

C.R.E.P. Riparian Buffer Easements

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Va. Dept. of Conservation
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Presentation without
graphics & photos,
for smaller file size

C.R.E.P. Easements

*Permanent
protection of
riparian buffers
& wetlands with
land conservation
easements*

Water quality protection

*CREP - Conservation Reserve
Enhancement Program*

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CREP Easement:

***It's a voluntary solution
for protecting agricultural land,
a stewardship ethic
that passes through the generations,
a permanent water resource
protection.***

What does a CREP Easement do?

- *Permanent protection*
- *Riparian streamside buffers and wetlands*
- *Conservation Easements*
- *Legal document*

What is CREP?

- Conservation Reserve Enhancement Program for farmland
- Land protection
- Keeps livestock waste, fertilizer, pesticides out of water
- BMPs = Best Management Practices

More CREP -

Funding for landowners to not farm along streams and wetlands.

- Pays costs of projects such as
 - fencing livestock out of streams,
 - planting trees in buffers,
 - alternative watering sources.
- Pays rent to landowner to continue this protection for 10 or 15 years.

\$\$ Funding is available \$\$

- ***CREP is one of Virginia's most active water quality efforts.***
- ***It aims to improve water quality & wildlife habitat by offering financial incentives:***
 - ***cost-share,***
 - ***rental payments, &***
 - ***Easements***

to farmers who restore riparian buffers & wetlands through the installation of conservation practices (BMPs.)

That's a lot of CREP.

- *CREP is an enhancement to the federal Conservation Reserve Program (CRP), established in 1985, which has enrolled more than **39 million acres nationwide.***
- *With federal & state funds, **CREP is Virginia's most well-funded conservation program ever.***
- *CREP applications will be accepted at local **Farm Service Centers until Dec. 31, 2013.***

CREP Easement Option

After the BMPs and rental contract are in place, there is another Program Option:

Make these land use decisions permanent by placing a CREP Easement on the land.

What is an Easement?

- Legal agreement (deed) in which landowner retains ownership of their property, while giving up (selling) certain specific rights.
- **“Holder” holds those specific rights.**
- Holder of CREP Easements:
Commonwealth of Virginia,
Dept. of Conservation and Recreation

“Bundle of Sticks” Analogy

Bundle of sticks = Land use rights

Land ownership is like a bundle of sticks.

Landowners have the right to:

- evict trespassers
- build structures
- farm
- cut timber
- lease it or sell it
- mortgage it
- subdivide and develop it

***Easement = Some of the rights
are purchased or donated to a
“holder”***

(“Fee simple” = the whole bundle of sticks)

“Purpose” excerpt from CREP Deed of Open-Space Easement

WHEREAS, the Commonwealth of Virginia has established the Conservation Reserve Enhancement Program (“CREP”) for the purpose of restoring, maintaining, enhancing and acquiring wetland and riparian resources that contribute to the **protection and improvement of water quality, flood prevention, fisheries, wildlife habitat, control of sediment runoff and recreational opportunities;**

“Restrictions” excerpt from CREP Deed of Open-Space Easement

Restrictions are hereby imposed on the use of the Easement Area pursuant to the public policies set forth above. The acts which Grantor, his heirs, successors, and assigns, covenant to do and not to do upon the Easement Area, and the restrictions which Grantee is hereby entitled to enforce, are as follows:

- **Industrial, residential, commercial and agricultural activities** are prohibited in the Easement Area.
- **Horses and livestock of any kind** are prohibited in the Easement Area.
- **Clear-cutting of timber within the Easement Area** is prohibited. Other forest management activities shall be pursuant to a Forest Stewardship Plan which has been approved by Grantee within five (5) years of the date of the commencement of the proposed forest management activity.

(“Restrictions” excerpt from CREP Deed of Open-Space Easement, cont’d.)

- **Buildings are prohibited** in the Easement Area. Other structures are prohibited in the Easement Area, except as permitted by paragraph 5 or as permitted by Grantee pursuant to a Farm Conservation Plan or Forest Stewardship Plan.
- **Signs are prohibited** in the Easement Area except as needed to protect or interpret the Easement Area or its conservation values.
- **Dumping** of soil, trash, ashes, garbage, waste, abandoned vehicles, appliances,
 - machinery, or other material on the Easement Area is prohibited.
- **Grading, filling, excavation, dredging, mining or drilling, or any change in the topography** of the land, is prohibited except as approved by Grantee.

Why do a CREP Easement?

- A CREP Easement ensures that your decisions about wise use of your land *remain unchanged.*
- Easements pass with ownership, so your efforts to protect water quality & wildlife habitat continue even after you do not control the land.

Incentive Payment

- DCR pays \$1000 per acre for land protected under a CREP Easement (one-time payment.)
- DCR pays all costs of surveying, titling, recording the deed, managing & coordinating the entire process.

Will the public have access to the land under the Easement?

- No. Permission for access to land protected by a CREP Easement is at the discretion of the landowner.
- DCR monitors the property periodically to assure that current & future landowners honor the terms of the Easement.
(Advance permission to enter property.)

How will this affect a future sale, or inheritance of the land?

Landowner can sell, mortgage, or otherwise transfer the property in every normal fashion.

At the same time, it remains subject to the restrictions of the CREP Easement.

Could additional acreage be added to the CREP Easement?

- Landowner may add adjacent non-CREP riparian areas to the Easement under certain circumstances
- Meet same restrictions as CREP protection.
- No payment for these acres. (Considered a donation, tax credits possible.)

Is there a tax advantage to this Easement?

- Tax benefits are possible for CREP Easements, though uncommon.
- Easements may qualify for:
federal income tax deduction,
state income tax credit
&/or local real-estate tax reduction.
- Special federal provisions for farmers.
- **Step one: consult a tax advisor.**

What if there is an existing Easement on the property?

- Existing Easement document would need to be examined.
- CREP Easement may be recorded if the first Easement does not specifically protect a riparian buffer.

Process

- **DCR Easement coordinator manages whole process.**
- **No costs to landowner.**
- Survey, titling, ag BMP documents, ecological survey, etc.
- Review and approval by Va. Attorney General's Office (Real Estate & Land Use Section)
- Deed signatures, recordation in courthouse.
- Payment issued to landowner.
- Process requires 1-2 years to complete.

Perpetuity is a long time.

How long does an Easement last?

- Easement is attached to land deed and protects the buffer or wetland *forever*.

Can the CREP Easement be changed or revoked?

- Not readily – since they are designed to be permanent, change would be through court action.

Land Lost

- 70 % of Va.'s farms & forestland will change hands in the next 15 years.
- Between 1982 & 1997, Va. lost 480,000 acres of cropland.
- Between 1992 & 2000, the Commonwealth lost 490,000 acres of forestland.

(Va. Tech study, Va. General Assembly Subcommittee)

Land to be Saved

- **“As a landowner, you are a steward of Virginia’s natural resources, & your land can stay the way you want it.**
- **“By participating in CREP, you are already committed to protecting water quality & providing habitat for wildlife.**
- ***“Take one step further to ensure your land decisions will continue.”***

CREP Easements Recorded in Virginia:

*It is important to note that even a few acres
add up to significant stream length protection.*

- 1180 acres Completed Easements, i.e. deeds recorded
(29 Easements)
- 508 acres In-progress Easements (18 individual
Easements)
- 1688 acres Total acres both completed & in-progress
(47 Easements)
- 646 acres Chesapeake Bay watershed,
both completed & in-progress (21 Easements)
- 1042 acres Southern Rivers watershed,
both completed & in-progress (26 Easements)
- 3 – 170 acres Sizes of individual Easements, a wide range

Promotional tools to “market” CREP Easements

Materials Available for Organizations, Landowners, Newsletters:

- “Fact Sheet” one-page handout for countertop, email, etc.,
- Newsletter articles ready to cut and paste,
- Deed template (boilerplate),
- Sample letter to landowners who may be interested,
- Brochures on all land conservation assistance available from VA state agencies.

**"Buy land. They ain't making
any more of the stuff."**

Will Rogers

***Then,
Record Easements
to protect it.***

Contact:

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***www.dcr.virginia.gov/soil & water/crepe
ase***

***Soil & Water Conservation District Office,
FSA, NRCS.***

***See SWCD Directory at
www.dcr.virginia.gov/sw/swcnds***

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