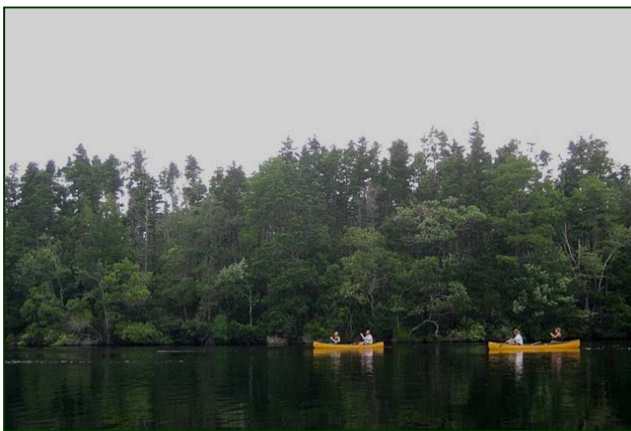


# THE BUSINESS RATIONALE BEHIND FOREST CONSERVATION EASEMENTS



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Wildlands Network

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THE PURPOSE OF THIS REPORT IS TO EDUCATE COMMERCIAL FOREST LANDOWNERS IN  
THE SOUTHERN UNITED STATES ON THE POTENTIAL ECONOMIC BENEFITS OF  
CONSERVATION EASEMENTS.

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## EXECUTIVE SUMMARY

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The largest conservation projects of the past 20 years in the United States have often involved partnerships between the timber industry and environmental non-profit organizations, and working forest conservation easements were often an essential tool in creating these partnerships. In a working forest easement, the right to develop the property is sold (or donated) to a third party entity, such as a nonprofit land trust. The forest landowner continues to own the land and can continue to conduct forestry operations as before, and can sell the property to a new owner with the restrictions on development remaining in place. Conservation easements have become a very popular means to protect ecosystem services for future generations because they allow private landowners to continue to generate a competitive return from their timberlands.

There is a dearth of information available to corporate landowners on how easements can help increase the profitability of their landholdings. The purpose of this report is to shed light on the business rationale for selling or donating conservation easements. In particular, we provide much-needed details that are relevant to the new types of corporate timberland owners such as TIMOs and REITs (see glossary next page), and we include an emphasis on projects that took place in southern forests. We begin the document with an introduction to the concept of working forest easements. We then provide a series of interesting and recent case studies in which various corporate landowners executed working forest easements on parts of their land holdings. For each case study we present details concerning the terms of the easement and the rationale of why the easement made good business sense for the company involved. We then conclude the report with a summary of the key benefits provided by working forest easements, and instructions for how to pursue easements if a company or major landowner is interested in choosing this approach.

### **Summary of Key Benefits of Working Forest Easements:**

- They provide a critical early source of return on new property acquisitions.
- They can substantially reduce property tax bills, and provide generous income tax credits when some or all of the easement value is donated.
- They can make land cheaper to acquire if the easement is installed as part of a multi-stage property transaction.
- They permit continued management of the forest for timber, often with few changes from existing practices.
- They open up the opportunity to participate in current and emerging markets for ecosystem services and mitigation credits.
- They generate public goodwill towards the company via positive media attention, and can boost employee morale.

At a time where the need for land protection has never been greater, especially in the southern United States, the use of conservation easements can help meet both the financial needs of the industry and the land protection goals of the environmental community.

## GLOSSARY OF TERMS

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**Ad Valorem** taxes are taxes based on the value of the property. The value of property is determined through an appraisal process.

A **Bargain Sale** is when a property is sold to a land management agency or land trust for significantly less than the market value of the land. If the property has conservation value, the difference between the market value and the bargain sale value is considered a charitable donation for tax purposes.

**Baseline Documents** record the conditions of natural and cultural resources on the property at the time when an easement is sold or donated. All baseline documents must be completed by the time the easement is recorded.

**Capital Gains Properties** are properties whose sale or exchange results in profits. Most properties held for more than one year are considered capital gains properties for tax purposes. These properties are taxed at a higher rate than ordinary income properties.

**Carbon Credits** are tradable units, which provide the right to emit one ton of carbon. Carbon credits can be sold on a carbon market under cap-and-trade legislation.

**Cap-and-Trade** is a regulatory structure which dictates how much carbon can be emitted into the atmosphere. The regulations allow industries to buy and sell carbon credits in a carbon market.

**Conservation Banking** is a system that provides threatened or endangered species with habitat that is protected in order to mitigate the destruction of habitats elsewhere.

**Conservation Easements** are voluntary and freely negotiated agreements, which transfer a property's development rights to a land trust or government agency for the purpose of permanent conservation.

**C Corporations** are publicly traded corporations. Most traditional vertically-integrated timber companies are C corporations and have capital gains tax disadvantage. They are taxed at both the corporate and investor levels.

**Ecosystem Services** are the beneficial processes and resources ecosystems provide to people, such as clean water, decomposition, and climate stabilization. Markets exist that attempt to monetize these services.

**Fee Simple Donation** is when the property owner donates the property to a land trust or land management agency. The donation can occur while the owner is living or through a will.

**Forest Stewardship Council (FSC)** is an independent, non-profit organization, which establishes standards and provides certification for sustainable forestry.

**Geographic Information System (GIS)** is a system of merging spatial data with statistics and cartography to model and display information to improve decision making. It is used often in land management.

**Highest and Best Use (HBU)** is the use of a property which results in its highest value on the market. The market value of a property is usually based on its HBU.

**Land trusts** are non-profit organizations that work to conserve land through fee simple or easement acquisitions. In the case of an easement, the trust

will monitor the property to make sure that there are no infringements of the agreed-upon terms by the landowner.

**Ordinary Income Properties** are properties that do not result in capital gains. Usually properties that are held for less than one year are considered ordinary income. Ordinary income properties are taxed at a lower rate.

**Sustainable Forestry Initiative (SFI)** is an independent, non-profit organization, which establishes standards and provides certification for sustainable forestry.

**Timberland Investment Management Organizations (TIMOs)** are private companies that manage the investments of endowments, institutions, and individuals. Investors can own land individually or pool resources with other investors in the TIMO. Timberlands are owned as illiquid investments and are managed for about 8-15 years before being sold.<sup>1</sup>

**Real Estate Investment Trusts (REITs)** are privately held or publically traded companies that invest in real estate. To be considered a REIT for taxation

purposes, companies must (1) invest in at least 75 percent real estate assets, (2) generate 75 percent of their income through real property, and an added 20 percent of their income must come from dividends, interests, and gains from security sales, (3) have at least 100 shareholders and over 50 percent of outstanding shares must be held by 5 shareholders, and (4) distribute 90 percent of their income to the shareholders.<sup>2</sup>

**Transfer of Development Rights (TDR)** is a program to allow landowners to take development rights away from one piece of land with an easement and use them on another 'receiving' property. These transferred rights usually allow a landowner to develop the receiving property at a higher density than what would normally be allowed under zoning restrictions.

**Wetland Mitigation Banking** is a system that creates, restores, or protects wetland and streams to compensate for their destruction elsewhere.

**Working Forest Conservation Easements** are conservation easements (see above) that allow continued management of forestland for timber.



Photo courtesy of the U.S. Department of Agriculture.

## INTRODUCTION

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A growing segment of the environmental community has found the timber industry to be an important partner in land stewardship and conservation. The largest conservation projects of the past 20 years involved partnerships between the timber industry and environmental non-profit organizations, and working forest conservation easements were often an essential tool in creating these partnerships. In Tennessee, Vermont, Arkansas, Maine, New York, and many other states, privately owned timberlands have been protected while still allowing the industry to harvest resources. Working forest conservation easements have been an essential tool in creating these partnerships.

During the late 1990s, large timber companies – Georgia-Pacific, Weyerhaeuser, Champion, International Paper – all partnered with land trusts to protect their forests with working forest easements. As these industrial timber companies divested of their properties (see Box 1), timberland investment management organizations (TIMOs) and real estate investment trusts (REITs) became the owners of properties with working forest easements. These new forest landowners have also worked closely with local and national environmental organizations to increase their acreage under easement protection. Between 2000 and 2005, the amount of land protected with a conservation easement increased 148 percent.<sup>3</sup> This document outlines how these easements have helped meet both the business needs of the industry and the land protection goals of the environmental community.

Many TIMOs, REITs, and other large forest landowners have negotiated easement deals with conservation groups because they are a useful tool for achieving economic goals. Easements are a source of return. Easement-encumbered land is cheaper to acquire than non-encumbered land, thus up-front overhead costs, such as debt servicing, are also reduced (see Box 2). Most easement deals permit continued management of the forest for timber. Land protected with an easement also opens up the opportunity to participate in current and emerging markets for ecosystem services, like conservation

### Box 1. The Rise of TIMOs and REITs in the South

The conversion of Weyerhaeuser into a Real Estate Investment Trust (REIT) in 2011 marked the end of decades of traditional forest company land ownership in the south. Weyerhaeuser was the last of the major forest companies to put its timberlands under the ownership of the more flexible investment structure of a REIT or TIMO. Between 2006 and 2008, two TIMOs – Resource Management Services and Forest Investment Associates – bought much of International Paper’s (IP) nearly 4 million acres of southern timberlands.<sup>4</sup> To be more competitive in the global market, most of IP’s timberlands are now located in Brazil and Russia.<sup>5</sup> From 2002 to 2007, MeadWestvaco (MWV) reduced its landholdings, primarily in the south, from 3.1 million to 817,329 acres.<sup>6</sup> Many of its lands were bought by Wells Timberland REIT.<sup>7</sup> In 1997, Georgia-Pacific (GP) split its company into The Timber Company, which took ownership of the timberlands, and GP, which produced consumer goods.<sup>8</sup> In 2001, The Timber Company merged with Plum Creek, a REIT, to become the second-largest landowner in the United States.<sup>9</sup> The shift from the traditional corporate landowner, where a forest corporation managed forests to ensure a long-term supply to its mills, to the more flexible landowning structure of a REIT or TIMO has opened up tremendous opportunities for conservation organizations to put more land into protection using conservation easements.



banking and carbon credit trading schemes. Easements can also lead to substantial tax benefits. Lastly, easements are a sound investment. Today, when the market for residential development is uncertain, selling an easement on property captures most or all of the development value without incurring risk.

The need for land protection has never been greater, especially in the southern United States. With the highest population growth rate and the lowest amount of protected land in the nation, the south is more at risk of losing habitat to housing and commercial development than any other region in the nation.<sup>10</sup>

Between 1990 and 2002, over 1 million acres of North Carolina's forests were lost, mostly due to urban expansion.<sup>11</sup> According to the United States Forest Service, around 15 percent of today's forests in the south are predicted to be converted to residential and commercial development by 2040.<sup>12</sup>

In the face of these realities, the conservation community is eager to partner with timberland owners to keep land protected as working forest. However, there is a lack of information available to large forestland owners and managers on why they should partner with conservation organizations to protect their land with an easement.

The purpose of this report is to look at the business rationale for selling or donating conservation easements. The intended audience is large landowners, timberland managers, staff at TIMOs and REITs, and consulting foresters. This report is divided into four sections. First, it provides a basic overview of conservation easements and what landowners should expect after selling an easement. Second, it provides case studies, which explain why large landowners have sold or donated conservation easements on their land. **These case studies are primarily based on projects in the southern US, but for comparison and learning purposes we have also included one very large easement project that took place in northern Minnesota.** Third, the document provides a comprehensive review of the economic costs and benefits associated with easements. Lastly, it provides instructions and a list of resources for pursuing a conservation easement.

## WHAT ARE EASEMENTS?

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*The web abounds with information on what easements are, how they work, and why they are important to conservation. This report covers just the very basics, and has links and resources listed at the end for further information.*

An entity, such as a land trust or a federal, state, or local government, wishing to acquire land to prevent it from being developed has two means available to it. It can purchase the land outright, referred to as 'fee simple,' or it can purchase the development rights from the landowner, which is called an

Conservation easements are voluntary and freely negotiated.



Landowners can choose which development rights they wish to sell or donate.

easement. With an easement, the property still belongs to the landowner, however, it restricts the way the landowner can alter their land. In rare cases, called 'Forever Wild' easements, a landowner may sell all of the development rights, which means the property cannot be developed in any form or fashion. In all cases, the specific types of development rights that an owner sells are negotiated between the landowner and the easement purchaser. As more rights are sold, the easements become more valuable. For example, North Carolina's application to sell an easement under the Forest Legacy Program, administered under the US Forest Service, has a check list of development rights. The applicant checks off the rights they are willing to give up, including the right to produce timber, right to use water, right to prohibit public access, right to expand existing improvements, and mineral rights, among many others.<sup>13</sup> If the landowner wishes to someday harvest a forest or develop a mine on their property, they can do this as long as they have not sold these rights. Easements are voluntary and freely negotiated between the landowner and the easement purchaser. But they are complex legal documents, and the negotiations should be done with the aid of an experienced professional.

The terms of the easement are often influenced, in part, on the appraised value of the property and the development rights being negotiated. There needs to be an appraisal if the landowner plans to seek tax benefits by donating the easement. The value of most easements is based on first determining the fair market value of the property without an easement, then subtracting the fair market value of the property with the easement restrictions in place. Local land trusts will know of appraisers qualified to determine the value of an easement.

Once an easement has been sold or donated to an appropriate organization (such as a land trust or a state or federal land management agency), the landowner must abide by the terms written in the easement. To ensure that those terms are being followed, the easement buyer will perform a baseline survey of the property to document the condition of the natural resources. This process will likely include mapping and photographing natural and manmade features and collecting information on wildlife, plants, and land management history. This information will provide the basis on which the easement purchaser will be able to monitor the property.

Once an easement is signed, the development rights belong to the easement purchaser, and they have a right to monitor the property to make sure none of their rights are being violated. Often land trusts will survey the land once a year by walking the property boundary. Site visits are usually scheduled so that the landowner can participate.<sup>14</sup> Easement purchasers may also use remote sensing imagery to monitor properties; this can include satellite imagery and aerial photography. This type of monitoring is especially useful for large properties with working forests. Satellite imagery and aerial photography can be used with Geographic Information Systems (GIS) to determine forest inventory and detect burned and logged areas.<sup>15</sup> Often conservation organizations will ask the landowner for a donation that will be placed in the land trust's stewardship endowment to cover the cost of monitoring into perpetuity.

## Box 2: Working Forest Easements' Cost-to-Benefit Ratio for Local Governments

During the housing boom of the early 2000s, many city and county governments became interested in managing the growth to preserve open space and prevent sprawl. In a recent analysis of public land acquisition policies, the non-profit environmental think tank World Resources Institute (WRI) compared different scenarios in which a municipal or county government could protect forest lands from development while still generating revenue from them. WRI found that working forest conservation easements are likely to provide the best return on such an investment. Due to decreased costs of acquisition and debt servicing, easements are the least expensive way to acquire land for protection. Easements that allow the land to continue to be managed for timber and/or other forest products, i.e., working forest easements, pay for themselves over time and will likely generate benefits that outweigh their costs, even when compared to developing the land for residences.<sup>16</sup> It is for these reasons that conservation easements, especially those that allow land to continue to be productive in some way, have gained popularity all over the country as a tool for conservation.

## WIN-WIN PARTNERSHIPS

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The following case studies highlight examples where partnering with land trusts made environmental and economic sense for corporate landowners, REITs, and TIMOs.

### *Potlatch Corporation and the Moro Big Pine Wildlife Management Area, Arkansas*

**Project Description:** The Moro Big Pine Wildlife Management Area, located in south-central Arkansas, is one of the most recent examples of a 'win-win' partnership between the timber industry and the conservation community. The Moro Big Pine property has been owned by the Potlatch Corporation for over 50 years.<sup>17</sup> Potlatch is a publically-traded REIT, which manages approximately 400,000 Forest Stewardship Council-certified timberlands in Arkansas.<sup>18</sup> In 2007, Potlatch sold a conservation easement on 15,923 acres for \$6.7 million, equal to about \$421 an acre.<sup>19</sup> The sale was remarkable – it formed the largest conservation easement ever established in Arkansas and the largest natural area managed by the state.<sup>20</sup> The easement was acquired through a partnership between the Arkansas Game and Fish Commission, the Arkansas Natural Heritage Commission, the Arkansas Forestry Commission, and the Arkansas chapter of The Nature Conservancy. The area is characterized primarily as a loblolly pine flatwood plant community with bottomland hardwood forests in riparian areas. Very few areas of pine flatwoods are protected in the Gulf Coastal Plain. The Moro Big Pine site is the largest remaining loblolly pine flatwood forest in Arkansas<sup>21</sup> and is home to 12 species of special concern, including the Red-cockaded Woodpecker (*Picoides borealis*), a bird that has been on the Endangered Species List since

1970.<sup>22</sup> In addition, the site is close to Moro Bay State Park and the 65,000-acre Felsenthal National Wildlife Refuge. The easement at Moro Big Pine helps maintain connections between reserves, increasing protection for migratory waterfowl.<sup>23</sup>

**Conditions of the Easement:** Potlatch continues to own the property but, as a condition of the easement, it will manage the property according to a forest management plan jointly developed by all the parties to the easement. The plan aims to restore and maintain processes that support biodiversity while allowing economic activities, such as hunting and growing and harvesting trees, to continue. The easement calls for Potlatch to reintroduce fire to improve wildlife habitat.<sup>24</sup> While the forest management plan has changed the timber operations in some ways, Potlatch continues to harvest timber in much the same way it did before the easement. The easement also transferred the hunting rights to the Arkansas Game and Fish Commission, which now handles the hunting permits. Potlatch no longer leases this property to hunters.<sup>25</sup>

**Rationale for the Easement:** According to Jim Newberry, the Director of Science and Technology at Potlatch and AR Unit Manager at the time of the easement transaction, Potlatch sold the easement simply because it was 'good business.' Potlatch Corporation is able to continue managing the land for timber, mostly in the same ways it had before the easement was in place, and the sale has generated goodwill. The deal was featured on The Nature Conservancy website, and led to items in local newspapers. In 2008, the partners on the project were awarded the Crystal Award for developing tourism in Arkansas.<sup>26</sup> In 2009, the Big Moro Pine WMA was listed as one of the best places to hunt deer in Arkansas.<sup>27</sup> By opening up the land to the public, by protecting rare ecosystems and species for future generation, the reputation of Potlatch in Arkansas was bolstered by their easement sale. Scott Henderson, the Director of the Arkansas Game and Fish best summed it up: "There is a long and rich heritage of hunting and other outdoor recreation in this part of the state. This deal is good for the people of Arkansas, good for wildlife and good for conservation."<sup>28</sup> It was also a good deal for the Potlatch Corporation.

### *North Cumberland Wildlife Management Area, Tennessee*

**Project Description:** The Cumberland Plateau is one of the largest contiguous hardwood forests left in the United States, and is home to more endangered species than anywhere else in North America. Historically, much of the land has been managed as working forests, but recently, as timber companies divested their properties, the northern plateau in Tennessee came up for sale and became at risk for resort community and coal mining development. It became a conservation priority for the state, and a diverse group of public and private partners came together to protect forestland in this region. In 2007, nearly 130,000 acres were conserved through a partnership between the state, The Nature Conservancy, and two timberland investment groups – Conservation Forestry, LLC and the Lyme Timber Company. This project, valued at \$135 million, formed the largest protected parcel of land in Tennessee since the establishment of the Great Smoky National Park. It also connected two other protected areas (Frozen Head State Natural Area to the Royal Blue Wildlife Management Area), helping to preserve connectivity for migrating wildlife.<sup>29</sup>

### *Conservation Forestry, LLC*



The Nature Conservancy and the state agencies involved in the creation of the protected area used funds from the Forest Legacy Program to buy a working forest easement on 18,800 acres of the Emory River tracts. Conservation Forestry purchased 20,099 acres at Emory River in 2007 for \$13.6 million, equal to approximately \$677 an acre.<sup>30</sup> Conservation Forestry is a private equity fund which raises its capital from institutional groups, like public pension funds, and endowments. Like TIMOs, they use working forests to produce a return for their investors. Conservation Forestry stands out among the timberland investment organizations though in its intent to “align private equity with conservation capital.”<sup>31</sup> Its investments support conservation groups in their efforts to protect lands with high conservation value.

***Conditions of the Easement:*** The terms of the easement allowed the forests to continue to be managed as working forests. Conservation Forestry worked closely with the easement purchasers to ensure that the restrictions placed by the easement would still allow them to receive a market rate of return from the sale of the timber. The forest management plan required that Conservation Forestry’s operations be certified to the Forest Stewardship Council (FSC) standard, and that the lands have public access for recreation and hunting.<sup>32</sup>

***Rationale for the Easement:*** Conservation Forestry’s decision to buy an easement-encumbered property helped the state and The Nature Conservancy protect the North Cumberland Plateau. Being able to partner with national land trusts and public agencies to protect important land is part of Conservation Forestry’s strategy of leveraging the goals of its investors with these conservation groups. It provides a risk-adjusted return for timberland to its investors while helping conservation groups accomplish their goals. These types of partnerships help both Conservation Forestry bring a pure timber return to its investors while leveraging the goals of conservation groups to protect land and other conservation objectives. The easement reduced the property value thereby reducing the non-timber or speculative value of the land, making it possible to attain a positive return from the timberland. In the future, Conservation Forestry and future land owners will be able to manage the timberland on a sustainable basis, harvesting timber and reforesting the lands so that investors or private landowners can afford to manage the land for timber. The property will be managed under FSC third-party certification.

### *The Lyme Timber Company*

As a TIMO well known for its conservation-oriented investment strategy, the Lyme Timber Company has helped numerous states and conservation groups gain access to capital so that they can purchase lands with high conservation value.

***Conditions of the Easement:*** To help the state of Tennessee and The Nature Conservancy with the Cumberland Plateau project, Lyme Timber purchased in fee two forest tracts, equaling 47,800 acres. On one of the tracts, it sold a working forest conservation easement on 23,000 acres to the state. Similar to the Emory River Tract, the easement required that Lyme Timber obtain FSC certification on its harvesting operations and prohibits logging from special conservation zones. These 5,000 acres of special conservation zones include ridgelines and rare or threatened species habitat.<sup>33</sup> Despite these

protections, Lyme has been able achieve market rate returns on its operations. In addition to the income that Lyme Timber generates from its timber harvest, it is also involved in recreational and hunting leases that generate additional cash flow.<sup>34</sup>

***Rationale for the Easement:*** The sale of the easement added value to the deal for Lyme Timber. The price of the easement was set to compensate Lyme Timber for the development value of the property, and the company was able to realize a return on its investment early on in the investment cycle.<sup>35</sup> Lyme Timber will sell the parcel within a few years and the sale of the property will provide another source of revenue<sup>36</sup>. In the end, Lyme Timber will have generated a competitive internal rate of return on its investment. The easement also had the advantage of being a less risky investment than a development venture.

In this case, the easement was a good business transaction and Lyme's participation enabled the state and conservation groups to protect a vast area of culturally and environmentally significant land. It is this investment model that has allowed Lyme Timber to thrive as a conservation-oriented TIMO and has made it a valuable partner for both public and private groups with conservation interests.

### *Norfolk Southern's Brosnan Forest, South Carolina*

***Project Description:*** The Norfolk Southern Railway Company donated a conservation easement on one of its properties in South Carolina to protect a forest which has historical and symbolic significance to the company. The Brosnan Forest, 35 miles east of Charleston, has been owned by the railroad company for over 170 years. Throughout Norfolk Southern's ownership of the forest, the property has served different uses. Today, it is mostly used for corporate functions, with a corporate conference center that receives over 6,000 guests a year.<sup>37</sup> Norfolk Southern employees and clients use the forest for hunting, fishing, and vacationing. When neighboring large landowners began to subdivide their properties for development, corporate executives began to think about the future of the Brosnan Forest. The forest is located in Dorchester County, the third-fastest growing county in South Carolina, and the land value was increasing so the pressure to develop it was great. Conservation-minded executives wanted to ensure that the property remained an important part of Norfolk Southern culture into the future.<sup>38</sup>



To protect the land from development, Norfolk Southern donated a conservation easement to the local Lowcountry Open Land Trust in 2008. The donation was valued at \$32.8 million.<sup>39</sup> The easement protected 12,488 acres - the largest conservation easement given by a corporation in South Carolina's history. The donation added to a larger project of protected lands in the Ashepoo, Combahee, and Edisto (ACE) Basin, one of the largest intact coastal ecosystems on the East Coast. Six thousand of the acres donated provide habitat for 79 groups of endangered Red-cockaded Woodpeckers, making it the world's largest population of these birds on private property under single ownership.<sup>40</sup>

Brosnan Forest is rich habitat for Red-cockaded Woodpeckers because of Norfolk Southern’s long-term management of the forest for quail hunting. To manage the forests for wildlife, Norfolk Southern has been enhancing the habitat through a combination of selective thinning of mature timber and controlled burning of the herbaceous vegetation for 50 years. Hunting leases are operating on about 300 acres of Brosnan Forest and bring in about \$3,600 per year. Norfolk Southern also sustainably manages timber on all of the property and recently had the property certified under the Sustainable Forestry Initiative (SFI) program.



Brosnan Forest protects long leaf pine stands (on left) – important habitat for the Red-cockaded Woodpecker (on right).

Photos courtesy of Josh Raglin.

*“We believe it is our responsibility to support and encourage sustainability practices that will protect and conserve natural resources for generations to come. Our partnership with LOLT will help preserve Brosnan Forest’s natural and historic value for the future.”*

Norfolk Southern CEO Wick Moorman

**Conditions of the Easement:** The conservation easement limits timber harvesting to the extent needed to maintain the health of the forest and its associated Red-cockaded Woodpecker habitat. Approximately 2,000 acres of the property will be converted from planted loblolly pine to longleaf pine. There is a potential for carbon credits on the entire property.

This donation qualified for a charitable tax deduction, and allowed Norfolk Southern to take advantage of federal and state tax benefits. Under the U.S. income tax law, Norfolk Southern is a C-corporation and was eligible for a 10 percent deduction

from net income. This can be carried forward for six years. Under the South Carolina Conservation Incentives Act, Norfolk Southern was also eligible for a tax credit equal to 25 percent of the value of the donation.<sup>41</sup>

**Rationale for the Easement:** For Norfolk Southern, the easement was placed for reasons that went beyond tax benefits. The land has played an integral part in the company’s culture and history. According to Josh Raglin, the General Manager Facilities at the Brosnan Forest, Norfolk Southern

employees are proud that their company has made such a lasting contribution to land conservation. This transaction received a lot of media coverage all over South Carolina. It has helped Norfolk Southern's reputation as a good neighbor in eastern South Carolina, as stated by Will Haynie, Executive Director of the Lowcountry Open Land Trust: "Not only has Norfolk Southern been a good steward of these thousands of acres for more than 160 years, but they also are good neighbors by forever preserving the rural character of this community."

### *Dragon Run, Virginia*

**Project Description:** In 2010, The Forestland Group, LLC, a TIMO that manages approximately 3.4 million acres in 20 states and internationally, partnered with The Nature Conservancy to protect 13,350 acres of forest land in the Dragon Run and Mattaponi Watersheds using a conservation easement. The easement is the largest in Virginia state history. The Nature Conservancy bought the land from Hancock Timber Resources Group for \$21.7 million, placed an easement on it, and resold it to The Forestland Group for the reduced price of \$12 million (Nealon, 2010). The easement more than doubled the amount of protected acreage in one of Virginia's last remaining undeveloped watersheds. The Dragon Run watershed includes vital nurseries for commercially important fishes in the Chesapeake Bay. The protection of this watershed also protects water quality, forests, swamps, and wildlife habitat (TNC, 2010).

**Conditions of the Easement:** Under the restrictions set forth in the easement, a forest management plan was implemented that prohibited The Forestland Group from harvesting timber within 100 feet of wetlands and streams. The Forestland Group normally manages its landholdings for sustainable timber production, and would ordinarily protect these important ecosystems. The uplands are managed for forest products as they had been for decades. The Forestland Group is able to earn a competitive return from its timber operations on this property. The easement also allows The Forestland Group to sell leases for hunting and recreation. Because the tract is within an hour of Richmond, there is a high demand for recreation and the leases generate approximately \$75,000 in annual revenue.

Another interesting component of the easement was that The Forestland Group is able to subdivide the property into 27 parcels and develop one structure on each parcel. So in this case, the easement does not completely take away the development rights of the landowner.

**Rationale for the Easement:** Blake Stansell, the Vice President of Investments at the Forestland Group, explained the rationale behind conservation easements succinctly: "The easement allows us to concentrate our dollars in timber without putting significant dollars into the dirt." The easement allowed The Forestland Group to focus its investment on the asset that brings in a return for its investors. They are able to get a better return from their investment, which, of course, is the main concern of any TIMO's clients. However, many of The Forestland Group's investors also choose to invest in it because of its reputation as a conservation-oriented timberland manager. Thus, large conservation projects like this



are important to maintaining and attracting investors who care about the environment. The property was a smart investment for the Forestland Group, and it plans to manage the forests for continued timber harvesting. While the Forestland Group hopes eventually to sell the property as a whole, if the value is not good, they will consider selling the parcel subdivided.

### *Plum Creek in Florida*

With approximately 6.8 million acres of timberland, Plum Creek, a timber REIT, is the nation's largest private landowner. All of Plum Creek's timberlands are certified to the SFI standard, and conservation is an important part of the company's activities. In Florida, with more than 60,000 acres under the protection of permanent conservation easements, Plum Creek is the state's largest private landowner of conservation lands.<sup>42</sup> In Florida, conservation easements are an important tool that helps Plum Creek to generate value on some of its properties. The following case study looks at two examples where Plum Creek used conservation easements to participate in ecosystem service markets.

#### *Marion County and Transfer of Development Rights*

**Project Description:** Marion County, in north central Florida, lost 40,512 acres of farmland to development between 1982 and 2002.<sup>43</sup> Population models predicted that the population of central Florida would become 'explosive' and land would be completely urbanized within 50 years.<sup>44</sup> Interested in retaining the rural character of Marion County, county officials began a voluntary transfer of development rights (TDR) program in 2004 to protect areas of high conservation value.<sup>45</sup> In exchange for protecting land with a conservation easement, landowners are able to transfer those development rights to parcels that are planned for development. For every one acre under easement protection, the county gives one credit of development rights to the landowner. These credits allow the developer to build at densities 10 times higher than is ordinarily permitted under base zoning.<sup>46</sup> The credits can be sold or used by the landowner; as of 2008, under neighboring county TDR programs, credits were sold for \$30,000 each,<sup>47</sup> although pricing is variable and depends on market conditions.

**Conditions of the Easement:** Plum Creek owns approximately 4,000 acres in Marion County. In 2009, the company placed nearly 2,000 acres under easement protection and obtained 2,000 development rights credits. The easement allowed Plum Creek to continue to manage the property for timber, in the same manner as other actively managed timber holdings in the area.<sup>48</sup> This easement is helping Marion County meet its conservation goal of 5,000 acres under easement protection by 2015.

**Rationale for the Easement:** The easement-encumbered property continues to produce income for Plum Creek through active forest management. Under Florida law, easement-encumbered land that produces profits is eligible for a 50 percent exemption from property taxes. Although Plum Creek does not take this exemption, this provision could provide an incentive for companies to participate in conservation easements. Companies also may sell these credits. (Plum Creek, 2009)

## *Conservation Banking in Alachua County*

**Project Description:** Development has had significant impacts on many of Florida's wildlife. The gopher tortoise (*Gopherus polyphemus*) is one species whose population has declined precipitously because of habitat loss due to development. In August 2011, statewide surveys suggest that the tortoise may be eligible for protection under the Endangered Species Act.<sup>49</sup> Since 2007, Florida law requires that before land is cleared for development, the land must be surveyed for gopher tortoise burrows. If gopher tortoises live on the property, developers must relocate tortoises to a site certified by the Florida Fish and Wildlife Conservation Commission (FWC).<sup>50</sup>

**Conditions of the Easement:** In 2009, 570 acres of Plum Creek's easement-encumbered properties became the first certified recipient site in Florida for gopher tortoises. These 570 acres are part of a larger property called Lochloosa Conservation Easement, which includes 16,610 acres that Plum Creek acquired in 2001 as part of the merger in 2001 with The Timber Company, a subsidiary of Georgia-Pacific. While this land is primarily managed for timber on an industrial scale, this use is compatible with the needs of gopher tortoises. To enhance the area's suitability for tortoises, Plum Creek opened the forest understory through mechanical thinning and prescribed burning. The area is currently permitted to host 1,781 resident gopher tortoises.<sup>51</sup>

**Rationale for the Easement:** This case illustrates how active forest management can coexist with and even support the ecosystem service market called mitigation banking. Mitigation banks are created when private landowners, like Plum Creek, conserve land or restore habitat of endangered or threatened species into perpetuity. Landowners who wish to develop habitat for the species of interest are required to offset potential species impacts by investing in habitat protection projects located elsewhere. In Florida, landowners that wish to develop gopher tortoise habitat must pay to relocate their tortoises to the permanently protected recipient sites. In this case, as the host for the gopher tortoise mitigation site, Plum Creek may receive an estimated \$500 - \$1200 per tortoise.<sup>52</sup> Plum Creek plans to make the remaining Lochloosa Conservation easement acreage a certified recipient site capable of protecting 17,000 displaced gopher tortoises.<sup>53</sup>

In 2009, Florida voters supported legislation to exempt from *ad valorem* taxation up to 50 percent of the assessed value of properties that are protected with a perpetual conservation easement. For Plum Creek, both of these properties meet the exemption requirements. In a state like Florida, where there is no state income tax, these property tax exemptions provide a significant financial incentive to sell or donate an easement.

Through these two projects, it is clear that Plum Creek's conservation easement efforts are providing an important tool to help in the local and state efforts to protect important natural resources, like tortoises and farmland.

## *Working Forest Conservation Easements in Minnesota's North Woods*

**Project Description:** Forest Capital Partners (FCP) is a Timber Investment and Management Organization (TIMO) with approximately 1.9 million acres of working forestland in five states. FCP recently completed a series of major conservation easement transactions on its working forest properties in the state of Minnesota.

In 2005, FCP bought over 300,000 acres of Minnesota forestland from previous owner Boise Cascade. Soon thereafter, The Nature Conservancy, The Conservation Fund and the Minnesota Dept. of Natural Resources, part of a larger coalition called the Minnesota Forest

Legacy Partnership, approached FCP about the possibility of creating working forest easements

on some of its new holdings in Minnesota's north woods. The first conservation easement transaction was completed in 2007 – 51,163 acres in Koochiching and Itasca Counties at a price of \$12 million – at the time the largest such deal in the state's history.<sup>54</sup> Phases 2 and 3 of the project were completed in 2010, protecting an even larger expanse of Koochiching County (76,249 acres) in exchange for \$13 million in federal and state funds.<sup>55</sup> More recently, the fourth phase was completed with the sale of a working forest easement on an additional 6,996 acres in southeastern Koochiching County, at a cost of \$1.4 million paid by The Nature Conservancy.<sup>56</sup>

Taken at face value, FCP's working forest conservation easements in Minnesota protect over 130,000 acres of the state's iconic north woods. But, the true benefits for wildlife are even greater, as these FCP properties serve to fill in the gaps between roughly half a million acres of existing public conservation lands in the region. The resulting complex of coniferous forests, peatlands, lakes and streams will protect numerous rare and otherwise highly-valued species, including gray wolves, black bear, Canada lynx, American black duck, American woodcock, northern goshawk, boreal owl and numerous songbirds. Minnesota now has around 3000 wolves, and the species is doing so well in the northern part of the state that this population was recently removed from the Endangered Species list. In contrast to reports from other regions where wolf recovery is underway, the presence of gray wolves and the occasional cougar on FCP properties has had no real impact on the company's ability to either manage or profit from the land, nor do the wolves affect the sale of hunting leases.<sup>57</sup>



Photo courtesy of Forest Capital Partners

These transactions provide plenty of benefits for people, too, as the working forest easements ensure that trees will continue to be harvested sustainably, supplying wood for local mills. In addition to jobs, the FCP easements provide for public access and preserve recreational opportunities important to north woods residents such as hunting, fishing, hiking and trail-riding.

**Conditions of the Easement:** FCP's Minnesota conservation easements are in perpetuity. They grant public access for outdoor recreation, ensure sustainable forest management and conserve wildlife habitat. The state of Minnesota and other interests hold mineral rights on portions of the properties protected by the easements, and in those areas the forests are not protected from mining. However, the easements require that any mined areas be reforested, and if that is not possible, that new acreage of forestland be substituted for the damaged areas.

**Rationale for the Easement:** Selling the development rights in the form of a conservation easement allowed an early return on the investment (totaling at least \$26 million) for land that was purchased primarily for forest management. Ongoing forest management on the easement lands continues to provide FCP with return on their investment from sustainable timber harvest operations under terms that are consistent with the company's commitment to forest certification under the Sustainable Forestry Initiative® program.

"Brian Kernohan, spokesman for Forest Capital Partners, said the easements allow the company to continue to operate its core timber business at a time when both global competition and the economy have battered the wood products industry.

"The truth is," he said, "selling the land is more valuable than holding it. Conservation easements are a nice way to close that gap." His company holds up Minnesota as a model in other states where it operates, such as Oregon and Louisiana, and would like to do more such deals."<sup>58</sup>

FCP does expect that easements will affect the value of the properties where they are located. While FCP has not purchased forestland with easements in place in the past, it is open to making such purchases in the future if suitable properties were made available, a fact that should prove comforting to other TIMO's and REIT's contemplating the placement of easements on their own holdings.

As a conservation-minded organization, the public relations benefits to FCP are also important. FCP recognizes that the citizens of Minnesota value the north woods for wildlife habitat and other environmental priorities, as well as for recreation and economic stability in rural communities. The easements address all of these values.

FCP received recognition from SFI for its involvement in these conservation transactions, fulfilling an SFI standard that encourages the protection of working forests. Also, SFI and the Congressional Sportsmen's Foundation jointly awarded FCP with their inaugural "Wildlife Stewardship Award" for the company's efforts to protect the vast forests of northern Minnesota.<sup>59</sup>

## ECONOMIC BENEFITS

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Through these case studies, different types of economic benefits have surfaced. This section provides a basic summary of these benefits.

### *Sale of an Easement*

Landowners will get revenue from the sale of an easement while still holding on to their property. This money can be reinvested and keep returning interest to the landowner. In the cases described above, the timber companies felt they received fair compensation for giving up their development rights. In most cases, the value of an easement is based at least on the fair market value, so the development rights that are sold at least equal the amount that would be earned if the property were developed. Often this is a safer investment strategy because timberlands provide a steadier flow of income than many development ventures. Development ventures are risky, and in today's economic climate, it is difficult to get more than the fair market value for a piece of property. According to Peter Stein of the Lyme Timber Company, easements usually represent a third to two-thirds of the property's fair market value.<sup>60</sup> Thus, easements currently provide a competitive alternative to development.

### ECONOMIC BENEFITS

- Sale of an easement provides revenue from "the dirt"
- Tax benefits
  - Property tax reductions
  - Charitable and estate tax deductions for donated easements
- Increased opportunities to participate in markets for ecosystem services
- Sustainable forestry certification
- Public relations

### *Federal and State Tax Incentives for Donated Easements*

*State and federal tax codes change. All decisions to donate an easement should be done in close cooperation with a professional accountant to make sure tax benefits are maximized.*

### *Lower Property Taxes*

In most cases, the most important tax benefit a TIMO or REIT can obtain from an easement sale or donation is reduced property taxes. In many states, property taxes are *ad valorem* taxes and based on the highest and best use (HBU) value of the land. With an easement, especially in areas with high development pressure, the value of the property is often significantly reduced from its HBU so the property is assessed at a lower value.<sup>61</sup> Many times easements will be taxed as 'agricultural land.' Some states, like North Carolina, have programs to evaluate land use as 'wildlife habitat.'<sup>62</sup> Not every state taxes property on an *ad valorem* basis and not every county tax assessor will enact state legislation in the same way; landowners should consult with the county to maximize the property tax benefits that can be gained from conservation easements.

### Charitable Tax Deduction

If easements on land that has high conservation value are **donated**, or sold through a bargain sale, to a qualified organization, such as a land trust or government agency (local, federal, and state), the landowner can take advantage of federal and state tax benefits, including savings on income and estate taxes. These tax benefits can compensate for some of the loss in property value due to an easement; sometimes the benefits exceed costs!

The charitable tax deduction for federal income taxes is equal to the fair market value of the gift. For a personal income tax return, the deduction is limited to 50 or 100 percent of the landowner's adjusted gross income.<sup>a</sup> If this limitation prevents the full value of the gift from being deducted in one year, the deduction will carry forward for 16 years or until the full value is deducted. Partnerships can also take advantage of charitable tax deductions but the shares are distributed among the partners and deducted in their personal income tax returns. The LLC, in and of itself, cannot claim the deduction. Of course, if the investors are tax-exempt organizations, these charitable tax benefits do not apply. TIMOs and REITs are taxed like S Corporations, i.e. in a similar manner to partnerships. They are required to deduct charitable donations through the tax returns of their shareholders, and not from the company itself. Because these deductions are on personal income tax returns, they are subject to the limitations mentioned above, i.e. the deduction is usually limited to 50 percent of adjusted gross income and can carry forward for 16 years. C Corporations, such as traditional timber companies, can claim a charitable tax deduction but they are limited to a 10 percent deduction from net income and they can carry this forward for only six years, as opposed to 16 years. C Corporations are also allowed to deduct donations of ordinary income properties,<sup>b</sup>

According to federal tax code, only donated easements with high conservation value qualify for income tax and estate tax deductions. Easements that have high conservation value include:

- High quality fish, plant, wildlife habitat or ecosystem protection
- Open space protection, including:
  - Forest land, agricultural land, and ranches
- Property accessible to the public for:
  - Outdoor recreation opportunity
  - Historic site preservation

Most states also require this standard to be met to qualify for state tax credit programs.



The value of the easement is equal to the difference between the value of the property at its 'highest and best use' and the value of the property after the easement.

<sup>a</sup> Donated properties that have appreciated long term capital gains may be limited to a 30% deduction and a 5 year carry-forward. Farmers and ranchers can qualify for a 100% deduction.

<sup>b</sup> Ordinary income properties are properties that do not result in capital gains. Usually properties that are held for less than one year are considered ordinary income. Ordinary incomes properties are taxed at a lower rate.

up to half of their appreciated value. The donation of the easement also reduces the corporation's taxable income included in earnings and profits by a reduction equal to the amount of adjusted basis in the property.<sup>63</sup> Most southern states also provide tax incentives for donated easements, see table 1 for details.

#### *For Private Individual Landowners*

Estate taxes can be reduced by the placement of a conservation easement. Section 508 of the Taxpayer Relief Act allows a 40 percent estate tax exemption (capped at a value of \$500,000) for land placed under a conservation easement. Easements that are donated after the death of the landowner by his or her heirs are also eligible for estate tax benefits.<sup>64</sup>

#### *Payment for Ecosystem Services*

Easements can be written to ensure that the land still provides sources of financial return. The HBU of forested land is often an ecosystem service. The most common ecosystem services that provide a return are timber, hunting leases, and public access fees. Biofuels may become an important market for timberland investors as well. Depending on the condition of the forest on the land, these income sources can make a return equaling a significant proportion of the initial investment within a few years.<sup>65</sup>

In some cases, permanent protection as provided by a conservation easement is essential in participating in markets for ecosystem services. Wetland and stream mitigation banking projects require that banks be preserved forever. The preferred method for doing this is a conservation easement.<sup>66</sup> Conservation banking, for habitat of threatened or endangered species, is another market in which conservation easements are a requirement for participation. Conservation banking projects for threatened or endangered species are becoming more numerous. Conservation banks exist in at least five southern states.<sup>67</sup> Water quality trading programs also exist in many states, and conservation easements may help a project qualify for tradable credits.

Other ecosystem service markets are emerging. Carbon sequestration through reforestation and forest management may qualify a landowner for carbon credits under a cap-and-trade system. It is unclear if easements will play a role in this market. The protection of riparian forests with easements may qualify for emerging watershed services payments. These types of payments already exist in parts of the developing world and their adoption is being advocated for in the United States.<sup>68</sup>

Table 1. Most southern states provide some tax incentives to those who donate easements with conservation value.<sup>69;c</sup>

State	Tax Credit Program	Value
Alabama	Forever Wild Trust Fund	The value of the charitable tax deduction is doubled if the land is a Forever Wild easement
Arkansas	Wetland and Riparian Zones Tax Credit Program	Income tax credit for 50% of easement's appraised value
Florida	Amendment 4	Exempts most conservation easements from state property taxes
Georgia	Tax Credit Program	Income tax credit worth 25% of fair market value of donated conservation easement
Kentucky	The Farmland Preservation Act	Income and estate tax benefits for donating easements to save open space and agricultural land
	The Private Dedication Program	Tax breaks for easements that protect lands of high conservation value
Louisiana	Coastal and Estuarine Land Conservation Program	This does not provide tax benefits but will match funds 1:1 to purchase easements in coastal and estuarine habitats
Mississippi	2003 Law 453 (H.B. 701)	Tax credit of 50% of the transaction costs associated with donating easements in riparian zones or in areas of high conservation value
	2010 Tax Credit for Nature Areas (H.B. 1716)	Tax credit on lands protected for habitat or recreation
North Carolina	N.C. Conservation Tax Credit Program	Income tax credit worth 25% of fair market value of donated conservation easement
South Carolina	1976 code Amendment	Income tax credit worth 25% of fair market value of donated conservation easement
Tennessee		None
Virginia	Virginia Land Conservation Act of 1999	Income tax credit worth 40% of market value of donated conservation easement
	Estate Tax Benefits	Donated easements are excluded from the estate tax
	Capital Gains State Tax Benefit	Easements sold for open space protection are exempt from the state capital gains tax on the sale
West Virginia		None

<sup>c</sup> More extensive information on state-by-state conservation programs can be found at: Land Trust Alliance, <http://www.landtrustalliance.org/policy/tax-matters/campaigns/state-tax-incentives> and Defenders of Wildlife at [http://www.defenders.org/resources/publications/programs\\_and\\_policy/biodiversity\\_partners/conservation\\_in\\_america\\_state\\_profiles.pdf](http://www.defenders.org/resources/publications/programs_and_policy/biodiversity_partners/conservation_in_america_state_profiles.pdf).



### *FSC or SFI certification, market premium for wood*

Sustainable forestry practices can be certified to Forest Stewardship Council (FSC) or Sustainable Forestry Initiative (SFI) standards. To earn certification, both FSC and SFI require that landowners show a commitment to protecting biodiversity. One of the SFI standard indicators (4.1.3) for conservation of biological diversity includes plans for protection that may include the use of easements.<sup>70</sup> FSC does not explicitly state that a conservation easement helps a landowner meet certification requirements. However, its audits show that the presence of a conservation easement on the property is considered when making a decision about certifying a particular tract of timber.<sup>71</sup> In some markets, FSC- or SFI-certified timber can be sold at a premium.<sup>72</sup>

If labeled as such, lumber or paper sourced from land protected under a conservation easement could also bring in a premium. Although no firms have yet tried to label wood products in this way, labeling is an increasingly important way to create demand and provide incentives for environmentally-sustainable business practices. There are many examples of this already working, including dolphin-safe labels on tuna, organic labeling on food, and carbon footprint labels - conservation easement labels could work in the same way.

### *Enhancement of Corporate Reputation*

Most of the case studies mentioned the importance of improved public relations due to the placement of an easement. At a national level, a partnership with a respected conservation organization, such as The Nature Conservancy, demonstrates the corporation's commitment to environmental responsibility. Most companies issue press releases or hold events to promote the conservation project.

Corporations can also use easements to improve relationships with local residents. Protecting open space and providing public access is a great way to be a good neighbor, especially in areas where there is a lot of development. And keeping working forests working helps ensure that local people can count on jobs in the timber industry into the future. Referring to The Nature Conservancy's work to protect timberland in the Adirondacks, Robert Davies from the State Department of Environmental Conservation in New York noted: "It is conservation easements such as this which are saving logging in the Adirondacks."<sup>73</sup>

## BUILDING TRUST

### Regarding the Moro Big Pine Project

"This project ensures the land will remain forested, provide habitat for wildlife and be open to the public. This is a great conservation achievement made possible by the cooperation of state agencies, non-profit organizations and Potlatch."

Scott Simon, director of  
The Nature Conservancy in  
Arkansas

### Regarding the Brosnan Forest

"This is one of the finest acts of corporate citizenship in the history of our state. Not only has Norfolk Southern been a good steward of these thousands of acres for more than 160 years, but they also are good neighbors by forever preserving the rural character of this community. The gift will benefit the residents of South Carolina for generations to come."

Will Haynie, executive director  
of the Lowcountry Open Land Trust

### Regarding the Koochiching Easements in MN

"This conservation easement, along with other recent easements, makes this a landmark opportunity to protect natural resources. The easement will maintain access for hunting and fishing and other outdoor recreational pursuits, while guaranteeing that lands are available for timber harvest in the future. The easement is a smart investment that will protect Minnesota's Great Outdoors for our children and grandchildren."

Mark Holsten, Minnesota DNR  
Commissioner

"Fragmentation of Minnesota's North woods is one of the most significant threats to wildlife, especially species that need large blocks of forest like bears, wolves and many species of neotropical migratory songbirds. This project will keep the land intact so that it continues to produce timber and jobs while providing essential habitat for wildlife."

Peggy Ladner, director of The  
Nature Conservancy in Minnesota

### Regarding Lyme Timber

"Lyme Timber is really thinking about conservation - they really want that to happen. Lyme Timber is exceptional on this."

David Houghton, President of  
New Hampshire Audubon

### Regarding the Dragon Run Project

"Our goal is to protect the best remaining functional forest in the Chesapeake Bay watershed to provide water quality, wildlife and forestry benefits for the citizens of Virginia. This partnership between the Hancock Timber Resource Group, The Forestland Group and The Nature Conservancy represents our shared interest in conserving the ecology and traditional industries this special place supports."

Michael Lipford, director of  
The Nature Conservancy in Virginia

## ECONOMIC COSTS

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There are economic costs to selling or donating an easement. The main cost is lost opportunity, as an easement may restrict a landowner from participating in a future market. Easements sometimes require public access on the land, resulting in costs associated with maintaining roads, public facilities, and trails. Easements must be monitored; often easement sellers will pay for this monitoring by donating money to a land trust stewardship endowment. This is a one-time donation.<sup>74</sup>

## ENVIRONMENTAL BENEFITS

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Land that is protected from development through easements provides ecosystem services for now and for future generations. This gives businesses an opportunity to participate in existing and emerging markets for environmental services. Working forest conservation easements ensure a continued supply of timber. In the time of advanced technology, it is easy to overlook the importance of forest products. Unlike petroleum-based products, forests provide a renewable source of material and fuel that biodegrade naturally and do not release any toxins into the air, soil, and water.

Forests and wetlands are also an important carbon sink. Trees sequester carbon in their roots, trunks, leaves, and branches and some wetland soils are very carbon rich (such as peat soils in the swamps of the southern coastal plain). Markets already exist to trade carbon credits, as climate change science gains broader acceptance from the public, legislation for cap-and-trade will help facilitate the creation of a carbon credits for those who protect forests and certain wetlands. Many corporations, like Norfolk Southern, are already reforesting large areas in preparation for carbon markets.<sup>75</sup>

Conservation easements in riparian areas and wetlands help protect water supplies. The prohibition of development in these areas prevents erosion, reduces flow of contaminants and sediment into water, reduces the risk of flooding, and prevents damage to fisheries. Wetland mitigation banks compensate those who protect wetlands, thus providing us with invaluable ecosystem services. Lyme Timber has made wetland mitigation banking part of its investment strategy at the Great Dismal Swamp in Virginia.<sup>76</sup> Along these lines, conservation banking is also an investment strategy to reward those who protect habitat for threatened and endangered species. The forests of the south are some of the most biodiverse forests in the world and have high levels of endemism – meaning that many species occur nowhere else on Earth. Conservation banking may become an increasingly important strategy in protecting endangered species in the south, as more and more forests become developed to house the growing population.

Lastly, as our population grows the opportunities to enjoy the outdoors – to hunt, hike, fish, canoe, and camp – will become more limited. To ensure that scenic places remain a part of the south's heritage, conservation easements need to become a more widely accepted tool for land protection.

## CONCLUSION

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Land protected with a conservation easement ensures that current and future generations of Americans will be able to partake in numerous ecosystem services. In many regions of the country, these services are often protected on public lands. In the south, where so much land is privately owned, conservation easements provide a means for the public to help ensure that natural and historic resources are preserved while still keeping land in private ownership. To protect lands in the south requires close collaboration with private landowners. And, because many southern forest landowners generate income from their land, it must make good financial sense for landowners to put land into conservation. Both small landowners and large corporate landowners care about getting a return off their land. Conservation easements are appraised at fair market value; they can have numerous financial incentives through state and federal tax codes. They provide corporations with an opportunity to participate in emerging markets for ecosystem services, and to demonstrate their commitment to the environment. These economic incentives make conservation easements, especially working forest easements, one of the best tools available for conserving land in the south.

### *How to Pursue an Easement*

Corporate and private landowners wishing to take advantage of the tremendous economic and environmental benefits of conservation easements should contact a local land trust. Land trusts are non-profit organizations that conserve lands through easements or fee-simple acquisitions. As of 2010, The Land Trust Alliance (LTA) recognized approximately 150 land trusts as active in the south.<sup>77</sup> These land trusts are responsible for monitoring easements to make sure landowners abide by the terms. Although land trusts have been established since the 1960s, the past three decades have seen a dramatic increase in the acreage they are purchasing. In 2009, 82 percent of the acreage conserved by southern land trusts was protected with easements.<sup>78</sup>

The Land Trust Alliance (<http://www.landtrustalliance.org/>) is a great resource to find contact information on certified land trusts in your state. The Nature Conservancy (<http://www.nature.org/>) is the largest land trust in the world and has a long history of partnering with industry to conserve biodiversity. The end of this report has contact information for state chapters. The Conservation Fund (<http://www.conservationfund.org/>) spun off from The Nature Conservancy in 1985, and specializes in making conservation an economic asset. The next section has a list of state-specific resources and more information on easements.

## RESOURCES

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### *Information on Conservation Easements*

Tax and Property Value Effects of Conservation Easements: [http://www.lincolnst.edu/pubs/1128\\_Tax-and-Property-Value-Effects-of-Conservation-Easements](http://www.lincolnst.edu/pubs/1128_Tax-and-Property-Value-Effects-of-Conservation-Easements)

Conservation Easements: A Position Statement of the Society of American Foresters [http://www.eforester.org/fp/documents/conservation\\_easements.pdf](http://www.eforester.org/fp/documents/conservation_easements.pdf)

Working Forest Conservation Easements in North Carolina: <http://www.ncforestry.org/WEBPAGE/S/PUBS%20AND%20VIDEOS/WORKING%20FOR%20EST%20EASEMENT%20WEB.pdf>

Forests at Work: A New Model for Local Land Protection: [http://pdf.wri.org/forests\\_at\\_work.pdf](http://pdf.wri.org/forests_at_work.pdf)

A Citizen's Guide to Conservation Easements in Alabama and Mississippi <http://www.olemiss.edu/orgs/SGLC/citizen.pdf>

Private Landowner Network <http://www.privatelandownernetwork.org/>

Books on conservation easements <http://www.preservingfamilylands.com/>

*Contact Information for Organizations in the US South*

USFS Forest Legacy Program Southern Region -- Region 8 (AL, AR, FL, GA, KY, LA, MS, NC, OK, SC, TN, TX, VA)  
U.S. Forest Service  
1720 Peachtree Rd., N.W.  
Suite 846N  
Atlanta, GA 30309  
404-347-5214

### **Alabama**

Alabama Forever Wild Program  
Alabama Dept. of Conservation and Natural Resources: <http://www.dcnr.state.al.us/>

Alabama Forest Resources Center  
<http://www.alfrc.org/>

The Nature Conservancy of Alabama  
<http://nature.org/wherewework/northamerica/states/alabama>

Alabama Land Trust  
<http://www.allandtrust.org>

Black Warrior-Cahaba Rivers Land Trust  
<http://www.jeffcointouch.com/jeffcointouch/departments/BlackWarriorCahaba/>

Land Trust of Huntsville & North Alabama  
<http://www.landtrust-hsv.org>

### **Arkansas**

Arkansas Natural Resources Commission:  
<http://www.anrc.arkansas.gov>

Arkansas Department of Agriculture <http://www.arkansas.gov/>

Arkansas Department of Natural Resources <http://www.arkansas.gov/>

The Nature Conservancy of Arkansas  
<http://nature.org/wherewework/northamerica/states/arkansas>

Eleven Point River Conservancy <http://www.elevenpointriver.org/>

Northwest Arkansas Land Trust <http://www.nwlandtrust.org/>

## Georgia

Georgia Department of  
Agriculture [http://agr.georgia.gov/02/doi/home/0,2473,3890273,2,00.htm](http://agr.georgia.gov/02/doa/home/0,2473,3890273,2,00.htm)

Georgia Department of Natural  
Resources <http://www.gadnr.org/>

The Nature Conservancy of Georgia  
<http://nature.org/wherework/northamerica/states/georgia>

Georgia Land Trust Service  
Center <http://www.gepinstitute.com/>

Athens Land  
Trust <http://www.athenslandtrust.org/>

Broad River Watershed  
Association <http://www.brwa.org/>

Camden County Land  
Trust <http://www.camdencountylandtrust.org/>

Chattowah Open Land  
Trust <http://www.chattowah.org/>

Gwinnett Open Land  
Trust <http://www.gwinnettlandtrust.org/>

Lookout Mountain Land  
Trust <http://www.lookoutmountainlandtrust.org/>

Lula Lake Land Trust  
<http://www.lulalake.org/>

Mountain Conservation Trust of  
Georgia <http://www.mctga.org/>

Oconee River Land Trust  
<http://www.orlt.com/>

Southeast Land Preservation  
Trust <http://www.slpt.org/>

Southern Conservation  
Trust <http://www.sctlandtrust.org/>

St. Simons Land Trust  
<http://www.sslt.org/>

The Central Savannah River Land  
Trust <http://www.csrlt.org/>

The Cobb Land Trust,  
Inc. <http://www.cobblandtrust.org/>

Georgia Land  
Trust <http://www.galandtrust.org/>

## Florida

Florida Department of  
Agriculture <http://www.doacs.state.fl.us/>

Florida Department of Natural  
Resources <http://www.dep.state.fl.us/>

The Nature Conservancy of Florida  
<http://nature.org/wherework/northamerica/states/florida>

Apalachee Land  
Conservancy <http://www.apalacheelandconservancy.org/>

Calusa Land Trust and Nature Preserve of Pine  
Island, Inc. <http://www.calusalandtrust.org/>

Conservation Trust for Florida,  
Inc <http://www.conserveflorida.org/>

Green Horizon Land  
Trust <http://www.greenhorizon.org/>

Indian River Land  
Trust <http://www.indianriverlandtrust.org/>

Lemon Bay Conservancy,  
Inc. <http://www.lemonbayconservancy.org/>

North Florida Land Trust

<http://www.nflt.org/>

Sarasota Conservation  
Foundation <http://www.sarasotaconservation.org/>

Sportsmen's National Land Trust,  
Inc <http://www.sportslandtrust.org/>

Tall Timbers Research Station & Land  
Conservancy  
<http://www.talltimbers.org/>

Tampa Bay Conservancy, Inc.  
<http://www.tampabayconservancy.org/>

## **Kentucky**

Kentucky Department of  
Agriculture <http://www.kyagr.com/>

Kentucky Department of Natural  
Resources <http://www.naturalresources.ky.gov/>

The Nature Conservancy of Kentucky  
<http://nature.org/wherework/northamerica/states/kentucky>

Bluegrass  
Conservancy <http://www.bluegrassconservancy.org/>

Kentucky Natural Lands  
Trust <http://www.knlt.org/>

Kentucky Rails-to-Trails Council,  
Inc. <http://www.kyrailtrail.org/>

River Fields, Inc.  
<http://www.riverfields.org/>

The Boone  
Conservancy <http://www.thebooneconservancy.org/>

The Kenton  
Conservancy <http://www.kentonconservancy.org/>

## **Louisiana**

Louisiana Department of  
Agriculture <http://www.ldaf.state.la.us/>

Louisiana Department of Natural Resources  
<http://dnr.louisiana.gov/>

The Nature Conservancy of Louisiana  
<http://nature.org/wherework/northamerica/states/louisiana>

Coastal Plain  
Conservancy <http://www.coastalplain.net/>

## **Mississippi**

Mississippi Department of Wildlife, Fisheries  
and Parks  
<http://home.mdwfp.com/>

Mississippi Fish and Wildlife  
Foundation <http://www.wildlifemiss.org/financial/easements/index.html>

The Nature Conservancy of  
Mississippi <http://nature.org/wherework/northamerica/states/mississippi>

Delta Land Trust  
<http://www.deltalandtrust.org>

Land Trust for the Mississippi Coastal Plain  
<http://www.ltmcp.org>

Mississippi Land Trust  
<http://www.misslandtrust.org>

Mississippi Department of Agriculture  
<http://www.mdac.state.ms.us/>

Mississippi Department of Natural  
Resources <http://www.ms.nrcs.usda.gov/>

Mississippi River  
Trust <http://www.misslandtrust.org/>

National Committee for the New  
River <http://www.ncnr.org/>

North Carolina Coastal Land  
Trust <http://www.coastallandtrust.org/>

Piedmont Land  
Conservancy <http://www.piedmontland.org/>

Tar River Land  
Conservancy <http://www.tarriver.org/>

The Land Trust for the Little  
Tennessee <http://www.ltltr.org/>

Triangle Land Conservancy  
<http://www.tlc-nc.org/>

## North Carolina

North Carolina Department of Environment and  
Natural Resources  
<http://portal.ncdenr.org/>

The Nature Conservancy of North Carolina  
[http://nature.org/wherework/northamerica/  
states/northcarolina](http://nature.org/wherework/northamerica/states/northcarolina)

Carolina Mountain Land  
Conservancy [http://www.carolinamountain.org/  
/](http://www.carolinamountain.org/)

Catawba Lands  
Conservancy <http://www.catawbalands.org/>

Chattowah Open Land  
Trust <http://www.chattowah.org/>

Conservation Trust for North  
Carolina <http://www.ctnc.org/>

Davidson Lands  
Conservancy <http://www.davidsonlands.org/>

Eno River Association  
<http://www.enoriver.org/>

Foothills Conservancy of North  
Carolina <http://www.foothillsconservancy.org/>

High Country  
Conservancy [http://www.highcountryconservan  
cy.org/](http://www.highcountryconservancy.org/)

Land Trust for Central North  
Carolina <http://www.landtrustcnc.org/>

## South Carolina

South Carolina Department of Natural  
Resources  
<http://www.dnr.sc.gov/>

The Nature Conservancy of South Carolina  
[http://nature.org/wherework/northamerica/  
states/southcarolina](http://nature.org/wherework/northamerica/states/southcarolina)

Lowcountry Open Land  
Trust <http://www.lolt.org/>

Edisto Island Open Land  
Trust <http://www.edisto.org/>

Katawba Valley Land Trust  
<http://www.kvlt.org/>

Nation Ford Land  
Trust <http://www.nationfordlandtrust.org/>

## Tennessee

Tennessee Department of Agriculture, Division  
of Forestry Forest Legacy  
Program [http://www.state.tn.us/agriculture/for  
estry/index.html](http://www.state.tn.us/agriculture/forestry/index.html)



Tennessee of Environment and Conservation <http://www.state.tn.us/environment/>

The Nature Conservancy of Tennessee <http://nature.org/wherework/northamerica/states/tennessee>

Appalachian Trail Conference Land Trust <http://www.appalachiantrail.org/>

Chattowah Open Land Trust, <http://www.chattowah.org/>

Land Trust for Tennessee, <http://www.landtrusttn.org/>

North Chickamauga Creek Conservancy, <http://www.northchick.org/>

South Cumberland Regional Land Trust, <http://www.scrilt.org/>

Swan Conservation Trust, <http://www.swantrust.org/>

Wolf River Conservancy <http://www.wolfriver.org/>

Southern Appalachian Highlands Conservancy <http://www.appalachian.org/>

## Virginia

Virginia Department of Conservation and Recreation <http://www.dcr.virginia.gov/>

The Nature Conservancy of Virginia <http://nature.org/wherework/northamerica/states/virginia>

Capital Region Land Conservancy <http://www.capitalregionland.org/>

Land Trust of Virginia <http://www.landtrustva.org/>

New River Land Trust <http://www.newriverlandtrust.org/>  
Piedmont Environmental Council <http://www.pecva.org/anx/index.cfm>

Potomac Conservancy <http://www.potomac.org/site/>

Valley Conservation Council <http://valleyconservation.org/>

Virginia Eastern Shore Land Trust <http://www.veslt.org/>

Western Virginia Land Trust <http://www.westernvirginialandtrust.org/>

Williamsburg Land Conservancy <http://www.williamsburglandconservancy.org/>

## West Virginia

West Virginia Division of Natural Resources: <http://www.wvdnr.gov/>

The Nature Conservancy of West Virginia <http://nature.org/wherework/northamerica/states/westvirginia>

Cacapon and Lost Rivers Land Trust <http://cacapon.org/>

Land Trust of the Eastern Panhandle [www.landtrustepwv.org](http://www.landtrustepwv.org)

Southeastern Cave Conservancy, Inc. [www.scci.org](http://www.scci.org)

West Virginia Land Trust [www.wvlandtrust.org](http://www.wvlandtrust.org)



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