

CONSERVATION EASEMENTS:
Safeguarding the Cowpasture River, the Jackson and James
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Editor's note: The following essay is the tenth in a five-year series on water resources stewardship in the Cowpasture River Watershed, sponsored by the Cowpasture River Preservation Association and published by The Recorder. The goal of the series is to create awareness among students, citizens and officials of the critical need to protect our surface and ground water resources, and to stimulate interest in progressive stewardship.

STAUNTON – “You can live without a Big Mac or a red Corvette, but buddy, you can’t live without clean water,” stated renowned clean river advocate, Garland Hudgins, to a group of young future conservationists. Mr. Hudgins demonstrated his understanding of the vital connection between land use and water quality when he placed a conservation easement on his forested mountain land with several large springs that flow into the North Fork of the Shenandoah River and thereby to help sustain these headwaters.

Land & Water Connection – Twenty years after Mr. Hudgins’ wise words and land conservation ethic in action, the fact remains that how we use and manage land directly correlates with the quality of the water that sustains us in many ways. In urban areas with impervious buildings, parking lots and roads; storm water run-off carries damaging pollutants into waterways and it can also cause severe flooding. In more rural areas some farming practices,



The pristine condition of a three-mile reach on Dry Run, a fishery for native eastern brook trout, and the forestland that buffers the stream are permanently protected through a conservation easement donated by Kent and Ellen Ford.

Photo credit: Marek Smith of The Nature Conservancy

including plowing to the edge of waterways and allowing livestock access to streams, adds damaging bacteria, nutrients, and sediment that degrade recreational and drinking water sources.

Bath and Highland counties have extraordinary water resources both in quantity and quality. Streams here are among the most pristine in Virginia. Our counties are in the unique geographic position of “giving birth” to two of the Commonwealth’s mightiest and most economically important rivers: the James and the Potomac. The karst springs, seeps, and small streams of these Allegheny Mountains are the “headwaters” that ultimately contribute to the health of the Cowpasture, Bullpasture and Jackson Rivers and to the James River. They also are known for their recreational and economic values related to superb local fisheries.

Undeveloped land, especially forest land and farmland with well-managed pastures, serves as a pollutant filter as water seeps through soils to the underground aquifer and flows across land into streams. Conserving these water-cleansing lands through the application of conservation easements is an effective way to ensure healthy streams both locally and downstream for present and future generations.

Conservation Easements – Conservation easements are always voluntary and allow landowners to preserve forevermore the lands and waters that they have come to cherish while continuing to own and enjoy their farms, forests, rivers and streams. This popular land conservation tool is a flexible legal document that places certain restrictions on the future use of a property in order to protect vital natural and cultural resources. Easements may be designed to protect land and



The Berriedale Farms conservation easement protects more than 12,000 feet of the Cowpasture River, a karst negative or losing river, Huit Draft and two other perennial streams with forested riparian buffer areas.

Photo Credit: Nelson Hoy.

water resources that may include working farms and forests, historic sites, surface and ground waters, wildlife habitat, caves, springs and sinkholes.

Not to be confused with a right-of-way or utility easement, a conservation easement typically affects an entire property and does not permit public access, unless the landowner wants to allow for public use, such as a boat ramp or a public hiking trail. Each easement is unique and includes terms that limit the amount of development and subdivision, and that prohibit industrial and commercial uses other than those associated with agriculture.

Easement Holders – An easement is a permanent agreement that passes with the deed to future landowners and must be overseen by a qualified “holder”. In Virginia certain state agencies, such as the Virginia Outdoors Foundation (VOF) and the Virginia Department of Forestry, are authorized to hold easements. Qualified private land trusts, such as The Nature Conservancy (TNC) and the Valley Conservation Council (VCC) may also serve as holders. However, the vast majority of easements in Virginia are held by VOF.

Presently there are 131 easements in Highland and Bath Counties conserving more than 40,000 acres of productive farm and forestland. Many of these properties contain springs or stream frontage with easement terms to protect these water assets. In fact, nearly every major stream in these two counties has some eased land along their stream banks.



A Virginia Outdoors Foundation photograph along Cowpasture River near its confluence with the Bullpasture River where three contiguous conservation easements secure forested riparian buffers for more than two river miles.

Land Stewards – Your friends and neighbors, as they thought about the future prospects for the land and waters that they loved and of the next generation and the next, chose to preserve our bucolic rural country-side through the mechanism of conservation easements. Your neighbors kept their basic property rights that allowed them to raise livestock and harvest timber, to hunt and fish, and to enjoy. They were absolutely not knuckling-under to government controls. And actually, they made prudent provisions for adding another residence or farm structure.

When Kent and Ellen Ford placed an easement with The Nature Conservancy on their 417-acre forested land, a primary goal was to protect the three-mile frontage on Dry Run a tributary of the Cowpasture River and a fishery for native eastern brook trout. The land also adjoins the George Washington National Forest which adds additional forest buffer to the Dry Run watershed. According to Mr. Ford whose family has owned the land since the late 1800s, “It was the natural thing to do.”

Carol and Larry Bandy, who own a Blue Grass Valley cattle and sheep farm with 1,000 feet of frontage on the uppermost reaches of the Potomac River, also had water quality in mind when they contacted the Virginia Outdoors Foundation for assistance with their easement. Mr. Bandy stated that, “The beauty and natural resources of the Blue Grass Valley go hand in hand with good farming practices and land conservation. We found the easement process easy to work through and the terms satisfactorily met our needs for farming.”

Donald and Anne McCaig eased their 266-acre farm that includes extensive frontage on the Cowpasture River through the VOF. Mr. McCaig acknowledges that his view of land is different from some landowners. Rather than referring to land ownership he feels that “We belong to the land and are stewards for only a short time. We placed reasonable restrictions on this beautiful rural land so it will be enjoyed by future generations.”

Lizzie Biggs and Nelson Hoy placed a conservation easement on their 366-acre operating cattle farm and sustainable working forest. Held by The Nature Conservancy, the easement in Nelson's words, “Allows Lizzie and me to run a family farm in rural America as a small business for profit while doing what is best for the land over the long-haul of several generations.” Berriedale Farms raises grass-fed heritage breed Red Poll cattle and Suffolk draft horses; and the farm is recognized by the Alliance for the Chesapeake Bay as a *Forest Champion* for its stewardship.

Tax Incentives – Typically, a landowner's primary goal is to safeguard the land they love. Conservation easements, however, also provide several generous tax advantages. These tax benefits can be used to help young farmers purchase land and to make it possible for farm families to pass the land on to the next generation. In the Commonwealth of Virginia, conservation easements offer particularly generous tax incentives (i.e., among the very best in the United States) that include:

- Federal Charitable Income Tax Deductions
- Virginia Land Preservation Tax Credits
- Federal Estate Tax Exemptions and Exclusions

The Land and Water Challenge - In an era where it is understandable for someone to feel overwhelmed by debates concerning global climate change, corporate overreach, and government intrusions; conservation easements offer the owner of a family farm in rural America a practical and voluntary tool for saying, “Our homestead, its pastures and forests that we all love

is too precious to become Anywhere, USA and the waters are too cool, clear and pure to be spoiled.”

Internet Research URLs:

Valley Conservation Council at info@valleyconservation.org

Virginia Outdoors Foundation at www.virginiaoutdoorsfoundation.org

The Nature Conservancy at www.tnc.org

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