of the owner do not exceed the minimum value required for the tax. For 2009 the value is 3,500,000, however, the estate tax law will sunset in 2011. Regardless, most farm property is subject to state inheritance taxes. By reducing this tax burden through an easement donation, a landowner can help ensure that his or her family does not have to sell the farm just to pay taxes on it.

## **Can some development be allowed under an easement?**

Conservation easements are flexible documents. They may be written to apply to the entire property or to only a portion. For example, if someone owns 80 acres, of which 35 acres are wetlands, the landowner may decide to restrict development only on these 35 acres. The remaining 45 acres would not be affected by the easement.

Their terms are tailored to suit the needs of the landowner and the property. While conservation easements may restrict certain uses of the land, some limited development may be allowed. For example, an easement generally permits the construction of new farm buildings and can allow construction of carefully located houses within a 'buildable' area defined and mapped out in the easement document. Certain significant parts on a property may remain 'forever wild,' where no development or alterations are permitted. The flexibility of other restrictions will vary with the characteristics of the land and the conservation objectives of the easement.

## **Who owns and manages easement protected land?**

The landowner retains full rights to control and manage their property within the limits of the easement. The landowner continues to bear all costs and liabilities related to ownership and maintenance of the property. The organization that owns the easement will monitor the property to ensure compliance with the easement's terms, but has no other management responsibilities and exercises no direct control over other activities on the land.

## **Why do people grant conservation easements?**

People grant conservation easements because they want to protect their property from future unwanted development and damaging land uses, while retaining ownership of their land. By granting a conservation easement, a landowner can assure that the property will be protected, regardless of who owns it in the future. An additional benefit is that the donation of an easement may provide significant financial advantages.

## **How long does an easement last?**

An easement's duration is usually set up to last forever (the legal term is in *perpetuity*); certain government programs allow for ten to thirty-year easement contracts. Tax benefits, however, are only available for permanent easements. If a property is mortgaged, the owner must obtain an agreement from the lender to subordinate its interests so the easement cannot be extinguished in the event of foreclosure. An easement is legally binding on all future landowners for the agreed-upon time period. An agricultural conservation easement can, however, be modified or terminated by mutual agreement if the land or its surroundings change so that the agricultural conservation objectives of the easement can no longer be achieved.

## **Can an easement be modified or amended?**

A conservation easement can only be changed or amended with the consent of both the property owner and the easement grantee (i.e., the land trust). A conservation easement is unlikely to be changed unless the change would support the conservation values defined in the easement. In some cases, easements placed on agricultural lands specifically to sustain production, have been removed if outside forces (adjacent land use, local laws and regulations) limit agricultural production.

## **What are the disadvantages of a conservation easement?**

A conservation easement is not appropriate in every case. Some parcels of land are not sufficiently valuable from a conservation standpoint to justify the restrictions of an easement. A potential disadvantage for the landowner is that a conservation easement, in restricting the use of the land, may reduce the land's market value. A landowner concerned about the financial implications of a conservation easement should carefully weigh the trade-off between possibly reduced market value and potential tax advantages.

For the conservation organization (grantee), an easement means the responsibility and expense of monitoring compliance with the easement and, if necessary, enforcing the easement in court. The Northcoast Regional Land Trust will accept an easement only if it meets our objectives and only if we can fulfill the responsibilities involved. Finally, conservation easements are like partnerships between landowners and conservation organizations that need mutual trust and good communication to avoid unnecessary disputes.

# PLANNING, DRAFTING, & ADOPTING A CONSERVATION EASEMENT

- 1. DEFINING THE LANDOWNERS' OBJECTIVES:**
  - Land Trust representatives meet with landowners to discuss their management and conservation goals for the property and whether or not a conservation easement is feasible.
  - Land Trust and landowner may review one or more examples of standard conservation easement documents.
- 2. PROPERTY REVIEW:**
  - A preliminary tour of the property helps identify the conservation values of the land.
  - Preliminary Title Report is obtained and reviewed by landowner and Land Trust to understand any third party rights (i.e., existing easements, liens) on the property.
  - Landowner may wish to initiate preliminary consultation with legal, tax, and natural resource advisors and/or an appraiser.
- 3. DEVELOP AGREEMENT TO MOVE FORWARD:** Land trust and Landowner agree on preliminary easement procedures and draft a Conservation Easement Work Plan. The plan includes a time schedule, service costs and stewardship endowment, and the request to begin the easement documentation procedure.
- 4. DEVELOP DRAFT CONSERVATION PLAN:** Land Trust and landowner prepare a draft Conservation Plan for the property, which identifies important natural, agricultural, scenic, and historic values of the property and identifies reserved rights and use restrictions.
- 5. LANDOWNER CONSULTS WITH ADVISORS:**
  - Landowner consults with his or her legal and tax advisors concerning easement provisions and financial and tax planning benefits.
  - Landowner may consult with resource advisors who review draft conservation plan and make recommendations prior to the drafting of the final conservation easement document.
- 6. PREPARATION OF CONSERVATION EASEMENT:** Land Trust representatives inventory and map the current biological, historical and agricultural resources on the property. A Baseline Conditions Report is developed in accordance with IRS requirements. Land Trust and landowner, in consultation with representative attorneys, prepare the legal easement document.
- 7. APPRAISAL AND SURVEY OF PROPERTY:** The landowner has the conservation easement appraised for tax deduction purpose or valuation in the case of a sale of a conservation easement. In specific cases, land may need to be surveyed depending on location and easement requirements.
- 8. APPROVAL, SIGNING AND RECORDING OF THE FINAL EASEMENT DOCUMENTS:** Landowner and Land Trust review and sign the easement documents. The easement is recorded at the county recorder's office.
- 9. MONITORING CONSERVATION EASEMENT:** Land Trust works with landowner to monitor property and ensure that easement conditions are being upheld.

# MEDIA RELATED TO NRLT ACTIVITIES

## Deal protects Iaqua Ranch from breakup

**A piece of old California**

John Driscoll/The Times-Standard

Eureka Times Standard Article - 10/06/2006



Twenty-five years ago, Francis Carrington drove along a winding road through grasslands graced with stretching oaks, and looked out over hills thick with fir trees.

“I saw it and I fell in love with it,” Carrington said.

The Fultons, a longtime Humboldt County ranching family, owned the sprawling ranch. About seven years ago, Betty Fulton was ready to sell the place, and Carrington hadn't forgotten it.

Today he raises about 200 head of black Angus cows, and occasionally harvests timber to compliment the ranch's income.

Carrington just signed a deal that will protect the 4,700-acre Iaqua Ranch outside Kneeland from being broken up into ranchettes, and ensure the place will never be clear-cut or overgrazed.

It's a conservation easement, through which Carrington was paid \$3.5 million from the state Wildlife Conservation Board, the U.S. Forest Service Forest Legacy Program and the California Department of Forestry. Carrington donated an additional \$635,000 to the effort.

That is about a fifth of what Carrington believes he could get if he subdivided the property.

“There's no way anyone could have bought the place for what I received,” Carrington said.

While he didn't want the ranch to be broken up, he also wanted to make sure it would remain a working ranch. The deal brokered by the North Coast Regional Land Trust is part of an effort

called Six Rivers to the Sea to preserve working ranches in the region.

In some ways, this is still old California, as one person said in a group of conservationists and county officials touring the ranch Thursday. At one fork in the road, the tour encountered a small herd of cattle urged along by a mounted cowboy, a rifle slipped into a sheath between his leg and the saddle.

Carrington has some flexibility written into the easement. But he can't cut trees in streamside areas (the North Fork of Yager Creek runs through the property), he can't clear-cut timber, and cattle grazing must ensure the soil stays healthy and doesn't seriously erode. He won't be able to cut more than 25 percent of his standing timber in any given decade.

“The forest will become bigger and older over decades,” said land trust project manager Shayne Greene.

Commercial mining and most building will also be prohibited.

It's not much of a change from the way the land has been managed for a long time. But the 44 patent parcels that could have been sold off piecemeal never can be, even if a new owner buys the place.

The land trust will monitor the property to ensure the terms of the easement are followed.

The 1,280-acre Price Creek Ranch outside Rio Dell also recently became part of the Six Rivers to the Sea Program. The ranch is right next to the Howe Creek Ranch, a 3,660-acre property conserved through the same program.

## Conservation deal seen for Chalk Mountain Ranch



### **Chalk Mountain Ranch working toward conservation deal**

John Driscoll / The Times-Standard

Article Launched: 11/30/2007 02:16:40 AM PST

In 1884, William H. Barnwell bought 160 acres outside Bridgeville, under the shadow of Chalk Mountain, for \$250 worth of gold coins.

His son, William Jr., built up Chalk Mountain Ranch, which is still run by the Barnwell family. Ranching has since grown to be a more-complicated, less-certain venture, and it has led the Barnwells to explore relinquishing some control of the land to keep the place intact for future generations.

“We're so dedicated to the heritage of the place, we want to keep it in one

piece,” said Les Barnwell, who manages the ranch today.

Les and his parents, Philo and Gloria, are working with the North Coast Regional Land Trust on a conservation easement that would cover nearly 7,400 acres of Chalk Mountain Ranch. The deal would remove the development rights on the property and place restrictions on logging and mining.

Sporting a metal hardhat with edges upturned like a cowboy hat, Les Barnwell looked over the edge of a road into a stand of Douglas fir. In the 1970s, during a wedding, friends and family

shot sporting clays there. It was all grass then.

It's just one of the many changes on the property over the years. Prairies are being squeezed by Douglas firs, and so are acres of oak woodlands. While the state once encouraged landowners to keep their land open for grazing, today timber production is the focus. Under state rules, if mature fir trees are cut out of the oak stands, firs must be replanted.

"It used to be all oak," said Gloria Barnwell, looking out at firs towering over struggling oaks.

Most of the ranch is highly productive timber ground. In some places, firs seem so big as to defy their age.

Like many ranches in Humboldt County, it was heavily cut in the 1940s and 1950s -- Les Barnwell called the place of his youth a "stump farm." The ownership of the ranch grew more complicated over the years, with various parts of the family wanting to be relieved of their shares. The Barnwells were able to log enough to buy them out.



Les Barnwell worked off the ranch for years while the trees grew up again. Since then, his practice has been to selectively cut the forest in an effort to improve the quality of the trees there.

In a pretty glade on a gentle slope toward the center of the ranch, Les Barnwell said the trees are relatively recent arrivals on what was once open ground -- the original 160 acres his great grandfather purchased.

"This is what I want my forests to look like," he said.

The conservation easement may allow the Barnwells to shift their forest management from one for profit to one that focuses more on wildlife and ecology.

The property is being appraised to determine the value of the easement they intend to sell, which is estimated at about \$6.8 million. The Barnwells will make part of that contribution themselves, and the U.S. Forest Service's Forest Legacy Project is being asked for \$4.9 million in funding, an appropriation expected to be taken up by Congress over the next few weeks.

Calfire, the California Department of Fish and Game and the U.S. Fish and Wildlife Service are sponsoring and endorsing the project, part of

the land trust's Six Rivers to the Sea Program. Calfire will hold the easement, and the land trust will monitor it. The program already has put nearly 10,000 acres under such easements, and now has an option on a 1,500-acre ranch outside Petrolia.

The transaction would prevent division of the land, development not related to the ranching and timber operations, and keep it under single management. It would keep a set percentage of the land in conifer forest, a stipulation meant to insulate the timber from capital demands such as estate taxes. The easement would also prevent all logging in stream corridors.

"These people who live here on the land are the best potential we have for stewardship," said Steve Hackett of the North Coast Regional Land Trust. But it is a big deal for a family to give up some control over the land, he said.

Conservation easements are crafted to the specific circumstances of each landowner. Katherine Ziemer, executive director of the Humboldt County Farm Bureau -- which works to preserve and promote agriculture in the area -- said that the bureau is supportive of easements as a tool, and offers its support to landowners interested in pursuing them. They work well for some farmers and ranchers and not as well for others, she said.

"We're real careful to leave it up to the individual," Ziemer said.

The Barnwells are clearly smitten with the ranch. As Les, Philo and Gloria drove around on a tour this week, each made mention of the myriad of otherwise unnoticeable little changes: a few rocks in the road, a tree pruned too high, an oak particularly stressed. It's foggy, but from various spots on the ranch you can see Bear Buttes, Kettenpom Peak, the King Range. Cloaked in mist, 3,052-foot Chalk Rock hid until the wind picked up.

It's the views in part that make the ranch the scene of the Chalk Rock Endurance Ride, which draws dozens of equestrians interested in testing their horses' mettle. It also makes it a draw for hunters who eagerly return every year.

The Barnwells hope that the easement will allow them breathing room to take on projects like restoring the oak woodlands.

"We wouldn't have to make a buck with everything we did," Les Barnwell said.

Change is a big part of ranching, but more and more, development pressure and regulation threaten to split up land or dissuade younger generations from the tough business. The change the Barnwells are considering is one more change -- a big change, but one that instead would keep the ranch whole. It's what Philo Barnwell wants for the place.

"We hope it won't change," he said. "It'll stay the same."

# Survey digs into opinions on ag land.

By VICKIE HORNER

Freelance Writer

Friday, December 12, 2003

ARCATA, Calif. — The results of the first survey on the importance of agriculture in Humboldt County, Calif., are a “wake-up call” for area planners, policy makers and producers.

Humboldt State University Natural Resources Planning graduate student Ben Morehead recently released the Humboldt County Agriculture Survey, which he compiled for his masters thesis.

“The purpose of this study was to express the voice of agriculture because I believe it is under-represented,” said Morehead in his office above the Arcata, Calif., plaza. “I think the results are a wake-up call to planners and policy makers.”

Morehead will present the results of his study to the Humboldt County Board of Supervisors Dec. 16.

The study’s data quantify and confirm the threats, attitudes and realities of Humboldt agriculture, said Morehead. He found that fewer than half of the producers surveyed had increased profits in the past five years.

“People hear that times are tough and farmers don’t like regulations, but the survey goes a step farther,” said Morehead. “It helps us understand the hard realities of being a farmer or rancher in Humboldt County.”

The conversion of agricultural land to non-agricultural land is one of the main factors that threaten the future of agriculture in the county. The producer survey found that 40 percent of those surveyed do not have heirs to continue their operations, 65 percent do not have an estate plan and 45 percent are older than 60 years.

Funded by a \$4,000 grant from the HSU Foundation and a \$1,000 grant from the Humboldt County Farm Bureau, Morehead conducted a two-part study surveying county agricultural operators and the general public on the values of working landscapes, the threats

and opportunities in agricultural production and their opinions on ag land protection policies and programs.

The survey results show that area agricultural producers aren’t familiar with many of the policies and programs that can help them.

The majority of the public surveyed was unfamiliar with local agriculture and thought a lot of it was run by corporations.

“Basically everyone (surveyed) thinks these lands have public benefits,” he said.

“People don’t make the association between the agriculture landscapes and the local businesses, but we need to make that connection before we lose the working landscapes.”

## GROUPS ENDORSED

Morehead was endorsed by and given access to the mailing lists of the Humboldt/Del Norte Cattlemen’s Association, the Buckeye Conservancy, the North Coast Growers Association and the Humboldt Creamery Association.

In 2002, surveys were sent to 800 county agricultural producers, of which 38 percent responded. A separate survey, with a nearly 50 percent response rate, was sent to a random sample of 400 of the county’s 64,000 registered voters.



*Humboldt State University Natural Resources Planning graduate student Ben Morehead recently released the*

*Humboldt County Agriculture Survey, which he compiled for his masters thesis. “The purpose of this study was to express the voice of agriculture because I believe it is under represented,” said Morehead.*

The Humboldt Creamery Association sweetened the deal for some of the respondents by providing Morehead with 400 certificates for free Humboldt Creamery ice cream, which he sent at random with the surveys.

In January, after the results were compiled by a data analysis company, Morehead began analyzing the statistics and writing the report.

### **‘INCREDIBLE SURVEY’**

The survey’s results are extremely beneficial in understanding how Humboldt County’s farmers and ranchers feel about important issues, said Humboldt County Farm Bureau Executive Director Katherine Ziemer.

“So we’re learning what people need,” said Ziemer. “It’s an incredible survey.”

As a result, the Farm Bureau held an estate planning workshop for its members in November, which was presented by FarmLink.

Ziemer said Humboldt County’s producers are flexible and willing to try adding value to their products because they want to stay in agriculture.

The Farm Bureau’s main “fight” is to keep agricultural land in large parcels, she said. Ag land is lost when producers subdivide productive land into ranchettes for homes.

“That will totally destroy the ag community in Humboldt County if we allow that,” said Ziemer.

Morehead, also a land conservation consultant, left his job with the North Coast Regional Land Trust to complete the project six months ago.

### **APPLYING FINDINGS**

The next step is applying the information, which he hopes will validate the need for economic development in agriculture.

Outreach efforts to county government and ag groups and public service announcements on the county’s agricultural industry will help educate the community, Morehead said.

“People think that the beautiful dairy and ranch vistas in Humboldt County are always going to be here, but the public needs to make

the connection that producers need to make profits to prevent the loss of open space.”

## ***Survey results show producer, public opinions***

By VICKIE HORNER, Freelance Writer

Highlights of the Humboldt County Agriculture Survey offer agriculture producers and the general public on land availability, regulations, profits, public benefits of private land, keeping ag lands in production, zoning and conservation easements.

### **PRODUCER RESPONSES**

- 92 percent of producers said current real estate prices inhibit the purchase or lease of land for agricultural production.
- 84 percent agree that residential development is reducing the amount of ag land available for production.
- 79 percent said appropriate government regulations can make a “positive contribution” to ag production and land use, while 71 percent feel over-regulated by agencies.
- Only about 25 percent of producers had increasing profits its over the past five years and fewer than one-third of producers expect increasing profits over the next five years.
- 84 percent with decreasing profits expect the same or worse in the next five years.
- 72 percent have done restoration work on their land without government assistance.
- 87 percent agree that increasing global markets for their products will increase production.
- 68 percent said local government doesn’t place a priority on protecting ag land from conversion to non-agricultural uses.
- 81 percent agree that county zoning helps keep ag land secure for future production.
- 77 percent support the concept of a conservation easement program that would purchase development rights from landowners who keep their land in agricultural production.

### **GENERAL PUBLIC RESPONSES**

- 94 percent of the general public surveyed agree on the importance of keeping ag lands in production rather than being developed for non-ag uses.
- 84 percent agree that pressure from residential development is reducing the amount of ag land.
- 88 percent said ag lands provide public benefits.
- 56 percent agree that ag landowners should be compensated to protect and enhance the public benefits provided by their land.
- 88 percent said open space should be available for wildlife habitat and recreation, while 84 percent agree that open space is a resource to keep available for ag production.

# Farms: Preserving the Land, Preserving the Business.

by Jeremiah P. Cosgrove, Land Trust Alliance Exchange, Summer, 1996

**F**armland is increasingly being recognized for its environmental importance and contribution to communities' quality of life. In addition to food and fiber, farmland provides open space, scenic views, and recreational opportunities. Properly managed farmland can also protect water quality and enhance wildlife habitat.

Conserving farms and ranches presents special challenges, because it involves more than protecting land. It involves finding ways for farming and ranching operations to survive—particularly, ways of transferring the operation from one generation to the next.

## Disaster stories

Passing a farm from parents to children can be far from easy. It seems as if every month there's another disaster story.

- ♣ A father and son had farmed together for almost 30 years. Dad died suddenly without a will and his son (now 47 years old) had to sell the farm to settle the estate.
- ♣ Mom (after surviving Dad) left the farm to all four children in equal shares and the only child who stayed on the farm could not afford to buy out his off-farm siblings.
- ♣ Mom and Dad left the farm in a trust managed by a trustee who knew nothing about farming. The trustee refused to allow the heir to expand the farm business because he did not like "big" farms.

In the next two decades, millions of acres around the country will change hands, and potentially change use. And you can bet that a significant number of those acres are farmland. According to the latest Census of Agriculture, there are almost 950 million acres of land in farming and ranching, and the average age of farmers is increasing. It is well known that farmland is vulnerable to conversion pressures when it passes from one owner to the next. This vulnerability, when considered with the amount of farm and ranch land that is owned by older Americans, means that conservationists are going to have a great

deal of work to do.

Much of that work will involve assisting farmers in estate planning. Although often overlooked, estate planning is a critical element in farmland protection.

The first estate planning tool that will come to mind for most of us who work for land trusts is the conservation

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easement. The numbers speak for themselves. Consider the case of a livestock farmer who owns 250 acres with a market value of \$5,000 per acre, an agricultural value of \$1,500 per acre, and a total estate of about \$1.7 million. Donation of a conservation easement on the farm could save over \$350,000 in federal estate taxes. In states like New York that levy additional estate taxes, the savings could be even higher.

## It's not so simple

So all we need to do is get the word out to farmers and we'll solve those estate planning challenges, right? Well, like most things in life, it's not so simple. Remember that farms are generally family businesses and in most cases families want to keep the land in farming and transfer the farm business to the next generation. It is clear that a conservation easement will ensure that the land is available for farming, but how will it affect the farm business?

Not surprisingly, many of the most common questions and concerns raised by farmers about conservation easements reflect their worries about the potential impact on the farm business. For example, how permanent is "permanent"? Farmers have seen dramatic changes in agriculture over the last 30 or 40 years, and they are understandably wary of something that purports to be permanent. Similarly, stewardship clauses make farmers and ranchers nervous. These men and women are generally very independent. The possibility that someone else might be in a position to tell them how to run their operation can be a turn-off. And, of course, farmers will need to be reassured that "public benefit" does not require public access—another red flag.

In order for farmers and their advisors to be in a position to evaluate whether a conservation easement makes sense for their estate plan, they will need to know what impacts an easement will have on their existing financial obligations and their ability to borrow money in the future. After family, farmers' and ranchers' most important relationship is with their bankers. Farmers who have already spent some time gathering estate planning information will also want to know how conservation easements interrelate with other estate planning techniques for closely held businesses, including special use valuation, trusts, life insurance, minority discounting, and estate tax deferral.

But let's return to the farm business. It cannot be over-emphasized that, in most cases, the farming family will be primarily concerned with the farm business. We not only must understand this but we must communicate to farmers that we understand their perspective. It is also important that options like conservation easements are placed in the context of both planning objectives—protecting the farmland and transferring the farm business. The family's individual situation and focus are key. Depending on the family's priorities and mix of assets (which may include farmland, non-farm income property, livestock, equipment, insurance, cash, etc.), conservation easements may or may not be appropriate as part of an estate plan.

**When easements are worth considering**

How do we know if conservation easements are worth considering and how can we find out? In most cases, farmers are not going to readily reveal many of the very personal details of the family business, and we must take care to respect their privacy. Unfortunately, there is no magic formula and no easy way to get access to the details. We must be patient enough to wait for that invitation to the kitchen table. While we wait, however, we can provide farm families and their advisors with information about estate planning and conservation easements and hope that they will make informed decisions about the future of their land and businesses.

I think it is possible, though, to make some observations about which farmers are more or less likely to find conservation easements worth considering. In the more appropriate category are older farmers who are relatively debt-free and have accumulated substantial net worth. These farmers usually own a substantial amount of farmland that has a relatively high market value compared to its agricultural value. In addition, they have acquired other non-farm assets, such as cash, securities, and life insurance. Ideally, their children are working in the farming operation and are fully committed to it because,

The Straus family of Marin County, CA, decided a conservation easement made sense for their organic dairy

among other

reasons, the farm business is profitable. Lastly, and most important, these farmers must have very strong conservation motives, because donations of conservation easements will remove most of the development value of their land.

On the other hand, less appropriate farmers would be younger, more highly leveraged, and own few other non-farm assets. A young farming family with no other source of off-farm income would be primarily concerned with economic survival and building the business, as well as security for any young children. This type of farm family is one that should try to purchase a protected farm at agricultural value—thus incurring less debt and leaving more income for living expenses and re-investment in the farm business. Land trusts can play an important role in educating farmers generally about the availability and viability of easement-protected farms.

In some instances, a conservation-minded young farmer might want to consider a provision for a conservation easement in his or her will as long as sufficient term life insurance is available to cover the family living expenses. The obvious advantage of this approach for a young family is that the will can be changed as the family and business circumstances evolve over time. Whether an easement is utilized during the lifetime or as part of the will, it must be part of a comprehensive farm transfer and estate planning approach.



PHOTO COURTESY OF THE MARIN AGRICULTURAL LAND TRUST

**Building ties**

Estate planning is not only an important farmland protection tool, it is an excellent way for conservation organizations to build ties with the farming community, provide needed information, and learn more about farmers' estate planning concerns and needs. Farmers often say, "The best way to save farmland is to farm it." Sound estate planning can help the next generation of farmers keep farming and help protect our valuable farmland for future generations.

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*Jeremiah P. Cosgrove has directed the American Farmland Trust's New York field office since 1992. An attorney and former dairy farmer, he is also co-author of a handbook on estate planning for farmers, which is scheduled for release in the fall.*

*American Farmland Trust is a private, nonprofit conservation organization founded in 1980 to protect the nation's farmland. AFT works to stop the loss of productive farmland and to promote farming practices that lead to a healthy environment. Its approach is a farmer-friendly mix of public education, on-farm farmland protection demonstration projects and public policy development at the federal, state and local levels.*



Northcoast Regional Land Trust

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# POTENTIAL PROJECT QUESTIONNAIRE

For Land Acquisition and Conservation Easement Projects

Name: \_\_\_\_\_

Date: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: (\_\_\_\_) \_\_\_\_\_

Fax: (\_\_\_\_) \_\_\_\_\_

Email: \_\_\_\_\_

Property Owner(s): \_\_\_\_\_

Property Name: \_\_\_\_\_

Property Address: \_\_\_\_\_

How did you hear about the Northcoast Regional Land Trust? \_\_\_\_\_

Please complete the following information as best you can:

- Approximate acreage of entire property: \_\_\_\_\_ Acres
- Approximate acreage of proposed project (if different than above): \_\_\_\_\_ Acres
- A.P. Assessor Parcel #(s): \_\_\_\_\_
- What is the zoning of the property? Please include zoning type and acreages for each.
  
- Are all parties with an ownership in this property in agreement w/this potential project?  
 Yes  No  
If not, please explain: \_\_\_\_\_
  
- Do you have full title to the property, or is the property encumbered with a mortgage?  
 I hold full title  The property is encumbered with a mortgage  
 The property is encumbered with the following: \_\_\_\_\_
  
- I am interested in:  
 Donating **the entire** value of a conservation easement on my property  
 Donating **a portion** of the value of a conservation easement on my property  
 **Selling** the value of a conservation easement on my property  
 **Selling** the entire property
  
- Do you have a forest or ranch management plan in place?  Yes  No

- Are you aware of any neighboring properties that have pursued a conservation easement or acquisition and/or would be likely candidates for a conservation easement or acquisition?

Yes  No If appropriate, please describe:

- Supporting Materials:

Map depicting the property (topographic, County, or other) attached?  Yes  No

Photographs depicting the property attached?  Yes  No

**A) Please describe your reasons for pursuing a conservation easement or land acquisition project; is there an urgent need, threats? Please describe.**

**B) Please give an overview of the biological and/or habitat values your property provides (vegetation, wildlife, ecology, riparian or wetland habitat, etc.).**

**C) Please describe the agricultural, scenic, historic, recreational or special values your property provides (prime soils, open space, viewsheds from public roads, historic structures, special features, etc.).**

**D) Please describe the past, current and foreseeable future uses (business, personal use, resource needs, leases, etc.) on the property.**

**E) Please describe the development pressures or other threatening impacts on your property, including information about zoning and adjacent properties (if applicable).**

**F) Please include any additional information or comments you believe would be helpful for the Northcoast Regional Land Trust to consider.**