

The Future of Your Land
An Introduction to the
LANDOWNER'S OPTIONS



Northern Prairies
LAND TRUST

You can determine what your land will look like for years to come.

As a landowner, you make many management choices that affect the health of the land and water under your care. This guide will help you determine what choices are best for the future of your land.

There are several ways you can voluntarily act now to ensure that your good stewardship choices continue beyond your lifetime. This booklet provides introductory information regarding the most commonly used options.

As you read this booklet, think about the future of your land. Consider and discuss the following questions:

- Does my land have natural features or a unique location worthy of long-term protection?
- Do I wish to protect all my property or just a part of it?
- Do I wish to protect my land forever or for a limited term of years?
- Do I wish to continue to own or use the land during my lifetime?
- Do I want or need to sell my land?
- Do I want the land to be open to the public?
- Are potential tax savings important to me?
- Do I wish to act soon?
- How will my actions affect my family? my community? my land?
- Will a non-profit organization or an individual owner be able to best manage or protect my land? Are there conservation agencies or other organizations both willing and able to do so?

Deciding the future of your land will be satisfying to you and your family, and may be financially beneficial. It may be emotional, bringing your deepest values into focus. Choosing the right option for you and your family will ensure you have peace of mind for many years to come.

Four Common Methods of Long-Term Protection

The four most commonly used methods of long term protection are described in the next 7 pages of this booklet. Those methods are: conservation easement, bequest for conservation, donation with reserved life estate, and bargain sale.

The conservation easement is the most commonly used tool when attempting to protect land permanently. The bequest for conservation and the donation with reserved life estate are tools used in conjunction with estate planning. Finally the bargain sale is used when a landowner is not interested in retaining ownership of the land in question.

Your advisors and the Northern Prairies Land Trust can assist you in finding a personalized protection plan that best suits your land and meets your needs.

Conservation Easement

A conservation easement is the most popular, permanent way you can protect natural land while continuing to own it. The land is still yours to sell or pass on to your heirs, but you set aside certain rights. You determine that no future owner will do specific things on the property that would harm its natural features.

For example, you can set aside the development rights to ensure your land is always used for wildlife habitat or farming. Conservation easements can be used to restrict mining, building, timber harvesting, tiling, or any combination of land uses.

The limitations set forth in the conservation easement are tailored to suit your unique property as well as your personal natural resource management goals as a landowner.

When you write a conservation easement, you choose a conservation organization or agency that will ensure the easement terms are respected in the future. That conservation partner shares your goals for the land and accepts the responsibility to monitor the land use regularly and enforce your restrictions if necessary.

The protection afforded by conservation easements is permanent; it legally binds all present and future owners of the land. Easements are recorded with the county recorder and are permanently attached to the title of the land thereafter.

Some people choose to place a conservation easement on land before it is transferred by sale, gift, inheritance or bequest. Even if the new owner is a good land steward, the easement adds a layer of protection for the land.

Capt Lewis and myself walked in the Prairie on top of the Bluff and observed the most beautiful prospects imaginable. William Clark, July 30, 1804



Because a conservation easement can reduce the property's value, the landowner who donates an easement may claim the difference in value as a charitable deduction for income tax purposes. An easement may lower estate taxes and inheritance taxes too. As stated previously, it is important to consult your own attorney and tax advisor for advice on this particular subject.

The Northern Prairies Land Trust staff can help you draft the document. Northern Prairies may be able to hold the easement or arrange for another conservation partner to do so.

Bequest for Conservation

One of the many options associated with owning land is the right to pass the land by bequest in a will. Finding the right heir, possibly a conservation organization or agency whose mission matches your philosophy of stewardship, can provide great peace of mind.

A bequest arrangement offers these advantages:

- The bequest does not affect your use of the land during your lifetime. The land is completely yours.
- A bequest can be changed if you find an heir you would trust more to protect your land.
- If you die without a will, state law will dictate what happens to your assets. A bequest enables you to decide what will happen to your land.

A bequest does not offer you financial advantages during your lifetime. But, if you have a large estate, a bequest to a conservation organization might reduce your estate taxes.

If desired, your bequest may include deed restrictions that spell out how you want your land to be used or not used in the future.

In the end, our society will be defined not only by what we create but by what we refuse to destroy.

-John Sawbill

You may wish to name an alternate conservation organization or agency in your will, in case your first choice of heirs is unable to accept the land with your restrictions at the time of your death.

Some landowners choose to combine a bequest with another protection method. For example, you might donate a conservation easement on your property during your lifetime to a conservation organization, then bequeath the land to someone else for conservation purposes. The easement could provide some tax benefits during your lifetime, and the easement holder would further ensure that your heir is doing what you want with the land.



Donation with Reserved Life Estate

A reserved life estate lets you donate your land now to a conservation organization or agency, but you reserve the right to use that property during your lifetime.

With a reserved life estate:

- The landowner can enjoy continued use of all or part of the property during his or her lifetime. The reserved life estate may also allow a spouse or immediate family members to use the land throughout their lifetimes too.
- The landowner knows the gift has been accepted. In contrast, donation by bequest, as discussed on the previous page, is not accepted until after the landowner's death. The landowner never sees the outcome of the gift.
- This is considered a partial donation of your land, so you may be eligible for income tax deductions.

From an income tax viewpoint, a donation with reserved life estate is middle ground between a bequest and an outright land donation. A bequest offers you no income tax benefits; a full donation allows you to deduct the full land value. Donation of land with reserved life estate is partly deductible.

The Internal Revenue Service's actuarial tables are used to determine the life expectancy of those who receive lifetime use; then the value of using the land each year of the life expectancy is estimated. That portion of the land value cannot be deducted. If you reserve use for the life of a spouse or child as well as your own life, the possible income tax deduction may be greatly reduced.

“One of the primary aims of Northern Prairies Land Trust is to conserve property with the potential for keeping land in agriculture, ranch or other open space use.” John Davidson, NPLT President

The donor usually must continue to pay real estate taxes on that portion of the land retained for use.

The agency or conservation organization receiving the land may prefer a donation with reserved life estate if its management would like to own the property someday but does not wish to accept the responsibilities of immediate ownership.



Bargain Sale

If you plan to sell your land and especially if you have owned your land for a long time, you might consider a bargain sale to a conservation organization. For many landowners, a bargain sale is the most rewarding way to sell highly appreciated property.

Rather than sell at full market value on the open market, a bargain sale offers the land at a reduced sale price to your chosen conservation organization or agency. In other words, you donate a portion of the land value through a bargain sale. This is one of the most common ways to donate land for conservation.

A bargain sale can benefit you and the buyer:

- The amount you discount from the full market value can be considered for an income tax deduction. That deduction can offset the income taxes and capital gains taxes that will be due as a result of the sale of the property.
- Many conservation organizations cannot afford to pay full value for land. With a bargain sale, it is easier for them to gain the grant funds and donations they need to purchase the rest of the land from you.

The bargain sale allows you to receive some money for the land and to claim an income tax deduction. Also, capital gains taxes become smaller or non-existent when a landowner sells at less than fair market value. A financial advisor or your tax preparer might help you determine the bargain rate that provides the greatest benefits for you.

The Northern Prairies Land Trust can help you find a qualifying conservation agency interested in purchasing land through a bargain sale.

Combining Conservation Options

While the four previously listed options can be used alone, many landowners combine land protection tools to satisfy their management wishes for the land as well as their personal financial needs. For example, a landowner might donate some hard-to-manage natural lands now and later bequeath an adjoining field or farmstead to be used for conservation. In this way, the landowner may receive an income tax deduction for the land donation now and still retain the use or income from adjacent land.

Other Protection Methods

There are many other methods to permanently protect your lands in South Dakota and Nebraska. The four methods already described are the most commonly used. Here are some other options that might apply to you.

Mutual Covenant

Neighbors who share a common conservation interest may record similar restrictions on their properties, and then share the responsibility of enforcing the restrictions. Mutual covenants may not be as strong or long-lasting as a conservation easement, but they can work with the right combination of people and circumstances.

Donating Land for Trade

Land without significant features (such as subdivision lots or prime cropland) may be donated to a conservation organization. The donation will likely be tax deductible. The organization then can sell the donated land and use the proceeds to purchase special resource lands or to support programs. Or the organization may trade the donated land for natural lands in need of protection.

Donation to Establish a Lifetime Income

In some cases, a landowner may donate land in exchange for a life income agreement (such as a charitable remainder trust or charitable gift annuity.) The donor receives a regular source of income for life plus significant tax savings. If the land does not produce enough income to make the payments to the donor, the land would probably need to be sold. Land protection goals cannot always be met with this method.

Donation of a Partial Interest

A landowner can donate partial interests, such as mineral rights or agricultural leases to a conservation agency or organization. A conservation easement is one way to donate partial interest. Also a landowner can donate an undivided interest in property so that the recipients shares in the expenses and income from the land.

Deed Restrictions and Conditions

When you sell, donate, or transfer land to anyone, you can give the land short-term protection by placing language in the deed to restrict how it can be used. Unlike a conservation easement, there is no third party to monitor and enforce a deed restriction. Or, when you donate or sell land for conservation you can state in the deed that the land will transfer to someone else if the landholding agency does not use the land as you describe.

The Next Step

- Think about what you want to accomplish, giving special attention to the questions listed at the beginning of the booklet.
- Talk to your own advisors: attorney, tax advisor, financial planner, family and trusted friends. You can show them this booklet or refer them to Northern Prairies Land Trust's web site at www.northernprairies.org.
- For a more detailed discussion, please contact Northern Prairies Land Trust at 605-339-3184. Our staff will provide a free, confidential consultation at no obligation. We welcome the opportunity to personally visit with those interested in permanently protecting the land they own.



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