



## **Donating a Conservation Easement to the Raritan Headwaters Association**

### *The Advantages of a Conservation Easement*

The donation of a conservation easement to the Raritan Headwaters Association (RHA) is one of the techniques that you as an area landowner can use to preserve and protect your land.

- The land is protected in perpetuity from unwise uses, including both public and private actions. The conservation easement is a form of deed restriction that “runs with the land”.
- You may sell the land, leave it to your heirs or dispose of it as you wish, but the new owners will be bound by the restrictions.
- You may retain control over access. Public access is *not* required.
- The use and management of the land are defined and agreed to by you and the Association and while some uses are given up, you may reserve certain rights.
- A donation of a conservation easement that meets federal tax code requirements may entitle the donor to federal income tax deductions. Please contact a financial advisor for more information regarding tax benefits.
- Placing a conservation easement may reduce the value of the land for estate tax purposes, thus reducing the estate taxes, often substantially.
- Current local agricultural property tax assessment can be maintained.
- There may be a local property tax advantage.
- When part of a regional or area-wide effort, substantial public benefit can result, leveraging public funds for other land preservation activities in the region.
- The duties of monitoring and enforcing the terms of the easement become the responsibility of RHA, providing an enhanced level of protection in comparison to a simple deed restriction.
- RHA will make available, advice on stewardship and management of the conserved lands.

### *II. RHA's Commitment to Land Preservation*

Since 1959 the organization has been working to “protect the woods, waters and fields” of the 470 square mile Headwaters region of the Raritan River. Currently, RHA holds conservation easements

with thirty-three area landowners. The Association retains the ability to acquire lands-in-fee where appropriate and today owns 11 preserves representing 450 acres. These lands are open to the public for “passive recreation”. In addition, RHA has preserved thousands of acres partnering with other non-profit conservation groups, leveraging municipal, county and state open space funds to acquire priority lands that safeguard water supplies, protect greenways and sustain the quality of life for our citizens.

RHA’s “Land Committee” oversees all aspects of the land preservation program including:

- Developing and adopting policies and procedures to comply with the Land Trust Alliance’s “Standards and Practices”.
- Growing Land Stewardship and Legal Defense Funds to assure that easements are monitored and enforced into the future.
- Retaining legal counsel with expertise in the field of land preservation and tax law.
- Implementing a system to safeguard project records including baseline documents, photography, monitoring records, reports, surveys and maps.

### ***III. Steps to donating a Conservation Easement to RHA***

**1. *Initiate Contact:*** Contact RHA to discuss your situation and desires. Call: George Schaberg, Land Projects Manager (908) 234-1852, ext. 328. All discussions are confidential.

**2. *Schedule a “Site Visit”:*** Arrange for RHA staff to make a site visit to inventory your land’s conservation value.

**3. *Contact Your Experts:*** Contact your *attorney* and/or *financial advisor*. If you are considering development of some portion of the property in the future you may also wish to contact a *professional engineer* or *planner*.

**4. *Have your attorney conduct a Title Search and Obtain a Title Insurance Policy:*** In order for RHA to accept a conservation easement, chain of ownership must be established and a title insurance policy must be obtained.

**5. *Hire a Licensed Professional Surveyor:*** RHA can provide a list of qualified surveyors. Conservation easements are recorded with your deed. You need not include your entire property but the easement must include a “metes and bounds” description of the easement area.

**6. *Hire a Licensed Environmental Professional:*** RHA can provide a list of qualified environmental firms to conduct a Phase 1 Assessment. Phase 1 assessments closely review the land, neighboring lands and past activities on the land to put together a clear picture of any areas of concern. It is considered best practice to conduct a phase 1 assessment on any lands intended for conservation.

**7. Hire an Appraiser:** RHA can provide a list of qualified appraisers. The Internal Revenue Code requires a qualified appraisal by a qualified appraiser for gifts of property valued at more than \$5,000. RHA will need a copy of the appraisal to accompany the project files and for review if the value is being claimed on an IRS 8283 form. To calculate the dollar value, the appraiser will do one appraisal *without* the easement in place and a second *with* the easement in place. The value is generally the difference between the land's unrestricted value and its new value with limited development or usage. RHA can provide the appraiser with a property analysis of natural features called a "baseline study".

**8. Communicate with Appropriate Family Members:** This may be important in terms of estate planning.

**9. Prepare Your Draft Easement:** Using a model easement as a guide and with the Association's input in regard to conservation value, your attorney can prepare your unique conservation easement.

**10. Your Review:** Review your proposed easement with your attorney. After your approval, it will be brought before RHA's "Land Committee".

**11. RHA's Land Committee Review:** The committee will confidentially review your draft easement. Any recommendations for changes will be made at this time and the document will go to the attorney for final review. After attorney review the Committee will make its recommendation to RHA's Board of Trustees.

**12. Approval by the Board of Trustees:** RHA's Board will hear the recommendations of the Land Committee. Assuming acceptance, the President and the Secretary of RHA are authorized to sign the document. The signing of the document by you and RHA legalizes the document.

**13. Completing the "Baseline Study":** A complete "baseline study" can be conducted by RHA Staff to accurately reflect the character of the easement area. Photography, a site map, inventories and a report will be added to the file to reflect present conditions. You will be provided with a copy of the full study. The baseline must be signed before the recording.

**14. Recording:** The easement must be recorded with the Deed. Your attorney can do this for you or it can be done by RHA. There is a small fee for recording.

**15. The Final Steps:**

*a. Stewardship:* RHA encourages a stewardship and legal defense donation, which is calculated on a case by case basis in cooperation with the landowner. These funds are added to our land stewardship and legal defense accounts to cover the costs of monitoring and enforcement if necessary.

*b. Transferring Appraisal Information:* RHA will require a copy of your appraisal for the project file.

*c. I.R.S. Form 8283:* If you are claiming an income tax deduction on the donated value of the easement, you must provide RHA with an I.R.S. Form 8283 that certifies the gift and establishes the

value. RHA will review the form against the appraisal, and if no errors or omissions are found, a signed copy will be returned to you in a timely manner. Please retain the completed 8283 form for your tax purposes.

*d. Monitoring:* The easement agreement specifies that the easement area will be monitored on an annual basis. The Association will contact the landowner each spring to arrange a site visit. The staff acts as a resource to address any issues or management questions. There is no charge for this service and the same arrangement applies to new owners.

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