Seeing the Forest for the Trees:
A Survey Course on Advising Woodland Owners in Vermont

June 28, 2017
Capitol Plaza
Montpelier, VT

Speakers:
Trevor Evans, Tree Farm Owner & President of Forestry Press, Inc.
Jamey Fidel, Esq., VT Natural Resources Council
Annette Lorraine, Esq.
Al Robertson, Pfalzerwald Tree Farm Owner
Marisa Riggi, Conservation Director of Northeast Wilderness Trust
Mary Sisock, UVM Extension Forester
Sarah G. Tischler, Esq., Langrock Sperry & Wool LLP
Audrey B. Winograd, JD, MSW
List of Program Materials

1. Panel Biographies

2. Status of Vermont’s Forests – Impacts of Preservation and Fragmentation

3. Family Forest Owners of Vermont – Demographics, Generational Cycles and Trends


5. Conservation Easements

6. Conservation Easement vs. Deed Restrictions

7. Summary of Current Estate and Gift Tax

8. Income and Estate Tax Aspects of Conservation Easements

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   b. Succession Planning Checklist
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   e. Overview of Succession Planning Process (one perspective)
   f. Preparatory Questions for Landowners and The Next Generation
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12. Resources for Vermont Woodland Owners and their Advisors
Panel Biographies

**Jamey Fidel**, General Counsel & Forest and Wildlife Program Director at Vermont Natural Resources Council. In his capacity at VNRC, Jamey leads the Forest Roundtable, a statewide discussion focused on forest policy, forest management and conservation issues. Jamey also works on environmental policy in the Vermont Legislature, and with communities across Vermont promoting planning, zoning, and non-regulatory strategies for forestland and wildlife habitat conservation.

**Mary Sisock**, is an Assistant Professor of Forestry Extension at the University of Vermont’s Rubenstein School of Environment and Natural Resources. She provides education and assistance on issues related to family forest ownership and management. A major area of Mary’s current outreach and research is the intergenerational transfer of family lands. Prior to accepting this position she was director of the Ties to the Land Initiative at Oregon State University where she evaluated and developed programs and curriculum related to intergenerational transfer of family forests.

**Annette Lorraine**, (J.D., M.S./Environmental Law) is a Vermont real estate transactional attorney, helping people buy and sell homes, farms and woodland. She is also a land conservation consultant working across the Northeastern U.S. She advises nonprofit land trusts or conservancies and private landowners on all manner of land conservation easement agreements, tax and other transactional matters concerning perpetual conservation of land. www.landaslegacy.com
**Trevor Evans** is a retired Licensed Engineer, and a Tree Farm owner from Derby, Vermont. He is a Certified Family Forest Owner, and has been recognized as the Outstanding Tree Farmer of the Year in 2010 and the Northeast Regional Tree Farmer of the Year in 2011. Trevor is active in the forestry community, serving as Treasurer of the Vermont Woodlands Association, a past president and current member of Vermont Coverts, and additional volunteer efforts as a Northeast National Policy Advisor, Volunteer Lobbyist, and Tree Farm Member for the American Forest Foundation. He also is a writer, contributing articles for Vermont Woodlands Association and the American Forest Foundation. Trevor is President of Forestry Press, Inc., and has authored *Forest Trees of Vermont* (Forestry Press). Trevor, through Forestry Press, has also generously donated to attendees copies of Thom J. McEvoy’s book, *Planning Family Forests: How to Keep Woodlands Intact and in the Family* (Forestry Press 2013).

**Al Robertson** is a professional engineer who retired to his Tree Farm in Sheffield in 2001 after a 30 year career, both as a civilian and officer, in the US Army and the New Hampshire Air National Guard. After graduating from Clarkson University Alan was stationed for almost seven years in Germany, followed by a five year stint at Aberdeen Proving Ground. His last assignment was chief of engineering at Pease ANGB in Portsmouth, NH. After retirement, he worked as the volunteer project engineer on the Lamoille Valley Rail Trail for VAST until 2015, and now advises the Town of Sheffield on engineering matters. Al has dedicated significant time and energy to forestry matters both in Vermont and nationally. He is a past member of the American Forestry Foundation National Public Affairs Committee, and continues to work on invasives issues with AFF. He is also serves as secretary of the Vermont Woodlands Association, Co-Chair of the State Tree Farm Committee, member of Vermont Coverts, board member of the National Woodland Owners Association, and member of the Lyndonville Snow-Cruisers Snowmobile Club. He actively manages all aspects of his Tree Farm and loves to hike and kayak.

**Sarah Gentry Tischler, Esq.** is a tree farmer in St. George, Vermont, and also an attorney with Langrock Sperry & Wool, LLP in its Burlington office. Her practice is devoted exclusively to individuals, helping to develop and implement sensitive, efficient estate plans for the personal and financial legacy left to their families and their communities. She has a particular interest in succession planning for family lands, and recently served on a legislative study committee tasked with providing guidance on long-term succession planning for owners of forest land in Vermont. Sarah has always been active in the community, in service to her profession, area non-profits, and her hometown of St. George, Vermont. She is a dedicated reduce, reuse, and recycle advocate and holds a passion for the natural world. She and her husband enjoy the outdoors, their pets and livestock, and the fascinating endeavors of their two children.
SEEING THE FOREST FOR THE TREES: A SURVEY COURSE ON ADVISING WOODLAND OWNERS

JAMEY FIDEL
GENERAL COUNSEL & FOREST & WILDLIFE PROGRAM DIRECTOR,
VERMONT NATURAL RESOURCES COUNCIL
Status of Vermont’s Forests

- Today Vermont Is 75% Forested
- Approx. 80% of Forest Land in Vermont Is Privately Owned
Forest History

Percent Forest Cover by Year

Some estimates are 20%
Economic Contribution of Forests

- Forest based tourism supports more than 37,000 jobs and accounts for about 11.5% of state’s employment.
- Forest based recreation supports 10,050 jobs.
- Harvest and manufacturing of forest products contributes $1.4 billion to Vermont’s economy.
- Vermont’s forests annually remove an amount of CO2 from the air equal to emissions from 14,000 vehicles – as well as 1,510 metric tons of other pollutants worth $16 million is ecosystem services.
- Fish and wildlife recreation contributes over $700 million a year.
• Approximately half of the eligible forestland in VT is enrolled in the Current Use Program.

• Hundreds of thousands of acres have been permanently conserved.
Approximately 75% of Vermont is forested, but forestland is actually declining in Vermont.

- Developed land increased from 180,000 acres in 1982 to about 302,000 acres in 2010 – a 67% increase over 3 decades.

- Forest Service data estimates Vermont may have lost 75,000 acres of forestland between 2007 and 2013.

Development is responsible for this trend and forests are increasingly becoming fragmented across Vermont.

Photo: Alex Maclean
Forest Fragmentation
What Happens When Forests Become Fragmented

- Wildlife habitat is diminished.
- Working forests are harder to maintain.
- Recreational access is diminished.
- Invasive or exotic species move in.
- Forests lose their ability to provide clean water and mitigate floods.
- Forests lost their ability to mitigate climate change by sequestering carbon.

Photo: A. Blake Gardner
Development Impacts

Projected Development of Forests (2000–2030)

- Percentage of private forest developed by 2030:
  - 40–63%
  - 30–40%
  - 21–30%
  - < 21

Miles

North

- 22% loss in agricultural land, and a .6% loss in forest land from 1987-2007
Parcelization/Subdivision

• As a result of subdivision more parcels are being created in Vermont.

• The number of parcels increased from 61,900 in 1983 to 88,000 in 2008.

Photo: A. Blake Gardner
In 2009, although the median parcel size was less than 2 acres, 71% of the land in Vermont was in parcels 50 acres or larger.

In 2009 there were roughly 3.4 million acres of private land in parcels 50 acres or larger.
Statewide Subdivision Trends
Increase in small parcels, decrease in large parcels

4,300 additional parcels created from 2003-2009

Amount of land in 50+ acre parcels decreased by 42,000 acres
Statewide Subdivision Trends

# of parcels with dwellings, by parcel size

2003-2009:
126,000 undeveloped forest acres now have dwellings
Statewide Subdivision Trends

Land values for large lots increased significantly:

- The value of land in parcels 50 acres or larger appreciated significantly:
  - $930, on average per acre in 2003
  - $1,615 in 2009.

*Future research will look at what has happened since 2009.*
Legislative Attention

2015 Vermont Forest Fragmentation Report

VERMONT DEPARTMENT OF FORESTS, PARKS AND RECREATION
AGENCY OF NATURAL RESOURCES
APRIL 2015

Report to the Vermont Legislature

Recommendations in support of Forest Health and Integrity
In response to Act 61 of 2015

VERMONT DEPARTMENT OF FORESTS, PARKS AND RECREATION
AGENCY OF NATURAL RESOURCES
MARCH 2016

SUBMITTED TO:
THE SENATE AND HOUSE COMMITTEES ON NATURAL RESOURCES AND ENERGY
AND
THE HOUSE COMMITTEE ON FISH, WILDLIFE, AND WATER RESOURCES
Intergenerational Transfer of Forestland Working Group Recommendations

In response to Act 171 of 2016

February 6, 2017

Developed by:
Intergenerational Transfer of Forestland Working Group

Submitted by:
Vermont Department of Forests, Parks and Recreation
Michael C. Snyder, Commissioner
Family Forest Owners of Vermont

Mary Sisock
Assistant Professor
Forestry Extension

Rubenstein School of Environment & Natural Resources

University of Vermont
Town center

79% of owners
81% of acres
Family Forest Owners in VT

64% of owners
62% of acres
Two-thirds are 55 or older
Top 10 Reasons for Ownership

1. Enjoy beauty
2. Protect wildlife
3. Protect nature
4. Privacy
5. Protect water
6. Part of homestead
7. Pass land to heirs
8. Recreation
9. Firewood
10. Timber products

Butler 2014
Unsuccessful Transition

75% of family forest owners want to leave a forest legacy

20% of family forests are inherited
Study Area & Screener Survey

2,500 surveys sent
789 returned (34%)
42% of respondents willing to follow up with a researcher
Property Planning Options

• Talk with family/friends
• Gather information about options
• Process of deciding options
• Develop a will
• Develop a trust
• Create LLC/LLP, family partnership, corporation
• Place a CE on the land

Beginning
Intermediate
Advanced
Where are they in the process?

• 35% No formal tools

• 44% Will only

• 21% Will & Trust, LLC, or Corp.

Land not in will or trust!
Challenges to Moving Forward

*Self-assessment*

- Challenges for beginning stage respondents were different than the Intermediate and Advanced Stages, except family agreement.

<table>
<thead>
<tr>
<th>Challenge</th>
<th>Beginning Stages</th>
<th>Intermediate &amp; Advanced Stages</th>
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<tbody>
<tr>
<td>Don’t know where to go for information</td>
<td>42%</td>
<td>20%</td>
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<tr>
<td>Don’t know a professional who can help</td>
<td>50%</td>
<td>23%</td>
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<tr>
<td>Not confident about how to move forward</td>
<td>44%</td>
<td>20%</td>
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<tr>
<td>Don’t have the financial resources to move forward</td>
<td>39%</td>
<td>19%</td>
</tr>
<tr>
<td>Family doesn’t agree on how to move forward</td>
<td>12%</td>
<td>12%</td>
</tr>
</tbody>
</table>
Challenges to Moving Forward

• Time (39%)
• Disinterest among heirs (39%)
• Fairness (36%)
• Lack of needed abilities among heirs (33%)
• Lack of cooperation among heirs (29%)
Challenges to Moving Forward

4 to 5 generations
“Every family has a story. Only a few have a legacy.”

Carrie L. Huntley
Unsuccessful Transition Culprits

Lack of planning

Inadequate planning
Estate Plan
Efficient ownership transfer

Succession Plan
Efficient ownership transfer &
Shared -
Vision
Governance
Management
Succession Planning

- Multiple year strategic process
- Engages the heirs
- Protects the land from risk
Intergenerational Transfer of Forestland Working Group Recommendations

In response to Act 171 of 2016

February 6, 2017

Developed by:
Intergenerational Transfer of Forestland Working Group

Submitted by:
Vermont Department of Forests, Parks and Recreation
Michael C. Snyder, Commissioner
INTRODUCTION

In 2014 the Vermont General Assembly enacted Act 118 (S.100), an act relating to forest integrity, with findings that:

The forests of Vermont are a unique resource that provides habitat for wildlife, is a renewable resource for human use, provides jobs for Vermonters in timber and other forest-related industries, and generates economic development through a productive forest products industry;

Large areas of contiguous forest are essential for quality wildlife habitat, preserve Vermont’s scenic qualities, are needed to implement best practices in forest management, and are critical to ensuring the continued economic productivity of Vermont’s diverse forest products industry; and

Subdividing forests into lots for house sites or other types of construction fragments Vermont’s forests. Forest fragmentation is the breaking of large, contiguous forested areas into smaller pieces of forest, typically by roads, agriculture, utility corridors, subdivisions or other human development. It usually occurs incrementally, beginning with cleared swaths or pockets of non-forest within an otherwise unbroken expanse of tree cover. Then, over time, those non-forest pockets tend to multiply and expand and eventually the forest is fragmented and reduced to scattered, disconnected forest islands. The remnant forest islands that result from fragmentation are surrounded by non-forest lands and land uses that seriously threaten the health, function, and value of those forest islands for both animal and plant habitats and for human use.

Today, more than 2.9 million acres or 62% of Vermont’s forestland is owned by families and individuals. The demographics of these landowners are changing. Males over the age of 55 comprise over 65% of the population of forestland owners. Fifteen percent of Vermont’s forestland is owned by people over the age of 75 (Butler et al 2015). As landowners age, the way that they transfer their land to younger generations will, at least in part, determine the future of Vermont’s forests. The transfer of forestland in a way that keeps it intact will protect forests while the transfer of land in a way that results in smaller parcels will drive fragmentation and the degradation of forest integrity.

While real estate transactions are occurring all the time, with the aging of forestland owners in Vermont, the likelihood of an increased pace of land transfer is real. According to surveys conducted by the Sustaining Family Forests Initiative, more than 17% of Vermont landowners (owning more than 10 acres) plan to transfer or sell their land in the next 5 years.

The process of transferring land, however it occurs, is complex. It may involve complicated family dynamics, concerns about equity of inheritance among heirs, intimidating and confusing legal and tax language, and at times, conflicting visions for the land and property. These challenges are often compounded when, upon the sickness or death of a landowner, decisions must be made quickly and with an incomplete understanding about options or implications of the decisions. This report makes recommendations regarding what information, trainings and strategies could be made available to clarify and expand land transfer options in Vermont and increase landowner confidence to sell or donate land in a way that prevents forest fragmentation and preserves forest health.
Summary of Act 171 Intergeneration Transfer of Forestland Working Group Recommendations

Estate and Successional Planning; Awareness, Outreach and Education:

A.1 - Centralize technical assistance programs and funding; fully fund VHCB and increase funds available to the Viability Program, match with other private and NGO funding.

A.2 - Increase training for service providers.

A.3 - Expand existing Agricultural Sector succession planning services/capacity to forest land owners.

A.4 - Provide grants to landowners to help cover costs of legal, accounting and other necessary services.

A.5 - Develop a VT Succession Planning Curriculum.

A.6 - Develop materials for landowners.

A.7 - Host Your Neighbor.

Tax Incentives, Options and Tools:

B.1 - Conserved Land Deduction.

B.2 - Large Parcel Multiplier.

B.3 - Vermont Tax Credit.

Conservation Opportunities and Tools

C.1 - Fully fund VHCB.

C.2 - Replicate Farmland Access and Land-Link type Programs for Forestland.

C.3 - Targeted Deployment of Technical Assistance Providers.

C.4 - Identify new funding sources to support expanded conservation of private forestland.

C.5 - Target or otherwise prioritize conservation funding for forestland in HPFB’s.

C.6 - Target or otherwise prioritize conservation funding for the purchase of easements that facilitate a transfer to new ownership.

C.7 - Incentive Fund for Donated Conservation Easements.

Use Value Appraisal (Current Use) Opportunities and Strategies

D.1 - Increase Awareness of Succession Planning through UVA.

D.2 - Enhanced Training for County Foresters.
Workgroup and Process

Given the many important values of Vermont’s unfragmented forestland, the challenges and complexity associated with the transfer of intact forests, and the current demographics of forestland owners in the state, in 2016 the Vermont General Assembly enacted Act 171 (H.857), an act related to timber harvesting, which in Section 10 of the act called upon the Commissioner of Forest, Parks and Recreation to:

establish a working group of interested parties to develop recommendations for a statewide program to improve the capacity of providing successional planning technical assistance to forestland owners in Vermont.

The Intergenerational Transfer of Forestland Workgroup (ITF Workgroup) was established in August of 2016 and first convened on September 2, 2016. The group included interested citizens, professionals and Agency staff representing a broad and comprehensive set of skills, expertise and experience related to forestland ownership, conservation and tax policy.

Invited ITF Workgroup members included:

- Deb Markowitz, Agency of Natural Resources (chair)
- Deb Brighton, Vermont Community Foundation
- Ela Chapin, Vermont Farm and Forest Viability Program
- Billy Coster, Agency of Natural Resources
- Jamey Fidel, Vermont Natural Resources Council
- David Marvin, Butternut Mountain Farm
- John Roe, Upper Valley Land Trust
- Kim Royar, Department of Fish and Wildlife
- Gus Seelig, Vermont Housing and Conservation Board
- Lisa Sausville, Vermont Coverts
- James Shallow, Audubon Vermont
- Bruce Shields, Ethan Allen Institute
- Steve Sinclair, Department of Forests, Parks and Recreation
- Mary Sisock, University of Vermont
- Siobhan Smith, Vermont Land Trust
- Michael Snyder, Department of Forests, Parks and Recreation
- Keith Thompson, Department of Forests, Parks and Recreation
- Sarah Tischler, Langrock, Sperry & Wool
- Kathleen Wanner, Vermont Woodlands Association
- Louise Waterman, Agency of Agriculture

The group selected ANR Secretary Markowitz as its chairwoman and held four workgroup meetings on:

- September 2, 2016
- October 19, 2016
- November 10, 2016
- December 12, 2016
Targeted Incentives – Vermont Conservation Design High Priority Forest Blocks

Given the extent of forestland in Vermont, the ITF Workgroup agreed in its early meetings that resources and services that facilitate the transfer of intact forestland should focus on the areas of forest that provide the greatest ecological and forestry values. To identify these areas, the group sought guidance from the Vermont Department Fish and Wildlife’s Vermont Conservation Design (VCD) project, (http://www.vtfishandwildlife.com/get_involved/partner_in_conservation/vermont_conservation_design).

The VCD project, completed in December of 2015, analyzed Vermont’s landscapes using forested “coarse-filters”, a scientifically accepted way to quantify needed functions in an ecologically sound landscape. This approach uses landscape elements to identify habitat needed to maintain Vermont’s current biodiversity. That said, the habitat of some rare or specialized species is not captured with this broad approach. A key outcome of the coarse-filter analysis is the identification of connected habitat that is necessary to maintain genetically viable populations of certain species and includes predictions of changes to wildlife habitat in the face of climate change.

“While each landscape element is important on its own, it cannot function in isolation. Maintaining or enhancing an ecologically functional landscape in Vermont depends on both the specific functions of each element, and the ability of the landscape elements to function together. Interactions between elements are what support Vermont’s environment and are essential for long-term conservation of Vermont’s biological diversity and natural heritage” (VCD 2015).

The final Vermont Conservation Design map aggregates the five key coarse filters, with two levels of priority for maintaining ecological function in those areas. They are called Priority and Highest Priority portions of an Ecologically Functional Landscape. The Steering Committee that oversaw the VCD project said, “We are highly confident that ecological functions must be maintained within these areas if Vermont is to have an ecologically functional landscape into the future.” The committee elaborated with: “The highest priority areas are those that are critical for maintaining an ecologically functional landscape. The priority areas are also important but there is more flexibility available for conserving ecological function within these areas” (VCD 2015). The areas shown as Highest Priority are equivalent to what is identified in this report as Highest Priority Forest Blocks (HPFB).

While intact forestland parcels of all size possess value, the ITF Workgroup felt that recommendations involving tax benefits, conservation investments, direct services and other items that may require financial or human resources should be targeted towards forestland identified as HPFB’s in the VCD analysis. This approach ensures the resources support a public policy focused on what is most critical to remain as forest; however, many of the tools and resources recommended in this report, once established, will benefit all owners of forest land who are planning for a transition in ownership.
RECOMMENDATIONS SECTION

A. Estate and Successional Planning; Awareness, Outreach and Education

Individualized technical assistance in succession and estate planning is critical to maintaining forestland in Vermont. Additional outreach and education about this assistance will encourage intact forests. Some forest landowners are able to work through a succession plan with their family and obtain the legal and financial consultations needed to develop plans for and complete their land transfer to a next generation or non-family owner interested in continued stewardship of the forest. Many other landowners and families struggle with difficult issues and barriers.

In addition to succession planning, forest landowners in Vermont must make numerous decisions about their current forestland management. They consider whether to enroll in the Use Value Appraisal program and address issues relating to timber management, climate change, water quality, and the spread of invasive species. More resources, outreach and education are needed to help landowners gain awareness of these overlapping issues and build tools to address them.

Because of the potential complex issues associated with forestland transfer and ownership, it is critical for landowners to be informed and have resources available to guide their decisions. The more times a person sees information about a resource that might be useful to their circumstance, the more likely they are to pursue it. Conventional marketing wisdom suggests that a person needs to “hear” a message seven times before he or she will take action. Education and promotion of forestland planning resources might follow the pyramid diagram below to ensure that there are ample opportunities for forestland owners to see or hear a message. Foresters, conservation organizations, lawyers and other industry and state professionals can all provide outreach services to landowners considering land transfers. Effective marketing of readily available online and printed resources applicable to forestland owners in Vermont would also encourage forest integrity during land transfers. Landowners interested in hands-on help from a professional could attend educational workshops and events, and then receive one-on-one consultations if requested.

Forest Landowner Succession Planning & Technical Assistance

Pyramid of outreach, education & training to be made available to forest landowners

One-on-one transition assistance
Ownership transition workshops & trainings
Ownership transition educational materials – handbooks, online videos, webinars
Outreach to forestland owners to let them know about ownership transition education/training opportunities

[Diagram of pyramid showing levels of outreach, education, and training]
Baseline Conditions:

Individualized succession planning and estate planning assistance has been available to farmers in Vermont for many years and has proven to support successful transitions of intact farmland. This has primarily been provided through the VT Farm & Forest Viability Program at VHCB that provides in-depth business and succession planning services to farm, food and forestry businesses, as well as a variety of workshops and online resources available through UVM Extension on farmland succession. The Viability Program contracts with nonprofit organizations to provide these services, particularly UVM Extension’s Farm Viability Program, the Intervale Center, and Land for Good. Utilizing this framework, VHCB has begun providing funding for forestland succession planning. In 2016/2017, several organizations including the VT Woodlands Association, Upper Valley Land Trust and VT Coverts will provide a mix of succession planning workshops and in-depth succession coaching for forest landowner families with workshops and trainings provided for landowners, as well as lawyers, estate planners, foresters and other stakeholders that support forestland success and estate planning. A case study of one landowner receiving succession planning is found in Appendix C.

Workgroup Recommendations:

A.1 - Centralize technical assistance programs and funding; fully fund VHCB and increase funds available to the Viability Program, match with other private and NGO funding – Currently VHCB is providing funding for one-on-one, in-depth, long term technical assistance or coaching around forestland succession to families/landowners, as well as workshops and trainings. VHCB funds this work through the VT Farm and Forest Viability Program with contracts with the VT Woodlands Association, Upper Valley Land Trust and other nonprofits to provide services and trainings to forest landowners. In FY16 approximately $30,000 will go to 3 organizations to provide individualized services to 8-10 forest landowners and 4-5 workshops or trainings for landowners and other stakeholders. There is a much larger need for this assistance across the state; we estimate $140,000 a year would cover individualized TA to 30 forest landowners, a series of landowner workshops, and trainings for service providers. If VHCB was fully funded for FY18, service could immediately be provided to 15-20 forest landowners.

A.2 - Increase training for service providers – Trainings will raise awareness of the challenges of forestland succession with various providers and stakeholders, and educate them about relevant resources, individuals and organizations providing technical assistance and support, and help ensure quality referrals are made to forest landowners. The more times a forest landowner encounters someone that is knowledgeable about this issue who points them towards assistance, the more likely they are to reach out, attend a workshop, or enroll in a program.

Trainings for service providers may be led by the Agency of Natural Resources, or nonprofits such as the VT Woodlands Association, UVM Extension, VT Coverts, or others that already provide workshops and trainings. The primary audience of service providers and stakeholders might include staff from land trusts and conservation organizations, county foresters, UVM Extension, conservation districts and Viability business advisors, as well as individuals/professionals including lawyers, estate planners, tax accountants, consulting foresters and others. Bringing these providers and professionals together for trainings also has a networking benefit, helping each individual get to know the other stakeholders and organizations supporting forestland succession.
A.3 - Expand existing Agricultural Sector succession planning services/capacity to forest landowners – Expanding existing programs to include more dedicated succession planning for forestland owners would be in keeping with other recent program expansions that now offer services entities across the working lands spectrum. UVM Extension, for example, provides a number of online farm transfer planning resources, offers farm transfer workshops, and has even offered to open up these workshops to forest landowners and forest based businesses planning for an intergenerational transfer. The Viability Program has already expanded their farm viability and farm transfer planning services to the forestry and forest landowner population. Other organizations, such as the VT Farm Bureau and Vermont Natural Resources Council, may also have resources to extend to the forest landowner sector.

A.4 - Provide grants to landowners to help cover costs of legal, accounting and other necessary services – Funds to assist forest landowners and their families in the expensive consulting and transactional costs of succession planning and transfer will make it more financially feasible for many to undertake and succeed at this often difficult, lengthy and expensive process. Legal and accounting fees can be a large transaction cost. A cost-share program or subsidy could be offered through the Agency of Natural Resources, or through a program like the Viability Program which also regularly contracts with legal and accounting professionals to assist in the succession planning phase.

A.5 - Develop a VT Succession Planning Curriculum – There are programs that exist regarding the passing of land. However, these programs are not specific to New England or Vermont. In Vermont we primarily have family forest owners, not plantation forests. The model for passing lands differs in this realm as many do not own their forest as a business. A curriculum developed specifically to address the issues of Vermont landowners will go a long way to getting buy-in from landowners as they move through the process of passing their land.

A.6 - Develop materials for landowners – There is a need for introductory materials addressing the subject of passing lands in order to spark a landowner to begin thinking about this process and provide information on how to move forward. These materials should include a brochure, website and a listing of professionals with experience in this arena. These resources could be provided to landowner groups, county and consulting foresters, accountants and others to share with forestland owners.

A.7 - Host Your Neighbor - Provide opportunities for “Host Your Neighbor” house party type gatherings for landowners to share their experiences, ideas and concerns regarding the passing of land. These gatherings could host an expert (lawyer, financial planner or other professional) that could offer guidance on steps to take to move the process of estate planning forward.

B. Tax Incentives, Options and Tools

Taxes tied to land and estates can sometimes hinder a landowner’s ability to transfer unfragmented forestland to the next generation in a way that is affordable. At the same time, a marker for tax credits sold to finance land conservation efforts would make the intergenerational transfer of unfragmented
forestland much more affordable for a wide range of families. This section recommends ways to use tax policy – through either the estate tax or tax credits – to incentivize the conservation of HPFB’s and facilitate the transfer of those lands to then next generation.

**Baseline Conditions - Estate Tax:**

Two facts are critical for any discussion of Vermont estate tax effects on farm and forestland as it transitions through estates. First, the assets of all Vermont family farms (largely land and buildings) are already exempt from Vermont estate tax based on a statute passed in 2001. Second, no estate is subject to Vermont estate tax until it totals more than $2.75 million dollars in value. Given that the current value of most undeveloped forestland in Vermont is not high, and the fact that most ownerships are not truly large acreage, the vast majority of forestland owners will not be subject to Vermont estate taxes; or at least their forest holdings are not driving that estate value. However, for those few properties where estate tax could impact a transfer of unfragmented land, an estate tax incentive could be critical. Therefore, the ITF Workgroup recommends changing the Vermont estate tax laws to create an incentive for landowners to permanently conserve those forestlands within HPFB’s as identified by VTF&W.

**Workgroup Recommendation – Vermont Estate Tax:**

**B.1 - Conserved Land Deduction** – In an effort to minimize process and create a program that potentially affects more than a total of a few people, the ITF Workgroup recommends that the basic incentive be the elimination of the value of a forest parcel, if owned by an individual or a pass-through entity, from an estate if the forest parcel is at least partially within a HBFB and fully protected by a donated conservation easement approved by the VTF&W or other entity of the state. Based on existing estate tax rates, that incentive would remove a tax valued at 16% of the fair market value (FMV) of the parcel. This approach could theoretically protect land outside but immediately adjacent to the high priority forest block but by requiring the parcel to be fully forested it still will keep Vermont forests unfragmented.

**B.2 – Large Parcel Multiplier** – To focus the Estate Tax Deduction on the state’s largest parcels, the ITF Workgroup recommends increasing the incentive outlined above for larger parcels of forest where much of the tract is within the identified HPFB. One approach would be to double the incentive (2 times the FMV would be subtracted from the overall estate) for parcels or aggregate ownerships of over 500 acres where 50% lie with the HPFB. This is equivalent to a 32% FMV incentive.

Both of these incentives would only be available for easements donated after the change was made in the estate tax law. Land with easements donated prior to that date would simple be taxed as normal at their FMV calculated with an easement on the land. The ITF Workgroup does not recommend changing any aspect of an easement’s deductibility under income tax law. Therefore, someone donating an easement after the change in the estate tax law would still get their income tax benefits at the time of donation, and then the estate tax benefits at the time of their death.

It is not possible to determine how many parcels this incentive might affect, since nearly all parcels fall well below the $2.75 million estate value cut-off, and there is no way to know the overall value of the landowners’ estates. The expectation of the ITF Workgroup is that this incentive would be used not
more than a couple times a year, but would likely be focused on large, high value parcels. The Joint Fiscal Office last year indicated that they estimated that the incentive would apply to potentially one property a year with a fiscal impact of approximately $80,000 to $128,000 for one transaction of 500 acres depending on the estimated value of an acre of forestland (range was estimated to be $1,000 to $1,600 an acre).

The ITF Workgroup believes it important to create parity with farms in how important forestlands are treated under our estate tax regulations, but we acknowledge this incentive will be most useful for higher income landowners simply because of how our income tax is structured. It is important to note that there is also a federal estate tax incentive for easements, but it is only a 40% reduction of the FMV of the land under easement. It only becomes important for huge farm ownerships in the Midwest and West and is most likely irrelevant in Vermont as an incentive, particularly for relatively low value forestland. The incentives proposed by the Intergenerational Transfer of Forest Working Group are more direct and much more likely to be true incentives.

**Baseline Conditions – Tax Credits:**

Tax credits are a dollar for dollar reduction in a specific tax, in this case a state income tax. They are a relatively widely used way to incentivize desired public policy by using the tax code rather than direct grants. The sale of tax credits is one of the drivers of affordable housing finance in Vermont and elsewhere. Tax credits to create an incentive to protect conservation land, usually by easements or fee acquisition, are currently available in 16 states. The earliest statute was in 1983 in North Carolina, most were enacted between 1999 and 2010, and the most recent is in Massachusetts, which became fully operational in 2012. In roughly half of those states, the credit is narrowly targeted at specific geographic areas or habitat types, similar to HPFB’s, in widely varying degrees of complexity. There are some programs that are quite different than the majority (New York and Florida focus on a credit against property tax, CT is only available to corporations, and Mississippi is limited to 50% of the transaction costs once in a lifetime and capped at $10,000) but this report by the ITF Workgroup focuses on the basic framework of the majority of the programs for which there is enough experience to learn from other state’s experience. Discussions among the ITF Workgroup considered tax credits to be complimentary to the estate tax incentive described above; if properly designed, tax credits provide more equitable incentives for landowners of more modest means than the estate tax incentives will. Recommendations below are oriented around that perspective.

**Workgroup Recommendation:**

**B.3 - Vermont Tax Credit** – The ITF Workgroup recommends that the state create a modest conservation tax credit to encourage the donation of conservation easements on forestland in HPFB’s. If designed well it could be a significant incentive for donated easements and could be designed with modest scope to limit state revenue liability. The scope would primarily be limited by only offering the program to support conservation of parcels in HPFB’s. Capping the amount of credits available per year would also limit the risk of having too many people respond at the same time. The ITF Workgroup felt the incentive should be a compliment to the estate tax proposal above. The former fits larger wealthier landowners while the credit would help more modest income landowners. A landowner should be able to choose which fits their particular situation best, but not be able to use both incentives.
A conservation tax credit program with a $100,000 credit cap calculated at 40% of FMV, with a 10 year carry-forward and a maximum use of $30,000 annually on any particular tax return, might be a place to start the discussion. These numbers represent a program of modest incentive tipped a bit more toward use by landowners of modest wealth. Adding transferability would be a benefit and make a more robust program, but could be added later once there is more feedback from people interested in using the program. A much more detailed overview of key tax credit components and examples from other states is provided in Appendix A of this report.

If a fund were also created to help support the transactional costs associated with easement donations (discussed in the next section of this report) the state would have a targeted program to use donated conservation easements as an efficient strategy to advance forestland conservation. Some forestland easements would still need to be purchased through VHCB or other funding sources, but these incentives would increase the ease with which forests could be permanently conserved in a very cost efficient manner as lands transitions to the next generation of owners.

C. Conservation Opportunities and Tools

Vermont has a long, successful track record protecting important natural resources and supporting the rural economy through land conservation. Conservation can also be an effective tool to assist in the transfer of large areas of forestland. The purchase or donation of development rights severs, on average, half the property value from a given parcel, allowing the sale of the remaining property interest to the next generation at an otherwise less-than-market rate. Conservation prior to or at the time of transfer may also alleviate certain tax burdens that may otherwise complicated a transfer.

Conservation transactions that limit subdivision and residential development also serve as a succession planning tool, whereby families and interested parties may engage in a dialog around the nature, scope and terms of a conservation easement, encumber the property, and thereby establish the future use of the land, which can often simplify any transfer that may follow. Targeting estate planning and other services to landowners contemplating conservation will also increase the value of land conservation as an intergenerational transfer tool.

While the working group largely agrees that conservation of forestland results in a wide range of public benefits, it is worth noting, that one member of the ITF Workgroup offers the comment that not all rural interests find the expansion of Conservation Easements desirable, and that some Vermonters would prefer that those who create and service such easements market their arrangements via privately funded efforts.

Baseline Conditions:

Conservation work has a long history in Vermont, involving the public sector as well as the private sector, through non-profit charities called land trusts. Initially, conservation work focused on actual public ownership of land, such as the Green Mountain National Forest and large state holdings for Wildlife Management Areas and state forests and parks. Early land trusts, such as the Vermont Nature Conservancy formed in 1963, also initially focused on outright ownership of land. However, by the time the Vermont Land Trust was formed in 1977, conservation work increasingly involved the use of
conservation easements. These are permanent property interests, held by public entities or land trusts, that remove the development rights from land, and often define a range of allowed uses and specific protection for natural resources and wildlife. The land itself stays in private hands.

The number of land trusts increased rapidly throughout New England between 1970 and 1990; in Vermont that included 2 regional land trusts, Lake Champlain Land Trust in 1978 and Upper Valley Land Trust in 1985, as well as many local land trusts, sometimes just serving one town or one watershed. As the amount and scale of all types of conservation work increased, the need for a dependable statewide funding source increased. The affordable housing interests of Vermont, also increasingly being driven by affordable housing focused land trusts, joined with the conservation land trusts (as well as historical preservation interests) to create the Vermont Housing and Conservation Board (VHCB) in 1987.

For nearly 30 years VHCB, in partnership with communities, agencies, organizations and other funders, has invested in the dual goals of creating affordable housing for Vermonters and conserving Vermont’s agricultural land, forestland, historic properties, important natural areas, and recreational lands. Transactions involving the sale and donation of conservation easements is a cost-effective strategy to help reduce forestland fragmentation and bring stability to the underlying resource. Conservation projects are also facilitating transfers to new owners at more affordable prices and providing co-benefits including water quality protection and resiliency to the impacts of climate change. Since 2013, when VHCB’s statute was amended to explicitly make forestland protection part of the mission, VHCB has responded with an emphasis on protecting forestland, including providing funding for sugarbush and private working forest protection and expanding the Viability Program to include forestry. VHCB’s Farm & Forest Viability Program (VFFVP) supports intergenerational transfers of businesses and forestland through business planning that includes developing succession plans. VFFVP also assists farm and forest businesses in utilizing best management practices through implementation grants.

Workgroup Recommendations:

**C.1 - Fully fund VHCB** – VHCB is the primary state funding source for the purchase of development rights in Vermont. VHCB also supports the administrative functions of the VT Farm & Forest Viability Program. Fully funding VHCB at the prescribed statutory levels and maintaining a reasonable balance between the Housing and Conservation goals of the organization will provide the necessary funding to implement many of the recommendations set forth in this report.

**C.2 - Replicate Farmland Access and Land-Link type Programs for Forestland** – The Vermont Land Trust (VLT) and other organizations have been very successful in matching one generation of farmland owners interested in selling their farms with a new generation of farmers looking for access to land of their own. Through their farmland access program, VLT maintains lists of farms on the market or farms that may be available in the near future as well as lists of potential, vetted, buyers, and actively matches sellers with farmer buyers interested in the type of resource they have available. This model should be expanded to sellers and buyers of forestland, especially well managed land in HPFB’s. The VT Farm & Forest Viability Program may be an appropriate entity to coordinate this program and would also have the capacity to deploy targeted technical assistance to sellers and buyers to ensure transfers are successful. The simultaneous conservation of land often makes intergenerational transfers more successful, in part by making the land more affordable to the buyer.
C.3 – Targeted Deployment of Technical Assistance Providers – Working with the VT Farm & Forest Viability Program, the ITF Workgroup recommends that the services of succession planning, business development and other consultants be deployed strategically and matched with landowners conserving or transferring already conserved forest land (buyers and sellers), especially forestland in HPFB’s. This targeted outreach and assistance at critical decisions points will result in more efficient and successful intergenerational transfers and forestland conservation projects that provide the best structure for that land to remain unfragmented, owned and managed for sustainable forest products or other ecological services in the future.

C.4 - Identify new funding sources to support expanded conservation of private forestland – Given the demand for existing conservation funding sources, the ITF Workgroup recommends the state and its non-profit and academic patterns work to develop new, additive sources of funding targeted for forestland conservation in HPFB’s. One example of a new source is the aggregated sale of carbon offsets in regional carbon markets. Carbon offsets or credits may be generated when a working forest parcel is managed above existing requirements to maximize carbon sequestration and retention. Given the size of most Vermont parcels and the relatively slow growth of our forests, revenue derived from a single woodlot may not be sufficient to fund additional conservation, but aggregating carbon credits across a portfolio of land, such as land conserved by VHCB or through one of the state’s other conservation partners, may result in sufficient funds to leverage the conservation of additional forestland.

C.5 - Target or otherwise prioritize conservation funding for forestland (including working forestland) within High Priority Forest Blocks – Public funding for land conservation is in high demand in Vermont; however, the ITF Workgroup recommends that a modest amount of funding be targeted at forestland conservation projects within HPFB’s and especially for parcels that add onto existing areas of conserved forestland. Current funding target areas should largely be held harmless, however some funding targeted to these properties could assist with intergeneration transfers. Aggregating large areas of conserved forestland maximizes the ecological and recreation values of those areas and provides increased opportunities for forest management, which makes long term ownership of large tracts more viable. Given the extent of forest across Vermont’s landscape, prioritizing conservation funding for land in HPFB’s that add onto other areas of conserved land provides an appropriate and strategic framework for the deployment of funds.

C.6 - Target or otherwise prioritize conservation funding for the purchase of easements that facilitate a transfer to new ownership – Similar to recommendation C.5, a modest amount of conservation funding should be targeted and used to facilitate transfers of land from one generation to the next. Purchasing development rights at the point of transfer allows sellers to achieve their revenue goals and allows buyers to obtain the land at a lower cost. Funding should be limited to or prioritized within HPFB’s, and should largely hold current funding targets harmless. These funds could work in conjunction with recommendations C.2 and C.3.

C.7 - Incentive Fund for Donated Conservation Easements – Establish a small source of private/public funds to provide matching grants intended to cover the transactional costs of conservation easement donation for forestland in the midst of an intergenerational and/or within a HPFB. Donated easements make up a sizeable portion of the state’s conserved land portfolio, and while many landowners are in a position to provide cash payments to cover transactional costs in addition to their donation of a property interest, many others are not and those costs emerge as the primary obstacle to completing the deal. Creating a reliable fund to cover these modest costs will
result in more interest in easement donations, more successful transactions, and greater opportunities to facilitate intergenerational transfers through land conservation. A more detailed overview of this recommendation is found in Appendix B.

D. Use Value Appraisal (Current Use) Opportunities and Strategies

The Use Value Appraisal (UVA) program provides a property tax reduction for qualifying landowners engaged in the practices of forestry and agriculture. Instead of the normal ad valorem approach, assessing property taxes based on the potential development value of those undeveloped, working lands, UVA assesses property tax based on the current use of those lands for forestry or agriculture, resulting in a significant reduction for enrolled parcels. Cumulatively, nearly 15,000 parcels in Vermont have forestland enrolled in UVA and on average each parcel is over 130 acres. Together, these parcels comprise nearly 1.9 million acres of forestland.

The UVA program has very tangible benefits for both enrolled landowners and the State and its citizens. This program supports landowners in the maintenance of a forested condition that contributes to the clean water, wildlife values, cultural and aesthetic character and an economic foundation for the state.

The population of landowners with forestland enrolled in UVA are among those who may be most receptive and benefit most from access to tools and information that will support the transfer of their forestland in such a way that it remains intact. According to the Vermont Woodland Owners Survey, landowners enrolled in UVA are more likely to identify protection of nature, wildlife, water, and growing of timber products as reasons for owning land than landowners not enrolled. Furthermore, the landbase that UVA forestland comprises may be among the most important privately owned forestland to keep intact. On average, UVA enrolled parcels are larger than unenrolled parcels and comprise more than half of the total eligible forestland in the state. The economic and environmental values that the UVA enrolled forestland provides to the state combined with the stewardship ethic of many of the landowners enrolled in the program make UVA landowners an ideal target audience for services that support intergenerational transfer of forestland.

Baseline Conditions:

There is an open line of communication with owners of forestland in UVA. It is the job of county foresters and consulting foresters engage with these landowners on a recurring basis. Foresters will often provide landowners with tools, resources and advice on a diversity of topics related to landownership and forest management. The report submitted to the legislature entitled 2016 Report on County Forester Staffing and UVA Delivery provides a good summary on the roles and benefits of county forester work with UVA enrolled land owners. Some specific opportunities to engage with landowners occurs:

- Every ten years when county foresters conduct inspections.
- Every ten years when forest management plans are updated; most frequently by a consulting forester.
When forest management activities must be implemented on enrolled forestland, county foresters or consulting foresters may be engaged to provide advice.

Outside of the forest management activities, plan updates, and inspections, both county and consulting foresters are engaged to help advise landowners on other land ownership or management questions.

Annually, the Department of Taxes sends a mailing to all UVA enrolled landowners.

Through workshops provided by county foresters to UVA landowners

Through web pages maintained by Department of Forests, Parks and Recreation focused on UVA and other landownership resources such as www.VTCutWithConfidence.com.

Workgroup Recommendation:

D.1 - Increase Awareness of Succession Planning through UVA – The value of county forester interactions with landowners can be increased through the delivery of written materials that summarize processes for transfer of forestland, describe available incentives or catalog the professional resources that can support landowners in the transfer of their forestland.

D.2 - Enhanced Training for County Foresters – Additionally, the training of county foresters in discussing the transfer of forestland could help foresters be confident in their understanding of the resources that are available to landowners, and how to discuss a sensitive topic with landowners.

These recommendations could also be extended to the network of private consulting foresters working with Vermont landowners. Many consulting foresters already provide some level of succession planning information and assistance, but opportunities exist to expand that area of service. Many of the outreach and education tools recommended in Section A of this report should be provided to consulting foresters once developed, and service providers should work closely with the consulting forester community share information and reinforce the importance of succession planning.

CONCLUSION

The majority of the state’s wooded acres will change hands in the coming two decades. As this forestland is transferred from one generation to another, if historic trends are sustained, Vermont’s forests will be further parcelized and fragmented leading to reduced opportunities for forest based recreation, jobs in the forest products industry and an erosion of forest health. The ITF Workgroup offers the suite of recommendations contained in this report as starting point for the important conversation with legislators, policy makers and the public at large focused on how best to support landowners through the transfer of their land so that they may achieve their personal and financial goals, while maintaining the ecological integrity and management potential of the working landscape for generations to come.
APPENDIX A:

*Key Components of Forestland Tax Credit Incentive:* All states enact their conservation land credit programs as incentives, with a goal of increasing the conservation of important lands by leveraging a public investment with a private donation. The incentive is always aimed at the donations of conservation easements, but in most states also supports the conveyance of fee land to a public entity or land trust. However, various reports looking at the success of programs (the one most formally targeted at comparisons was *State Conservation Tax Credits – Impact and Analysis* done by The Conservation Resource Center in Colorado in 2007) found that simply making credits available did not automatically result in more easements being donated; the specific terms of the programs were critically important. This has been born out in the older programs as they have adjusted to make them more effective. There is always a fine balance between making the programs truly a widely used incentive and how much risk or investment a given state wants to make, since credits are a direct cost to tax revenues. While there has not been enough data to make a definitive statement, it seems clear that the two most important factors in effectiveness are the transferability of the credits (in other words, whether the credits can be sold to a third party which can use them to offset taxes the creator of them doesn’t have) and the size of the maximum credit allowed per transaction.

**Credit limits:** The maximum credit that a taxable entity may use from a given project ranges widely from $5,000 annually to no cap. Most states set a maximum credit between $50,000 and $100,000, and a few move that up to over $300,000. Virginia, a very successful program, puts a cap on credits used per year by an individual at $100,000 but puts no cap on the amount of credits a transaction can create. One state, S. Carolina, determines a cap by the lesser of 25% of the federal income tax deduction of the donation or $250 per acre. Experience has show that if the cap is set too low very little interest is generated in a program. Because the amount of credits is the landowners’ measure of the compensation they get for their donated easement that should not be too surprising. However, that measure is linked to two other concepts that vary with programs – transferability discussed next and a provision for carry forward any unused credits in the year of the donation. Both of these aspects of credits are what make them incentives for modest income landowners to donate easements. The variability in carry forward limits is also huge – from none to unlimited! Most programs provide between 5 and 10 years of carry forward, which allows many landowners to fully use the maximum credits unless those limits are very high. However, it is important to realize that the credits only offset state taxes so dollar amounts of benefit may be relatively modest. Many states do set a maximum to the number of credits that can be used by a particular taxable entity in any given year.

Most states also set some types of limits on the amount of credits they will issue in any year. Again the range is huge (Virginia often permits $100 million per year) but there is some loose correlation with higher amounts in states where the rate of development and land values are higher. Basically, this cap on credits is how states define and limit their incentive investment or risk to their annual tax revenue stream, depending upon one’s perspective.

**Transferability:** The ability for a landowner to transfer credits created by their donation of an easement is the single most important way to get tax credits to benefit modest wealth landowners according to most review of programs. By selling the credits to entities which can use them to offset large income the landowner benefits immediately from making a donation rather than having to wait years to
gradually use the credits against their own smaller income. Markets in tax credits are well established and in those states where credits are transferrable the sale price of the credit is usually at a 10-15% discount to their face value.

The drawback to transferability is that it adds considerable complexity and cost to a credit program. In addition, if the credit market is small then the benefit to the seller of the credit may actually be substantially reduced, and therefore defeat the idea that transferability brings the benefits to the more modest income landowners. In the larger states with larger populations, such as Colorado and Virginia, the generation of substantial amounts of credits has led to efficient markets. In a small state like Vermont the market for credits may be tiny – the small geography and relatively small number of landowners results in a relatively small number of easement transactions trying to sell credits to the relatively few taxpayers with large tax bills. This is likely to create a real risk that the incentive benefits won’t accrue significantly to the modest income landowner because offers to purchase them will be few without competing offers.

In addition, the only problems with conservation tax credits have been found in states that have large markets for conservation tax credits. Colorado had the most problems of abuse because the process was easy with relatively little oversight. There was so much money to be made using credits that it led to inflated easement values and subdivisions that were completed simple to get around the credits limits available for any one easement. That program has since been changed, but unfortunately with more oversight came very large fees that may create a barrier to the use of the program by many. It is simply too soon after the changes to tell. Placing transferability into a potential Vermont conservation tax credit program will have to be done very carefully to avoid any abuse of the system and yet also providing the intended benefit to landowners who help conserve the state priorities around important forest blocks.

**Massachusetts Program:** The Massachusetts conservation tax credit program is unique in the country. It is basically direct compensation for an easement. Most analysis of programs feel this is the best way to ensure that the incentive is most attractive to landowners of modest means, without creating a program of transferability with its complexity and disproportionately reducing the taxes of the wealthy. The MA program does this by directly paying the landowner for any credit that is not used by the landowner in the year of the gift. There is no carry forward provision. The maximum credit is also relatively modest, at the lesser of 50% of FMV of the donated easement or $75,000. In the early years the maximum number of credits allowed in the whole program was $2 million, but demand has been so high and leverage so beneficial for the state that there are efforts to increase this state cap. Currently there is over a two year waiting list to receive credits.

**Fair Market Value (FMV):** This is used to determine the value of the credits, up to the maximum. The percentage of FMV that are considered tax credits is the measure of leverage for the state’s incentive, or put another way, how much benefit the state is getting from the tax credit program. As with all other aspects of conservation tax credits the model in other states varies widely – from 25% of FMV to the full 100% of FMV. The latter is used only by Maryland and is basically another way similar to MA to fully compensate the landowners with modest holdings, while not providing much to the more wealthy donors because the maximum credit is capped at $80,000. Unfortunately in terms of encouraging people to participate, the maximum credit that can be applied to taxes annually is just $5,000 so it
would take someone 16 years to fully use the credit. That is not much of an incentive, even though MD allows a full 100% of FMV as the starting point.

The overwhelming number of programs use 40% or 50% of FMV to calculate the tax credit. This represents a 60% leverage for the incentive, which provides a strong argument that the state is receiving a very good deal in a very efficient manner. Most easement purchase program develop less leverage and it is often cumbersome as usually it involves matching grants.

**Federal Tax Deductibility:** None of the other conservation credit programs change the deductibility of the donated easements under federal tax law. In fact, most programs specifically require that the easement meet the federal requirements related to conservation values under IRC Section 170(h). It is the combination of the state incentive through tax credits on state taxes and the federal incentive through deductibility on federal taxes that combined to provide enough indirect compensation to a landowner that they are willing to donate an easement to conserve the land they care about.

**State oversight and review:** The type and extent of the oversight of credit programs varies from state to state, but it is safe to say that experience in Colorado has shown that it would be difficult to have a successful program without some oversight. The two critical areas of oversight in other states tend to be certification of the tax credit and a review of the conservation values protected in the easement. If Vermont were to implement a conservation tax credit program for the Highest Priority Forest Blocks it would be important to do both in a two-step process. The first would be a certification that the landowner qualifies for the credit, both because their land is within the mapped area and because the specific local conditions for protection of the conservation values still exist as mapped. This second determination will be particularly important in connectivity areas since they tend to be located in less remote areas; events on the ground could have changed so that the block no longer actually carries the values the remote sensing work had identified. The second level of review would be for the Department of Fish & Wildlife to actually approve the proposed easement to make sure the conservation values of the particular block, which vary from place to place in the landscape, are actually protected by the easement limitation on future uses.
APPENDIX B:

Incentive Fund for Donated Easement Project Costs

For all of the land trusts in Vermont donated easements make up a substantial proportion of the land protected each year. Landowners’ love of their land and a desire to see their stewardship of it carried into the future after they are gone, is the root of land conservation at the local scale in every state, and why so many land trusts have formed over the past several decades. The purchase of conservation easements came later in most states, including Vermont, as a means to focus the benefits of easements on public policy around a specific type of conservation effort, often farmland protection. However, the donation of easements to conserve land represents a large, often unappreciated charitable act that has been key to shaping the landscapes we all enjoy in Vermont. Rather than purchasing easements with their greater costs, the Intergenerational Transfer of Forest Land Work Group (ITF Workgroup) recommends the creation of a fund that will help incentivize more donated conservation easements to conserve the High Priority Forest Blocks identified by the Vermont Department of Fish & Wildlife.

As one might expect, donated easements tend to be made by people with greater financial resources. However, it is often not the lost land value represented by a donation that drives that result. Particularly for easements on forestland, the project costs associated with an easement donation are often too high for a landowner of modest means to cover. The business model for nearly every land trust requires that the staff costs of developing the easement (negotiation, legal drafting, mapping and baseline documentation of existing conditions) and the easement stewardship endowment are billed directly to a project. General fundraising is simply not able to cover all of the operating costs of a land trust, so project costs are recovered by the funding sources of the project. In the case of a donated easement, that means the landowner has to not only donate the easement but also donate cash. People of all financial means care deeply about their land and want to protect it, but for landowners of more modest means there is simply no way to cover the associated costs of the project. When a land parcel carries high conservation value, every land trust finds ways to cover those costs on a sporadic, case-by-case basis when someone cannot afford to make a donation. However, no land trust has found a way to build a sustainable program over the long-term without charging most landowners for the endowment and costs associated with their particular project. That ask for a further donation when the landowner is already giving up so much by donating the easement is one of the hardest discussions in land trust work.

The Vermont Land Trust has had enough experience with incentives for donated easements to know they work. One (the Staying Connected Initiative State Wildlife Grant project) active between 2010 and 2012 was structured similarly to what the ITF Workgroup envisions. That grant fund was created to encourage donated easements on forested parcels of land that were located at critical, narrow pinch-points in wildlife corridors in certain areas of Vermont. This clearly resulted in donations that otherwise would not have happened. Other experience with foundations or donors underwriting project costs confirms that incentives increase the number of donated easements if they remove or dramatically reduce project costs to the easement donor.

Based on data from the Upper Valley Land Trust and the Vermont Land Trust most donated easements on forested lands have project costs that average between $12,000 and $15,000. As mentioned above, these fall within four categories: 1) project negotiation staff time (including an ecological assessment), 2) legal time associated with drafting the easement, review of title and closing, 3) staff creation of a baseline report to document (including mapping and photo-documentation) the land at the time of
easement donation, and 4) a stewardship endowment to annually monitor that the easement conditions are met in perpetuity. The specific amounts vary within each category according the project details, but on average the endowment makes up roughly 40-50% of the project costs. However, very large acreage projects do create outliers to those averages. Land Trust Alliance Accreditation Standards require that the baseline document and the endowment be created at the time of project closing. Those standards also dictate that the endowment amount be determined by the parcel specific conditions found in the easement and on the ground.

The Intergenerational Transfer of Forest Land Work Group recommends the creation of a fund solely aimed at encouraging donated easements that protect land identified by the State as being within a Highest Priority Forest Block. Such a fund should be efficient and inexpensive to administer. It should be open to all donated easements that protect those forest priorities on a first-come-first-served basis, and use documentation of result rather than complex competitive grant rounds. One possible approach would be a simple reimbursement grant once the easement was recorded. The ITF Workgroup feels an incentive fund could leverage a significant amount of forest land conservation with an extremely modest investment. Many landowners care deeply about Vermont’s forestland and this incentive would remove an important proven barrier to easement donation, especially those of modest means.
APPENDIX C:

A Case Study of Forestland Succession Planning: Starr family, North Troy

Four generations of the Starr family from North Troy, pictured above, worked with advisor Audrey Winograd through the Vermont Woodlands Association (VWA). Situated at the confluence of Bugbee Brook and the Missisquoi River and between two large blocks of forest, the Starr family’s approximately 400-acre block of forestland is actively managed for timber, supports water quality by acting as a densely forested buffer, helps maintain forest integrity, and acts as a wildlife corridor. But for the Starrs, it is also a gathering place and a glue that keeps family together.

Throughout 2016, Viability Program advisor Audrey Winograd with VWA helped the family in the development of a succession plan for the property. Trained as both an attorney and a social worker, Winograd facilitated large family meetings on the subject of succession and helped the family understand the legal tools available to them and what implications each would bring.

Ila, the family matriarch, said that by working directly with their advisor, “we were so much better informed about what was possible.” Her son, Jim Starr, said that “having a neutral, non-family member involved made it easier to digest some things that might be hard to hear.” According to Jim, for most of the family “the legal documents are just words on a page, but that Audrey’s emphasis on building family cohesion around the planning process was valuable for it to be successful.”

Virgil Starr, another of Ila’s sons, added that, “this process pushed us to make important decisions and not put them off.”

Excerpts from report by succession advisor Audrey Winograd, JD, MSW

December 28, 2016

RE: Starr Family Meeting & Succession Plan Updates

The family’s planning began when Jim, his daughter, Leah and his brother Gary attended a Ties to the Land all day workshop with Kathleen Wanner of the Vermont Woodlands Association, Mary Sisock, PhD, UVM extension forester and guest speakers. They were then referred to me to facilitate the conversation with their family and assist them with their succession plan.
I began working with the Starr family during the first week of November, 2015. The woodlot which is the subject of this consultation consists of two parcels both of which are in year 5 of a current use plan. The land is owned by the six siblings. The next generation consists of twelve children (ages 22-45) and spouses; there are 13 grandchildren at present. The Starr family has family meetings held 2-3 times per year, primarily to discuss economic activity such as logging revenues.

At the first meeting I explained the role I could take in helping their family to create a shared vision for the land and following this goal through the succession planning process. We discussed the conversations they have had thus far as well as the advisors in place and those that may be asked to join their team. Through a series of phone consultations, we outlined the scope of our work together, aimed at keeping their woodlot in North Troy, Vermont, intact and in the family.

The first half of 2016 was dedicated to outlining each successor’s interest and determining the current legal status and best use of each parcel, in alignment with the shared values of the family. I then prepared for the family succession planning meeting by way of individual consultations with family members, relationship and property mapping. The all-day Starr Family Succession Planning meeting took place on October 8, 2016. We began the day in the Starr family tradition with a big breakfast in the cabin. We then got down to business. Using a combination of tools from the Ties to the Land program (provided by Mary Sisock), Family Firm Institute and family systems theory, each family member shared their values with respect to the land and their hopes for the future of the family forest. They talked openly about family communication styles and what might work best moving forward as their family can no longer sit around one big table. We used an action planning tool to determine who will do what tasks in terms of the succession plan, land and tenant management, recreation, forestry and sustainability. We packed a lunch to take with us as we spent the afternoon touring the land, all the while discussing vital aspects of their longstanding relationship and stewardship of the forests, streams and wildlife. The Starr family’s values are aligned with their goal to keep the land intact, in the family, managed and enjoyed by all.

Following the meeting we had several phone consults to develop a plan to incorporate the family’s stated wishes into a legal plan. In consultation with our advising attorney, I reviewed draft documents for alignment with what I learned. I met with their attorney to transmit this information. We began our inter-professional discussion regarding the pros and cons of LLCs or trusts. I have followed up in person and by phone and email. Jim Starr has done so as well. It is important to note that while our VWA team consults with the family advisors, we do not recommend any advisors, nor do we recommend or direct the family or professional with regard to any legal, tax or financial matters.

Our goals for 2017 are: (1) for the family in consultation with their attorney, to make a decision as to legal form, (2) to encourage a dialogue between the family and professional that leads to understanding of how the document works now and into the future, (3) to encourage that once understood the documents are executed, and (4) to have a family meeting to discuss implementation of the plan into their current and near future operations and to create a decision
making system and conflict resolution plan to keep it working. VWA advisor Attorney Kurt Mehta is available to help the family discuss the details of an operating agreement while Mary and/or I elicit the information necessary to prepare that. We would then send the family back to their attorney to prepare the operating agreement.

Respectfully submitted by: Audrey B. Winograd, JD, MSW
Law and Social Work Fellow, UVM/VT LEND
Member: Family Firm Institute, Vermont Woodlands Association, Vermont Land Trust, National Association of Social Workers (VT)
CONSERVATION EASEMENTS

Marisa Riggi
Conservation Director
Northeast Wilderness Trust
WHAT ARE CONSERVATION EASEMENTS?

- Legally binding agreements between landowners and qualified conservation organizations that limit certain types of uses or prevent development on land to protect its conservation values.

- Can be donated or sold to a qualified non-profit or government entity.

- Run with the land, remaining with the property after it is sold or passed on to heirs.

- Creations of statute, every state in the United States has a conservation easement statute.
BUNDLE OF PROPERTY RIGHTS

- Landowner bundle of rights: right to occupy, sell, lease, exclude others, develop, subdivide, harvest timber, farm, construct buildings, etc.

- Landowners can decide to sell or donate one or more of these rights.

DIFERENT ORGANIZATIONS HOLD DIFFERENT EASEMENTS

- Conservation organizations work for a specific mission.
- Different missions include some or all of the following:
  - Sustainable forestry
  - Farmland preservation
  - Recreational access
  - Wilderness preservation
  - Open Space preservation
- Easements are tailored to meet the landowner’s goals and Conservation Organization’s mission.
EXAMPLE EASEMENT TERMS

To ensure the wild character of the Property is protected... the following acts and uses are prohibited on, above, through or below the Property.

1. Residential, commercial, or industrial activities;
2. Constructing or placing any temporary or permanent structure, or expanding an existing structure;
3. Mining, excavating, dredging or removing soil, loam, peat, gravel, sand, rock, oil, gas or other mineral resource or natural deposit;
4. Altering or manipulating the hydrological regime (timing, duration, frequency, magnitude or extent of hydrological processes such as natural flooding or drying);
5. The legal or de facto dividing, subdividing, or partitioning of the Property except to convey part of the Property to another qualified conservation organization or public entity for conservation purposes in keeping with the Purposes of this Easement;
IMPORTANCE OF CONSERVATION EASEMENTS

- Protect roughly 40 million acres in the United States (NCED 2016).

- Provide public benefits such as the preservation of scenic views, wildlife habitat, open space (including farm and forest lands), outdoor recreation, improved water quality protection, etc.

- Reduce fragmentation, prevent loss of the forested landscape.
REASONS FOR LANDOWNERS TO CONSIDER CONSERVATION EASEMENTS

- Permanent protection of the land they love while retaining private ownership.
- Preserve family lands while maintaining agricultural, forestry or recreational use.
- *Income and estate tax savings.*
To qualify for a deduction, a landowner must donate a CE that meets the requirements of the Internal Revenue Code (IRC) and Treasury Regulations, and meet three basic tests:

1. Easement must be a qualified real property interest (perpetual in duration).
2. Easement must be granted to a qualified organization (501(c)(3) or government agency).
3. Easement must be granted exclusively for conservation purposes.
CONSERVATION PURPOSES TEST

IRC Section 170(h)(4)(A) test is met if an easement is donated exclusively for one or more of the following reasons:

1. The preservation of land areas for outdoor recreation by, or the education of, the general public.

2. The protection of a relatively natural habitat of fish, wildlife or plants, or similar.

3. The preservation of open space (including farmland and forest land) where such preservation is
   a) For the scenic enjoyment of the general public, or
   b) Pursuant to a clearly delineated federal, state or local governmental conservation policy and will yield a significant public benefit, or

4. The preservation of an historically important land area or a certified historic structure.
TAX BENEFITS OF CONSERVATION EASEMENTS

- Income Tax Benefits
  - Donors can take a deduction up to 50% of their annual income with a carry-forward period of up to 15 years.
  - Qualifying farmers and ranchers can deduct up to 100% of their income.

Disclaimer: I AM NOT QUALIFIED TO GIVE TAX OR LEGAL ADVICE
TAX BENEFITS OF CONSERVATION EASEMENTS

- Estate Tax Benefits
  - Reduces the value of the estate to be taxed.
  - Heirs can exclude 40% of the value of land under conservation easement from estate taxes.

Disclaimer: I AM NOT QUALIFIED TO GIVE TAX OR LEGAL ADVICE
QUESTIONS?

Contact Information
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**Conservation Easement v. Deed Restriction**

**Q** Since we are a nonprofit with a permanent existence, is there any difference between our receiving a restriction on land by deed covenant and a restriction on land by conservation easement?

**A** Deed restrictions and conservation easements are essentially the same thing... legally binding restrictions on the use of land in the form of a written instrument that affects the title to the land and is generally recorded where deeds are recorded. The only significant difference is that the conservation easement, if written properly and granted to an eligible grantee, is entitled to many more protections of the law under most states’ statutes. It is generally accorded greater deference by courts in the event of a dispute. Another major difference is that conservation easements that meet certain qualifications are eligible for income tax treatment as a charitable gift. Because of these added benefits, there is no reason why a qualified grantee should ever take a simple deed restriction.

Deed restrictions are a creature of “common law,” the law we inherited from England, as interpreted by court decisions. Those decisions have resulted in some significant drawbacks for deed restrictions that the state conservation easement statutes were designed to eliminate. While it may differ from state to state, a deed restriction is not permanent unless it is “appurtenant” to nearby land. It must benefit that nearby land, and run with the title to both properties. Otherwise, it is enforceable only during the lifetime of the grantor. Neither is it assignable by the grantee—in other words, a land trust cannot transfer a simple deed restriction to another land trust or public agency.

Another disadvantage to simple deed restrictions is that the case law of most states require the courts to resolve any ambiguity in the interpretation of a common law deed restriction in favor of the less restricted use. Moreover, deed restrictions can be terminated by a court based on economic hardship or impracticability, without regard to public benefit. None of these impediments are applied to properly written conservation easements. In fact, some state laws instruct courts not to consider financial hardship in evaluating whether to terminate or modify an easement for “changed circumstances.” Even in the absence of such specific protection, courts are apt to give greater deference to conservation easements because of the public benefit they serve.

If a full-blown easement is unappealing to a landowner and he or she doesn’t care about tax deductions, in many states it is possible to draft a very simple document that more resembles a deed restriction, but which meets the requirements of the easement statute, and therefore qualifies for all of its protections. In Maine, for instance, the following language added to short and simple deed restriction language will make it a permanent conservation easement, without even mentioning the easement statute.

> This covenant is for conservation purposes and shall run with and burden the premises in perpetuity, and The Land Trust, its successors and assigns, shall have the right to
enforce the same at law or in equity, and the right to enter the premises at a reasonable time and in a reasonable manner in order to monitor compliance herewith.

This kind of clause can also be used to turn a deed restriction in a deed from the land trust to another organization or person into a conservation easement. In fact, with just a few more sentences, an abbreviated version of the boilerplate language required by the IRS for income and estate tax recognition can turn the otherwise qualified restriction into a qualified conservation contribution under the tax code. The assistance of experienced counsel is essential, of course.

Karin F. Marchetti Ponte, General Counsel Maine Coast Heritage Trust
Excerpt from “Ask an Expert”, Exchange, Spring 2001
Estate Taxes Generally. Calculated based on the value, as of the individual’s date of death, of all of the assets the individual owned or controlled during life (the individual’s “taxable estate”).

The “Taxable Estate”. A decedent’s taxable estate will include the full fair market value as of the date of death of all property the decedent owned or controlled during life; doesn’t matter how, where, or to whom an individual’s assets might pass after death

The Estate Tax “Tax-Free” Amount. Every estate is subject to estate tax, but not every estate will have to pay estate taxes. Estate taxes will be due only if the total value of the taxable estate exceeds the “tax-free” amount available for Federal purposes and for Vermont estate tax.

Estate Tax Charitable Deduction. Any charitable gift made at death – including a conservation easement - is deductible in full on the donor’s estate tax return; 100% of the value of the gift is deducted “off the top” of the value of the donor’s estate

When is a Gift or an Inheritance Subject to “Transfer” (Gift and Estate) Tax?

1. “Freebie” gifts during life ~ no gift or estate tax consequences
   a. Annual tax free amount ~ now $14,000 (unlimited donees)
   b. Direct payments for tuition, medical expenses ~ unlimited amount
   c. Gifts to a US citizen spouse ~ unlimited amount

2. “Freebie” transfers at death ~ no estate tax liability
   a. Inheritances by US citizen spouse ~ unlimited amount
   b. Gifts to charity ~ 100% deductible against estate tax

3. “Taxable” Gifts~ all other transfers (whether made during life or at death)
   a. If gift is not a “freebie” described above, it is a “taxable” gift
   b. Doesn’t mean a tax actually has to be paid
   c. Federal and State “tax-free” amounts per individual donor/decedent (cumulative)
      (i) Federal = $5,490,000 (indexed for inflation) – 40% rate
      (ii) Vermont = $2,750,000 - 16% tax rate
   d. Taxable gifts “use up” a person’s available Federal tax-free giving amount

   Example: Tammy gives $490,000 home to children during life
   Tammy “uses up” $490,000 of her total Federal tax-free amount
   Tammy can give $5,000,000 more free of Federal estate tax

   e. Vermont has no gift tax ~ but, does tax gifts made within two years of death
4. “Portability” of Federal Tax-Free Amount — for married couples only

a. If deceased spouse doesn’t use full Federal tax-free amount, unused portion is “portable” — Surviving spouse can use the unused portion of the deceased spouse’s tax-free amount for later tax-free transfer of survivor’s assets (during life and upon death)

b. Election to use deceased spouse’s unused tax-free amount must be made on timely filed Federal Estate Tax Return for deceased spouse’s estate

Example: Tammy marries Timmy, a US citizen
Tammy moves all assets into joint name with Timmy; Tammy dies
All assets pass automatically and free of estate tax to Timmy
Tammy has used none of her Federal tax-free amount
Timmy files estate tax return for Tammy’s estate and elects his ability to use
Tammy’s unused tax-free amount
Timmy can now give $10,980,000 free of Federal estate tax
(2 x $5,490,000)

Without portability, Tammy’s tax-free amount would have been lost.
➢ Portability is not available in VT
➢ We still use “credit shelter” trusts (A/B, Marital/ Family, etc.) in VT

“Carryover” Cost Basis for Lifetime Gifts. A recipient of a gift of an asset from a living donor also receives that donor’s cost basis (the basis “carries over” with a lifetime gift).

Example – Carry Over of Cost Basis (for lifetime transfer to heirs):
D owns Blackacre, with a cost basis of $20,000.
D makes a lifetime transfer of Blackacre to her children in 2008.
The fair market value of Blackacre in 2008 is $1,000,000.
D’s children now own Blackacre with D’s cost basis equal to $20,000.
If D’s children sell Blackacre, their capital gain will be $980,000.

[FMV ($1,000,000) – cost basis ($20,000) = $980,000]

The “Step-up” in Basis. Assets transferred from a decedent get a “step up” in cost basis. The new “stepped up” cost basis is equal to the value of the property as of the decedent’s date of death.

Example – Step-Up in Cost Basis at Death:
D owns Blackacre, with a cost basis of $20,000.
The fair market value of Blackacre on D’s death is $2,000,000.
D’s heirs inherit Blackacre with a new cost basis equal to $2,000,000.
Income Tax Charitable Deduction. A donor making a gift of a conservation easement during life is entitled to take a deduction on an annual personal income tax return (Form 1040) for the value of the easement. The deduction is taken for the year in which the gift is made. A donor may not, however, be able to use the whole deduction in the year the gift is made, since there are limits on how much of the value of a donor’s charitable gifts the donor can deduct in any one year.

(a) Percentage Limitations and Carryover. In previous years, the IRS limited the amount of a donor’s charitable deduction for the gift of a conservation easement to no more than 30% of a donor’s adjusted gross income. If a donor could not use all of the charitable deduction in one year, the donor would have an additional 5 years to use up (“carry over”) the balance.

(b) Increased Limitation and Carryover Period. Over the last few years, Congress has increased both the deductible percentage, and the period of carryover. The percentage limitation on a donor’s income tax charitable deduction for a conservation easement is now 50% of the donor’s “contribution base” (generally, the donor’s adjusted gross income), and the carryover period is increased to 15 succeeding years after the year of the gift (for a total of 16 years in which to use up the full charitable deduction).

Note: This expanded carry-over period could be extremely important to donors with large charitable deductions and low income. Note that if a donor dies before using fully a charitable income tax deduction, the remaining unused deduction is lost.

(c) "Qualified farmers and ranchers" are entitled to take their easement deduction in amounts up to 100% of contribution base. “Farmers and ranchers” qualify for this benefit if their gross income from the trade or business of farming is greater than 50% of total gross income in the year of the gift.

Estate Taxes and Conservation Easements. The donation of an easement at death can have a significant impact on estate tax liability. In an otherwise taxable estate, the resulting estate tax charitable deduction can reduce the value of the estate and eliminate an estate tax liability entirely. The direction to grant a conservation easement at death can be included in a Will or in a revocable “living” trust. It is also possible for the executor of the estate to effect a “post mortem” conservation easement.
A Comparison of Two Ownership Options for Family Real Estate

Limited Liability Company (“LLC”): Owners enjoy “limited liability” without burden of formal requirements of general business corporation

- Title to the real estate is transferred to the LLC
- “Members” hold the ownership of the LLC (similar to owning stock)
- Members appoint one or more “Managers” to manage the LLC and its assets
- Formal written “Operating Agreement” governs administration, tax issues, management control, and disposition of individual interests
- Transfer of ownership interests is easy (a Schedule of Membership Interests is used to reflect ownership; there is no need to prepare and record new deeds to bring new members in to ownership of the LLC)
- Potential pros and cons:
  - simple
  - owners retain management control (flexible)
  - owners can terminate LLC, change terms of Operating Agreement
  - Operating Agreement can set limitations on ownership outside the family
  - protection from liability, creditors
  - LLC membership interest can be perceived more as “asset” than “legacy”

Real Estate Trust: Formal trust agreement controls all aspects of management, use, and future ownership

- Trust agreement is landowner’s set of directions for managing the land
- Trust agreement names one or more “trustees” to control management and the interests of the named “beneficiaries” of the trust
- Trust “beneficiaries” are the people given the “benefit” (the use and enjoyment) of the real estate, subject to trustee oversight
- Potential pros and cons:
  - permanency (commonly “irrevocable” at some point)
  - maximum control over beneficiaries, future owners
  - landowner imposes management control
  - trustees and beneficiaries can be given flexibility through management agreements, well-drafted trust provisions
  - protection from liability, creditors
  - can minimize estate taxes in the estates of the beneficiaries
  - can provide greater sense of “legacy” vs. “asset” available for liquidation
LLC FAMILY LAND CHECKLIST

Questions to Consider in Developing the Operating Agreement

1. What is the overarching goal of the LLC? What do you want to see happen with your land?

2. Who will be the “members” (owners) of the LLC? What percentage ownership interests will each member have?

3. Do you want this LLC to terminate after a certain period of time (“a term LLC”) or do you want it to go on as long as there is someone interested in keeping it going (an “at-will LLC”)?

4. If the LLC terminates after a number of years, what happens to the LLC’s assets and liabilities at termination?

5. Do you want every member to be able to act on behalf of the LLC (“member-managed”) or just specific members (“manager-managed”)?
   a. If you want a “member-managed” LLC:
      i. Who is in charge of the day-to-day operations (maintenance and repairs, paying taxes and insurance, etc.)?
      ii. How do the members decide what needs to be done, how to pay for it, and what the budget for the year should be?
         a) Majority Vote?
         b) Other:
   b. If you want a “manager-managed” LLC:
      i. Which individuals do you want to be the manager(s)?
      ii. Does the manager have full and exclusive rights to:
         a) Sell, assign, or encumber the property?
            i) If no, then what limitations should be placed on this power?
               (1) Cannot sell, assign, or encumber the property without unanimous consent or majority vote?
               (2) Other:
         b) Pay carrying costs (repairs, maintenance, taxes and insurance) on the property?
            i) If no, then what limitations should be placed on this power?
               (1) Cannot do more than $________ in carrying cost in a year without unanimous consent or majority vote?
6. Use and Enjoyment of Property by Members
   a. Who gets to use the property when?
   b. Is it the same schedule every year or a different schedule every year?
   c. How is the schedule decided?
   d. Is there a charge (rent) assessed when using the property?
      i. How would the amount of rent be determined?
   e. Can non-members rent/use the property?
      i. If yes, under what conditions?

7. What are the rules regarding assessments and contributions to the LLC to cover expenses?
   a. Maximum amount per year?
   b. How much time to pay it?
   c. What happens if a member does not pay?
      i. The member’s interest terminates?
      ii. The membership interest diminishes by ___% for every year the member does not contribute until: (1) their membership interest is extinguished; or (2) their membership interest reaches a minimum amount (____%), then it stays there until the member begins paying again?
      iii. The member forfeits the right to use and enjoy the property?
      iv. The member does not receive any distributions?
      v. Other: ____________________________

8. What happens if a member withdraws or wants to withdraw (disassociates) as a member?
   a. If the interest of the dissociated member is transferred to the remaining members:
i. Pro-rata, based on their total contributions?
ii. Equally?
b. Do the remaining members have to purchase the withdrawing member’s interest?
c. How long do the remaining members have to come up with that purchase money?

9. Do you want to allow members to transfer their interest in the LLC or restrict transferability?
   a. If you want to restrict transferability, then how?
   b. Can a member transfer any interest, whether it is an economic interest or an ownership/governance interest?

10. What happens when a member dies?
   a. Membership interest can be passed to others via will/trust
   b. Who can inherit a membership interest?
   c. Membership interest is extinguished?
Worksheet 2: The Heirloom Scale

This worksheet is designed to help you, and others you wish to involve in the succession planning process, to identify and communicate the importance of your property to you today. There is no right or wrong place to be on this scale. It is simply important information to help guide the planning process. We’ve created a space to record the date because a person’s location on the scale is influence by age and circumstances. It’s worthwhile for everyone who completes the scale to revisit this exercise every five years or so.

Complete this exercise by placing a mark on the scale that indicates the importance of the property to you. Next, write down the reason(s) for your choice, and whether and how your choice might change under different circumstances. If you have more than one piece of property, do this exercise for each of them.

Name ___________________

Date ________________

$ 1 = My property is strictly a financial asset. 10 = My property is a priceless family heirloom.

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My number on the Heirloom Scale _____

My thoughts about why:

________________________________________________________________________
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________
Succession Planning Check List

I. Desired Outcomes
   ____ Owners’ vision and objectives for the property clearly developed.
   ____ Determine the importance of family ownership and involvement.
   ____ Identify potential heirs’ interest, goals and needs.
   ____ Identify all other stakeholders’ position.
   ____ Determine the need for an outside facilitator.
   ____ Document the shared vision in writing.

II. Basic Documents
   ____ Will and/or revocable trust
   ____ Durable power of attorney
   ____ Advanced directives for health care decision making
   ____ Estate inventory and estimation of gross estate

III. Establishing Processes
   ____ Communicate your vision, objectives and process for moving forward to the family/stakeholders.
   ____ Hold regular documented family meetings.
   ____ Identify essential knowledge and/or training for the future owners.
   ____ Provide necessary knowledge and training.
   ____ Increase basic family member engagement.
      • Information sharing
      • Activities
      • Decision input
   ____ Establish method for decision making under current ownership structure.
   ____ Establish a method for dispute resolution.
   ____ Create a family compact with input from all members/stakeholders.
   ____ Establish a method for valuing, documenting cash and labor contributions, and for potential present or future compensation of heirs to the property and in support of the current owners’ health and well-being.
   ____ Establish policies for family member employment if needed.

IV. Identify Advisors
   ____ Attorney
   ____ CPA
V. Establish present and future liquidity needs
   ____ Determine current owners’ need for current and future income from the property (e.g.,
       retirement income, health care or long-term care funds).
   ____ Determine resources needed to maintain the property.
       • Property taxes
       • Maintenance
       • Estate taxes
       • Insurance
   ____ Investigate life insurance as a source of liquid assets.

VI. Consider Ownership Structure and Transfer Methods
    There is no one right way to own and transfer assets. Methods of transfer may include selling to
    heirs, gifts, bequests or a combination of any or all of these. Each method has present and future
    income and estate tax implications for the current owners and the heirs. Various options should be
    generated and considered with the help of qualified advisors to address as many needs as possible.
    You should document the reasons for your conclusions so that as circumstances change (they always
    change) you and your heirs have a reference point for future decisions.

    ____ Establish risk tolerance for losing some or all of the land due to
        • Divorce
        • Creditors
        • Death and remarriage
        • Liability
        • Desire for cash
        • Irreconcilable differences
        • Illness or long-term care/nursing home costs
    ____ Establish whether estate taxes are a consideration.
    ____ Determine which ownership structure or combination of structures provide the optimal level
        of flexibility, risk protection and tax benefits for you.
        • Sole owner – Divide the property equally among heirs so that each has title to their own
          piece. Or sell or gift to one heir or other party and bequeath cash or other assets to
          remaining heirs.
        • General partnership (tenants in common, or joint partners with right of survivorship)
• Trust
• Family Limited Partnership
• Limited Liability Company

____ Legal forms appropriate to the chosen structure are created, signed and filed with appropriate agencies.

____ Plans and/or policies are in place for meeting the legal requirements (e.g., paying taxes, holding meetings, keeping documents and records, etc.) and understood by all owners.

____ All owners understand and agree to their roles and responsibilities.

____ Business agreements and policies are in place.
  • Partnership agreements
  • Policy on who can and cannot be owners
  • Buy/Sell policy
  • Policy on profits and losses
  • Policy on dividends
  • Policy on dissolving the partnership or corporation

VII. **Follow-up**

____ A timetable has been established and is being followed.

____ Review the plan on a regular basis and update as necessary (births, deaths, divorces, changes in the law, asset appreciation, etc.).

VIII. **Document maintenance**

At a minimum the following current documents are maintained in a file with originals in a safe location.

• Family mission statement
• Will and/or revocable trust
• Power of attorney(s)
• Property deeds/titles, leases, rental agreements etc.
• Mortgages and notes payable
• Tax returns, financial records, and statements for the last five years
• Insurance, bank, brokerage, savings, disability and retirement account information
• Contact listing of all professional services and advisors

This document was created for general reference purposes only. It does not constitute legal advice. It is the users’ responsibility to consult with their attorney on the sufficiency of their succession and estate planning.
Family Mission Statement

Take time to develop a mission statement for the family land. The mission statement is a combined expression from all the interested parties of the purpose of owning land together as a family. Draw on the values expressed by family members when creating the mission statement. The family meeting is a perfect format for developing the mission statement.

The mission statement can focus primarily on the land but many families also incorporate statements of values they share around being a family, traditions they want to continue, or how they collectively want to relate to each other.

Things to consider when writing your mission statement –

- The dreams or philosophy of family founders if the land has already been in the family for multiple generations.
- Reasons for having a family legacy.
- Central values relating to land and family.

Example family mission statement:

The ____________ family is committed to continually coming together to support each other and be good stewards of our family’s land. To create a positive and open environment that enables each individual to grow and to use their unique gifts for carrying on our land legacy. We are always asking ourselves, ‘Do we provide a place of physical beauty, emotional contentment, and spiritual renewal?’
ADMINISTRATION OF WOODLOT TRUST – Sample Trust Provisions

Following the allocation of any assets to the Woodlot Trust for administration under this Article, the Trustee shall administer such assets as follows until the termination of the Woodlot Trust in accordance with paragraph (f):

(a) General Statement of Intent. In establishing the Woodlot Trust, I have the following primary goals: (i) to ensure that the natural areas of the Woodlot are managed and preserved for wildlife; (ii) to ensure that my descendants have the use and enjoyment of the Woodlot, subject to the provisions of this Article and any restrictions imposed under the Grant made in accordance with paragraph (b); and (iii) otherwise to prohibit general access by the public. I have established the Woodlot Trust keeping in mind the dedication my family and, in particular, my daughter Sarah and I, have had to the land, as well as our strong shared desire that the agricultural, wildlife management, recreational, and timber management activities can continue as they had been while I was living and actively engaged in management of the Woodlot. I recognize that implementation of the Woodlot Trust may well delay and, potentially, minimize the monetary value of the inheritance I would otherwise expect to leave to my descendants. I have established the Woodlot Trust, however, with a desire to pass along, first and foremost, the legacy and beauty of a scenic and vital natural area and, in particular, one that has been nourished and nurtured as a wildlife sanctuary by our own careful and attentive management and stewardship. Any questions regarding the appropriate management of the Woodlot Trust shall be considered and resolved, to the greatest extent possible, in keeping with the expression of my intent under this paragraph and with any written mission statement or other memorandum or verbal expression of my desires I may have shared with the Trustee, any advisor, any family member or any other individual at any time.

(b) Family Management Committee. During the continuation of the Woodlot Trust, there shall be a Family Management Committee responsible for and with complete authority over the ongoing management of the Woodlot in accordance with this Article (the “FMC”). The Trustee of the Woodlot Trust is and shall be relieved of liability as to any actions of the FMC and generally with respect to the ongoing management of the Woodlot. The FMC shall communicate on a regular basis with the Trustee, and shall coordinate with the Trustee to ensure the timely payment of expenses and deposit of income generated from the Woodlot.

(1) The FMC shall consist of those of my children then living with capacity to act, and such additional members as my children may elect by majority vote in writing. If at any time there is no child of mine or other elected member able and willing to act, then the members of the next eldest generation of my descendants shall elect one or more members of the FMC by a majority vote in writing.

(2) The FMC shall act by majority vote and, in the case of any even division among the Woodlands Trustees, the Trustee, or its delegatee, shall cast the deciding vote.
(c) **Grant of Easement.** If not already conveyed, the Trustee shall, following my death, convey to a “qualified conservation organization” (the “QCO” as further defined below), selected by the FMC, a conservation easement and grant of development rights in a form acceptable to the FMC and encompassing as much of the Woodlot as the QCO will accept (the “Grant”). The FMC shall be vested with full and complete authority and discretion to determine the scope and terms of the Grant and to execute all necessary documents and obtain all necessary appraisals to effect the Grant. For the purposes of the Grant, a QCO shall meet the requirements set forth under Section 170(h) of the Code and related Regulations (or any successor to such Section and related Regulations) such that the Grant will be considered a charitable gift deductible against Federal estate tax in my estate. The actions and decisions of the FMC under this paragraph shall be vested in its sole discretion and shall be final and binding on all parties.

(d) **Expenses.** During the continuation of the Woodlot Trust, the Trustee shall pay all expenses associated with the continued ownership of the Woodlot, including, without limitation, real property taxes, insurance, utilities, expenses of repair and maintenance, and necessary capital expenditures. The FMC shall have full discretion in arranging for payment of any such expenses by others through reasonable and appropriate lease agreements or any other suitable arrangements.

(e) **Distributions of Income to Children and Descendants.** Subject to the payment of expenses associated with the Woodlot as provided in paragraph (d) of this Article, the Trustee may make distributions of so much or all of the income of the Woodlot Trust to or for the benefit of any one or more of my descendants then living, all as the Trustee, in its sole and complete discretion, deems appropriate. Any income not distributed under this Article shall be added to principal.

(f) **Termination and Distribution of Woodlot Trust.** The Woodlot Trust shall continue until the first to occur of: (i) the sale of the Woodlot (provided, however, that there shall be no sale of the Woodlot unless the Grant required under paragraph (c) of this Article is completed); (ii) the death of the last of my living descendants to die; and (iii) the expiration of the period established under the Rule Against Perpetuities as described in Article 7.2 (subject to any effective change in situs or governing law). If any descendant of the mine is living upon termination of the Woodlot Trust, the Trustee shall distribute the remaining principal and undistributed income of the Woodlot Trust to such living descendants, such descendants to take per stirpes, subject, however, to Article 4.5. If no descendant of the mine is living upon termination of the Woodlot Trust, the Trustee shall distribute such in accordance with Article 3.4.
Overview of Succession Planning for Family Legacy

When the goal is long term preservation of the family legacy, the planning process would, ideally, engage the family in framing the shared goals and developing the plan.

A variety of professionals can be used at times throughout the process. Typically, professionals would charge for their services on an hourly basis for ongoing work. Fixed fees may be an option for certain services.

A typical planning process can involve the following steps:

1. **First**: Landowner consultation with relevant professionals to develop the Landowner’s expectations and goals and to assess planning strategies to achieve those goals.

2. **At the right time(s)**: Family conversations ~ These take time; can be facilitated by professional. The goal of the initial family conversations would be to extract and share each family member’s expectations, assumptions for the future ownership ~ (shared use, actual management cost - time, effort and expense), not to decide what to do!

3. **Ongoing**: Landowner evaluation (and re-evaluation) of family input to develop goals, practical parameters; Follow up with consultations to integrate with succession options (financial planning, tax, woodland management, legal)
   
   Additional ongoing process for the next generation as planning progresses, for evaluation (and re-evaluation) of issues and options

4. **Ultimately**: Development and implementation of plan. Depending on personal and tax goals, the range of options is broad, such as:
   
   (a) immediate lifetime conveyance of land to next generation

   (b) development of plan for simple, efficient transfer of woodland at death with flexible, well-crafted estate plan (Will, Revocable Trust, financial and medical powers of attorney)

   (c) more intricate, such as:
      
      ▪ Limited Liability Company for collective ownership, with governing "operating agreement" or land-specific Trust arrangements
      
      ▪ Subdivision and ultimate transfer of land to heirs with covenants imposed for timber management, future transfers, recreational use and building parameters, expense allocation and assessments

Resources: "Getting to Yes" (Fisher/Urie); Inquiry-based conversations (Cooperrider); Thom J. McEvoy, Planning Family Forests: How to Keep Woodlands Intact and in the Family (Forestry Press 2013); Steven Small, Esq. landowner succession books; “Saving the Family Cottage” (NOLO Press)
**Preparing for the Family Meeting**

*Questions for the Land Owner*

Below are questions offered as “homework” in preparation for family meetings to discuss the future of family real estate. The general idea, especially early on, is for each person to share openly their expectations and assumptions, and NOT to make any immediate decisions.

A productive initial meeting can set the stage for decisions that, ultimately, are the most appropriate for the family as a whole. *Please note,* however, that final decisions regarding the real estate belong to the Land Owner alone.

1. *What are your own long term goals and/or expectations with respect to the family real estate?*

2. *What do you believe are the long term goals and/or expectations of your children and other family members with respect to the real estate?*

3. *In the upcoming discussion, will you say what you really think? Will you be more likely to say what you think your family members will want to hear? Do you think your family members will be more likely say what they think you want to hear instead of what they really think?*

4. *What barriers will there be to open and frank communication between you and your children? How might you, personally, be able to overcome those barriers so the discussion can be as open and productive as possible?*
Preparing for the Family Meeting

Questions for The Next Generation

Looking ahead to the meeting to discuss the real estate, below are questions offered as “homework” in preparation for that discussion. The general idea, especially in the beginning, is for each person to share openly their expectations and assumptions for everyone’s information, and NOT necessarily to make any immediate decisions. Hopefully, a productive first meeting will set the stage to help everyone contribute to decisions that, ultimately, are the most appropriate for the family as a whole.

1. What are your own long term goals and/or expectations with respect to the family real estate?

2. What do you believe are the long term goals and/or expectations of your siblings and other family members with respect to the real estate?

3. In the upcoming discussion, will you be more likely to say what you think the other family members want to hear or what you really think? Do you think the other family members will be more likely say what they think you want to hear instead of what they really think?

4. What barriers will there be to open and frank communication between you and your family members? How might you, personally, be able to overcome those barriers so the discussion can be as open and productive as possible?
After reviewing your succession planning goals here are the next three to five steps we have agreed upon at our meeting on ___________. These are the next things that will need to happen in order to make progress on your succession plan. Our next appointment is on ____________.

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Journal Articles of Interest

*Holistic Estate Planning and Integrating Mediation in the Planning Process*
http://www.jstor.org/stable/20785771

*A Holistic Approach to Estate Planning: Paramount in Protecting Your Family, Your Wealth, and Your Legacy*
http://digitalcommons.pepperdine.edu/drlj/vol7/iss1/5
Intergenerational Land Transfer Resources

WEBSITES

Estate Planning Options for Family Forests
http://www.na.fs.fed.us/stewardship/estate/estate.shtml#trusts
This website provides links to sources of information on estate planning, trusts, conservation easements, limited liability companies and more.

Vermont Family Farm Succession
This resource features seven video case studies of Vermont farmers and their forays into succession planning.
http://www.uvm.edu/farmtransfer/?Page=videos.html

Vermont Chapter of the National Academy of Elder Law Attorneys
You can search this website for Vermont attorneys who focus on areas of the law that particularly affect older people and people with disabilities.
http://www.vtnaela.com/

Managing the Family Forest: The Importance of Family Meetings
http://www.forestrywebinars.net/webinars/managing-the-family-forest-the-importance-of-family-meetings/?searchterm=Estate
This on-demand webinar provides information on the purpose and need for family meetings along with challenges that can be expected.

Oregon State University Ties to the Land website
http://tiestotheland.org/
This website provides resources to guide family forest landowners through a smooth transition from one generation to the next.

National Timber Tax Website
http://timbertax.org
This website provides information on land transfer based on economic considerations. It includes links to other sites.

Ag Transitions
https://www.agtransitions.umn.edu/
AgTransitions helps farmers & ranchers develop a plan to transition their business to the next generation. It allows the user to develop, store and share a transition plan on line.
PRINT PUBLICATIONS (hardcopy)

_Ties to the Land: Your Family Forest Heritage_
2012 2nd addition. Available from Oregon State University on the Ties to the Land website. This workbook provides a practical and accessible introduction to passing family forestland onto the next generation. It covers the steps owners need to take to develop a plan and illustrates the steps through following a case study family through their planning process. The emphasis is on determining goals, communication, and fairness. Estate planning tools are covered but not in depth. This book was designed to accompany the Ties to the Land workshop, but can also be used as a stand-alone resource.

_Planning Family Forests: How to Keep Woodlots Intact and in the Family_

Who gets grandma’s yellow pie plate? _Workbook: A guide to passing on personal possessions_. 1999. Available from the University of Minnesota Extension St. Paul, MN: Minnesota Extension Service, University of Minnesota. This publication focuses on family communication regarding transfer of non-titled property. The discussion on non-titled property applied to all property including land.

_Landowner's Guide to Conservation Easements_
by Bick Steven and Harry L. Haney. 2003.

_Preserving Family Lands I, II & III_ By Stephen J. Small. Small is recognized as the nation's leading authority on private land protection options and strategies.

Chapter 8, Intergenerational Planning Methods for Forests. Thom favors the Limited Liability Company as a means to provide for the management of forests across generations. The LLC provides the benefits of a partnership, that of shared management responsibility and taxation only on the partners and the benefits of a corporation, protection from liability. Thom describes how the LLC provides the framework for family discussion and management without burdening one family member with the responsibility to make it work or sink trying.

_Saving the Family Cottage_ Stuart Hollander. 2007, Although the focus is on family cottages, the information in this book applies to other family property legacy contexts. It is especially useful for its coverage of buy-sell agreements and
governance across generations in LLCs. Hollander suggests how to incorporate succession planning for a vacation home into an estate plan and gives practical advice on such things as which entity is best for succession planning, how to develop a cottage schedule, what to do about an owner who fails to pay his or her assessment, whether to establish an "endowment," and how to allocate control between and within generations of owners.

PRINT PUBLICATIONS AVAILABLE ON THE WEB

Estate Planning
University of Florida Extension. Explains current inheritance tax law and how it affects nonindustrial private landowners. Includes links to other sources of information and supporting documents.
http://www.sfrc.ufl.edu/Extension/ffws/ep.htm

Estate Planning
http://www.extension.iastate.edu/publications/pm993.pdf
Written for farmers but providing a solid grounding for all landowners, this publication is designed to acquaint the reader with the considerations, problems, and tools available in estate planning, so that he or she might recognize the need for estate planning, and be able to discuss the situation with the attorney in a more meaningful way. The focus is on legal and tax aspects of planning.

Estate Planning for Forest Landowners: What will become of your Timberland?
http://www.srs.fs.fed.us/pubs/31987

Estate Planning Opportunities and Strategies for Private Forest Landowners
Michael G. Jacobson and John Becker, Penn State. This manual provides an introduction to the estate tax and how it applies to families with forestland. It is formatted as a course guide. It was prepared in June of 2002. This publication provides an overview of the basics of estate planning in easy to read language. It is out-of-date in the particulars of tax law. Also
it doesn’t include the use of limited liability companies as a tool to transfer both the management intent and land to the next generation. Because of its easy to read language, I include this reference here. A more up-to-date reference that includes the same information is *Estate Planning for Forest Landowners* listed above.

*Forests on the Edge: Housing Development on America's Private Forests*

*Land Protection Options: A Handbook for Minnesota Landowners,*
[http://files.dnr.state.mn.us/assistance/landprot.pdf](http://files.dnr.state.mn.us/assistance/landprot.pdf)
Laurie Allman. Published by The Nature Conservancy, the Minnesota Department of Natural Resources, The Trust for Public Land, and the Minnesota Land Trust. Sprinkled liberally with landowner profiles describing successful protection efforts throughout Minnesota. An invaluable information source for how open spaces can be preserved. Charts, tables, photographs, and illustrations combined with chapters on tax matters and stewardship considerations create an attractive, user-friendly publication. Second edition.

*Succession Planning for Woodland Owners*
David Watson. 2009. Published by the University of Missouri Center for Agroforestry. This 12 page document provides a good overview of the members and roles of the succession planning team, the legal and financial tools used in planning, and key tasks that owners need to undertake.

*Working Forest Conservation Easement: A Primer for Forest Landowners*

*Your Land, Your Legacy*
SHORT ARTICLES AVAILABLE ON THE WEB

*A Sustainable Family Forest LLC*
http://www.na.fs.fed.us/stewardship/estate/llc.html
This provides a good overview of the Limited Liability Company and how to use one to transfer land and management objectives to the next generation.

*Estate Planning for Private Landowners #5: Substantiation of Value of Donated Conservation Restrictions for Federal Tax Purposes*
This one page notice highlights essential information for people considering donating a conservation restriction to a government agency or charitable non-profit group with the intent of taking a federal income tax deduction.

*Gifting of Timberland as an Estate Planning Tool.*
http://www.treesearch.fs.fed.us/pubs/21502
Estate planning and associated tax considerations frequently focus on the transfer of property at death. Lifetime gifts, however, are also a valuable planning tool. The "ability to afford the gift" should be the first consideration in a giving program. Timberland and other property that someday might be needed should not be given away.

*Your family land: legacy or memory? An introduction to the family land protection process*
Source: USFS Northeaster Area, State and Private Forestry2008
Resources for Vermont Woodland Owners and their Advisors

Forestry and Wildlife Organizations

Vermont Woodland Owners Association [http://www.vermontwoodlands.org/]

The Vermont Woodlands Association strives to educate, train, and support private forest landowners in sound management practices concerning wildlife, water, wood, and recreation. They do this by managing and enhancing the American Tree Farm System® Program in Vermont. They work with all forestry-related groups to coordinate opportunities for landowners to network, meet natural resource professionals, and learn about management practices and program.

Vermont Coverts [http://www.vtcoverts.org/]

The mission of Vermont Coverts is to enlist Vermont landowners in a long term commitment to maintain and enhance diverse wildlife habitat and healthy ecosystems. Vermont Coverts pursues its mission by:
- training Cooperators with 3-day workshops offering classroom and field studies
- one day Forest Stewardship workshops targeted to forest management related topics
- communications with its newsletter Woodlands for Wildlife
- with this website and our Facebook site
- by personal contacts with individual landowners, public agencies and private organizations in the conservation arena.

Department of Forest Parks and Recreation [http://fpr.vermont.gov/forest]

Besides providing useful information on the website, Vermont County foresters are available to provide technical assistance and outreach to the people of Vermont about managing and stewarding forestland. They also administer the Use Value Appraisal Program and the Forest Stewardship Program.

Financial Assistance

Use Value Appraisal Program (Current Use) [http://fpr.vermont.gov/forest/your_woods/use_value_appraisal]

Vermont’s Use Value Appraisal (UVA) Program (also known as “Current Use”) enables eligible private lands where owners practice long-term forestry or agriculture to be appraised based on the property’s value of production of wood or food rather than its residential or commercial development value. The Department of Taxes, Division of Property Valuation and Review (PV&R) is the lead agency, but the County Foresters help to administer the Forestry Use Value Appraisal portion of the program.

Natural Resources Conservation Service Vermont [https://www.nrcs.usda.gov/wps/portal/nrcs/site/vt/home/]

The Natural Resources Conservation Service puts over 75 years of experience to work in assisting owners of America’s private land with conserving their soil, water, and other natural
resources. Local, state and federal agencies and policymakers also rely on our expertise. We deliver technical assistance based on sound science and suited to a customer's specific needs. Cost shares and financial incentives are available in some cases through conservation innovation grants.

Land Trusts

This Land Trust Alliance web page allows you to search for land trusts operating in Vermont at the local, statewide and regional level. http://findalandtrust.org/states/vermont50

Conservation Organizations

Vermont Housing and Conservation Board http://www.vhcb.org/Farm-Forest-Viability/
The Vermont Farm & Forest Viability Program offers one-on-one, in-depth business planning, technical assistance and management coaching to Vermont farm, food and forestry enterprises in order to improve the economic viability of Vermont’s working landscape.

Vermont Natural Resources Council http://vnrc.org/programs/forests-wildlife/
Maintaining healthy intact forests is a priority at VNRC, on both public and private land. Because approximately 80% of Vermont’s forests are privately owned, Vermont must develop policies to help landowners and communities promote the long-term stewardship of their forestland. And because some of the largest blocks of forestland are publically owned in the state, VNRC believes it is vitally important to encourage model management and conservation practices on state, federal, and municipally owned forests.

Woods, Wildlife, and Warblers Project. Woods, Wildlife and Warblers is working to give southern Vermont landowners the knowledge, tools, and resources they need to better care for their woods. We offer free, no obligation services to landowners, such as informational materials and site visits from a woodland expert.

Useful Web Links


Our Vermont Woods http://ourvermontwoods.org/
This website serves as a portal for all things forestry related in Vermont. The site will go live September 2017

Northern Woodlands http://northernwoodlands.org/