

Preserving Shenandoah



Virginia Cooperative Extension and the Shenandoah County Easement Authority

October 2011



In recent years Shenandoah County citizens have expressed the desire that Shenandoah County should sustain its rural character. The exact definition of this rural character varies among citizens. However, it includes descriptors like working farms, scenic vistas, dark skies, forested land, good water quality and sustainable agriculture. This desire is echoed in the Shenandoah County Comprehensive Plan, in the Virginia Cooperative Extension Situation Analysis, and by many other groups and individuals.

This publication was developed to serve as an unbiased source of information for citizens with interest in this topic. The information contained herein is intended to empower individuals to make informed decisions and/or choices for their property.

Saving Farm Secures Owners' Future

Megan Gallagher, Conservation Consulting

Dianne Greenfield-Guinn bought Brook Farm in Shenandoah County 26 years ago, eager to escape the creeping subdivisions of Potomac, MD and give her thoroughbred horse breeding and training business room to grow. What started as a business venture evolved over time into an abiding love for the land.

Brook Farm, 78 acres of good pasture and mature woods, is bisected by Toms Brook and lies in the heart of the historic Toms Brook battlefield. In February, Dianne and her husband, Dale Guinn, sold the development rights and accepted a conservation easement on their farm, through the Shenandoah Valley Battlefields Foundation.



Dale Guinn & John Hutchinson view St. Matthews Church from Brook Farm

For Dale and Dianne, "preserving the farm gave us a way to live here and be secure," she said.

Dianne and Dale appreciate the beauty and rich history of their land, site of an unusual cavalry engagement. On October 9, 1864, a battery of Federal artillery in front of St. Matthews Church engaged Confederate artillery on Spiker's Hill, while Union Brigadier General George A. Custer's cavalry swept across the shoulder of Little North Mountain, crushing rebel forces. Dale hopes to one day confirm that remains of a mortar pit from the skirmish lie in a clump of trees in the main pasture.

In 2004, when the Shenandoah Valley Battlefields Foundation convened a group of landowners in the core area of the Toms Brook battlefield, Dianne was well known for her views about land protection. “I was totally opposed from the beginning,” she said.

At the time, “I didn’t want to give up my rights,” she remembers. “If I wanted to put up a shopping center on my land, I should be able to.”

She credits her husband for her change of mind. “A few years ago, everybody was talking about development and we were getting letters from developers from out of state, asking if we’d sell our land,” Dianne remembers.

“I told Dale, ‘I don’t want to sell to a developer. This is a great farm for a small family.’ But Dale warned me, ‘You may sell to a family and five years later they could cut it into lots,’” she said.

A little more than a year ago, Dianne got in touch with the Battlefields Foundation. She had closed her horse business. A local farmer grazes cattle on Brook Farm in return for mowing and fence repair. The couple both work at Lowe’s; Dianne in the garden center in Woodstock and Dale as an install sales coordinator in Winchester.

Meeting with John D. Hutchinson V, the Battlefields Foundation’s Director of Conservation, Dale and Dianne learned that by selling their development rights and preserving the land for farming, they could secure their future.

“I’m close to retirement,” Dianne said. “The easement made it possible to get the roof fixed, the barn fixed and pay off the mortgage.”

It took 13 months to complete the easement paperwork, due to the requirements of federal and state grants. But Dale said the process “was so well explained. There was nothing about this we didn’t understand.” The Battlefields Foundation hopes to protect more than 400 acres at Toms Brook by the end of 2011.



Toms Brook flows through Brook Farm

“I am really proud that I have the easement,” Dianne told a visitor a few months after completing the sale. “It has been a tremendous relief to walk around and know the farm will always be the same.”

Misunderstandings About Conservation Easements

Kelly Watkinson

Some of the most common myths about conservation easements are listed below:

Myth 1: You must have 100 acres or more to qualify for an easement. There are many conservation values (besides size) that qualify a property for a conservation easement. Many easement holders including Shenandoah County are willing and able to hold easements on properties under 100 acres.

Myth 2: A conservation easement would prevent me from running cattle, hunting, fishing, cutting firewood, or logging. Conservation easements usually preserve, rather than prevent, historic uses. Most easements allow all of these uses. In some cases easements are written to require farming and timber activities be conducted in accordance with a management plan.

Myth 3: Your whole property must go under easement. Landowners make the decision whether they would like to place all or a portion of their property under easement.

Myth 4: Easements prohibit all development. Every easement is unique, and landowners have the right to negotiate the terms of their particular agreement. However, some easement holders have limits to the number of subdivisions or structures that they can allow. Remember, fewer reserved development rights often result in higher appraised easement value.

Myth 5: Easement properties can't be sold. Land records show sales of many easement-protected properties. However, the easement terms continue to apply to the property regardless of the owner.

Myth 6: You can't borrow money against easement-protected land. Area banks routinely approve borrowing against properties under easement.

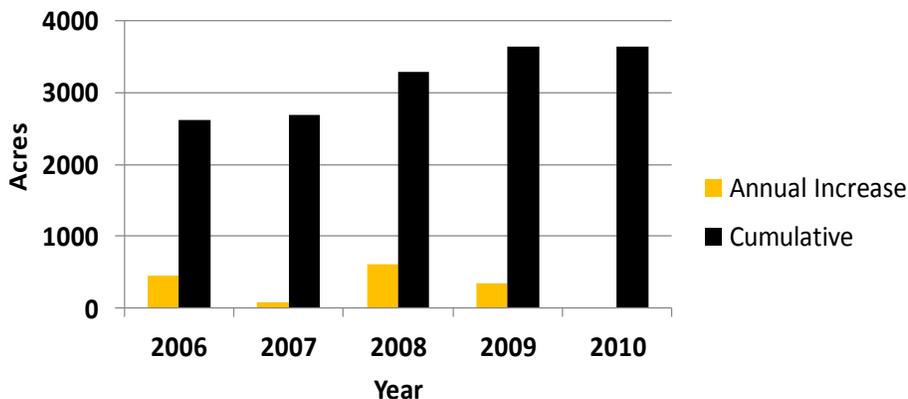
Myth 7: An easement opens the donor's land to the public. Most easements do not give the public access. An easement includes the right of reasonable access only to the holder of the easement, only to monitor the easement. Public access can be written into an easement, but only if the landowner desires it.

Myth 8: Easements take land off the tax rolls which adds to the county budget problems. Easement-protected properties remain on the tax rolls.

Myth 9: Conservation blocks eminent domain. Conservation groups occasionally get desperate requests to implement protection options in order to block plans for a public road, man-made lake, power line or similar type of project. Protecting your land as a private or even public conservation area does not automatically block federal eminent domain (state eminent domain may be blocked on easements held by the Virginia Outdoors Foundation or another State Agency). However, if you can show that your land has significant and unusual features—such as rare species or archeological remnants—you may be able to stop or mitigate the proposed takings.

Myth 10: Easements are only for wealthy people. Easements are for anyone who wants to protect properties and communities. Many easement donors regard tax benefits as “bonuses for doing the right thing” and some don't even ask for the tax benefits. Reasons for donating easements often solely include protecting family property and interests, accelerating land gifts to younger generations, and preserving wildlife and water resources.

**Land Conserved by Virginia Outdoors Foundation
in Shenandoah County**



*Graph courtesy of John Eckman,
Executive Director, Valley
Conservation Council.*

Farm Family Protects Jewel on the Shenandoah

Megan Gallagher, Conservation Consulting



When 160 acres of prime farmland, tucked into one of the seven bends in the North Fork of the Shenandoah River, came up for sale six years ago, Doug and Shirley Ryman French were farming her family's home place just across the river and his family farm close by. Their three kids wanted more land and it looked like middle son Hubbel might go into farming full time.

Photo: James Tuttle

Shirley also works as a real estate agent. "One day Shirley showed the farm to customers, none of whom would keep it entire," Doug recalls.

"She asked me 'Would you consider living here?' And I said 'we have to do this. We have to keep this farm from going in pieces'."

The French family closed on the property in December, 2004, naming it Franley Farm, a blend of the parent's first names. In December 2010, they permanently protected 146 acres through a conservation easement donated to the Virginia Outdoors Foundation.

The easement permits traditional rural land uses – farming, forestry, hunting and fishing – and prohibits residential or commercial development. Doug French, now retired from the Woodstock Post Office, is farming full time with Hubbel, who lives on the farm. They raise corn, wheat, rye, straw and hay, and graze 250 heifers and calves seasonally, using a ford to cross the river between the farms.



Easement donor Doug French of Woodstock

A key element of the farm's viability is the four bedroom house, overlooking more than a mile and a half of riverfront, with fantastic views east across the fields to Massanutten Mountain. Doug and Shirley converted the house into the Shenandoah River Lodge and now rent it to wedding parties, corporate retreats and families on holiday. Doug said the house was rented all but two weekends from August through December 1 last year.

The Franley Farm conservation easement covers all of the working land, but does not include the lodge or a cottage parcel nearby. "We knew we wanted to preserve this farm," Doug recalled. Leaving the residential pieces out of the easement gave the family more flexibility in the future if they no longer want to run the lodge.

Doug believes conserving Franley Farm was the right thing to do as he's seen the loss of working lands in Shenandoah County over the years. "From the time I was a little kid, we are scarring this Valley something awful. We are messing up God's creation," he said.

The easement gave his family the certainty that their farm would be preserved. In return, Virginia Land Preservation Tax Credits, reflecting some of the value of the development rights extinguished by the easement donation, provided some financial benefits.

The only changes coming to this land, wrapped in the green embrace of the Shenandoah, are those of the seasons. For Doug French, that means waiting for the wheat to ripen and helping Hubbel put 30 acres of cornfield back into pasture this summer.

Tax Update for Conservation Easements

Kelly Watkinson



Federal Tax Incentive Renewed Through 2011! The gift of a conservation or open-space easement in perpetuity may qualify the donor with a deduction for federal income tax purposes and a credit for state income tax purposes. In addition, there may be a reduction in the local real estate tax on the property.

A qualified appraiser must establish the value of the property with and without the easement restrictions. The difference between these two values is the easement value, which is primarily based on the value of the development rights forgone by the donor. The appraised easement value is the basis for calculating tax benefits.

A. Federal Charitable Gift Deduction. Federal tax deductions for donation of qualifying open-space easements for tax year 2011 are limited to 50% of the taxpayer's adjusted gross income (AGI) for the year, which if not used up in 2011, may be carried forward at 50% of AGI for a period of 15 years. For donations made in subsequent years starting in 2012 (unless there is a change in the legislation) the deduction reverts to 30% of AGI with a carryover period of five years. In addition, a farmer or rancher who receives more than 50% of adjusted gross income from the trade or business of farming or ranching in 2011 is eligible for a tax deduction of 100% of adjusted gross income.

B. Virginia State Tax Credit. Taxpayers can claim a land preservation tax credit (offsetting state income taxes) of 40% of the value of the easement for donation of qualifying open-space easements. The amount of credit claimed by any one taxpayer may not exceed \$50,000 for tax year 2011 or \$100,000 for tax year 2012 and tax years thereafter, but any unused amount may be carried over for a maximum of 13 consecutive years if the credit originates in tax year 2011 or for a maximum of 10 consecutive years if the credit originates in tax year 2012 or thereafter. In the event that a landowner has more credits than he or she can use against state tax liability, the credits may be sold or otherwise transferred to other persons or entities. The Department of Taxation charges a fee of 2% of the value of the donated interest (5% of value of credits) for transfer of credits. For donors claiming a Virginia tax credit of \$1 million or more (gift of an easement in which the easement value is \$2.5 million or more), the deed of easement must meet Virginia Department of Conservation and Recreation criteria, which may require additional conservation restrictions.

C. Local Real Estate Taxes may be reduced by placing an easement on the property. However, if the easement is given on land devoted to agricultural, forestal, horticultural, or open-space use, which is already assessed at "use value," there may be no further reduction in local real estate taxes.

* Please check with your tax advisor or attorney about qualifying for any tax benefits associated with conservation easements.

Donating to the Shenandoah County Easement Authority

Brandon Davis

Shenandoah County Planning and Zoning

The Shenandoah County Conservation Easement Authority is Open for Business! Since you last received *Preserving Shenandoah* newsletter, we've been working diligently to secure funding for easements from multiple state, federal, local, and private sources. So far, funding for the Authority has been limited to a generous one-time donation by the Valley Conservation Council and a matching grant from the Shenandoah RC&D Council.

Some citizens have asked how they can help facilitate efforts of the Authority. One way is to make a financial contribution. All donations received by the Shenandoah County Conservation Easement Authority will be spent on administrative costs or the purchase of easements within Shenandoah County. Administrative cost will include cost like legal fees, surveying, educational documents, etc. It will not be used for county staff salary.

Whether you choose to support the Authority by donating one dollar, one-hundred dollars, or by donating an easement on your farm, rest assured that your donation will stay in Shenandoah County.

Please help further the mission of preserving Shenandoah by donating today. Make checks payable to the Shenandoah County Easement Authority, and mail to 600 N. Main St., Suite 107, Woodstock, VA 22664.

We encourage you to include a note with your donation sharing the reasons why you were moved to help preserve Shenandoah. Requests for anonymity will be honorably respected as well.

Shenandoah County Easement Authority Receives Funding

Bobby Clark

Senior Extension Agent

At its September 13th meeting, the Shenandoah County Board of Supervisors appropriated \$100,000 for the Shenandoah County Easement Authority. The authority anticipates that the county will be able to further extend their \$100,000 investment by receiving an equal match (i.e. \$100,000) from the state. For the past two years, the authority has held routine meetings to learn the easement process, develop a strategic plan and help the county prepare itself for accepting easement applications. These funds will be further leveraged by landowners who donate a portion of the value of their easement. In some instances there are also funds available from other groups that will further extend the county's investment.

Any Shenandoah County landowner can apply to the Easement Authority to place an easement on their property. Ranking criteria have been established and are available from the Shenandoah County Office of Planning and Zoning (459-6190) or at the following web site <http://www.shenandoahcountyva.us/committees/cea/forms.php>.

Some perspectives for landowners who might consider applying to the county for easements:

- Most landowners take a year or two to learn about easements before they decide to place an easement on their property. Once they decide to place an easement on their property it generally takes about a year to work through the easement process.
- The Shenandoah County Easement Authority has been meeting for over two years in preparation for receiving easements. Most other counties that currently hold easements also spent about two years learning the process before holding their first easement.

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