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# Easement Does It

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***Affluent landowners around the country are discovering the value of the conservation easement—a way to protect forever unspoiled lands and habitats and to save on taxes in the bargain.***

## ■ MICHAEL SEGELL

In the heart of Sonoma Valley's wine-growing country, where lush agricultural tracts are swiftly yielding to sprawling subdivisions, 700-acre Oak Hill Farm is an enchanting vestige of old California. Fields of vegetables and melons end at a dense forest of live oaks, bays and madrones, a hospitable cover for eagles, foxes, bobcats and a chorus of linnets and flickers. Euonymus, flowering quince, and zinnias mingle with stands of forsythia and blossoming magnolia and peach trees—all destined for the flower market. Speckled with shooting stars and buttercups, fields of native grasses extinct across most of the state stretch halfway up the slopes of the Mayacamas. Pesticides and chemical fertilizers do not touch the soil here because the owners, Otto and Anne Teller, instead introduce wasps, ladybugs and lacewings to control crop destroying insects.

Recently the Tellers took steps to ensure that their little bit of old California would remain in its current condition for a long time—forever, to be more exact. They donated a conservation easement on the property to the Sonoma Land Trust, which Teller helped found 13 years ago. The easement prohibits any subdivision of the land, limits future construction to that of out-buildings or the remodeling of the existing farmhouse, and restricts the commercial use of the land to agriculture. Protected from development by this easement, the farm, plus 300 acres Teller donated as an adjacent wildlife preserve 10 years ago, adds up to 1,000 pristine acres. This land,

adjacent to public, protected land, creates a large natural expanse crossing the valley ridgetop to ridgetop, from the top of Sonoma Mountain to the crest of the Mayacamas.

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Teller, 80, bought Oak Hill in 1954. He was president of Trout Unlimited (concerned with preserving trout habitats), founded a San Francisco chapter of Confréries des Chevaliers du Tastevin, and is director-at-large of the Montana Land Reliance. No mere gentleman farmer, he took on the plumbing, wiring, and carpentry work at Oak Hill himself. Gazing out at the woods and carefully plotted fields from the deck of his 1890s ranch house, he comments: "Fifty years from now I want people to be able to say, 'This is what the Sonoma Valley used to look like.' I just hope that, by then, it's not the *only* example of the valley as it was."

The Tellers are among a fervent, growing group of landowners who are taking steps

to preserve their own piece of the country's vanishing natural heritage. These quiet conservationists have discovered the efficacy of the conservation easement, which not only protects land forever but can provide considerable tax benefits to the donor.

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Since what is donated in an easement is not the land itself, but certain rights on the land, such as development, the owner remains free to sell or will his or her property, and to keep it private: he or she is in no way obligated to welcome the public. But the restrictions he or she has elected to set forth in the easement remain in effect for future owners. With its economic potential thus limited, a property's assessed market value can be considerably reduced, resulting in lower taxes on inheritance, personal income (through a tax deduction on the donation) and, in some cases, even the property itself.

"Easements have something for everyone," says Joan Vilms, a consultant to the Sonoma Land Trust and adviser on the Oak Hill property. "They keep the conservationists, the local planners, and even some of the developers happy. They provide the landowner with a financial incentive to protect his land and the assurance that it will remain unchanged long after he's gone. They keep the property on local tax rolls, while preserving the owner's right to sell or bequeath it. And even the most rapacious developer recognizes the value of selling a parcel near open space that's guaranteed to remain open."

The easement—donated to a land trust or other body that agrees to administer it—is emerging as the conservation tool of the Eighties—and, its proponents hope, of the future as well. The last 3 to 5 years have seen a corresponding growth in land trusts nationwide—from 535 in 1985 to over 700 today. Although private land trusts conserve land any way they can, they are increasingly advising owners on easements. "It's a pretty sophisticated tool," comments Michael Dinkin of the American Farmland Trust, a national group founded in 1980, whose involved board includes such lumi-

naries as Mrs. David Rockefeller; Gilbert Grosvenor, president and chairman of *National Geographic*; and Frederic Winthrop Jr., former head of the Massachusetts Department of Agriculture.

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Working with national or regional land trusts—or, like the Tellers in Sonoma Valley, setting up a local one themselves—private conservationists around the country have protected endangered wildlife, preserved farmland and watersheds, and guaranteed that vast tracts of virgin forest, seashore, or prairie will remain wild. Nationally, nearly two million acres are under easement today—a third of them through private donations. The lands protected range from granitic islands off the coast of Maine to 10 percent of California's Big Sur; from the rolling hills of Virginia hunt country to isolated pothole wetlands along the West's central flyway. Easements have even been used to protect small urban parks and gardens. An example of the instrument's versatility is the saving of the Candler Oak in Savannah, a majestic 300-year-old tree draped in Spanish moss: it was spared by a developer, who donated an easement on the tree and 6,500 square feet surrounding it to the Savannah Tree Foundation.

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Conservation easements have been held by the states and the federal government for nearly a century—to protect scenic

parkways and rivers, flyways, and wetlands. But it wasn't until the 1970s that the concept of privately donated easements really began to take hold. William Whyte, author of *The Organization Man*, is credited with promoting the idea in his 1959 bulletin for the Urban Land Institute and in his 1968 book *The Last Landscape*. The Nature Conservancy has held donated easements on private lands that provide habitat to threatened plant and animal life since 1961; more recently, it has also protected land by purchasing easements. But the movement really took off with the formation in 1973 of The Trust for Public Land. Originally a group of San Francisco lawyers and businessmen who organized to prohibit development of the Marin County side of the Golden Gate Bridge, TPL has expanded into a national organization with satellite offices in six cities. Calls from desperate landowners facing local crises come in from all over; within weeks a TPL organizer is there to help. TPL has helped found some 100 local land trusts in the last 15 years.

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It's not surprising that conservation easements caught on first on the West and East Coasts, where the pressure of development and land speculation are intense. Back in 1970, Bostonian Thomas Cabot, founder of the multinational Cabot Corporation, and Mrs. David Rockefeller had the foresight to form the Maine Coast Heritage Trust, one of the earliest groups to recognize the efficacy of easements. "The coast of Maine is one of the most beautiful and

primeval sections of the Atlantic coastline," says Cabot, who has cruised the coast all his life and preserved more than a score of wild islands he once owned there. "Its headlands and uninhabited islands should be saved for posterity. Peggy and David [Rockefeller] funded the trust and have been among our warmest sponsors ever since."

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But then, Rockefellers were saving Maine as far back as the Teens. With his gift of 11,000 acres, John D. Rockefeller Jr. contributed one third of the land that forms Acadia National Park on Mount Desert Island. Today MCHT preserves many of the rugged little islands clustered off the shores of the park, which are important nesting grounds and migratory stops for terns, eider duck, herons, and other seabirds. Up and down the coast, the trust holds easements on entire islands; but it prefers to foster local land trusts to hold and monitor local easements. In other cases, the trust has conveyed easements to The Nature Conservancy, the Audubon Society, and the state and federal governments.

Director of the Office of International Security Affairs under Truman, philanthropist Thomas Cabot has been a lifelong conservationist. A former president of the Appalachian Mountain Club, a trustee of The Trustees of Reservations in Massachusetts (formed in 1891, it is probably the nation's first land trust), he works closely with land trusts protecting New England forests. He has protected 27,000 acres in Colorado through The Nature Conservancy. "The donated easement," he believes, "is the most economical instrument for all concerned. With land values going up the way they are, your children have to practically buy the land back from Uncle Sam through inheritance taxes. The conservation easement makes good sense, be-