



# Easements

**Land conservation easements on agricultural riparian buffers**

## Fact Sheet: Frequently Asked Questions

### 1. What is a CREP Easement?

A CREP Easement *permanently* protects farmland along streams, by limiting what can be done in these areas. The Easement option is available only after the landowner has installed CREP riparian buffer protections. It spells out the land use restrictions, which are added to the property deed. The landowner agrees to keep the land as a restored riparian buffer or wetland after the CREP 10-15 year rental contract expires, & DCR monitors the property to assure that future landowners honor the terms of the Easement.

This conservation Easement is a legal agreement in which the landowner retains ownership of their property, while giving up (selling) certain specific rights to the Virginia Department of Conservation & Recreation (DCR) who holds the easement. CREP allows the state to pay for Easements covering acreage containing CREP-restored buffers or wetlands.

### 2. Why should I consider 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 if you don't control the land. DCR pays \$1000 per acre for all land protected under a recorded CREP Easement. And, DCR pays all costs of surveying, titling, recording the deed, etc.

### 3. What restrictions does the Easement impose on the use of the land?

The Easement area may not be developed, mined, excavated or used for agriculture. However, it may be sold &/or partitioned into separate parcels. In that case, each parcel is still protected by the CREP Easement. Timber may be harvested from the Easement area under an agreed upon forest stewardship plan. The Easement does not restrict use of portions of your property not included in the Easement. CREP Easements provide flexibility, while protecting buffers or wetlands as open space forever.

### 4. Will the public have access to the land under the Easement?

No. Permission to access land protected by a CREP Easement is at the discretion of the landowner.

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

You 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.

*By participating in CREP, you are already committed to protecting water quality & providing habitat for wildlife.*

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



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)

*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.*

### **6. Is there a tax advantage to this Easement?**

Potential tax benefits of land conservation Easements *may* include federal income tax deduction, state income tax credit, state capital gains exclusion, estate tax reduction, & local real-estate tax reduction. To qualify for one of these tax benefits, however, an Easement must be *donated* to a federal, state, or local government agency, or to a qualified private conservation organization that has the capacity to enforce the terms of the Easement.

To the extent that CREP Easements are purchased, they cannot be claimed as donations. However, when you sell property to a conservation organization for less than its fair market value (a "bargain sale"), you may be able to claim a charitable tax deduction for the difference between the bargain sale price & the fair market value. Thus, if the land on which you place a CREP Easement is appraised at a value higher than the CREP payment, the difference in those values could be claimed as a donation for federal & state tax purposes.

Local real-estate tax reductions generally will not apply to land in riparian areas, since that land is usually already taxed at its "land use" rate.

*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, filter strips & wetlands through the installation of conservation practices. CREP is an enhancement to the federal Conservation Reserve Program, 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 your local Farm Service Center until Dec. 31, 2007.*

### **7. Does the Easement cover all my land?**

No. The Easement covers only the land that supports the CREP buffer or restored wetland, or a portion of that buffer. Additional riparian areas excluded from the CREP rental payment calculation, but protected from livestock, can be included in the Easement area under certain circumstances (e.g. donated to the DCR Easement, or paid for by another organization's Easement program.)

### **8. How long does an Easement last?**

All CREP Easements are in perpetuity; they protect the buffer or wetland *forever*.

### **9. Can the CREP Easement be changed or revoked?**

Not readily – because CREP Easements are designed to be permanent, any change is usually accomplished only through court action.

### **10. What if I have an existing Easement on my property?**

Your Easement document will need to be examined. If your existing Easement addresses only development potential, then a CREP Easement may be recorded to specifically restrict land use of the riparian buffer or wetland. It is possible that a CREP Easement may be recorded additionally—if the other existing Easement does not already specifically restrict riparian buffer or wetland.

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OR

Your Soil & Water Conservation District Office,  
FSA, NRCS, or Va. Dept. of Forestry. See SWCD  
Directory at [www.dcr.virginia.gov/sw/swcnds](http://www.dcr.virginia.gov/sw/swcnds)