

# **Summary of Financial and Technical Assistance Programs for the Conservation of Natural Resources**

**Prepared For:** State of Hawaii  
Office of Planning

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in association with  
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## **Introduction**

Hawaii's culture and lifestyle are linked to a rich natural heritage of mountains, valleys, streams, and a wide variety of native plant and animal life. Our urban and agricultural areas depend on healthy forest watersheds for water supply; our visitor economy relies on scenic landscapes and thriving coastal ecosystems. The great diversity of Hawaii's native and endangered species is seriously threatened in terms of extinction. Once lost, these natural resources are irreplaceable. The protection of these species and our natural areas is a responsibility which everyone shares.

There are many reasons and many ways for protecting the natural resources on private lands. Landowners who have high quality natural resources on their property may be eligible to participate in a number of State and Federal programs which provide assistance for managing natural resources. These programs use voluntary agreements with landowners, such as conservation easements, management agreements, or leases, and provide funding for protection of natural resources. This handbook provides a compendium of State and Federal programs which have become available, how they have been used in Hawaii, how they may be applied to different types of land holdings, and what benefits may be derived for private landowners.

Landowners may want to participate in these programs for various reasons. By protecting Hawaii's natural resources, they are ensuring a legacy for future generations. Beyond the satisfaction and goodwill this engenders, there may be substantial tax advantages for the landowner and his estate. In many of these programs, compensation is also provided for planning, resource management and restoration activities.

The table on the following pages summarizes the State and Federal government programs which are available to landowners. A matrix is also provided which outlines the conservation choices available to landowners. More detailed descriptions follow for each program, with agency brochures and program descriptions provided in the Appendices. A glossary is also provided for clarification of unfamiliar terms.

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**LANDOWNER OPTIONS FOR CONSERVATION OF NATURAL RESOURCES  
SUMMARY OF FEDERAL AND STATE PROGRAMS**

	<b><i>Natural Area Partnership Program</i></b>	<b><i>Nonpoint Source Pollution Management Program</i></b>	<b><i>Federal Stewardship Incentive Program and Hawaii State Forest Stewardship Program</i></b>	<b><i>Wildlife Habitat Incentives Program</i></b>
<b><i>Purpose</i></b>	Support for management of natural resources on private lands permanently dedicated to conservation	Heighten public awareness of nonpoint source pollution issues and provide technical and financial assistance to applicants who wish to implement a nonpoint source pollution management program.	Implement management practices to enhance and protect the timber productivity, wildlife habitat, water quality, recreational values or aesthetics of forest properties. State FSP intended to assist landowners	Help develop wildlife, wetland wildlife, threatened and endangered species, fish and other types of wildlife habitat
<b><i>Eligible Applicants</i></b>	Landowner or non-profit private cooperating entity	State and County agencies and private groups who prepare a management plan in conjunction with a public agency.	Owners of nonindustrial private forest lands . Small landowners with lesser quality lands which are not eligible for the NAP program.	Landowners with existing or potential wildlife habitat. This program is not currently offered in Hawaii, but funding is being requested.
<b><i>Land Area</i></b>	Lands must be of "natural area quality", with intact native Hawaiian ecosystems, habitat for endangered species, or Conservation District P Subzone	No minimum or maximum land area currently specified	At least 5 contiguous acres of forested or formerly forested lands	Program can be used to restore aquatic habitat, stream banks and uplands, but not on converted wetlands.
<b><i>Funding</i></b>	State matching funds on 2:1 basis for management plans, and activities to protect, restore, or enhance significant native resources or geologic features. Approximately \$1 million per year.	Total funding for the Nonpoint Source Pollution Management Program in Hawaii is \$400,000. Grantees must provide a 100% match of funds received.	Funding shared with Natural Area Partnership Program. Approximately \$500,000 funding annually.	1996 Farm Bill provides \$50 million through year 2002 to implement WHIP nationwide.
<b><i>Agency</i></b>	State of Hawaii Department of Land and Natural Resources, Division of Forestry and Wildlife	State of Hawaii Department of Health Clean Water Branch	U.S. Dept of Agriculture Forest Service and State Dept. of Land and Natural Resources, Division of Forestry and Wildlife,	U.S. Department of Agriculture Natural Resources Conservation Service
<b><i>Contact</i></b>	Betsy Gagne, DLNR Ph. (808) 587-0063	Randy Rush Ph. (808) 586-4348	Nelson Ayrs, DLNR Ph. (808) 587-4175	NRCS Honolulu Ph. (808) 541-2603

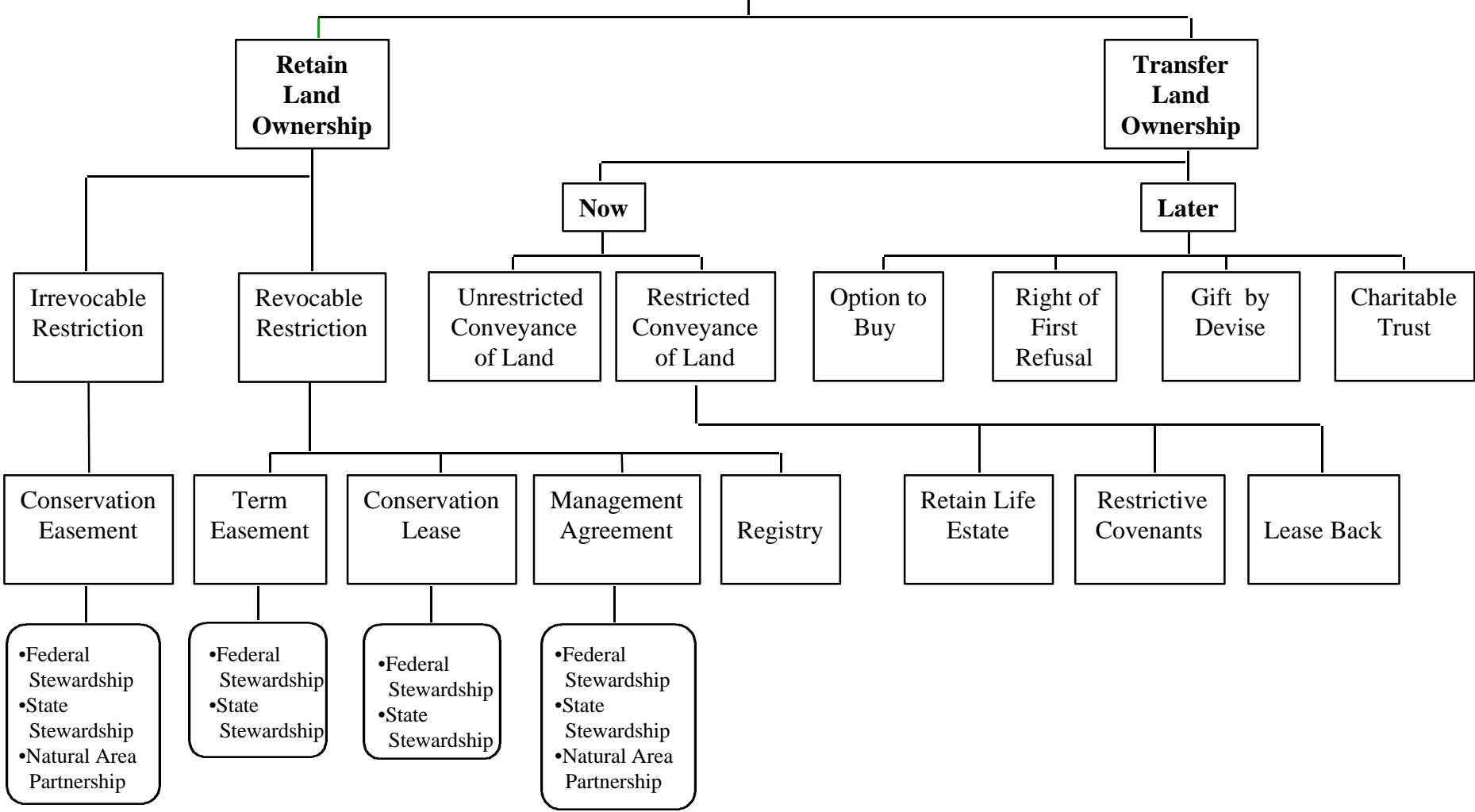
**LANDOWNER OPTIONS FOR CONSERVATION OF NATURAL RESOURCES  
SUMMARY OF FEDERAL AND STATE PROGRAMS**

	<b><i>Wetlands Reserve Program</i></b>	<b><i>Environmental Quality Incentives Program</i></b>	<b><i>Forest Incentives Program</i></b>	<b><i>Conservation Reserve Program</i></b>
<b><i>Purpose</i></b>	Voluntary program to restore and protect wetlands on private property.	Voluntary conservation program for farmers and ranchers who face serious threats to soil, water and related natural resources. Funds can help install or implement structural, vegetative and management practices.	Plant more trees and place more forest land under good forest management to assure future supplies for sawtimber, pulpwood, and quality hardwoods.	Encourage farmers to plant long-term resource-conserving covers to improve soil, water and wildlife resources. Offers annual rent payments, incentive payments and cost-sharing to establish approved cover on eligible cropland.
<b><i>Eligible Applicants</i></b>	Land owner for at least one year prior to enrolling land in program	Persons engaged in livestock or agricultural production	Landowner of a non-industrial forest. This program is not available in Hawaii at this time.	Landowner for at least one year of eligible croplands.
<b><i>Land Area</i></b>	Lands must be restorable and suitable for wildlife	Eligible lands include cropland, rangeland, pasture, forest lands. Priority areas include wetlands and environ-mentally sensitive areas	Between 10 to 1,000 acres of forest lands suitable for reforestation or improved forest management	Cropland planted with agricultural crop for 2 of the 5 most recent crop years, or marginal pasture land suitable for use as riparian buffer
<b><i>Funding</i></b>	1995 Wetlands Reserve Program funded at \$92 million. Landowner may not be paid more than agricultural value of land.	\$200 million per year nationwide through year 2002 . Limit of \$10,000 per person per year for 5 years	Federal cost sharing up to 65 percent, with annual limit of \$10,000 per person.	Up to 50 percent of participant's costs, with duration of contracts between 10 to 15 years, subject to funding availability.
<b><i>Agency</i></b>	U.S. Department of Agriculture Natural Resources Conservation Service	U.S. Dept of Agriculture Natural Resources Conservation Service	U.S. Dept of Agriculture Natural Resources Conservation Service	U.S. Dept of Agriculture Farm Service Agency
<b><i>Contact</i></b>	NRCS Honolulu Ph. (808) 541-2603	NRCS Honolulu Ph. (808) 541-2603	NRCS Honolulu Ph. (808) 541-2603	State Executive Director Ph. (808) 541-2644

**LANDOWNER OPTIONS FOR CONSERVATION OF NATURAL RESOURCES  
SUMMARY OF FEDERAL AND STATE PROGRAMS**

	<b><i>Federal Lands to Parks</i></b>	<b><i>Sustainable Development Challenge Grants</i></b>	<b><i>Forest Legacy Program</i></b>	<b><i>Farmland Protection Program</i></b>
<b><i>Purpose</i></b>	Enable State and local governments to establish park and recreation areas and adapt historic buildings for public uses. Federal lands can be acquired at no cost.	Encourages community groups, businesses, and government agencies to work together on sustainable development to protect the community, conserve natural resources, and support a healthy economy and improved quality of life.	Help landowners identify and protect environmentally important forest lands threatened by conversion to nonforest uses. Includes protection of important scenic, cultural, fish, wildlife, recreational resources, and riparian areas.	Protect farmland from conversion to nonagricultural land uses through acquisition of conservation easements or other interests in lands.
<b><i>Eligible Applicants</i></b>	Only State and local governments can apply for surplus real property for public park and recreational purposes.	Community groups, nonprofit organizations, local governments, states.	Landowners or owners of interests in land with forest or ecological values	States or local governments with a farmland protection program and can provide at least 50% of the easement value.
<b><i>Land Area</i></b>	Surplus real property released by the Federal government, including Dept of Defense property transfers from base closures.	Cities, metropolitan areas, rural, tribal and other non-metropolitan areas.	Lands with significant environmental values, or threatened by conversion to nonforest uses.	Lands with prime, unique or other productive soil, as defined by the Farmland Protection Policy Act.
<b><i>Funding</i></b>	No costs involved, but applicants must agree to manage the property in the public interest for public park and recreation use.	\$5 million available nationwide; \$500,000 in FY 1996. Applicants must provide 20 percent matching funds.	Federal government will pay full fair market value for all or part of the ownership rights desired for release by applicant. Cost-sharing with State and local agencies, with 75% maximum Federal share.	\$14.3 million provided in 1996, \$1.3 million in FY 1997. Priority for funding given to offers with at least 50 percent local funding, lands threatened by conversion, agricultural quality of lands, and environmental considerations.
<b><i>Agency</i></b>	U.S. Dept of Interior National Park Service	U.S. Environmental Protection Agency	U.S. Department of Agriculture Forest Service	U.S. Department of Agriculture Natural Resources Conservation Service
<b><i>Contact</i></b>	NPS Federal Lands to Parks Program Ph. (415) 427-1444	Debbie Schechter, EPA Ph. (415) 744-1624	U.S. Forest Service, Thomas Quink: Ph. (413) 545-2842 State of Hawaii DLNR, Forestry and Wildlife: Ph. 468-4644	NRCS Honolulu Ph. (808) 541-2603

**LANDOWNERS CONSERVATION CHOICES**



**Applicable Programs:**

- Federal Stewardship
- State Stewardship
- Natural Area Partnership

**PROGRAM**

**NATURAL AREA PARTNERSHIP PROGRAM**

**Agency**

State of Hawaii  
Department of Land and Natural Resources  
Division of Forestry and Wildlife

**Contact**

Betsy Gagne  
Department of Land & Natural Resources  
587-0063

**Description**

The Natural Area Partnership Program (NAPP) was established by the State Legislature in 1991 through Act 326. The program provides State matching funds on a 2:1 basis with private funds for the management of natural resources on private lands permanently dedicated to conservation.

The NAPP can provide support for a full range of management activities to protect, restore, or enhance significant native resources or geological features. In addition, the NAPP can provide support for the development of long-range management plans.

**Funding**

Funding for the NAPP comes from a portion of the conveyance tax which is levied each time real estate property is bought or sold. Revenues from the tax were originally projected to provide approximately \$2 million annually for the NAPP and the related State Forest Stewardship Program. However, revenues for FY 96 and FY 97 have only provided \$1.3-\$1.5 million per year, with approximately \$1 million being budgeted to the NAPP. As a result, the NAPP and State Forest Stewardship Program are currently at their maximum funding capacity and are unable to fund new qualified projects.

**Eligibility  
Criteria**

An applicant must be a landowner or a non-profit private cooperating entity with natural area management qualifications. Lands must be of "natural area quality" which include intact native Hawaiian ecosystems, essential habitat for endangered species, or areas within the protective (P) subzone of the State's Conservation District.

The current process to implement the program is as follows:

1. The applicant submits a preliminary proposal indicating the intent and nature of the natural area management considered.
2. The Natural Area Reserve System (NARS) Commission reviews the preliminary proposals and selects applicants eligible to prepare a detailed long range management plan.
3. The NARS Commission and Division of Forestry and Wildlife staff reviews the management plan. An environmental assessment is completed for all projects to obtain public input.
4. The revised plan is submitted to the Board of Land and Natural Resources for project approval and a 6 year funding authorization.

***Options Available***

- Conservation Easement: Voluntary agreement to limit the development potential of a property.
- Management Agreement: Agreement with non-profit agency, such as The Nature Conservancy, to manage the natural resources on a property.

***Benefits***

- Protects conservation values while maintaining ownership
- Fosters goodwill
- Can be tailored to preserve conservation values while meeting landowners needs
- Income Tax Deductions (if permanent conservation easement is used)
- Estate Tax Deductions (if permanent conservation easement is used)
- Property Tax Deductions (if permanent conservation easement is used)

See Appendix A for more information on tax benefits.

***Disadvantages***

- Restricts development potential
- Restricted use may lower resale value

**Examples of Program at work in Hawaii •**

The following seven projects received funds in FY 96:

- Kamoku Preserve (Molokai)
- Kanepu'u Preserve (Lanai)
- Kapunakea Preserve (Maui)
- Mo'omomi Preserve (Molokai)
- Pelekunu Preserve (Molokai)
- Waikamoi Preserve (Maui)
- Pu'u Kukui Watershed Management Area (Maui)

**Landowner  
Managing Partner  
Entered NAP Program FY**

***Kamoku Preserve***

Molokai Ranch, Ltd.  
The Nature Conservancy

1995

This 2,774-acre project helps increase regional protection efforts for the important watershed and native communities found in East Molokai. Thirty-seven of the plant species are rare with 18 of these species listed as federally endangered. In addition, Kamoku protects habitat for 5 native forest bird species and 5 rare native land snails. The primary management focus is to prevent degradation of the native forest by reducing feral ungulate damage, limiting the spread of non-native, habitat modifying plants, and preventing wildfire.

**Landowner  
Managing Partner  
Entered NAP Program FY**

***Kanepu'u Preserve***

Dole Food Company, Inc.  
The Nature Conservancy

1992

Located on the island of Lanai, Kanepu'u Preserve is comprised of 590 acres in 7 disjunct units and represents the last major remnant of a dryland forest community that once covered large portions of Maui, Lanai, Molokai and Kahoolawe. Ten rare plants, 6 of them federally listed, have been reported from the Preserve. Protection from axis deer, removal/control of non-native plant species and the use of the Preserve as a focal point for dryland forest restoration research and study are the primary management activities.

**Landowner**  
**Managing Partner**  
**Entered NAP Program FY** 1992

***Kapunakea Preserve***

Pioneer Mill Company, Ltd.  
The Nature Conservancy

This 1,264-acre preserve is a component of regional protection efforts for the important watershed and native communities found in the West Maui mountains. Containing 10 native dominated communities, 24 rare species of plants (5 are federally listed), as well as 4 rare snail species, the Preserve's upper elevations are recognized as among the highest quality native areas in the State. Prevention of new introductions and the control of both animal and plant non-native species are the primary objectives of preserve management efforts.

**Landowner**  
**Managing Partner**  
**Entered NAP Program FY** 1995

***Mo'omomi Preserve***

The Nature Conservancy  
The Nature Conservancy

This 921-acre project on the island of Molokai contains one of Hawaii's best remaining dune ecosystems with associated rare coastal plants. Seven plant species and 1 native community are considered rare. Green sea turtles, Laysan albatross and the Hawaiian monk seal are known to utilize the area. In addition, Mo'omomi also contains significant archaeological, paleontological and cultural resources.

**Landowner**  
**Managing Partner**  
**Entered NAP Program FY** 1992

***Pelekunu Preserve***

The Nature Conservancy  
The Nature Conservancy

Pelekunu Preserve, located on Molokai's north shore is a 5,75- acre preserve established to protect the free-flowing Pelekunu Valley Stream System which is one of the best in the State. It is also part of a larger regional management effort that provides protection to over 22,000 contiguous acres on Molokai. The preserve contains nearly all the native Hawaiian aquatic fish, crustacean and mollusk species. In addition, 27 rare plant species, 5 endemic forest birds, and 2 endemic land snail species have been reported from the area. Protection of the watershed by reducing ungulate damage and reducing the spread on non-native plants are the primary management activities.

**Landowner**  
**Managing Partner**  
**Entered NAP Program FY** 1994

***Pu'u Kukui Watershed Management Area (WMA)***

Maui Land & Pineapple Company, Inc.  
Maui Pineapple Company, Ltd.

With over 8,600 acres, Pu'u Kukui WMA is a critical component of regional protection efforts on West Maui that include over 13,000 contiguous acres. Fourteen native natural communities, 2 of which are rare, are found in the Preserve along with over 40 rare plant species and 6 endemic species of snail. Primary management efforts are focused on the removal of feral ungulates and the control of nonnative plant species.

**Landowner**  
**Managing Partner**  
**Entered NAP Program FY** 1995

***Waikamoi Preserve***

Haleakala Ranch Company  
The Nature Conservancy

This 5,230-acre project helps increase regional protection efforts for the important watershed and native species habitat found in the East Maui Watershed Area. This reserve provides critical habitat for 13 native birds, 8 of which are federally listed as endangered. In addition, 14 native natural communities, 2 of them rare, are found in the preserve along with 25 rare plant species. The primary strategy of the protection of Waikamoi is to reduce damage to vegetation and soils by removing all ungulates.

**PROGRAM**

**NONPOINT SOURCE POLLUTION MANAGEMENT PROGRAM**

***Agency***

State of Hawaii  
Department of Health  
Clean Water Branch

***Contact***

Randy Rush  
Department of Health  
586-4348

***Description***

The Hawaii Nonpoint Source Pollution Management Program (NPS) promotes public awareness of nonpoint source pollution, manages sponsored projects, and participates in interagency efforts to control nonpoint source pollution.

The Hawaii NPS Program also provides financial assistance to state and county agencies or to local nonprofit groups which implement control of a nonpoint source pollutant, develop an innovative practice that will assist an industry in achieving nonpoint source control standards, or promote public awareness.

***Funding***

The Hawaii NPS Program was started in 1988 under a federal Clean Water Act, Section 319(h) Grant from the U.S. Environmental Protection Agency. The Hawaii NPS Program solicits, ranks and selects projects for funding annually based on the programs priorities of concern. The programs priorities of concern may change from year-to-year but generally revolve around the protection of watershed areas, control of a specific pollutant or improving the management practices of a particular land use activity. Total funding available is approximately \$400,000. The program requires a 100% match for all grants.

***Eligibility  
Criteria***

Federal, State and County agencies who prepare a management plan to control or mitigate a non-point source pollutant(s) are eligible to receive grants from the Hawaii NPS program. Private landowners who wish to participate in the Hawaii NPS program may prepare a management plan in conjunction with a public agency, such as their local Natural Resource Conservation District office.

**PROGRAM**

**FEDERAL STEWARDSHIP INCENTIVE PROGRAM**  
and  
**HAWAII STATE FOREST STEWARDSHIP PROGRAM**

*Agency*

United States  
Department of Agriculture  
Forest Service  
and  
State of Hawaii  
Department of Land and Natural Resources  
Division of Forestry and Wildlife

*Contact*

Nelson Aeys  
Department of Land and Natural Resources  
587-4175

*Description*

The Hawaii State Forest Stewardship (State FSP) and Federal Stewardship Incentive Programs (Federal SIP) provide technical and financial assistance to owners of nonindustrial private forestland committed to the stewardship, enhancement and conservation of their forest resources. The information and assistance provided to landowners under these programs is intended to help them understand and implement management practices to enhance and protect the timber productivity, wildlife habitat, water quality, recreational values and/or aesthetics of their forest properties. The State FSP is intended to assist landowners with the management of smaller, lesser quality lands, which are not eligible for the NAP program. In addition, lands do not have to be permanently dedicated to conservation.

The State FSP was adopted through Act 327 by the 1991 State Legislature and provides State funds to financially assist private forest landowners. The Department of Land and Natural Resources-Division of Forestry and Wildlife (DLNR-DOFAW) administers this Program under advisement from the State Forest Stewardship Coordinating Committee. The Committee is mandated to review applications to the Federal SIP and State FSP Programs and to recommend to the State Forester the selection of qualified projects for funding. Committee members include Federal and State agency employees, professional foresters, professional resource consultants, employees of resource conservation organizations, and private landowners.

The Federal SIP was established by the Forest Stewardship Act of 1990. The program is administered by the USDA Forest Service at the national level and by the DLNR-DOFAW and the USDA Farm Service Agency (FSA) at the State and County levels.

The primary program requirement of both programs is the development and implementation of a multi-resource management plan covering a period of at least 10, and no more than 30 years. Landowners usually develop plans

with the assistance of a professional resource management consultant. Once plans are approved by the State Forest Stewardship Coordinating Committee, landowners implement them with the assistance of DLNR-DOFAW staff and field staff from other appropriate agencies.

***Funding***

Funding for the FSP comes from a portion of the conveyance tax which is levied each time real estate property is bought or sold. Revenues from the tax were originally projected to provide approximately \$2 million annually for the NAPP and the related State Forest Stewardship Program. However, revenues for FY 96 and FY 97 have only provided \$1.3-\$1.5 million per year, with approximately \$1 million being budgeted to the NAP. As a result, the NAPP and State Forest Stewardship Program are currently at their maximum funding capacity and are unable to fund new qualified projects.

The Federal SIP has received no Fiscal Year 1998 allocation. Approximately \$220,000 from the 1997 Fiscal Year's allocation of \$240,000 remains to be paid out as of February 1998.

Landowners are reimbursed for eligible management practices at the approved cost-share rate as they are implemented. Maximum allowable annual cost-share totals are \$10,000 for the Federal SIP and \$75,000 for the State FSP. Thus, a landowner can receive the full 50% cost-share reimbursement if total annual costs do not exceed \$20,000 and \$150,000 for the Federal SIP and State FSP respectively.

***Eligibility  
Criteria***

- To be eligible for either the State FSP or Federal SIP:
- Applicants must own at least five contiguous acres of forested, or formerly forested land, that they intend to manage under either the State Forest Stewardship Program or the federal SIP

Program. This ownership requirement can also be met if a lessee possesses a lease to the property for at least 10 years into the future. Landowners of adjacent holdings of less than five acres may jointly participate in the State FSP if combined acreages to be included in the program form a contiguous area of 5 acres or greater.

- Applicants may be individuals, joint owners, or private groups or associations, or corporations without publicly traded stock.

Additional Federal SIP Eligibility Guidelines include:

- Applicants who derive more than 50% of their income from the primary processing of forest products, or from the provision of commercial recreational activities cannot receive cost-share assistance under the federal SIP Program, for any activities related to these businesses.
- Landowners owning more than 1,000 acres are normally ineligible to receive assistance under the Federal SIP Program. In some cases, waivers for owners of up to 5,000 acres may be granted by the State Forester. There is no acreage under the State FSP.

***Options Available***

- Conservation Easement: Voluntary agreement to limit the development potential of a property.
- Term Easement: Voluntary agreement to limit the development potential of a property for a set number of years.
- Lease: Conveys right to use property while retaining ownership.
- Management Agreement: Agreement with non-profit agency, such as The Nature Conservancy, to manage the natural resources on a property.

***Benefits***

- Land does not have to be permanently dedicated to conservation.
- Protects conservation values while maintaining ownership.
- Fosters goodwill.
- Can be tailored to preserve conservation values while meeting landowners needs.
- Income Tax Deductions (if permanent conservation easement is used).
- Estate Tax Deductions (if permanent conservation easement is used).
- Property Tax Deductions (if permanent conservation easement is used).

See Appendix A for more information on tax benefits.

***Disadvantages***

- Restricts development potential
- Restricted use may lower resale value

***Examples of Program at***

The State Forest Stewardship Program is currently assisting eleven landowners with multi-resource management

**Work in Hawaii**

projects. A summary of the programs are as follows:

**Location**

**Entered FSP Program**

Kalopi, South Kona, Hawaii

1992

The project involves managing 60 acres at Kalopi, South Kona, Hawaii, to restore native forest vegetation. In previous years, several hundred *acacia koa'ia* were successfully planted. The landowners are now maintaining these plantings while they continue to promote natural regeneration of various forest species by controlling non-native weeds and protecting young seedlings from grazing ungulates.

**Location**

**Entered FSP Program**

West Molokai

1992

Molokai Ranch has been successful in reforesting a major portion of its Puu Nana watershed on the west end of Molokai. A number of factors have hindered the progress of this project in recent years. In April, Molokai Ranch and the DLNR mutually agreed to terminate their Forest Stewardship Contract agreement, while recognizing that a number of project objectives have been achieved.

**Location**

**Entered FSP Program**

Ka'u, Hawaii

1993

The landowners have reforested an upland pasture area and improved an existing un managed forest on their 40-acre property in the Wood Valley Homestead District of Ka'u on the island of Hawaii. Their specific objectives include: establishment of a koa-dominated forest ecosystem; the planting of a windbreak; the stabilization of critical watershed soils; the enhancement of wildlife habitat and species diversity; the provision of a demonstration site for forest regeneration on former sugar plantation land; and, long term income from thinnings and sustainable timber harvesting.

**Location**  
**Entered FSP Program**

Captain Cook, Hawaii  
1993

The landowner is attempting to improve the health and function of his native forest property in the South Kona foothills near Captain Cook, Hawaii. He also intends to eventually derive some income from limited timber harvesting and he is developing a trail system which will provide ready access to visitors and education opportunities for local students.

**Location**  
**Entered FSP Program**

Ka'u, Hawaii  
1993

The landowners are reforesting a 12-acre area of their property in the Wood Valley Homestead District of Ka'u in Hawaii County with native and non-native species. Their objectives include the provision of a demonstration site for forest regeneration practices on former sugar plantation land and the generation of a long-term income supplement through hardwood timber production.

**Entered FSP Program**

1996

The landowner is reforesting an 850-acre piece of former pasture land with *acacia koa* plantation. They hope to reforest most of this area by stimulating natural regeneration through soil scarification and pasture weed control.

**Entered FSP Program**

1995

The landowner is reforesting and improving a 42-acre area of declining macadamia nut orchards in order to establish a long-term agroforestry system. Specifically, he plans to interplant the degraded macadamia nut orchards with long-term timber species such as *Dalbergia* spp., *Inga* spp. and *Pterocarpus indicus*; establish new stands of long-term timber; develop improved silvopastoral areas for horse grazing; restore an existing native forest area; and, create a wildlife corridor for certain endangered native birds.

**Entered FSP Program**

1995

The landowner is reforesting an 81-acre area that was previously cleared for pasture and agricultural uses. He is also improving an adjacent 70-acre area of ohia-lehua dominated native forest and planting a 7,500-foot protective windbreak around the area that he is reforesting.

**Entered FSP Program**

1996

The landowner is establishing 98 acres of exotic and native hardwood trees for timber production. He is also restoring 126 acres of native forest area by removing weeds and encouraging natural forest regeneration.

**Landowner**

Pana'ewa Hawaiian Homes Community Association  
The Federal Stewardship Incentive Program is providing funding to the Pana'ewa Hawaiian Homes Community Association for establishing a

native forest area south of Hilo, Hawaii for public educational and recreational purposes. Native species being planted include ohia, hala, lama, kopiko, and kolea. The Federal program is also funding a project involving the cooperative management of 5 leaseholders who are establishing an economically viable, short-rotation timber plantation on 154 acres of recently abandoned sugar cane fields. Most of the area will be planted with alternating *Eucalyptus deglupta* and *Eucalyptus microcorys* seedlings.

**PROGRAM**

**WILDLIFE HABITAT INCENTIVES PROGRAM (WHIP)**

**Agency**

United States  
Department of Agriculture  
Natural Resources Conservation Service

**Contact**

Natural Resources Conservation Service  
State Conservationist in Honolulu: (808) 541-2603  
Oahu (Honolulu) Office: (808) 861-8520  
Big Island (Hilo) Office: (808) 933-6955  
Big Island (Kamuela) Office: (808) 885-6602  
Big Island (Kealahou) Office: (808) 322-2484  
Kauai (Lihue) Office: (808) 245-6513  
Maui (Kahului) Office: (808) 244-3729

The final rule for the Wildlife Habitat Incentives Program was published in the Federal Register, September 19, 1997. The WHIP rule can be viewed on NRCS's World Wide Web site at <http://www.nrcs.usda.gov>

**Description**

The Wildlife Habitat Incentives Program (WHIP) is a voluntary program for those who want to develop and improve wildlife habitat on private lands. According to Federal Agriculture Improvement and Reform Act of 1996 (1996 Farm Bill), the primary purpose of WHIP is to help landowners "develop upland wildlife, wetland wildlife, threatened and endangered species, fish, and other types of wildlife habitat". It provides both technical assistance and cost-share payments to help establish and improve fish and wildlife habitat on eligible lands.

WHIP is offered by the National Resources Conservation Service, U. S. Department of Agriculture.

Participants who own or control land agree to prepare and implement a wildlife habitat development plan. If the landowner agrees, cooperating State wildlife agencies and nonprofit or private organizations may provide expertise or additional funding to help complete a project.

USDA and program participants enter into a cost-share agreement for wildlife habitat development. Cost-share agreement period applies to the time that it takes to install a practice or practices and verify that they have been successfully installed. Cost share agreement periods generally last from five to ten years. Under the agreement:

- The landowner agrees to install and maintain the WHIP practices and allow NRCS or its agent access to monitor the effectiveness of the practices.
- USDA agrees to provide technical assistance and pay up to 75 percent of the cost of installing the wildlife habitat practices.

Cost-share payments may be used to establish new practices or replace practices that fail for reasons beyond the landowner's control. After completion of the cost-share agreement period, program participants will still be required to be in compliance with an associated operations and maintenance agreement to maintain the WHIP practice or practices for the life of each practice. Practice life varies, and may or may not extend beyond the actual cost-share period, but for some practices such as impoundment structures, practice lifespans can range up to 20 or 30 years.

One-year cost-share agreements may be provided in special emergency circumstances.

WHIP funds may be used to restore aquatic habitat as well as adjacent streambanks and uplands. Riparian restoration can benefit many species of wildlife, including fish.

WHIP funds cannot be used for mitigation or on land designated as converted wetland. These acres may be included in the WHIP agreement but are not eligible for cost-share payments.

Generally, the total cost-share amount cannot exceed \$10,000 per agreement. The NRCS State Conservationist has the authority to exceed this limit on a case-by-case basis.

***Funding***

The 1996 Farm Bill provides up to \$50 million through the year 2002 to implement WHIP nationwide. These funds were formerly available to implement the Conservation Reserve Program.

An initial allocation of \$50,000 has been made for Hawaii projects. Funds for reimbursements will not be available until October 1, 1998.

WHIP funds are distributed to States based on State wildlife habitat priorities, which may include wildlife habitat areas, targeted species and their habitats, and specific practices. WHIP may be implemented in cooperation with other Federal, State, or local agencies; conservation districts; or private conservation groups. State priorities are developed through a locally led process that identifies wildlife resource needs and finalized in consultation with the State Technical Committee.

NRCS will focus the majority of WHIP funds toward private lands. However, the NRCS State Conservationist, in consultation with the State Technical Committee, can allow exceptions where significant wildlife habitat gains can only be achieved by installing practices on non-Federal public land.

***Eligibility  
Criteria***

Eligible participants include those who own or have control of the land under consideration. All lands are eligible for WHIP, except:

- Federal land;
- Land currently enrolled in the Water Bank Program; Conservation Reserve Program, Wetlands Reserve program, or similar programs;
- Lands subject to an Emergency Watershed Protection Program floodplain easement; and
- Land where USDA determines that impacts from onsite or offsite conditions make the success of habitat improvement unlikely.

WHIP is not currently offered in Hawaii due to funding and other factors. However, it may be offered in the future.

***Examples of  
Program at  
Work in Hawaii:***

This would be a new program for Hawaii.

**PROGRAM**

**WETLANDS RESERVE PROGRAM (WRP)**

**Agency**

United States  
Department of Agriculture  
Natural Resources Conservation Service

**Contact**

Natural Resources Conservation Service  
State Conservationist in Honolulu: (808) 541-2603  
Oahu (Honolulu) Office: (808) 861-8520  
Big Island (Hilo) Office: (808) 933-6955  
Big Island (Kamuela) Office: (808) 885-6602  
Big Island (Kealahou) Office: (808) 322-2484  
Kauai (Lihue) Office: (808) 245-6513  
Maui (Kahului) Office: (808) 244-3729

The Wetlands Reserve Program information can be viewed on NRCS's World Wide Web site at <http://www.nrcs.usda.gov>

**Description**

The Wetlands Reserve Program was established in the Food Security Act of 1985, as amended by the Federal Agriculture Improvement and Reform Act of 1990 and 1996 (1990 and 1996 Farm Bill). The Wetlands Reserve Program is a voluntary program to restore and protect wetlands on private property. It is administered by the U.S. Department of Agriculture's (USDA) Natural Resources Conservation Service (NRCS) in consultation with the Farm Service Agency (FSA) and other service agencies. Funding for WRP comes from the Commodity Credit Corporation.

Landowners who choose to participate in WRP may sell a conservation easement or enter into a cost-share restoration agreement with USDA to restore and protect wetlands. The landowner voluntarily limits future use of the land, yet retains private ownership. The landowner and NRCS develop a plan for the restoration and maintenance of the wetland.

The program offers landowners three options:

- Permanent easements
- 30-year easements
- Restoration cost-share agreements of a minimum duration of 10 years.

Permanent Easement. This is a conservation easement in perpetuity. Easement payment will be the lesser of: the agricultural value of the land, and established payment cap, or an amount offered by the landowner. USDA pays for the conservation easement and pays 100 percent of the cost of restoring the wetland.

30-Year Easement. This is a conservation easement lasting 30 years. Easement payments are 75 percent of what would be paid for a permanent easement. USDA also pays 75 percent of wetland restoration costs.

Restoration Cost-Share Agreement. This is an agreement to re-establish degraded or lost wetland habitat. Agreements generally are for a minimum duration of 10 years. USDA pays 75 percent of the cost of the wetland restoration activity. This does not place an easement of the property. The landowner provides the restoration site without reimbursement.

As a way of reducing the landowner's share of the costs, other agencies and private conservation organizations may provide additional assistance for payment of easements and wetland restorations costs.

The landowner continues to control access to the land and may lease the land for hunting, fishing, and other undeveloped recreational activities. At any time, the landowner may request that additional activities be evaluated to determine if they are compatible uses for the site. This request may include such items as permission to cut hay, graze livestock or harvest wood products. Compatible uses are allowed if they are fully consistent with the protection and enhancement of the wetland.

***Funding***

The 1995 Wetlands Reserve Program was funded at \$92 million and an estimated 118,000 acres are expected to be enrolled. The WRP authorizes the Secretary of Agriculture to restore not less than 975,000 acres of wetland status by the year 2000, through permanent or long-term easements. The first sign-up was limited to 29 states and the second to 20 states. Landowners interest in the WRP far exceeds available funding.

There have been no WRP projects in Hawaii.

***Eligibility  
Criteria***

The landowner may be paid no more than the agricultural value of the land.

Eligible landowners must have owned the land for at least one year prior to enrolling the land in the program, unless the land was inherited or the landowner can prove the land was not obtained for the purpose of enrolling it in the program. To participate in a restoration cost-share agreement, the landowner must show evidence of ownership.

Eligible lands must be restorable and be suitable for wildlife benefits. This includes:

- Wetlands farmed under natural conditions;
- Federal land;
- Farmed wetlands;
- Prior converted cropland;
- Farmed wetland pasture;
- Farmland that has become a wetland as a result of flooding;
- Rangeland, pasture, or production forestland where the hydrology has been significantly degraded and can be restored;
- Riparian areas which link protected wetlands;
- Lands adjacent to protected wetlands that contribute significantly to wetland functions and values; and
- Previously restored wetlands (Conservation Reserve Program land is eligible if it meets WRP requirements).

NRCS, with input from the U.S. Fish and Wildlife Service and State wildlife agencies, will determine the eligibility of lands proposed for the program. Landowners with high priority acres, based on competitive selection, will receive and offer.

Once eligibility has been determined, NRCS will discuss with the landowner the eligible wetland and surrounding area necessary to restore and sustain the ecosystem. Ideally, a mix of wetland and upland acres is desired to meet the needs of the wildlife community and other objectives, such as water quality, flood reduction, and groundwater recharge.

Ineligible lands include wetlands converted after December 23, 1985; lands with timber stands established under a CRP contract; Federal lands; and lands where conditions make restoration impossible.

**PROGRAM**

**ENVIRONMENTAL QUALITY INCENTIVES PROGRAM (EQIP)**

**Agency**

United States  
Department of Agriculture  
Natural Resources Conservation Service

**Contact**

Natural Resources Conservation Service  
State Conservationist in Honolulu: (808) 541-2603  
Oahu (Honolulu) Office: (808) 861-8520  
Big Island (Hilo) Office: (808) 933-6955  
Big Island (Kamuela) Office: (808) 885-6602  
Big Island (Kealahou) Office: (808) 322-2484  
Kauai (Lihue) Office: (808) 245-6513  
Maui (Kahului) Office: (808) 244-3729

The Environmental Quality Incentives Program information can be viewed on NRCS's World Wide Web site at <http://www.nrcs.usda.gov>

**Description**

The Environmental Quality Incentives Program was established in the Federal Agriculture Improvement and Reform Act of 1996 (1996 Farm Bill). The Environmental Quality Incentives Program is a voluntary conservation program for farmers and ranchers who face serious threats to soil, water, and related natural resources. These concerns could include soil erosion, water quality and quantity, wildlife habitat, wetlands, and forest and grazing lands. EQIP offers technical, financial, and educational assistance primarily in designated priority areas--half of it targeted to livestock-related natural resource concerns and the remainder to other significant conservation priorities. Assistance can help to install or implement structural, vegetative, and management practices called for in 5- to 10-year contracts for most agricultural uses.

Priority areas are identified through a locally led conservation process. Conservation districts convene a local work group comprised of the district board members and key staff, NRCS staff, Farm Service Agency (FSA) county committees and key staffs, Cooperative State Research, Education, and Extension Service and other Federal, State, and local agencies interested in natural resource conservation.

EQIP offers 5- to 10-year contracts that provide incentive payments and cost sharing for conservation practices called for in the site-specific plan.

Cost-sharing may pay up to 75 percent of the costs of certain conservation practices, such as grassed waterways, filter strips, manure management facilities, capping abandoned wells, and other practices important to improving and maintaining the health of natural resources in the area.

Incentive payments may be made to encourage a producer to perform land

management practices, such as nutrient management, manure management, integrated pest management, irrigation water management, and wildlife habitat management. These payments may be provided up to three years to encourage producers to carry out management practices they may not otherwise use without the program incentive.

NRCS conducts an evaluation of the environmental benefits the producer offers.

All EQIP activities must be carried out according to a conservation plan. Conservation plans are site-specific for each farm or ranch and can be developed by producers with help from NRCS or other service providers. Producers' conservation plans should address the primary natural resource concerns. All plans are subject to NRCS technical standards adapted for local conditions and are approved by the conservation district. Producers are not obligated, but are encouraged, to develop comprehensive and total resource management plans.

EQIP is managed by the NRCS, in close association with the Farm Service Agency (FSA). Conservation districts and FSA county committees have important roles in implementing EQIP at the local level. State Technical committees offer advice on establishing EQIP activities at the State level.

***Funding***

EQIP's authorized budget of \$1.3 billion is prorated to \$200 million per year through the year 2002. Funding comes from the Federal Government's Commodity Credit Corporation.

EQIP is available in every State, with an emphasis on either state-identified priority areas or significant statewide concerns. In general priority areas are defined as wetlands, regions, or areas of special environmental sensitivity or having significant soil, water, or related natural resource concerns.

The Fiscal Year 1998 proposed allocation for Hawaii is \$1,051,000.

Total cost-share and incentive payments are limited to \$10,000 per person per year and \$50,000 over the length of the contract.

*Eligibility*

Eligibility is limited to persons who are engaged in livestock or agricultural production. *Criteria*

Eligible land includes cropland, rangeland, pasture, forestland, and other farm or ranch lands where the program is delivered.

The 1996 Farm Bill prohibits owners of large (more than 1,000 animals) confined livestock operations from being eligible for cost-share assistance for animal waste storage or treatment facilities. However, technical, educational, and financial assistance may be provided for other conservation practices on these "large" operations. Differences in operations and environmental circumstances exist across the country, therefore the national definition of large confined livestock operation may be amended in each state by the NRCS State Conservationist, after consultation with the State Technical Committee, and approval of the NRCS Chief.

The FSA County Committee approves for funding the highest priority applications. Applications are ranked according to environmental benefits achieved weighted against the costs of applying the practices. Higher rankings are given to plans developed to treat priority resource concerns to a sustainable level. EQIP seeks to maximize environmental benefits per dollar spent.

**PROGRAM**

**FOREST INCENTIVES PROGRAM (FIP)**

**Agency**

United States  
Department of Agriculture  
Natural Resources Conservation Service

**Contact**

Natural Resources Conservation Service  
State Conservationist in Honolulu: (808) 541-2603  
Oahu (Honolulu) Office: (808) 861-8520  
Big Island (Hilo) Office: (808) 933-6955  
Big Island (Kamuela) Office: (808) 885-6602  
Big Island (Kealahou) Office: (808) 322-2484  
Kauai (Lihue) Office: (808) 245-6513  
Maui (Kahului) Office: (808) 244-3729

The Forest Incentives Program (FIP) information can be viewed on NRCS's World Wide Web site at <http://www.nrcs.usda.gov>

**Description**

The Forest Incentives Program (FIP) is intended to assure the nation's ability to meet future demand for sawtimber, pulpwood, and quality hardwoods by planting more trees and placing more forest land under good forest management. FIP's cost-sharing for these measures helps eligible private landowners, whose small parcels represent the majority of the Nation's forest lands.

The Federal Agriculture Improvement and Reform Act of 1996 (1996 Farm Bill) extends the Forest Incentives Program (FIP), which was originally authorized in 1978 to share up to 65 percent of the costs of tree planting, timber stand improvements, and related practices on nonindustrial private forest lands. FIP's forest maintenance and reforestation provide numerous natural resource benefits, including reduced wind and soil erosion and enhanced water quality and wildlife habitat as well as helping to assure a reliable future supply of timber. Improving timber stands, which help to sequester greenhouse gases, also contributes to the President's Climate Change initiative.

FIP is administered by the U. S. Department of Agriculture's Natural Resources Conservation Service (NRCS) and Forest Service.

Available practices under FIP are:

- Tree planting;
- Improving a stand of forest trees; and
- Site preparation for natural regeneration.

The State forester provides technical advice in developing a forest management plan and helps find approved vendors, if needed, for completing the FIP work. In addition, the State forestry agency must certify that the project has been completed satisfactorily before cost-share payments can be made.

***Funding***

Federal shares can be up to 65 percent. The percentage depends upon the cost-share rate set by NRCS for States and counties. There is an annual cost-share payment limit of \$10,000 per person.

***Eligibility  
Criteria***

To be eligible for cost-share assistance under FIP, the landowner must:

- Own no more than 1,000 acres of eligible forest land. In the public interest, the Secretary of Agriculture can grant an exception for larger acreages;
- Be a private landowner of a nonindustrial forest. Individuals, groups, associations, or corporations whose stocks are not publicly traded may be eligible for FIP provided they are not primarily engaged in the business of manufacturing forest products or providing public utility services;
- Have land that is suitable for conversion from nonforest land into forest land (afforestation); for reforestation; or for improved forest management; and
- Have land that is capable of producing marketable timber crops and meets minimum productivity standards established for FIP. At least 10 acres of eligible forest land is required for FIP.

This program is not available in Hawaii at this time.

**PROGRAM**

**CONSERVATION RESERVE PROGRAM (CRP)**

**Agency**

United States  
Department of Agriculture  
Farm Service Agency

**Contact**

Farm Service Agency  
State Executive Director: (808) 541-2644  
Oahu (Aiea) Office: (808) 483-8609  
Big Island (Hilo) Office: (808) 933-6963  
Kauai (Lihue) Office: (808) 245-9014  
Maui (Kahului) Office: (808) 244-3100

The Conservation Reserve Program (CRP) information can be obtained from the Farm Service Agency offices.

**Description**

The Conservation Reserve Program (CRP) is a voluntary program that offers annual rent payments, incentive payments for certain activities, and cost-share assistance to establish approved cover on eligible cropland. The program encourages farmers to plant long-term resource-conserving covers to improve soil, water and wildlife resources.

The Food Security Act of 1985, as amended, authorizes the CRP, which is implemented through the Commodity Credit Corporation. The program is also governed by the regulations published in 7 CFR part 1410.

CRP is administered by the Commodity Credit Corporation through the Farm Service Agency (FSA). The Natural Resources Conservation Service, Cooperative State Research and Education Extension Service, State forestry agencies, and local soil and water conservation districts provide program support.

Rental rates are based on the relative productivity of soils within each county, and the average of the past three years of local dryland cash rent or the cash rent equivalent. The maximum CRP rental rate for each offer is calculated in advance of enrollment. Producers may offer land at that rate or may bid a lower rental rate to increase the likelihood that their offer will be accepted.

***Funding***

Also offered are additional financial incentives of up to 20 percent of the annual payment for certain continuous sign-up practices.

The restoration of wetlands is encouraged by offering an incentive equal to 25 percent of the costs incurred. This is in addition to the 5 percent cost share provided to establish the approved cover.

The Program is offered during a sign-up period when funds are available. Proposals are ranked nationally, so there is no specific allocation for Hawaii.

Assistance is available in an amount equal to not more than 50 percent of the participant's costs in establishing approved practices. The duration of contracts are between 10 and 15 years.

Eligible acreage devoted to certain special conservation practices such as riparian buffers, filter strips, grassed waterways, shelter belts, living snow fences, contour grass strips, salt tolerant vegetation, and shallow water areas for wildlife may be enrolled at any time, and are not subject to competitive bidding.

All other eligible acreage must be enrolled during a CRP sign-up period.

***Eligibility  
Criteria***

To be eligible to be placed in CRP, land must be:

Cropland that is planted or considered planted with an agricultural commodity at least 2 of the 5 most recent crop years (including field margins) which is also physically and legally capable of being planted in a normal manner to an agricultural commodity; or

- Marginal pasture land that is either:
  - Certain acreage enrolled in the Water Bank Program; or
  - Suitable for use as a riparian buffer to be planted to trees.

To be eligible, cropland must:

- Have an Erosion Index (EI) of 8 or higher to be considered highly erodible land according to the conservation compliance provisions (Redefined fields must have an EI of 8 or higher);
- Be considered a cropped wetland;
- Be devoted to any of a number of highly beneficial environmental practices, such as filter strips, riparian buffers, grass waterways, shelter belts, well-head protection areas, and other similar practices;

- Be subject to scour erosion;
- Be located in a national or state CRP conservation priority area; or
- Be cropland associated with or surrounding non-cropped wetlands.

An applicant must have owned or operated the land for at least 12 months prior to close of the sign-up period unless:

- The new owner acquired the land as a result of death of the previous owner;
- The only ownership change occurred due to foreclosure where the owner exercised a timely right of redemption in accordance with State law; or
- The circumstances of the acquisition present adequate assurance that the new owner did not acquire the land for the purpose of placing it in CRP.

Offers for CRP contracts are ranked according to the Environmental Benefits Index (EBI)--relative environmental benefits for the land offered. Bids are then ranked in comparison to all other bids offered and selections made from that ranking.

**PROGRAM**

**FEDERAL LANDS-TO-PARKS (FLP)**

**Agency**

United States  
Department of the Interior  
National Park Service

**Contact**

National Park Service  
Federal Lands-to-Parks Program  
Pacific West Field Area  
600 Harrison Street, Suite 600  
San Francisco, CA 94107-1372  
Telephone: (415) 427-1444

The Federal Lands-to-Parks Program (FLP) information can be obtained from the program's Web page: [www.cr.nps.gov/rta/flp/flphome.html](http://www.cr.nps.gov/rta/flp/flphome.html)

A copy of the General Services Administration (GSA) Federal Real Estate Sales Bulletin can be obtained by calling: 800-472-1313. The GSA Pacific Rim regional office telephone number is 800-421-7848.

**Description**

The Federal Lands-to-Parks Program enables State and local governments to establish park and recreation areas and adapt historic buildings for public uses. Through the Federal Lands-to-Parks Program, State and local agencies may acquire land and facilities once used for federal purposes at no cost to meet park and recreation needs.

The FLP Program is authorized under the following: Federal Property and Administrative Services Act of 1949, Section 203(k), 63 Stat. 385 as amended, 40 U.S.C. 484, Public Law 91-485; Federal Parks and Recreation, Section 303(2)(c) of 92 Stat., 3476 Public Law 95-625, November 10, 1978, Acquisition and Disposal of Land; and the Outdoor Recreation Act of 1963, 16 U.S.C. 4601 through 4601-3, Public Law 88-29.

The FLP Program provides recreational opportunities for people of all ages. Properties transferred may be used for activities such as hiking, camping, picnicking, boating, interpretive areas, backpacking, snowmobiling, cross-county skiing, horseback riding, ballfields, biking, senior centers, community gardens, or nature preserves. Properties may provide community open space, access to rivers, beaches and lakeshores, or new or expanded park areas. New public uses have been created in cities, suburbs, and rural areas nationwide from portions of military bases, river and lakefronts, lighthouses, former government buildings, and undeveloped open spaces.

Most of the sites that have been transferred under the program are improved urban properties that include some open space with recreational

potential.

As a result of military base closings, opportunities for communities to establish or expand public parks and recreation areas and adapt historic buildings have increased.

The GSA has transferred the bulk of the sites. Many of the Department of Defense property transfers (mostly from base closures) are still being finalized.

The National Park Service helps by:

- Identifying historically and naturally significant surplus federal properties;
- Notifying communities of upcoming opportunities;
- Assisting in preparing applications;
- Acting as liaison with other federal agencies, including the Department of Defense and General Services Administration;
- Assisting in planning the reuse of military bases that are closing for park and recreation and open space purposes; and
- Ensuring the long-term preservation of properties transferred under the program.

***Eligibility  
Criteria***

Only State or local units of government are eligible to apply for surplus real property for public park and recreation purposes. Applicants must agree to manage the property in the public interest and for public park and recreation use.

The National Park Service (NPS) works with the interested agency through the application process. This assistance includes meeting onsite to help identify significant recreational, natural, and historic resources and reviewing the draft application to make suggestions before the final is submitted. In the application, an agency must

demonstrate its capacity to take on site ownership and management, specifically outline its proposed plan and program with a schedule for implementation, and accept the terms of the conveyance.

The National Park Service must make a formal recommendation to the disposing agency--either the General Services Administration or the Department of Defense--before a property can be transferred. The disposing agency makes the final decision whether to approve the property transfer.

**PROGRAM**

**SUSTAINABLE DEVELOPMENT CHALLENGE GRANTS (SDCG)**

***Agency***

United States  
Environmental Protection Agency

***Contact***

Environmental Protection Agency  
Debbie Schechter  
Region IX  
75 Hawthorne Street  
San Francisco, CA 94105  
Telephone: (415) 744-1624  
Email: [schechter.debbie@epamail.epa.gov](mailto:schechter.debbie@epamail.epa.gov)

To receive application kits by mail:  
Telephone: (202) 260-6812  
Fax: (202) 260-2555

To access application kits via the internet:  
<http://www.epa.gov/ecocommunity>

***Description***

The Sustainable Development Challenge Grant is a competitive grant program whose purpose is to encourage community groups, businesses, and government agencies to work together on sustainable development efforts that protect the local community and conserve natural resources while supporting a healthy economy and an improved quality of life. In particular, EPA is interested in community-based efforts that leverage public and private investments, involve diverse interests in the community, and build partnerships to foster local sustainability endeavors for the long-term.

Sustainable development is defined as meeting the needs of the present without compromising the needs of the future. Sustainable development places equal and integrated emphasis on economic prosperity, environmental quality, and social well-being.

***Funding***

\$5 million is available. Eighty percent will support projects in cities/metropolitan areas. The remaining 20 percent of funds will support rural, tribal, and other non-metropolitan projects.

***Eligibility  
Criteria***

EPA will fund proposals in two funding categories: (1) \$50,000 or less and (2) \$50,001 to \$250,000. Applicants in each category must provide matching funds of at least 20 percent of the total project budget.

Over 600 applications were received in FY 1996 for the \$500,000 in funding available. Ten projects were funded nationally.

Eligible applicants include community groups, nonprofit organizations, local governments, tribes, and states. Proposals must be able to demonstrate sustainability, community commitment and contribution, and measurable results.

**PROGRAM**

**FOREST LEGACY PROGRAM (FLP)**

**Agency**

United States  
Department of Agriculture  
Forest Service

**Contact**

U.S. Forest Service  
Mr. Thomas Quink  
Forest Legacy Program  
Blaisdell House  
University of Massachusetts  
Amherst, MA 01003-0820  
Telephone: (413) 545-2842  
Fax: (413) 545-2304  
Email:FSWA/S=T.QUINK/OU=S24L07A@MHS.ATTMAIL.COM

or

State of Hawaii  
Department of Land and Natural Resources  
Division of Forestry and Wildlife  
telephone: 1-800-468-4644, ext. 70166

The Forest Legacy Program information can be viewed at  
URL:<http://riga.fnr.umass.edu/tei/flp>

**Description**

The Forest Legacy Program is a voluntary program intended to help landowners, state and local governments, and private land trusts identify and protect environmentally important forest lands that are threatened by present and future conversion to nonforest uses. The Forest Legacy Program is designed to assure that both traditional uses of private lands and the public values of America's forest resources are protected for future generations. Conservation easements, rights of public access, and other mechanisms are used for promoting forest land protection and other conservation opportunities. Such purposes shall also include the protection of important scenic, cultural, fish, wildlife, and recreational resources, riparian areas, and other ecological values.

The Forest Legacy Program was created by Congress in the 1990 Farm Bill.

The Forest Legacy Program is administered by the U. S. Department of Agriculture, Forest Service. This Program may be established in cooperation with appropriate State, regional, and other units of government.

The State of Hawaii, Division of Forestry and Wildlife is currently conducting a survey of public interest, which will be the basis of future funding allocations.

Willing owners who are accepted into the program can sell all or part of their ownership rights, such as the right to develop the land, to the Federal Government. The government will pay for these rights at full fair market value, in accordance with Federal appraisal and acquisition standards and procedures. The owner keeps the remaining property rights and usually continues to live on and work/manage the property. Property taxes are paid by the owner on any retained rights as determined by local assessors.

Owners may sell their retained rights to other buyers at any time. If only development rights are sold, the Federal Government would hold a "conservation easement" on the property in perpetuity, and landowners would be committed to managing their property according to the conditions of the easement that they have voluntarily sold.

This is a voluntary program. There is no condemnation of the property or taking by eminent domain.

Other facets of the Forest Legacy Program include:

- A Federal-State partnership where each State can develop its own assessment guidelines to meet local needs within the Federal requirements.
- Federal technical and financial assistance for preparing State assessments.
- Payment to local taxing authorities when all the rights are purchased. (No payment will be made on conservation easements.)
- 75 percent limit on the Federal share of Forest Legacy Program costs.
- Delegation of management and monitoring (when easements are acquired) to State or local governments.

***Funding***

The government will pay for the conservation easement, which includes an easement utilizing a reserved interest deed where the government acquires all rights, title, and interests in the property, except those rights, title, and interests that may run with the land that are expressly reserved by a landowner. The government will pay for all or part of the landownership rights, such as the right to develop the land at full fair market value, in accordance with Federal appraisal and acquisition standards and procedures.

Costs for the acquisition of lands or interests or project costs shall be shared among participating entities, including regional organizations, State and other local governmental units, landowners, corporations, or private organizations. Such costs may include, but are not limited to, those associated with planning, administration, property acquisition, and property management. Federal share of total program costs shall not exceed 75 percent, including any in-kind contribution.

***Eligibility***

Eligible lands shall have significant environmental values or shall be threatened by present or future conversion to nonforest uses. Priority shall be given to lands which can be effectively protected and managed, and which have important scenic or recreational values; riparian areas; fish and wildlife values, including threatened and endangered species; or other ecological values.

Eligible landowners or owners of interests in lands may prepare and submit an application

**PROGRAM**

**FARMLAND PROTECTION PROGRAM (FPP)**

**Agency**

United States  
Department of Agriculture  
Natural Resources Conservation Service

**Contact**

Natural Resources Conservation Service  
State Conservationist in Honolulu: (808) 541-2603  
Oahu (Honolulu) Office: (808) 861-8520  
Big Island (Hilo) Office: (808) 933-6955  
Big Island (Kamuela) Office: (808) 885-6602  
Big Island (Kealahou) Office: (808) 322-2484  
Kauai (Lihue) Office: (808) 245-6513  
Maui (Kahului) Office: (808) 244-3729

**Description**

The Farmland Protection Program (FPP) is intended to protect farmland from conversion to nonagricultural land uses. This program is available to States, Tribes, and units of local government, that wish to acquire conservation easements or other interests in prime, unique, or other productive soil that is subject to a pending offer from a State, Tribe, or local government for the purpose of limiting conversion to nonagricultural uses of that land.

The Farmland Protection Program was established by Section 388 of the Federal Agricultural Improvement and Reform Act of 1996 (1996 Farm Bill).

FPP is administered under the supervision of the Chief of the U. S. Department of Agriculture's Natural Resources Conservation Service (NRCS).

**Funding**

In fiscal year 1996, \$14.3 million in funds were available to 37 State and local government entities in 17 States to acquire conservation easements and other interests in land to limit conversion to nonagricultural uses of the land.

In fiscal year 1997, funds were limited to \$1.92 million. The FPP was being designed to take advantage of the Wetlands Reserve Program (16 U.S.C. 3837), the Conservation Reserve Program (16 U.S.C. 3830-3836), the Environmental Quality Incentives Program

**Eligibility**

(16 U.S.C. 3839), the Wildlife Habitat and Incentives Program (16 U.S.C. 3836a) and other State, Tribal, or local conservation programs that have complimentary objectives of the FPP.

Eligible government entities who respond to the Notice of Request for Proposals must have an existing farmland protection program, have pending offers, and be able to provide at least 50 percent of the fair market easement value for the pending offers. The pending offers with landowners must be for the purpose of protecting topsoil by limiting conversion to nonagricultural uses of the land.

Eligible lands include:

- Land with prime, unique, or other productive soil; and
- Other incidental land that would not otherwise be eligible, but when considered as part of the pending offer, NRCS determines that the inclusion of such land would significantly augment the protection of the associated farmland.

The definition of prime, unique, or other productive soil can be found in section 1540(c)(1), of the Farmland Protection Policy Act, 7 U.S.C. 4201 (c)(1).

NRCS will only consider enrolling eligible land in the program that is configured in a size and with boundaries that allow for the sufficient management of the area for the purposes of the FPP. The land must have access to markets for its products and an infrastructure appropriate for agricultural production.

NRCS will not enroll land that is owned in fee title by an agency of the United States, or land that is already subject to an easement or deed restriction that limits the conversion of the land to nonagricultural uses. NRCS will not enroll otherwise eligible land if NRCS determines that the protection provided by the FPP would not be effective because of onsite or offsite conditions.

NRCS State Conservationist will review the requests for participation for consistency with USDA priorities by using a ranking system to determine (1) the likelihood of conversion considering developmental pressure, zoning, utility availability, and other related factors; (2) the quality of the land considering the soils, economic viability, size and product sales; and (3) other factors including its historical, scenic, and environmental qualities.

The State Conservationist will then submit only the top request that meets the special requirements established for that fiscal year to the appropriate NRCS Regional Conservationist. The Chief of NRCS will authorize cooperative agreements to be developed.

Allocation of funds to the successful cooperating entities will be made by

considering such factors as:

- The capability of each entity to fund at least half of the fair market easement costs of each of the pending offers selected for funding;
- The value of such offers;
- The high probability of using other Federal, State, Tribal, or local conservation programs such as the Wetland Reserve Program, Conservation Reserve Program, Environmental Quality Incentives Program, Wildlife Habitat Incentives Program; and
- The total number of eligible acres included in the offers.

To be selected for participation in FPP, a pending offer must provide for the acquisition of an easement or other interests in land for a minimum duration of 30 years, with priority given to those offers providing permanent protection. If a pending offer is selected for participation in FPP, the conveyance document used by the State, Tribal, or local program will contain a reversionary clause. The reversionary clause will provide that all rights conveyed by the landowner under the document will become vested in the United States should the State, Tribal, or local program abandon or terminate the exercise of the rights so acquired.

As a condition for participation, all lands enrolled shall be encompassed by a conservation plan developed and implemented according to the NRCS Field Office Technical Guide.

**PROGRAM**

**HAWAII BIODIVERSITY JOINT VENTURE**

**Agency**

United States Department of the Interior  
Fish and Wildlife Service  
Pacific Islands Ecoregion

**Contact**

Craig Rowland  
Conservation Partnerships Coordinator  
U.S. Fish and Wildlife Service  
300 Ala Moana Blvd., Room 3108  
Honolulu, Hawaii 96850  
Telephone: (808) 541-3441  
email: craig\_rowland@mail.fws.gov

**Description**

The Hawaii Biodiversity Joint Venture initiative is a public-private effort to protect, maintain, improve, and restore the native biological diversity of the Hawaiian Islands.

The goals of the program are to:

1. Maintain natural communities and habitats for native species;
2. Support efforts to cooperatively manage significant native ecosystems on public and private land;
3. Develop natural resource management techniques to address the widespread threats to Hawaii's native ecosystems (such as feral ungulates, weeds, rats, and alien insects);
4. Restore former wetlands, native forests and other natural communities on public and private lands; and
5. Protect native Hawaiian ecosystems and natural communities through land and water acquisition and management.

**Funding**

The amount of funding available for the Hawaii Biodiversity Joint Venture program varies annually. In the past, the Hawaii Biodiversity Joint Venture has funded projects as small as \$2,000 to as large as \$150,000.

**Eligibility  
Criteria**

The Hawaii Biodiversity Joint Venture Program is open to all Private and Public landowners. Interested participants must meet with a representative from the Fish and Wildlife Service to formulate a management plan.

**PROGRAM**

**PARTNERS FOR FISH AND WILDLIFE**

**Agency**

United States Department of the Interior  
Fish and Wildlife Service  
Pacific Islands Ecoregion

**Contact**

Craig Rowland  
Conservation Partnerships Coordinator  
U.S. Fish and Wildlife Service  
300 Ala Moana Blvd., Room 3108  
Honolulu, Hawaii 96850  
Telephone: (808) 541-3441  
email: craig\_rowland@mail.fws.gov

**Description**

Partners for Fish and Wildlife is the U.S. Fish and Wildlife Service's (USFWS) habitat restoration cost-sharing program for long-term conservation on private land. The program was established to offer technical and financial assistance to landowners who wish to restore wildlife habitat (native ecosystems) on their property.

Projects can include, but are not limited to, restoration of wetlands, riparian areas or streams, revegetation of native plant communities, and construction of fences to exclude feral ungulates from native ecosystems. Projects with highest priorities are those that re-establish natural historical communities and provide benefits to native migratory birds, anadromous fish and threatened or endangered species.

The assistance provided by the USFWS can range from informal advice on the design and location of potential restoration projects to cost-share funding of project implementation under a formal cooperative agreement with the Cooperator. Payments to Cooperators are made on a cost-reimbursable basis.

**Funding**

The amount of funding available for the Partners for Fish and Wildlife program varies annually. In the past, the Hawaii Biodiversity Joint Venture has funded projects ranging from \$6,000 - \$75,000.

**Eligibility  
Criteria**

The Partners for Fish and Wildlife program is open to all Private and public landowners. Lessees with a lease longer than 10-years may also participate in the program. The following is a seven-step checklist of steps necessary to establish a Partners for Fish and Wildlife project:

1. **Planning Meetings.** Meetings are held with the Cooperator and a USFWS representative to discuss project ideas and to visit the site.
2. **Project Description/Scope of work.** This is usually written by the Cooperator, with assistance from the USFWS if needed.
3. **Conservation Agreement.** The purpose of this document is to

ensure that the lands on which conservation actions are implemented will remain protected for a significant period of time.

The length of these agreements is commensurate with the amount of financial and technical assistance provided by the USFWS, but in no case will the duration be less than 10 years. The agreement is written by the USFWS.

4. ***Environmental Compliance Documentation.*** The provision of USFWS funds must comply with the National Environmental Policy Act (NEPA), Section 7 of the Endangered Species Act, and USFWS environmental contaminants regulations. This is required to ensure that the project is not going to be environmentally harmful. The documentation for this compliance is minimal and is completed by the USFWS, with information provided by the cooperator or collected during a brief survey.
5. ***Archaeological/Cultural Resources Compliance Documentation.*** A letter is needed from the State Archaeologist stating that the project will not have adverse effects on archaeological or cultural resources. This sometimes requires a survey by the State Archaeologist or can be addressed with data on hand. This letter can be obtained by either the Cooperator or the USFWS.
6. ***Funding Agreement.*** A Cooperative Agreement, Grant, or Wildlife Extension Agreement is prepared by the USFWS and signed by both parties to document the arrangement.
7. ***Project Monitoring.*** The USFWS works with the Cooperator to monitor the success of the project.

**PROGRAM**

**THE TRUST FOR PUBLIC LAND (TPL)**

**Agency**

Private, nonprofit nationwide land conservation organization

**Contact**

The Trust for Public Land  
Western Region  
116 New Montgomery  
Third Floor  
San Francisco, CA 94105  
Telephone: (415) 495-5660  
Fax: (415) 495-0541

**Description**

The Trust for Public Land (TPL) is a private, nonprofit land conservation organization that works nationwide to conserve land for people. TPL was founded in 1972. TPL's goal is to ensure livable communities and a healthy environment for generations to come.

TPL specializes in conservation real estate, applying its expertise in negotiation, public finance, and law to protect land for public use. Working with private land owners, communities, and government agencies, TPL has helped more than 1400 special places nationwide for people to enjoy as parks, playgrounds, community gardens, recreation areas, historic landmarks, and wilderness lands.

TPL works to improve public access to public lands, fosters community-owned or maintained parks and gardens, and establishes local community land trusts.

One of TPL's current programs is the Green Cities Initiative. This initiative aims to increase public awareness of the vital role of parks and open space in the quality of urban life, generate funding to create, improve and maintain urban parks, and protect public open spaces that preserve and celebrate a city's unique heritage. Green Cities Initiative supports local efforts to create parks and protect endangered open spaces. Twelve cities have been targeted where opportunities, leadership, and community commitment coalesce to undertake a comprehensive land acquisition and park improvement program.

TPL is not an advocacy or membership organization.

***Assistance  
Provided***

TPL depends on tax-deductible gifts from individuals, foundations, and corporations. Over half of the financial support comes from the land transactions. Property owners make a donation to TPL by selling land to TPL at below market value. TPL then recovers this donation when it resells the land to a public agency, which provides permanent stewardship.

TPL works with federal, state, county and municipal governments, and business, civic, and neighborhood organizations. TPL provides:

- Interim site protection
- Assistance with real estate transactions and finance
- Information and technical support on public finance campaigns for new public land
- Independent negotiations with landowners
- Bridge financing through revolving funds, loans, and lease-purchase agreements
- Planning assistance and help identifying opportunities for parks and land protection
- Effective public education campaigns to mobilize support for parks and open space

***Eligibility  
Criteria***

Projects undertaken and supported vary in assistance received, objective, scope, and size.

***Examples of  
Program at  
Work in Hawaii***

TPL has protected over 925,000 acres of land valued at more than \$1.2 billion in 44 states and Canada. TPL has worked with over 300 of the nation's 1100 land trusts. These local nonprofit organizations currently protect approximately 4.1 million acres nationwide. TPL's National Land Counselor Program offers intensive training for land trusts in conservation real estate transactions.

Kilauea Point National Wildlife Refuge, Kauai, Hawaii, was expanded to include Crater Hill due to the efforts of the a land trust formed with the assistance of TPL. A proposed large-lot residential development that would have impacted the scenic views from the refuge and affected seabird nesting habitat was stopped from developing on the seaward slopes of Crater Hill. Private lands were acquired and added to the national wildlife refuge.

**PROGRAM**

**THE NATURE CONSERVANCY OF HAWAII (TNCH)**

***Agency***

Nonprofit conservation organization

***Contact***

The Nature Conservancy of Hawaii  
116 Smith Street  
Honolulu, Hawaii 96817  
Telephone: (808) 537-4508  
Fax: (808) 545-2019

***Description***

The Nature Conservancy of Hawaii (TNCH) is an affiliate of The Nature Conservancy, an international nonprofit organization which, since 1951, has been the private sector leader in preserving Earth's rare plants and animals by protecting the places they need to survive.

TNCH is a nonprofit organization dedicated to the protection of Hawaii's native forests and wildlife.

TNCH manages 10 preserves on Oahu, Maui, Molokai, Lanai, and Kauai. It has also helped to protect 3 other natural areas on the Big Island and Maui through joint projects with the U.S. Fish and Wildlife Service, the State of Hawaii, National Park Service, and Maui Land & Pineapple Company of Kapalua.

TNCH maintains a statewide database known as the Hawaii Heritage Program, which contains detailed information on more than 775 different rare Hawaiian plants, animals, and natural communities found in 10,000 locations throughout the Hawaiian Islands.

TNCH also conducts a mentoring program for other nonprofits with compatible goals.

TNCH has also formed an innovative regional partnership to provide long-term protection of a watershed. The East Maui Watershed Partnership is the first of its kind in Hawaii. Members of the partnership, 6 public and private landowners and the County of Maui, all share a common goal and commitment to protect the 100,000-acre core of the critical East Maui watershed.

***Assistance Provided***

The Nature Conservancy of Hawaii manages preserves, helps others protect other natural areas, provides technical information, conducts field surveys, produces resource management reports, maintains biological databases, and conducts environmental education programs.

The lands managed by The Nature Conservancy have been obtained through a variety of means, including but not limited to: outright donation; purchase; bargain sale; fair market value sale; receipt of a conservation

easement; Section 1031 Exchanges under a special provision of the Internal Revenue Code; retained life estate; gifts of land by will; and trade land.

***Eligibility  
Criteria***

TNCH identifies the areas where the best examples of the most critically imperiled natural communities exist. This influences many of the activities of the Conservancy. The range of stewardship activities and assistance available are varied in location, scope, objective, and duration.

***Examples of  
Program at  
Work in Hawaii***

Following are three of the 10 preserves managed by The Nature Conservancy:

- Honouliuli (Oahu), 3,692 acres located on the southeast slope of the Waianae mountains. Contains some of the last remaining habitat on Oahu for native forest birds; home to more than 45 rare plant and animal species
- Iihihilauakea (Oahu), 30 acres located in a crater above Hanauma Bay. A cooperative effort with the City and County of Honolulu, this preserve protects a one-of-a-kind vernal pool and a rare fern.
- Kapunakea (Maui), 1,264 acres located in the West Maui mountains. Protects at least 25 different types of rare Hawaiian plants, animals, and natural communities. This was a gift of a conservation easement from Amfac/JMB.

Joint projects include: Hakalau Forest National Wildlife Refuge on the Big Island; Kipahulu Valley, part of Haleakala National Park on Maui; and Puu Kukui in the West Maui Mountains, island of Maui.

## LIST OF TERMS

**Bargain Sale:** Land purchased by a land trust (or other qualified entity) at less than fair market value. The difference between the sale price and the appraised fair market value may qualify as a tax deductible, charitable contribution for the seller.

**Charitable Trust:** Gift of land as the beneficiary of a living trust or charitable remainder trust.

**Conservation Easement:** Legal instrument by which a landowner (a) limits, without relinquishing ownership, the development potential of property which has significant natural resource, open space or habitat value and (b) grants the right to conserve those values.

**Conservation Lease:** Annual or term method of protecting natural resources or habitat.

**Exchange:** Means of trading equities in two or more real properties. Treated as a single transaction.

**Gift by Devise:** Gift of land through a person's will.

**Installment Sale:** Tax motivated mechanism that spreads the income from the sale over several years, thereby helping to reduce capital gains tax.

**Lease Back:** Conveyance of property that includes a right to lease by the former owner.

**Market Sale:** Sale of real property priced at fair market value.

**Nonfinancial Benefits:** Non-monetary rewards such as public recognition, dispute settlement, mutual protection with neighbors, and peace of mind - to name a few.

**Option to Buy:** Written agreement by which the landowner agrees to sell the right to buy the land for a certain period of time.

**Quid Pro Quo:** Equal exchange or substitution. A value-for-value trade-off of benefits. Frequently involves development trade-offs. Literally "something for something".

**Registry:** A registry program honors and recognizes owners of outstanding natural areas for their commitment to the protection of unique sites. Registration is voluntary and nonbinding. It is an agreement that may be canceled by either party at any time. Registration involves no payment or receipt of funds.

**Reserved Life Estate:** Conveyance of fee title by grant deed with a life estate reserved. The right of lifetime tenancy for some certain person. Also a remainder interest.

**Restrictive Covenants:** Clause attached to a deed or conveyance documents limiting future use of the property through conditions or restrictions.

**Right of First Refusal:** Recorded agreement that requires landowners, if they receive an offer to buy their land, to allow the land trust to match the offered price.

***Tax Benefits:*** Income and estate tax deductions from qualified charitable donations.

***Term Conservation Easement:*** Conservation easement for a limited number of years. Not in perpetuity, so not tax deductible.

## **Appendix A**

### **Selected Readings**

- Answers to Common Questions About Easements
- Conservation Tools and Strategies

# CHAPTER 1

## Answers to Common Questions About Easements

### What is a Conservation Easement?

A conservation easement is a legal agreement a property owner makes to restrict the type and amount of development that may take place on his or her property. Each easement's restrictions are tailored to the particular property and to the interests of the individual owner.

To understand the easement concept, think of owning land as holding a bundle of rights. A landowner may sell or give away the whole bundle, or just one or two of those rights. These may include, for example, the right to construct buildings, to subdivide the land, to restrict access, or to harvest timber. To give away certain rights while retaining others, a property owner grants an easement to an appropriate third party.

The specific rights a property owner forgoes when granting a conservation easement are spelled out in each easement document. The owner and the prospective easement holder identify the rights and restrictions on use that are necessary to protect the property-what can and cannot be done to it. The owner then conveys the right to enforce those restrictions to a qualified conservation recipient, such as a public agency, a land trust, or a historic preservation organization.

### What is a Historic Preservation Easement?

### An Agricultural Easement? A Scenic Easement?

### A Conservation Restriction?

Easements often are called by different names, according to the resource they protect. Easements used to preserve the facade and surroundings of historic structures or historic land areas are called historic preservation easements. When used to preserve an agricultural operation, they are termed agricultural or agricultural preservation easements. When the resources are primarily scenic, easements can bear that name. Another term for a conservation easement is conservation restriction. Whatever they are called, the concept is the same.

### Why Grant a Conservation Easement?

People grant conservation easements to protect their land or historic buildings from inappropriate development *while retaining private ownership*. By granting an easement in perpetuity, the owner may be assured that the resource values of his or her property will be protected indefinitely, no matter who the future owners are. Granting an easement can also yield tax savings, as -discussed below.

## What Kind of Property Can Be Protected by an Easement?

Any property with significant conservation or historic preservation values can be protected by an easement. This includes forests, wetlands, farms and ranches, endangered species habitat, beaches, scenic areas, historic areas, and more. Land conservation and historic preservation professionals can help you evaluate the relative features of your property.

## Who Can Grant an Easement?

### To Whom Can They Grant It?

Any owner of property with conservation or historic resources may grant an easement. If the property belongs to more than one person, all owners must consent to granting an easement. If the property is mortgaged, the owner must obtain an agreement from the lender to subordinate its interests to those of the easement holder so that the easement cannot be extinguished in the event of foreclosure.

If an easement donor wishes to claim tax benefits for the gift, he or she must donate it or sell it for less than fair market value to a public agency or to a conservation or historic preservation organization that qualifies as a public charity under Internal Revenue Code Section 501(c)(3). Most land trusts and historic preservation organizations meet this criterion.

Holding an easement, however, is a great responsibility. A property owner should make sure that the recipient organization has the time and resources to carry out that responsibility. An organization that accepts the donation of an easement typically will ask the owner to make a contribution toward the costs of monitoring the easement in perpetuity or will establish a monitoring fund from other sources.

## How Restrictive is an Easement?

An easement restricts development to the degree that is necessary to protect the significant values of that particular property. Sometimes this totally prohibits construction, sometimes it doesn't.

If the goal is to preserve a pristine natural area, for example, an easement may prohibit all construction, as well as activities that would alter the land's present natural condition. If the goal is to protect farm or ranch land, however, an easement may restrict subdivision and development while allowing for structures and activities necessary for and compatible with the agricultural operation. Even the most restrictive easements typically permit landowners to continue traditional uses of the land.

## How Long Does an Easement Last?

An easement can be written so that it lasts forever. This is known as a perpetual easement. Where state law allows, an easement may be written for a specified period of years, and this is known as a term easement. Only gifts of perpetual easements, however, can qualify a donor for income and estate tax benefits. Most recipient conservation and historic preservation organizations accept only perpetual easements.

An easement runs with the land—that is, the original owner and all subsequent owners are bound by the restrictions of the easement. The easement is recorded at the county or town records office so that all future owners and lenders will learn about the restrictions when they obtain title reports.

## What Are the Grantee's Responsibilities?

The grantee organization or agency is responsible for enforcing the restrictions that the easement document spells out. To do this, the grantee monitors the property on a regular basis, typically once a year. Grantee representatives visit the restricted property, usually accompanied by the owner. They determine whether the property remains in the condition prescribed by the easement and documented at the time of the grant. The grantee maintains written records of the monitoring visits. The visits also keep the grantee and the property owner in touch.

If a monitoring visit reveals that the easement has been violated, the grantee has the legal right to require the owner to correct the violation and restore the property to its condition prior to the violation.

## Must an Easement Allow Public Access?

Landowners who grant conservation easements make their own choice about whether to open their property to the public. Some landowners convey certain public access rights, such as allowing fishing or hiking in specified locations or permitting guided tours once a month. Others do not.

If an income tax deduction is to be claimed, however, some types of easements require access. If the easement is given for recreation or educational purposes, public access is required. For scenic easements, much of the property must be visible to the public, but physical access is not necessary. Access generally is not required for easements that protect wildlife or plant habitats or agricultural lands.

For historic preservation easements, either visual or physical access is required, depending on the nature of the property or building to be preserved.

## How Can Donating an Easement Reduce a Property Owner's Income Tax?

The donation of a conservation easement is a tax-deductible charitable gift, provided that the easement is perpetual and is donated "exclusively for conservation purposes" to a qualified conservation organization or public agency. Internal Revenue Code Section 170(h) generally defines "Conservation purposes" to include the following:

- the preservation of land areas for outdoor recreation by, or the education of, the general public
- the protection of relatively natural habitats of fish, wildlife, or plants, or similar ecosystems
- the preservation of open space-including farmland and forest land-for scenic enjoyment or pursuant to an adopted governmental conservation policy; in either case, such open space preservation must yield a significant public benefit
- the preservation of historically important land areas or buildings.

To determine the value of the easement donation, the owner has the property appraised both at its fair market value without the easement restrictions and at its fair market value with the easement restrictions. The difference between these two appraised values is the easement value. Detailed federal regulations govern these appraisals.

An example: A property has an appraised fair market value of \$100,000. Mrs. Price, the landowner, donates a conservation easement to a local land trust. The easement restrictions reduce the property's market value to \$64,000. Thus, the value of her gift of the easement is \$36,000. Assuming the easement

meets the conservation purposes test, Mrs. Price- like any donor of appreciated property-is eligible to deduct an amount equal to 30 percent of her adjusted gross income each year for a total of six years, or until the value of the gift has been used up. If Mrs. Price has an annual adjusted gross income of \$60,000, she can deduct \$18,000 a year (30% x \$60,000) until she has used up the \$36,000 value. In this case, she will use up the gift in two years (2 x \$18,000 = \$36,000), if her income does not change.

This is just a simple example. Easement donors may qualify for greater tax savings, especially when state income tax deductions are applicable. Potential easement donors should seek legal counsel.

## How Can Granting an Easement Reduce a Property Owner's Estate Tax?

Many heirs to large historic estates and to large tracts of open spacefarms and ranches in particular-face monumental estate taxes. Even if the heirs wish to keep their property in the existing condition, the federal estate tax is levied not on the value of the property for its existing use, but on its fair market value, usually the amount a developer or speculator would pay. The resulting estate tax can be so high that the heirs must sell the property to pay the taxes.

A conservation easement, however, often can reduce estate taxes. If the property owner has restricted the property by a perpetual conservation easement before his or her death, the property must be valued in the estate at its restricted value. To the extent that the restricted value is lower than the unrestricted value, the value of the estate will be less, and the estate will thus be subject to a lower estate tax. (Note that if the property owner donates the easement during his or her lifetime, he or she may also realize income tax savings.)

Even if a property owner does not want to restrict the property during his or her lifetime, the owner can still specify in his or her will that a charitable gift of a conservation. easement be made to a qualifying organization upon the owner's death. Assuming that the easement is properly structured, the value of the easement gift will be deducted from the estate, reducing the value on which estate taxes are levied. Again, a lower tax results.

## Can Granting an Easement Reduce an Owner's Property Tax?

Property tax assessment usually is based on the property's market value, which reflects the property's development potential. If a conservation easement reduces the development potential of the property, it may reduce the level of assessment and the amount of the owner's property taxes.

The actual amount of reduction, if any, depends on many factors. State law and the personal attitudes of local officials and assessors may influence or determine the decision to award property tax relief to easement grantors.

Excerpted from The Conservation Easement Handbook by Janet Diehl and Thomas S. Barrett

## Appendix A

### CONSERVATION TOOLS AND STRATEGIES

#### Rights and Interests in Land that Can be Acquired

<b>Right or Interest</b>	<b>Explanation</b>	<b>Advantages</b>	<b>Disadvantages</b>
Fee simple ownership	Full title to land and all rights associated with land.	Owner has full control of land. Allows for permanent protection and public access.	Can be costly. Usually removes land from tax base. Ownership responsibility includes liability and maintenance.
Conservation easement/development rights	A partial interest in property transferred to an appropriate non-profit or governmental entity either by gift or purchase. As ownership changes, the land remains subject to the easement restrictions.	Less expensive than fee simple. Landowner retains ownership and property remains on tax rolls, often at a lower rate because of restricted use. Easement may allow for some development. Potential income and estate tax benefits from donation.	Public access may not be required. Easement must be enforced. Restricted use may lower resale value.
Fee simple/leaseback	Purchase of full title and leaseback to previous owner or other, subject to restrictions.	Allows for comprehensive preservation program of land banking. Income through leaseback. Liability and management responsibilities assigned to lessee.	May not be public access. Land must be appropriate for leaseback (e.g., agricultural).

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Lease	Short or long-term rental of land.	Low cost for use of land. Landowner receives income and retains control of property.	Does not provide equity and affords only limited control of property. Temporary.
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<b>Right or Interest</b>	<b>Explanation</b>	<b>Advantages</b>	<b>Disadvantages</b>
Undivided interest	Ownership is split between different owners, with each fractional interest extending over the whole parcel. Each owner has equal rights to entire property.	Prevents one owner from acting without the consent of the others.	Several landowners can complicate property management issues, especially payment of taxes.

## Ways that Title Can be Acquired

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Technique	Explanation	Advantages	Disadvantages
Fair market value sale	Land is sold at its value at highest and best use.*	Highest sale income (cash inflow) to seller.	Can be expensive.
Bargain sale	Part donation/part sale--property is sold at less than fair market value.*	Tax benefits to seller since difference between fair market value and sale price is considered a charitable contribution. Smaller capital gains tax.	Seller must be willing to sell at less than fair market value. Can be expensive.
Outright donation	A donation by landowner of all interest in property.*	Allows for permanent protection without direct public expenditure. Tax benefits to seller since property's fair market value is considered a charitable contribution.	Ownership responsibility includes liability and maintenance.
Bequest	Landowner retains ownership until death.*	Management responsibility usually deferred until donor's death.	Date of acquisition is uncertain. Donor does not benefit from income tax deductions. Landowner can change will.
Donation with reserved life estate	Landowner donates during lifetime but has lifetime use.	Landowner retains use but receives tax benefits from donation.	Date of acquisition is uncertain.
Land exchange	Exchange of developable land for land with high conservation value.	Low-cost technique if trade parcel is donated. Reduces capital gains tax for original owner of protected land.	Properties must be of comparable value. Complicated and time-consuming.

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Eminent domain (government)	The right of the government to take private property for public purpose upon payment of just compensation.	Provides government with a tool to acquire desired properties if other acquisition techniques are not workable.	High acquisition costs. Can result in speculation on target properties. Potentially expensive and time-consuming litigation.
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<b>Technique</b>	<b>Explanation</b>	<b>Advantages</b>	<b>Disadvantages</b>
Tax foreclosure (government)	Government acquires land by tax payment default.	Limited expenditure. Land might not be appropriate for public open space, but can be sold to provide funds for open space acquisition	Cumbersome process.
Agency transfer (government)	Certain government agencies may have surplus property inappropriate for their needs that could be transferred to a parks agency for park use.	Limited expenditure.	Surplus property available may not be appropriate for park use or the owning agency may want to sell to a private party to generate revenues.
Restricted auction (nonprofit)	Government restricts the future use of property to open space, then sells.	Property sold to highest bidder but restriction lowers price and competition.	It may be difficult for a nonprofit to convince government that a restriction will serve to benefit the general public. Can be expensive.

\*Conservation easements also can be acquired by these means.

## Management and Ownership Options Following Purchase by Nonprofit Organization

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Technique	Explanation	Advantages	Disadvantages
Conveyance to public agency	Nonprofit acquires and holds land until public agency is able to purchase.	A nonprofit can enter the real estate market more easily than government, and can facilitate a sale when the government agency would be unable.	Must have a public agency willing and able to buy within a reasonable time frame.
Conveyance to another nonprofit.	Nonprofit acquires and holds land until another nonprofit has been established or is able to finance acquisition.	Allows immediate acquisition even though acquiring group cannot or is not willing to hold property.	Requires existence or establishment of ultimate land holder that has solid support, funding and the ability to manage land.
Management by nonprofit	Nonprofit retains ownership and assumes management responsibilities.	Ownership remains within the community; local citizens can provide responsible care and management.	Land must fit criteria of acquiring organization. Organization must assume long-term management responsibilities and costs.
Saleback or leaseback	Nonprofit purchases property, limits future development through restrictive easements or covenants, and resells or leases back part or all of property. May involve subdivision of property.	Acquisition is financed by resale or leaseback. Resale at less than fair market value (because of restrictions) makes land affordable for buyer. Sale can finance preservation of part of site.	Complex negotiations. Leaseback means the nonprofit retains responsibility for the land.

## **Financing Options for Government**

<b>Financing Option</b>	<b>Explanation</b>	<b>Advantage</b>	<b>Disadvantages</b>
General fund appropriation	Appropriation from general state or local government fund.	Avoids interest and debt service cost.	Budget allocations unpredictable. Might not provide sufficient funds and competes with other programs.
Bond act	Borrowing money through issuance of bonds--a common way to provide funds for open space. Usually approved through local or state wide referendum.	Allows for immediate purchase of open space. Distributes cost of acquisition.	Requires approval of general public. Can be expensive--interest charges are tacked on to cost of project.
Land and Water Conservation Fund	Federal funds provided to local governments on a 50-50 matching basis for acquisition and development of outdoor recreation areas.	Cost of acquisition for local government is lowered by subsidy.	Depends on federal approval. Limited funds available.
State grant/low interest loans	States provide matching grants or low interest loans for municipalities to acquire open space.	Encourage localities to preserve open space by leveraging local funds. Donated lands may be used as a match.	Localities must compete for limited funds and be able to match state funds.
Real estate transfer tax	Acquisition funds obtained from a tax on property transfers. Percentage and amount exempted varies with locality.	Growth creates a substantial fund for open space acquisition. Enables local community to generate their own funds for open space protection.	Places greater burden on new residents than on existing residents. Can inflate real estate values. Effective only in growth situation
Land gains tax	Capital gains tax on sale or exchange of undeveloped land held for a short period of time. Tax rate varies depending on holding period.	Discourages speculative development. Has a regulatory and revenue impact.	Can inflate real estate values and slow market.

<b>Financing Option</b>	<b>Explanation</b>	<b>Advantages</b>	<b>Disadvantages</b>
Payment in lieu of dedication	Local government requires developers to pay an impact fee to a municipal trust fund for open space acquisitions.	New construction pays for its impact on open space.	Acquisition funds depend on development. May be lack of accountability for funds. Legality of method depends on relationship of open space to new development.
Special assessment district	Special tax district for area benefitted by an open space project.	Users finance acquisition and management.	Increases taxes. Timely and costly to implement.
Tax return check off	On state income tax forms, a filer may appropriate a small amount of taxes owed toward revenues for natural lands acquisitions.	Convenient and successful means of generating funds.	Vulnerable to competition from other worthwhile programs.
Other funds/taxes	Taxes on cigarettes, sales, gasoline, and natural resource exploitation; revenue from fees and licenses for boat, off-road vehicle, and snowmobile use, park entry, hunting, etc.	Income from fees and licenses pays for resources.	Revenues from taxes can be diverted for other uses unless dedicated to open space. Fees create pressures for money to be spent on special interest uses.
Sale or transfer of tax default property	Sales of tax default property can provide a fund for open space acquisition. Also, if site meets criteria, it can be transferred to appropriate agency for park use.	Funds for acquisition are acquired with little cost to taxpayers.	Need to assure that sale proceeds are specifically allocated to open space acquisition. Might not provide a significant income. Very political process.

## Financing Options for Nonprofits

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Financing Option	Explanation	Advantages	Disadvantages
Loan from institutional lender	Conventional loan from bank or savings and loan.	Less time-consuming process than fundraising.	Long-term financial commitment for nonpro Higher interest costs than owner financing. Mortgage lien.
Installment sale	Buyer pays for property over time.	If seller-financed, can lower taxes for seller. Buyer can negotiate better sale terms (lower interest rates).	Long-term financial commitment for nonpro Mortgage lien.
Fundraising	No- or low-interest loans are acquired through program-related investments from foundations, non-standard investments from corporations, or charitable creditors (community members).	Community fundraising creates publicity and support.	A long, uncertain, and time-consuming process.
Revolving fund/loans or grants	A public or private organization makes grants to localities or nonprofits for land acquisition based on a project's revenue-generating potential.	Encourages projects with revenue-generating potential.	Projects with low revenue-generating potential have lower priority.
Partial development/saleback or lease	Nonprofit purchases property, limits future development through restrictive covenants, and resells or leases back part or all of property.	Acquisition is financed by resale or leaseback. Sale can finance preservation of part of site.	Complex negotiations. leaseback, nonprofit retains responsibility for land. Finding buyer for restricted property may be difficult, and land value will be lowered by restrictions.

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## **Government Financial Incentives for Conservation**

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<b>Incentive</b>	<b>Explanation</b>	<b>Advantages</b>	<b>Disadvantages</b>
Preferential assessment	Under state laws, agricultural and forest districts can be established to assess land as farmland or forestland rather than at its "highest and best use."	Promotes resource conservation and management. Especially benefits landowners in areas with development pressure. Tax base loss can be partially reclaimed through penalty tax on landowners who terminate enrollment.	Voluntary participation. Does not provide long-term protection. Minimum acreage for entry. Strength of program depends on penalty from withdrawals. Local government bears burden of reduced tax base.
Purchase of development rights (PDR)	Local or state government purchases development rights to maintain land in farm use.	Landowner can derive income from selling development rights and continue to own land. Lower property value should reduce property taxes.	Can be costly, particularly in a community with high real estate values.
Land conservation grants	State programs pay or otherwise enable landowners to preserve land, enhance wildlife, and provide public access.	Landowners derive revenues from preserving land without selling interests in land.	Preservation of land or provision of public access requires public expenditures.

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## **Regulatory Techniques--Growth Control**

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<b>Technique</b>	<b>Explanation</b>	<b>Advantages</b>	<b>Disadvantages</b>
Phased growth	Permits a limited amount of growth each year.	Effective as a comprehensive planning strategy.	There must be an equitable system to approve development. Future development pressures difficult to predict.
Moratorium	Legal postponement or delay of land development.	Useful as an interim measure during the formulation of a master development plan.	Provides only a temporary solution and can create a rush on land development prior to taking effect.
Transfer of development rights (TDR)	An owner of publicly designated land can sell development rights to other landowners whose property can support increased density.	Cost of preservation absorbed by property owner who purchases development rights.	Difficult to implement. Preservation and receiving areas must be identified.

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## Regulatory Techniques--Zoning and Subdivision Provisions

<b>Technique</b>	<b>Explanation</b>	<b>Advantages</b>	<b>Disadvantages</b>
Large lot zoning	Large minimum-lot sizes restrict the density of development.	An established land use control used as part of a comprehensive plan. Effective at maintaining low densities and protecting water resources, particularly in rural areas.	Since zoning is subject to change, not effective for permanent preservation. Can increase real estate values and infrastructure costs and can foster urban sprawl.
Performance zoning	A zone is defined by a list of permitted impacts (based on natural resource data and design guidelines) as opposed to permitted uses.	Directs development to appropriate places based on a comprehensive, environmentally based plan. Can be implemented through cluster development.	Difficulties in implementation since environmental impacts can be hard to measure and criteria are hard to establish. Plan can be expensive to prepare.
Carrying capacity zoning	Based on the ability of an area to accommodate growth and development within the limits defined by existing infrastructure and natural resource capabilities. Often called Current Planning Capacity.	Zoning is based on an area's physical capacity to accommodate development. Can be implemented through cluster development.	Requires a comprehensive environmental inventory for implementation. Determining carrying capacity can be a difficult process subject to differing opinions, quality-of-life assumptions, and changing technologies.

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Cluster zoning/ planned unit development (PUD)	Maintains regular zoning ratio of housing units to acreage but permits clustered development through undersized lots, thus allowing for open space preservation. A PUD provision allows clustering for a large, mixed-use development.	Flexibility in siting allows preservation of open space areas within development site. Can reduce construction and infrastructure costs.	Open space often preserved in small separate pieces, not necessarily linked to a comprehensive open space system. May increase processing time for development approval. Lack of infrastructure can inhibit use of technique.
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<b>Technique</b>	<b>Explanation</b>	<b>Advantages</b>	<b>Disadvantages</b>
Preservation overlay zoning	At discretion of municipality, overlay zones with development restrictions can be established to protect agricultural and natural areas, scenic views, and historic neighborhoods.	Special zones have regulations specific to the needs of a unique area and may be subject to mandatory clustering, performance standards, special permits, and site plan and architectural review.	Language in special district ordinance must be specific enough to avoid varying interpretations.
Exaction	As a condition of obtaining subdivision approval, local government requires developers to pay a fee or dedicate land to a municipal trust fund for open space. Also, states can require open space set-asides as part of environmental review.	New construction pays for its impact on open space	Acquisition funds dependent on residential development. Commercial development often not subject to exaction fees. Difficult to calculate developer's fair share of costs.
Conservation density subdivisions	Permit developers an option of building roads to less expensive specifications in exchange for permanent restrictions in number of units built. Roads can be put or private.	Increases open space and reduces traffic. Discourages higher densities to pay for the higher cost of road building.	Requires enforcement of easements. Private roads limit public access and require homeowner association maintenance.

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**This appendix is adapted from *Tools and Strategies: Protecting the Landscape and Shaping Growth*, 1990, the Regional Plan Association, New York.**

**Appendix B**

Program Material

# FEDERAL STEWARDSHIP PROGRAMS

*The Hawaii Department of Land and Natural Resources (DLNR), Division of Forestry and Wildlife (DOFAW) has several Federal and State sponsored assistance programs to private landowners who have interest in managing their forest lands and native ecosystems. Approximately one half of the 2 million acres of forested land in Hawaii are in private ownership and our ability to protect important watersheds, native ecosystems, and produce renewable forest resources is significantly dependent on these private forest lands.*

## **KAULUNANI-HAWAII THE BEAUTIFUL**

Kaulunani receives its funding from the USDA Forest Service, America the Beautiful program. It began in 1990 as an initiative to provide financial assistance for tree planting in urban areas. The program provides for a public and private sector approach to plant, improve, and maintain an additional 1 billion trees per year in communities and rural areas nation-wide.

It provides a 50% cost-share match to help volunteers, non-profit organizations, educational institutions, and local governments develop urban forestry projects. Interested individuals or groups can qualify under four grant categories: 1) local government program development or improvement, 2) tree planting or demonstration projects, 3) information and education development, and 4) Arbor Day program development. Citizens can now afford to plant trees in their communities to help beautify an urban area.

If you would like to know more about Hawaii's America The Beautiful Program, call the toll free number 1-800-468-4644, ext. 70166 at the Division of Forestry and Wildlife office in Honolulu.

## **FOREST LEGACY PROGRAM**

Under this new USDA Forest Service program, the Federal government promotes the use of conservation easements to protect environmentally important private forest lands threatened with conversion to non-forest uses. Federal funding is used for acquisition of easements, based on fair market value. Participation by private landowners is strictly voluntary. Hawaii is one of 32 states interested in participating in the program and the Division of Forestry and Wildlife is now conducting a survey of public interest, which will be the basis of future funding allocations. The program's goals are to assure that both the traditional uses of private lands and public values of forest resource are protected for future generations. For more information about this exciting new program, contact the Division of Forestry and Wildlife at its toll free number 1-800-468-4644, ext. 70166.

## **STEWARDSHIP INCENTIVE PROGRAM (SIP)**

The USDA Forest Service, Stewardship incentive Program (SIP), in cooperation with the Hawaii Division of Forestry and Wildlife and U.S. Agricultural Stabilization and Conservation Service offers cost-share assistance to eligible landowners who actively pursue the management of their forested lands. Under this program, a professional resource manager prepares a forest stewardship management plan for the landowner and then presents it to Hawaii's Forest Stewardship committee for approval. Landowners are eligible to qualify under nine SIP practices. Once approved, cost-share practices must be completed within one year, and be maintained for a minimum of ten years. Landowners will receive a single reimbursement of up to \$10,000. Landowners can receive up to 50% cost-share for approved stewardship management. To qualify, landowners must be: 1) a private individual, group, or association; or 2) a private corporation whose business is not exclusively the production of forest products; and 3) own less than 1,000 acres\* of forested land in Hawaii.

Information to enroll in the SIP program is available at Division of Forestry and Wildlife office in Honolulu. Please call the toll free number 1-800468-4644, ext. 70166. Additional information is available by calling your county USDA, Agricultural Stabilization and Conservation Service (ASCS) Office: Hawaii County - 961-5531, Maui County -244-3100, Oahu County - 541-2642, Kauai County 245-9014.

*The U.S. Secretary of Agriculture, in consultation with the State Forester, can approve a waiver if landowners own between 1,000 and 5,000 acres.*

# STATE STEWARDSHIP PROGRAM

*Both the State programs (Forest Stewardship and the Natural Area partnership) receive dedicated funding through a portion of the conveyance tax.*

## **FOREST STEWARDSHIP PROGRAM**

The State Division of Forestry and Wildlife has established a Forest Stewardship program which allows cost-sharing of up to 50% for implementation of approved practices. This program was established by Act 327 of the 1991 State Legislature (Chapter 195). The program basically follows the same eligibility requirements as the Federal SIP program, except that the State program does not have an acre limitation nor a \$10,000 annual reimbursement limitation.\*

Call the toll free number 1-800-468-4644, ext. 70166 of the Division of Forestry Wildlife office for more information.

\* Under the State program, landowners can own more than 5,000 acres or receive payments exceeding \$10,000 annually.

## **NATURAL AREA PARTNERSHIP PROGRAM**

The State Division of Forestry and Wildlife also has established the Natural Area Partnership program which is designed to provide matching funds on a 2:1 basis for the management of private lands of "natural area" quality that are permanently dedicated to conservation. This program was established by Act 326 of the 1991 State Legislature (Chapter 195). Lands and waters which might qualify include areas with intact native Hawaiian ecosystems or essential habitat for endangered species. This partnership funding can support a full range of management activities to protect, restore, or enhance significant native resources or geological features. Program requirements include: 1) dedication of the private lands in perpetuity through a transfer of fee title or a conservation easement to the State or another cooperating entity, and 2) management of the private lands by a cooperating entity or landowner according to management plans approved by the Board of Land and Natural Resources.

To qualify, the applicant must be a landowner or a cooperating entity managing private lands of natural area reserve quality. A cooperating entity is defined as a private non-profit land holding organization or any other body deemed by the Department of Land and Natural Resources as satisfactorily able to assist in the management of natural areas.

Additional information is available by calling the toll free number 1-800-468-4644, ext. 70051 at the Division of Forestry and Wildlife Annex office.

State of Hawaii  
Forest Stewardship Handbook  
1996-1997

State of Hawaii  
Department of Land and Natural Resources  
Division of Forestry and Wildlife  
1151 Punchbowl Street, Room 325  
Honolulu, Hawaii 96813  
(808) 587-0166

## I. General Overview:

### The Hawaii State Forest Stewardship and Federal Stewardship Incentive Programs

The Hawaii State Forest Stewardship (State FSP) and Federal Stewardship Incentive Programs (Federal SIP) provide technical and financial assistance to owners of nonindustrial private forestland committed to the stewardship, enhancement and conservation of their forest resources. The information and assistance provided to landowners under these programs is intended to help them understand and implement management practices to enhance and protect the timber productivity, wildlife habitat, water quality, recreational values and/or aesthetics of their forest properties.

The State FSP was adopted through Act 327, as enacted by the 1991 State Legislature and provides State funds to financially assist private forest landowners. The Department of Land and Natural Resources-Division of Forestry and Wildlife (DLNR-DOFAW) administers this Program under advisement from the State Forest Stewardship Coordinating Committee. The Committee is mandated to review applications to the Federal SIP and State FSP Programs and to recommend to the State Forester the selection of qualified projects for funding. Committee members include federal and State agency employees, professional foresters, professional resource consultants, employees of resource conservation organizations, and private landowners.

The Federal SIP was established by the Forest Stewardship Act of 1990. The program is administered by the USDA Forest Service at the national level and by the DLNR-DOFAW and the USDA Farm Service Agency (FSA) at the State and County levels.

#### **Landowner Eligibility**

To be eligible for either the State FSP or Federal SIP:

- Applicants must own at least 5 contiguous acres of forested-or formerly forested land-that they intend to manage under either the State Forest Stewardship Program or the federal SIP Program. This ownership requirement can also be met if the landowner possesses a lease to the property for at least 10 years into the future. Landowners of adjacent holdings of less than 5 acres may jointly participate in the State FSP if combined acreages to be included in the program form a contiguous area of 5 acres or greater.
- Applicants may be individuals, joint owners, private groups or associations-or corporations without publicly traded stock.

#### **Additional Federal SIP Eligibility Guidelines**

Applicants who derive more than 50% of their income from the primary processing of forest products, or from the provision of commercial recreational activities cannot receive cost-share assistance under the federal SIP Program, for any activities related to these businesses.

Landowners owning more than 1000 acres are normally ineligible to receive assistance under the Federal SIP Program. In some cases, waivers for owners of up to 5,000 acres may be granted by the State Forester. There is no limit to ownership acreage under the State FSP.

## **Landowner Enrollment and Participation**

Any landowner wishing to enroll in either or both of these programs must follow established program procedure-with the assistance of designated State agency staff. The primary program requirement is the development and implementation of a multi-resource management plan covering a period of at least 10, and no more than 30 years. Landowners usually develop plans with the assistance of a professional resource management consultant. Once plans are approved by the State Forest Stewardship Coordinating Committee, landowners implement them with the assistance of DLNR-DOFAW staff and field staff from other appropriate agencies such as the USDA Natural Resources Conservation Service (NRCS). Landowners are reimbursed for eligible management practices at the approved cost-share rate (typically 50% of total practice cost) as they are implemented, provided they submit required progress reports and cost documentation to DLNR-DOFAW and/or their County FSA office, depending upon the Program in which they are participating.

Landowner enrollment, project implementation and landowner reimbursement procedures are described in detail for both the State FSP and Federal SIP in this Handbook. The following are important introductory points:

1. **Eligible management practices:** The following general forest management practice categories are eligible for cost-share assistance through both the State FSP and Federal SIP. They are labeled by SIP number as established under the Federal program.
  - **SIP-1: landowner Forest Stewardship Plan Development**
  - **SIP-2: Reforestation and Afforestation**
  - **SIP-3: Forest and Agroforest Improvement**
  - **SIP-4: Windbreak and Hedgerow Establishment, Maintenance and Renovation**
  - **SIP-5: Soil and Water Protection and Improvement**
  - **SIP-6: Riparian and Wetland Protection and Improvement**
  - **SIP-8: Wildlife Habitat Improvement**
  - **SIP-9: Forest Recreation Enhancement**

Guidelines for these SIP practice categories are provided in appendix C.

2. **Cost-share rate:** Landowners will receive a \$1 for \$1 cost-share reimbursement (50% of total project cost) for costs incurred while implementing their approved Forest Stewardship Management Plans, provided that these costs are within the limits established and that they are associated with eligible practice components. Certain services provided by landowners and the use of landowner owned equipment can also be considered as "in kind" costs. These "in kind" costs may be used by landowners as part of their 50% costshare match. *A summary of allowable 'in kind' cost-share rates for supplies, equipment and labor furnished by landowners. is provided in appendix F.*

The approved cost-share rate for actual Forest Stewardship Management Plan development (SIP-1) is 75% rather than 50%.

3. **Per-year per project cost-share caps:** Maximum allowable annual cost-share totals are \$10,000 for the Federal SIP and \$75,000 for the State FSP. Thus, a landowner can receive the full 50% cost-share reimbursement if total annual costs do not exceed \$20,000 and \$150,000 for the Federal SIP and State FSP respectively (reimbursements subject to j limitations noted above).

4. **Practice implementation time limits:**

- **Federal SIP:** Once approved, cost-shared management practices must be completed within one year, and maintained for a minimum of ten years. Six month extensions to the completion time limit may be granted where determined necessary by DLNR-DOFAW staff. An approved management plan may include the implementation of practices beyond one year, but to be reimbursed for these, the landowner must re-apply to the County FSA office each year.
- **State FSP:** Management practices are reimbursable for the full period covered by the approved Forest Stewardship Management Plan. As with the federal SIP, all practices must be maintained for a minimum of ten years.

5. **Landowner progress reporting/reimbursement:**

- **Federal SIP:** As approved management practices are implemented-and costs are incurred-the landowner submits necessary completed forms and cost documentation to the appropriate DLNR-DOFAW staff person who verifies practice completion and approves payment through the county FSA office.
- **State FSP:** The landowner submits activity progress reports and cost documentation twice-yearly to DLNR-DOFAW Administration. District DLNR-DOFAW staff verify practice completion and the Administration issues payments to the landowner.

## II. The Forest Stewardship Project Proposal

To enroll in either the Federal SIP or State FSP Program, a landowner must first prepare and submit a brief project proposal describing management objectives and the nature of the forest resources to be managed. DOFAW staff and the Hawaii Forest Stewardship Coordinating Committee then evaluate eligible proposals and select those that best fit with overall Program goals and objectives.

All project proposals must include the following:

**1. Description(s) of the specific landowner management objective(s) that the project proposes to achieve.**

*Some examples of landowner management objectives.- timber production, wildlife habitat enhancement, restoration of native forest.*

**2. Description of the project property.**

This description must include the following information/documentation:

- Property location
- Property size (acres)
- Property tax map key number
- Property Zoning (agricultural, conservation, etc.)
- Topographic map showing elevation and rainfall data
- Land capability class and subclass\*
- Soil loss tolerance\*
- Land cover use before and after project implementation. (Cropland grain; cropland non-grain; hayland; pasture; rangeland; forest-grazed; forest nongrazed; or other.)

*\* This information can be found in the USDA Soil Conservation Service Soil Survey for each island available at any county USDA Natural Resource Conservation Service Office.*

**3. Descriptions of specific actions or management practices that the landowner is proposing to accomplish the above objectives.**

*The practices proposed for cost-share must be eligible for cost-share as described in appendices C and D of this Handbook. Relevant ineligible practices should also be described in the management plan although in most cases these practices must be implemented at the landowner's am expense. In certain cases, ineligible costs may be considered to be pan of the landowner's cost-share match.*

**4. Descriptions of natural resources or forest values that will be protected, enhanced or created by the proposed management activities, including any public benefits.**

*Forest resource values and public benefits include commercial timber production, native species preservation, wildlife habitat enhancement, economic diversification, employment, aesthetics and recreation.*

- 5. Description of any other organizations that will be involved in project implementation.**
- 6. An approximate timetable of management practice implementation covering a period of at least 10 years.**

*Project implementation cannot begin until a complete management plan is approved by the Forest Stewardship Coordinating Committee. The first opportunity for such approval would be at the Committee meeting following that at which the proposal is submitted and approved. The Committee meets four times per year. in March, June, September and December.*

- 7. An estimate of total project costs.**

*Cost estimates should be based on real data and not projected simply using the hold-down rates established for eligible management practices as listed in Appendix D. Hold down rates are established maximum reimbursement rates for specific management practices and should not be used to estimate costs.*

#### **Additional Notes:**

#### **The Environmental Review Process**

The information provided in the proposal may indicate the need for an environmental review process. This is usually the case where a proposed management activity may have a significant impact on the local environment and an Environmental Assessment is needed to determine the nature of the impact. The requirements of an environmental review process for the use of State funds to cost-share approved Forest Stewardship management activities on private property are defined in chapter 343, HRS, including Act 241, SLH 1992 'revisions, and Title 11, Chapter 200, Hawaii Administrative Rules. There are other applicable laws within the federal, State and county jurisdictions in Hawaii that may "trigger" environmental review requirements, such as the State Land Use Law, the Hawaii Coastal Zone Management Act, and county general plans, including county grading ordinances. The Department may be required to make all related statements and documents, such as Environmental Assessments available for public review during established office hours. The Department may also be required to make an announcement relating to these documents in the Office of Environmental Quality Control's bulletin.

The Department of Land and Natural Resources, Division of Forestry and Wildlife can use its Approved Exemption List to exempt certain Forest Stewardship Management Activities. If the management activities proposed by the landowner are exempt, an Environmental Assessment is not required. The Department can also remove the requirement for an Environmental Assessment by making a negative declaration. Such a declaration can be made if it is determined that the proposed management activities will not have a significant negative impact on the local environment. Environmental Assessments are not usually required for Forest Stewardship management activities proposed on former sugar plantation or pasture lands, as these activities should positively benefit the environment.

## **Archeological Surveys**

All Forest Stewardship Proposals must be reviewed by the Division of Historic Preservation to determine whether or not there are any significant cultural or historic resources on the proposed project site. An archeological survey may be required where there is strong evidence to suggest the existence of such resources on the site. Any such resources would then need to be protected throughout the course of a project.

### III. The Forest Stewardship Management Plan

In order to qualify for financial assistance under either the State FSP or the Federal SIP, a landowner must develop a detailed Forest Stewardship Management Plan with the assistance of a qualified professional forester or resource consultant. (The Division of Forestry and Wildlife maintains a list of qualified consultants.) All plans must meet the standards set by the Forest Stewardship Coordinating Committee and be written according to the established standard plan format. Any plans lacking the required information or not written according to the format outlined in this section will be returned to the landowner.

Forest Stewardship Management Plan development-as accomplished by an approved resource consultant-is established as SIP practice 1 by the Federal SIP and is usually costshared through this Program rather than the State FSP as funds are more immediately available through the Federal SIP.

A Landowner is eligible to receive up to one of the following reimbursement amounts, once his/her plan is officially approved by the Forest Stewardship Coordinating Committee and documentation of consultant's fee is verified. These maximum allowable reimbursements for 75 % of the resource consultant's fee are adjusted according to the number of SIP management practice categories included in the plan as follows:

1-3 Practices	\$2,250	(total consultant fee = \$3000)
4-6 Practices	\$2,625	(total consultant fee = \$3500)
7-9 Practices	\$3,000	(total consultant fee = \$4000)

(SIP-1 cannot be included as a management practice category.)

#### **Minimum Plan Standards**

All Forest Stewardship Management Plans must include the following information in the format outlined below:

##### **I. Cover Sheet**

- Landowner name, address and phone number
- Location of project property
- Consultant name, title, address and phone number
- Date plan completed

##### **II. Signature Page** (*blank form is provided in appendix A*)

Landowner, consultant and State Forester signatures

##### **III. Stewardship Plan Preface** (*blank form is provided in appendix A*)

This form, when checked off, notes the natural resources on which the landowner intends to focus his/her management activities.

#### **IV. Introduction**

1. General description of the property including:
  - Property size and location
  - Description of access routes to property
  - Property tax map key number
  - Property zoning
  - Topography, elevation and climate
  - Brief history of uses/description of present condition
2. Descriptions of landowner management objectives

#### **V. Land and Resource Description**

- Existing vegetation/cover types
- Existing forest health and function including disease problems and fire threat.
- Soils and their condition, general slope and aspect
- Water resources and their condition
- Timber resources
- Wetland resources
- Historic and cultural resources
- Existing wildlife
- Threatened and endangered species existing on property
- Existing recreational and aesthetic values

#### **VI. Recommended Treatments and Practices**

This section of the plan must describe the specific management practices that the landowner intends to implement in order to achieve his/her forest resource management objectives within the specified time period. All practices for which the landowner is requesting financial assistance must fall under one of the SIP management practice categories listed below and described in detail in *appendix C*.

- SIP-2: Reforestation and Afforestation
- SIP-3: Forest and Agroforest Improvement
- SIP-4: Windbreak/Hedgerow Establishment, Maintenance and Renovation
- SIP-5: Soil and Water Protection and Improvement
- SIP-6: Riparian and Wetland Protection Improvement
- SIP-8: Wildlife Habitat Improvement
- SIP-9: Forest Recreation Enhancement

For each proposed practice, the plan must describe exactly how that management action addresses one or more of the landowner management objectives previously noted. This section must also explain why chosen practices and methods are those best suited to the project site and resource objectives. In particular, any tree species choices must consider physical site characteristics and landowner objectives. Tree species considered to be inappropriate introductions by the Committee may be removed from plans (ie. invasive exotic species that are threatening to Hawaii's native forests).

If the landowner's management objectives include commercial timber production, the plan should discuss projected cost and income flows-and their sensitivity to changes in economic factors such as price and risks. While it may be impossible to accurately predict financial returns over time or provide precise data on silvicultural systems, the landowner must at least be informed of likely outcomes-or at least of what is known and unknown.

Cost-share amounts requested for each SIP practice to be applied cannot exceed the cost-share rates listed in *appendix D*.

If the actual SIP practices will be implemented under the Federal SIP, the information described in *appendix H* (Wood Production Requirements) must also be provided in this section. This information is not necessary if only the management plan (SIP 1) is being cost-shared under the Federal SIP.

## **VII. Practice Implementation Schedule**

- The practice implementation schedule must clearly list, in a tabular format, all individual management practice activities by SIP number, by year and by cost.
- The per year cost for each individual SIP practice category must be clear.
- All costs must be designated per units exactly as they are in *appendix D*, ie. per acre and per foot.
- The schedule must cover a period of at least 10 years and up to 30 years depending upon the period for which cost-share is being requested.
- Costs must not exceed the cost-share rates noted in *appendix D*.

## **VIII. Budget Summary**

The budget summary simply lists landowner share, State or ]Federal share and total project costs per year for the length of the project.

*Practice Implementation Schedules and Budgets should be formatted like the examples provided in appendix B.*

## **IX. Required Attachments**

### **Location Map**

This map simply illustrates where project property/site is on island and in relation to towns, major topographic features etc.

### **Project/Site Map**

This map must locate all activities on the project property to clearly illustrate what is being done where, by SIP practice category, in relation -to the topography, watercourses and other natural features of the site. The map must also illustrate the layout and orientation of any proposed tree plantings such as windbreaks, woodlots or plantations. All maps must be of at least a 1:24000 scale and include the following:

- Legend
- North arrow
- Property boundary
- Existing and proposed roads
- Watercourses
- Location, orientation and layout of all management practices

### **Photograph(s) of Project Site**

## **X. Optional Attachments**

- Maps: USGS, vegetation, roads/trails/soils, topography
- Forest stand inventories
- Tree species descriptions (profiles)
- Soil type descriptions
- Aerial photographs
- Sources of assistance and information
- Permits
- Other sources of financial assistance

Additional Note:

All management plans must include page numbers and label all attachments with letters or numbers for referencing purposes.

#### IV. Program Enrollment Procedure: Management Plan Approval

The following are the procedural steps, including paperwork, that landowners and agency staff must complete in order to start and complete State Forest Stewardship and Federal Stewardship Incentive Program projects.

- (1) Landowner completes and submits Forest Stewardship Project Proposal to DLNR-DOFAW Administration in Honolulu.
- (2) State Forest Stewardship Coordinating Committee reviews the proposal. If the Committee approves and selects the proposal, the landowner is given the go ahead to hire a resource consultant and develop a full Forest Stewardship Management Plan.
- (3) Landowner hires a professional resource consultant.

*In most cases, the State Program will use SIP Program funds to cost-share Forest Stewardship Management Plan Development. Most landowner applicants will therefore, at this point, be asked to complete the SIP I application as follows.*

- (4) Application procedures for SIP-1:

- The landowner applies for SIP 1 practice implementation/cost-share reimbursement at the County Farm Service Agency (FSA) office by completing the following forms:

SIP-245 page 1: Request for Cost Shares

SIP-502: Payment Limitation Review (only necessary if landowner will be applying for \$10,0000 maximum payment)

At this time, the landowner must also present documentation to verify ownership of property, social security number and the approved Forest Stewardship proposal.

- County FSA office forwards completed SIP-245, pg 1 and form AD-862 to DLNR-DOFAW Administration in Honolulu.
  - DLNR-DOFAW Administration completes and approves SIP-245, page 1, and form AD-862 (except for section I-"performance report"-and returns copies to County FSA (DOFAW Administration retains originals at this stage).
  - FSA office sends landowner SIP-245 page 2 and an approval letter.
- (5) Completion, approval and reimbursement procedures for SIP-1:
    - Landowner completes Forest Stewardship Management Plan with consultant and submits it to DLNR-DOFAW Administration with completed signature & preface pages. (Management plans must be submitted by the established deadline. Plan submission deadlines are normally about one month before meeting dates.)

- Management Plan is circulated to Committee members and the appropriate DLNR-DOFAW District Forester for review.
- At its scheduled meeting, the Forest Stewardship Coordinating Committee either approves the management plan as is; approves the management plan with certain specified stipulations/conditions; or returns the management plan to the landowner with reasons for rejection and written recommendations.

*Please note that all SIP 1 processing/paperwork is handled between DLNR-DOFAW Administration and the County FSA office. Via DLNR-DOFAW District Forester is not involved at this point, except to review the complete Forest Stewardship Management Plan.*

After management plan approval, the landowner must decide which Program (the federal SIP or the State FSP) he or she wishes to enroll in for project implementation and management practice reimbursements. Landowner's who are requesting annual cost-share reimbursements, all of less than \$10,000, are usually advised to enroll in the federal SIP Program.

**Enrollment for Practice Implementation: Federal SIP Program:**

- (1) Landowner applies for each practice by completing SIP-245, pg 1 at County FSA office.
- (2) County FSA office sends SIP-245 page 1 and AD-862 to District Forester.
- (3) District Forester approves SIP 245, pg 1, completes AD-862, and returns them to County FSA office.
- (4) County FSA office sends landowner SIP 245, page 2 and approval letter.
- (5) Landowner proceeds with SIP Practice implementation.
- (6) DLNR-DOFAW issues to landowner, a Forest Stewardship recognition sign.

*Please note that practices implemented before management plan approval is granted are not eligible for cost-share reimbursement.*

**Enrollment for Practice Implementation: State Forest Stewardship Program:**

- (1) DLNR-DOFAW prepares contract agreement between State and landowner and sends it to landowner.
- (2) Landowner reviews, signs, notaries, and then returns contract agreement.
- (3) DLNR Board approves contract agreement.
- (4) Landowner is informed of Board approval/given go ahead to start project.
- (5) Landowner is informed of reporting/reimbursement procedure.  
DLNR-DOFAW issues to landowner, a Forest Stewardship recognition sign.

## V. Project Practice Completion, Reporting and Cost-Share Reimbursements

### **Federal Stewardship Incentive Program**

- (1) Landowner implements approved SIP practices.
- (2) Landowner certifies (signs) SIP 245, page 2 previously sent by FSA and sends it with all cost documentation to:
  - DLNR-DOFAW Administration if for SIP 1 reimbursement.
  - DLNR-DOFAW District Forester for all other SIP practices.
- (3) DLNR-DOFAW Administration or District Forester certifies/approves SIP 245, page 2 and completes/approves AD-862 form-"section I ("performance report")-(after visit to project site by District Forester if necessary).
- (4) DLNR-DOFAW Administration or District Forester returns certified SIP 245, page 2 and AD-862 to County FSA.
- (5) FSA reimburses landowner for SIP practice completion.

### **State Forest Stewardship Program**

- (1) Landowner completes progress reports (December) and annual reports (June), including all cost documentation and submits them to DLNR-DOFAW Administration. (Reporting forms can be found in *appendix 1*).
- (2) District Forester and/or Forest Stewardship Coordinator visits project sight to verify practice completion.
- (3) DLNR-DOFAW Administration generates reimbursement payment.

## **Fact Sheet     Wildlife Habitat Incentives Program (WHIP)**

This information is based on the final rule for the Wildlife Habitat Incentives Program (WHIP) published in the Federal Register, September 19, 1997. The WHIP rule can be viewed on the World Wide Web at <http://www.nrcs.usda.gov>.

*FSA - Farm Service Agency*

*NRCS - Natural Resources Conservation Service*

*USDA - U.S. Department of Agriculture*

*Wildlife Habitat Incentives Program*

### **Background**

The Wildlife Habitat Incentives Program (WHIP) is a voluntary program for people who want to develop and improve wildlife habitat primarily on private lands. It provides both technical assistance and cost-share payments to help establish and improve fish and wildlife habitat.

### **How WHIP Works**

Participants who own or control land agree to prepare and implement a wildlife habitat development plan. The U.S. Department of Agriculture's (USDA) Natural Resources Conservation Service (NRCS) offers participants technical and financial assistance for the establishment of wildlife habitat development practices. In addition, if the landowner agrees, cooperating State wildlife agencies and nonprofit or private organizations may provide expertise or additional funding to help complete a project.

### **The Plan**

NRCS helps participants prepare a wildlife habitat development plan in consultation with the local conservation district. The plan describes the landowner's goals for improving wildlife habitat, includes a list of practices and a schedule for installing them, and details the steps necessary to maintain the habitat for the life of the agreement. This plan may or may not be part of a larger conservation plan that addresses other resource needs such as water quality and soil erosion.

### **Cost-Share Assistance**

USDA and the participant enter into a cost-share agreement for wildlife habitat development. This agreement generally lasts from 5 to 10 years from the date the agreement is signed. Under the agreement:

- The landowner agrees to install and maintain the WHIP practices and allow NRCS or its agent access to monitor the effectiveness of the practices.
- USDA agrees to provide technical assistance and pay up to 75 percent of the cost of installing the wildlife habitat practices.

Cost-share payments may be used to establish new practices or replace practices that fail for reasons beyond the landowner's control.

### **Eligibility**

Eligible participants include those who own or have control of the land under consideration. All lands are eligible for WHIP, except:

- Federal land;
- Land currently enrolled in the Water Bank Program, Conservation Reserve Program, Wetlands Reserve Program, or other similar programs;
- Land subject to an Emergency Watershed Protection Program floodplain easement; and
- Land where USDA determines that impacts from onsite or offsite conditions make the success of habitat improvement unlikely.

### **Mitigation**

WHIP funds cannot be used for mitigation or on land designated as converted wetland.

### **WHIP Funding**

WHIP is currently budgeted for \$50 million total through the year 2002.

WHIP funds are distributed to States based on State wildlife habitat priorities, which may include wildlife habitat areas, targeted species and their habitats, and specific practices. WHIP may be implemented in cooperation with other Federal, State, or local agencies; conservation districts; or private conservation groups. State priorities are developed through a locally led process that identifies wildlife resource needs and finalized in consultation with the State Technical Committee.

### **For More Information**

NRCS; Farm Service Agency; Cooperative State Research, Education, and Extension Service; or your local conservation district can provide more information. Your USDA Service Center is listed in the telephone book under U.S. Department of Agriculture. Information is also available on NRCS's World Wide Web site: <http://www.nrcs.usda.gov>.

# Wildlife Habitat Incentives Program (WHIP)

## Questions and Answers

*Notice.* This information is based on the final rule for the Wildlife Habitat Incentives Program (WHIP) published in the Federal Register, September 19, 1997. The WHIP rule can be viewed on the World Wide Web at <http://www.nrcs.usda.gov>.

*NRCS - Natural Resources Conservation Service*

*USDA - U.S. Department of Agriculture*

*WHIP - Wildlife Habitat Incentives Program*

### **Q. Where are WHIP applications accepted?**

A. WHIP applications will be accepted at local USDA Service Centers or conservation district offices. They may also be accepted by cooperating conservation partners approved or designated by USDA.

### **Q. What is the minimum acreage required in a WHIP application?**

A. There is no national minimum acreage requirement; however, some States may choose to establish a minimum acreage requirement.

### **Q. What is the maximum cost-share amount allowed for each WHIP agreement?**

A. Generally, the total cost-share amount cannot exceed \$ 10,000 per agreement. The NRCS State Conservationist has the authority to exceed this limit on a case-by-case basis.

### **Q. When will signups begin for WHIP?**

A. Interested landowners may begin submitting WHIP applications under a continuous signup. Applications will be approved based on the availability of funds. Applications that provide the greatest wildlife habitat benefits, according to each State's priority wildlife objectives, will be funded.

### **Q. Can WHIP funds be used for mitigation?**

A. WHIP funds cannot be used for mitigation or on land designated as converted wetland. These acres may be included in the WHIP agreement but are not eligible for cost-share payments.

### **Q. Will practices be maintained after agreements expire?**

A. Cost-shared practices need to be maintained for the life of the practice, which may extend beyond the end of the agreement. After the agreement expires, USDA hopes WHIP participants will want to continue improving wildlife habitat and seek continued technical assistance to maintain and manage wildlife habitat.

**Q. What land is eligible for WHIP?**

A. All lands are eligible for WHIP, except:

- Federal land;
- Land currently enrolled in the Water Bank Program, Conservation Reserve Program, Wetlands Reserve Program, or other similar programs;
- Land subject to an Emergency Watershed Protection Program floodplain easement; and
- Land where USDA determines that impacts from onsite or offsite conditions make the success of habitat improvement unlikely.

**Q. Can WHIP be used to restore riparian habitat?**

A. Yes. WHIP may be used to restore aquatic habitat as well as adjacent streambanks and uplands. Riparian restoration can benefit many species of wildlife, including fish.

**Q. Are native plants encouraged?**

A. Absolutely. Native plants and native plant communities are encouraged because they are well adapted to the area, less invasive, and more likely to provide higher quality habitat with lower maintenance costs. In addition to wildlife habitat benefits, native plants can improve soil quality and water percolation into the soil.

**Q. What is included in a good Wildlife Habitat Development Plan?**

A. Answering the following questions is basic to the development of every plan:

1. Does the plan provide specific assistance for the species of fish or wildlife the landowner is trying to help?
2. Are the recommended practices technically feasible?
3. Does the participant understand the plan, including obligations, practice standards and specifications, installation schedule, and maintenance requirements?
4. How will adjacent land use activities impact the project site?
5. Does the plan encourage the use and development of native plants and habitats?
6. Does the plan encourage plant diversity?

**Q. Are any practices or activities restricted?**

A. Sometimes. There are some instances when restricting the use of certain practices or activities in the WHIP area may be necessary to:

1. Benefit wildlife, such as deferring haying until after nesting season, limiting grazing to specific times of the year to provide brood cover, or eliminating logging along riparian woods to provide old growth forest.
2. Encourage a certain vegetative response, such as livestock exclusion to allow a woody planting to develop or prescribed grazing to encourage plant diversity.
3. Restrict practices that are not feasible for the site, such as the use of prescribed burning in an area that would have negative impacts on an adjacent housing complex.

In some cases, restrictions may be imposed for a limited time while practices are being established.

**Q. Are WHIP priority areas the same as those established for the Environmental Quality Incentives Program (EQIP)?**

A. Not necessarily. WHIP priorities may or may not be tied to geographic areas in a State. When WIMP priority areas are identified by a State, they should be established for fish and wildlife priorities. While both programs use the locally led process to identify needs, some of the specific needs identified to address WHIP priorities will be different from those used for EQIP.

**Q. When are payments made?**

A. Payments are made after the practice has been installed according to the specifications in the Wildlife Habitat Development Plan.

**Q. Who determines which applications are funded?**

A. Applications are selected based on a State-developed ranking and selection process that achieves State-specific wildlife goals and objectives.

**Q. Are landowners required to give the public access to WHIP acreage?**

A. No. The landowner continues to control access to the land; however, landowners allow NRCS or its agent access to monitor the effectiveness of the practices during the agreement period.

**Q. Is additional information available on WHIP?**

A. NRCS, the Farm Service Agency, Extension Service, or local conservation district can provide more information. Local USDA Service Centers are listed in the telephone book under U.S. Department of Agriculture. Information is also available on USDA's World Wide Web site: <http://www.nrcs.usda.gov>.

**[NRCS homepage](#) | [USDA homepage](#) | [NACD homepage](#) |**

# Fact Sheet Wetlands Reserve Program

The Wetlands Reserve Program (WRP) is a voluntary program to restore and protect wetlands on private property. It is an opportunity for landowners to receive financial incentives to enhance wetlands in exchange for retiring marginal agricultural land.

## How Does WRP Benefit You?

You will:

- Receive financial compensation;
- Enhance wetland values that benefit you and society;
- Reduce problems associated with farming potentially difficult areas;
- Practice conservation stewardship; and
- Provide recreational opportunities.

## Wetland Functions and Values

Providing fish and wildlife habitat;

- \* Improving water quality by filtering sediments and chemicals;
- \* Reducing flooding;
- \* Recharging groundwater;
- \* Protecting biological diversity; and
- \* Furnishing educational, scientific, recreational, and esthetic benefits.

## Background

Congress authorized WRP under the Food Security Act of 1985, as amended by the 1990 and 1996 Farm Bills. The U.S. Department of Agriculture's (USDA) Natural Resources Conservation Service (NRCS) administers the program in consultation with the Farm Service Agency (FSA) and other Federal agencies. Funding for WRP comes from the Commodity Credit Corporation.

## Sign-up

States were authorized to begin a continuous sign-up as of October 1, 1996. Check with your local USDA Service Center or conservation district office for the sign-up schedule in your State.

## How the Program Works

Landowners who choose to participate in WRP may sell a conservation easement or enter into a cost-share restoration agreement with USDA to restore and protect wetlands. The landowner voluntarily limits future use of the land, yet retains private ownership. The landowner and NRCS develop a plan for the restoration and maintenance of the wetland.

The program offers landowners three options: permanent easements, 30-year easements, and restoration cost-share agreements of a minimum 10-year duration.

*Permanent Easement.* This is a conservation easement in perpetuity. Easement payment will be the lesser of the agricultural value of the land, an established payment cap, or an amount offered by the landowner. In addition to paying for the easement, USDA pays 100 percent of the costs of restoring the wetland.

*30-Year Easement.* This is a conservation easement lasting 30 years. Easement payments are 75 percent of what would be paid for a permanent easement. USDA also pays 75 percent of restoration costs.

*Restoration Cost-Share Agreement.* This is an agreement (generally for a minimum of 10 years in duration) to re-establish degraded or lost wetland habitat. USDA pays 75 percent of the cost of the restoration activity. This does not place an easement on the property. The landowner provides the restoration site without reimbursement.

Other agencies and private conservation organizations may provide additional assistance for easement payment and wetland restoration costs as a way to reduce the landowner's share of the costs. Such special partnership efforts are encouraged.

## **Eligibility**

*Landowner.* To offer a conservation easement, the landowner must have owned the land for at least 1 year prior to enrolling the land in the program unless the land was inherited or the landowner can prove the land was not obtained for the purpose of enrolling it in the program. To participate in a restoration cost-share agreement, the landowner must show evidence of ownership.

*Land.* To be eligible for WRP, land must be restorable and be suitable for wildlife benefits. This includes:

- Wetlands farmed under natural conditions;
  - Farmed wetlands;
  - Prior converted cropland;
  - Farmed wetland pasture;
  - Farmland that has become a wetland as a result of flooding;
  - Rangeland, pasture, or production forestland where the hydrology has been significantly degraded and can be restored;
  - Riparian areas which link protected wetlands;
  - Lands adjacent to protected wetlands that contribute significantly to wetland functions and values;
- and
- Previously restored wetlands (Conservation Reserve Program [CRP] land is eligible if it meets WRP requirements).

*Ineligible Land.* Ineligible land includes wetlands converted after December 23, 1985; lands with timber stands established under a CRP contract; Federal lands; and lands where conditions make restoration impossible.

## **Uses of WRP Land**

A landowner continues to control access to the land--and may lease the land--for hunting, fishing, and other undeveloped recreational activities. At any time, a landowner may request that additional activities be evaluated to determine if they are compatible uses for the site. This request may include such items a permission to cut hay, graze livestock or harvest wood products. Compatible uses are allowed if they are fully consistent with the protection and enhancement of the wetland.

## **Cooperating Agencies**

Additional information on WRP is available from USDA Service Centers, State Cooperative Extension offices, and local conservation districts.

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## **Wetlands Reserve Program-- Questions and Answers**

- *FSA - Farm Service Agency*
- *FWS – U.S. Fish and Wildlife Service*
- *NRCS - Natural Resources Conservation Service*
- *WRP - Wetlands Reserve Program*

### **Q-1. How can I get involved in WRP?**

A. Check with your local USDA Service Center or conservation district for the sign-up schedule. NRCS, with input from FWS and State wildlife agencies, will determine if the acres you offer are eligible for the program. Landowners with high priority acres--based on competitive selection--will receive an offer.

### **Q-2. How much will I get for my land?**

A. The program offers landowners three options: permanent easements, 30-year easements, and restoration cost-share agreements of a minimum 10-year duration.

*Permanent Easement.* This is a conservation easement in perpetuity. Easement payment will be the lesser of the agricultural value of the land, an established payment cap, or an amount offered by the landowner. In addition to paying for the easement, USDA pays 100 percent of the costs of restoring the wetland\_

*30-Year Easement.* This is a conservation easement lasting 30 years. Easement payments are 75 percent of what would be paid for a permanent easement. USDA also pays 75 percent of restoration costs.

*Restoration Cost-Share Agreement.* This is an agreement (generally for a minimum of 10 years in duration) to re-establish degraded or lost wetland habitat. USDA pays 75 percent of the cost of the restoration activity. This does not place an easement on the property. The landowner provides the restoration site without reimbursement.

### **Q-3. What can I do with my land once it is in WRP?**

A. The plan you developed with NRCS identifies the activities necessary to restore, enhance, protect, maintain, and manage the wetland.

You continue to control access to the land--and may lease the land--for hunting, fishing, and other undeveloped recreational activities. At any time, a landowner may request that additional activities be evaluated to determine if they are compatible uses for the site. This request may include such items as permission to cut hay, graze livestock or harvest wood products. Compatible uses are allowed if they are fully consistent with the protection and enhancement of the wetland.

### **Q-4. How much land will I be able to enroll?**

A. Once your eligibility has been determined, we will discuss with you the eligible wetland and surrounding area necessary to restore and sustain the ecosystem. Ideally a mix of wetland and upland acres is desired to meet the needs of the wildlife community and other objectives such as water quality, flood reduction, and groundwater recharge.

**Q-5. Do I need to hire a closing agent, appraiser, surveyor, or lawyer?**

A. No. Before an easement is recorded, NRCS will arrange for closing services to conduct title searches, acquire title insurance, and perform any other activities necessary to clear the title and complete the easement.

**Q-6. Will I still have to pay taxes on the easement area?**

A. The amount of taxes you pay on the easement area is determined by the local taxing authority. Landowners should seek this information before entering the WRP.

**Q-7. What can I do about reducing the local property tax when I enroll land in WRP?**

A. This is a local or State decision and NRCS has no authority regarding property or other tax issues. However, we can provide written documentation of the easement to help the landowner discuss this issue with a tax consultant.

**Q-8. How can I find out more about WRP?**

A. Additional information on VW is available from USDA Service Centers, State Cooperative Extension offices, and local conservation districts. Information is also available on USDA's World Wide Web site: <http://www.nrcs.usda.gov>.

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**UNITED STATES DEPARTMENT OF AGRICULTURE**

**Natural Resources Conservation Service**

**People in Partnership for a Healthy Land**

**USDA Farm Bill 1996 Conservation Provisions**

**Environmental Quality Incentives Program Fact Sheet**

The Environmental Quality Incentives Program (EQIP) was established in the 1996 Farm Bill to provide a voluntary conservation program for farmers and ranchers who face serious threats to soil, water, and related natural resources. Nationally, it provides technical, financial, and educational assistance primarily in designated priority areas-half of it targeted to livestock-related natural resource concerns and the remainder to other significant conservation priorities.

**Conservation Tools.**

EQIP is one of several conservation programs making up tools in a "conservation toolbox" of Federal, State, and local programs that farmers and ranchers can use to solve their natural resource concerns. EQIP offers financial, educational, and technical help to install or implement structural, vegetative, and management practices called for in 5- to 10-year contracts for most agricultural land uses. USDA also offers the Conservation Reserve Program (CRP), which puts sensitive croplands under permanent vegetative cover for 10 to 15 years. CRP contract holders receive annual rental payments. Other USDA, federal, State, and local programs provide additional tools for producers to care for our private lands-a shared commitment between public and private interests.

**Priority Areas and Locally Led Conservation.**

EQIP works primarily in priority areas where significant natural resource problems exist. In general, priority areas are defined as watersheds, regions, or areas of special environmental sensitivity or having significant soil, water, or related natural resource concerns. These concerns could include soil erosion, water quality and quantity, wildlife habitat, wetlands, and forest and grazing lands. These priority areas are identified through a locally led conservation process. Conservation districts convene a local work group comprised of the district board members and key staff, Natural Resources Conservation Service (NRCS) staff, Farm Service Agency (FSA) county committees and key staffs, Cooperative State Research, Education, and Extension Service and other Federal, State, and local agencies interested in natural resource conservation. The conservation districts bring views of local interests to work groups by gathering community input through the locally led conservation process. They thus help ensure that the work groups develop and implement conservation programs that fully reflect local needs and priorities.

The local work group identifies program priorities by completing a natural resource needs assessment and, based on that assessment, develops proposals for priority areas. Priority area proposals are submitted to the NRCS State Conservationist, who selects those areas within the State based on the recommendations from the State Technical Committee.

EQIP can also address additional significant statewide concerns that may occur outside designated priority areas. In the first year of the program, at least 65 percent of the funds will be used in designated priority areas and up to 35 percent can be used for other significant statewide natural resource concerns. Additional emphasis is given to areas where State or local governments offer financial or technical assistance and where agricultural improvements will help meet water quality and other environmental objectives.

**Conservation Plans.**

All EQIP activities must be carried out according to a conservation plan. Conservation plans are site-specific for each farm or ranch and can be developed by producers with help from NRCS or other service providers. Producers' conservation plans should address the primary natural resource concerns. All plans are subject to NRCS technical standards adapted for local conditions and are approved by the conservation district. Producers are not obligated, but are encouraged, to develop comprehensive or total resource management plans.

## **Contracts.**

EQIP offers 5- to 10-year contracts that provide incentive payments and cost sharing for conservation practices called for in the site-specific plan. Contract applications will be accepted throughout the year. NRCS conducts an evaluation of the environmental benefits the producer offers. Offers are then ranked according to previously approved criteria developed with the advice of the local work group. The FSA County Committee approves for funding the highest priority applications. Applications are ranked according to environmental benefits achieved weighted against the costs of applying the practices. Higher rankings are given to plans developed to treat priority resource concerns to a sustainable level. EQIP seeks to maximize environmental benefits per dollar spent.

## **Practice Payments.**

Cost sharing may pay up to 75 percent of the costs of certain conservation practices, such as grassed waterways, filter strips, manure management facilities, capping abandoned wells, and other practices important to improving and maintaining the health of natural resources in the area. Incentive payments may be made to encourage a producer to perform land management practices such as nutrient management, manure management, integrated pest management, irrigation water management, and wildlife habitat management. These payments may be provided for up to three years to encourage producers to carry out management practices they may not otherwise use without the program incentive.

## **Eligibility.**

Eligibility is limited to persons who are engaged in livestock or agricultural production. Eligible land includes cropland, rangeland, pasture, forestland, and other farm or ranch lands where the program is delivered. The 1996 Farm Bill prohibits owners of large confined livestock operations from being eligible for cost-share assistance for animal waste storage or treatment facilities. However, technical, educational, and financial assistance may be provided for other conservation practices on these "large" operations. In general, USDA has defined a large confined livestock operation as an operation with more than 1,000 animal units. But, because of differences in operations and environmental circumstances across the country, the national definition of a large confined livestock operation may be amended in each State by the NRCS State Conservationist, after consultation with the State Technical Committee, and approval of the NRCS Chief

## **EQIP Funding.**

Funding for EQIP comes from the Federal Government's Commodity Credit Corporation, which funds several other USDA conservation programs. EQIP's authorized budget of \$1.3 billion is prorated at \$200 million per year through the year 2002. Conservation practices for natural resource concerns related to livestock production will receive 50 percent of the funding. Total cost-share and incentive payments are limited to \$10,000 per person per year and \$50,000 for the length of the contract.

NRCS has leadership for EQIP. It works with FSA to set the program's policies, priorities, and guidelines.

EQIP continues the Department's commitment to streamlining and improving its conservation programs. Four of USDA's former conservation programs were combined in EQIP: the Agricultural Conservation Program, Water Quality Incentives Program, Great Plains Conservation Program, and the Colorado River Basin Salinity Control Program.

## **For more information**

NRCS, FSA, the local Extension Service, or your local conservation district can provide more information. Local USDA Service Centers are listed in the telephone book under U.S. Department of Agriculture. Information is also available

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# Environmental Quality Incentives Program (EQIP)

## Questions and Answers

### **What is the Environmental Quality Incentives Program (EQIP)?**

EQIP is a new, voluntary USDA conservation program for farmers and ranchers who face serious threats to soil, water, and related natural resources. It provides technical, financial, and educational assistance primarily in designated priority areas. Nationally, half of the funding for EQIP is targeted to livestock-related natural resource concerns and the remainder to other significant conservation priorities.

### **Where is EQIP available?**

The program is available in every State, with an emphasis on either state-identified priority areas or significant statewide concerns.

### **What are priority areas?**

In general, priority areas are defined as watersheds, regions, or areas of special environmental sensitivity or having significant soil, water, or related natural resource concerns.

### **How are priority areas selected?**

Priority areas are determined by a process that begins with local work groups. These local work groups-convened by local conservation districts-do a conservation needs assessment and, based on that assessment, develop proposals for priority areas. These proposals are submitted to the Natural Resources Conservation Service (NRCS) State Conservationist, who selects those areas within the State based on the recommendations from the State Technical Committee.

### **Who serves on the local work groups?**

The local work groups are made up of representatives from conservation district board members and key staff, NRCS, Farm Service Agency (FSA), FSA county committees and key staffs, the Cooperative State Research, Education, and Extension Service, and other Federal, State, and local agencies interested in natural resource conservation. Their recommendations go to the NRCS-designated conservationist for the local area and then to the State Conservationist, who sets priorities with the advice of the State Technical Committee. The recommendations are integrated into regional and national strategic plans. These strategic plans provide a basis for funding decisions.

### **Who is eligible for the program?**

Eligibility is limited to persons who are engaged in livestock or agricultural production. Eligible land includes cropland, rangeland, pasture, forestland, and other farm or ranch lands where the program is delivered.

### **Are confined livestock operations eligible?**

The 1996 Farm Bill prohibits owners of large confined livestock operations from being eligible for cost-share assistance for animal waste storage or treatment facilities. However, technical, educational, and financial assistance may be provided for other conservation practices on these large operations.

### **What is the definition of a large confined livestock operation?**

In general, USDA has defined a large confined livestock operation as an operation with more than 1,000 animal units in confinement. But, because of differences in operations and environmental circumstances across the country, the national

definition of a large confined livestock operation may be amended in each State by the NRCS State Conservationist, after consultation with the State Technical Committee, and approval of the NRCS Chief.

### **What cost-sharing is available?**

Cost-sharing may pay up to 75 percent of the costs of certain conservation practices, such as grassed waterways, filter strips, manure management facilities, capping abandoned wells, and other practices important to improving and maintaining the health of natural resources in the area.

### **What are incentive payments?**

Incentives may be made to encourage a producer to perform land management practices such as nutrient management, manure management, integrated pest management, irrigation water management, and wildlife habitat management. Incentives may be provided for up to three years to encourage producers to carry out management practices they may not otherwise use without the program incentive.

### **Do all resource concern areas have the same priority?**

No. Soil, water, air, plant, animal, and related natural resource concerns are all given equal initial consideration for treatment, but higher priority is given to areas where State or local governments offer financial or technical assistance and to areas where agricultural improvements will help producers in complying with Federal or State environmental laws, such as the Clean Water Act. Nationally, 50 percent of the program funds will be targeted to natural resource concerns relating to livestock production.

### **If I am not in a priority area, can I still qualify for EQIP?**

EQIP can address additional significant statewide concerns that may occur outside designated priority areas. In the first year of the program, at least 65 percent of the funds will be used in designated priority areas and up to 35 percent can be used for other significant statewide natural resource concerns. Additional emphasis is given to areas where State or local governments offer financial or technical assistance and where agricultural improvements will help meet water quality and other environmental objectives.

### **How do I apply for the program?**

Producers may obtain contract applications at any USDA Service Center. The applications will be accepted throughout the year. The ranking and selecting of offers of producers will occur periodically during designated periods.

### **Do I need a conservation plan under EQIP?**

Yes. All EQIP activities must be carried out according to a conservation plan. Conservation plans are site-specific for each farm or ranch and can be developed by producers with help from NRCS or other service providers. Producers' plans should address the primary natural resource concerns. All plans are subject to NRCS technical standards adapted for local conditions and are approved by the conservation district. Producers are not obligated, but are encouraged, to develop comprehensive or total resource management plans.

### **Do I need to enter into a long-term contract to get assistance from EQIP?**

Yes. EQIP offers 5- to 10-year contracts that provide cost-sharing and incentive payments for conservation practices called for in the site-specific plan.

**Are there limits to individual payments?**

Yes. Total cost-share and incentive payments are limited to \$10,000 per person per year and \$50,000 over the length of the contract.

**How did EQIP get started?**

It is part of the conservation provisions in the 1996 Farm Bill and continues the Department's commitment to streamlining and improving its conservation programs. EQIP puts a focus on conservation priority areas, strives to maximize environmental benefits per dollar expended, and increases the involvement of communities through locally led conservation.

**How is EQIP funded?**

Funding comes from the Federal Government's Commodity Credit Corporation. EQIP's authorized budget of \$1.3 billion is prorated at \$200 million per year through the year 2002.

**Who manages EQIP**

NRCS, in close cooperation with FSA, has leadership for EQIP. Conservation districts and FSA county committees have important roles in implementing EQIP at the local level. State Technical Committees offer advice on establishing EQIP activities at the State level.

**How can you find out more about EQIP and other USDA conservation programs?**

NRCS, FSA the local Extension Service or local conservation district can provide more information.

UNITED STATES DEPARTMENT OF AGRICULTURE  
Natural Resources Conservation Service  
People in partnership for a Healthy Land  
**USDA 1996 Farm Bill Conservation Provisions**

## Fact Sheet Forestry Incentives Program (FIP)

### **Introduction**

The 1996 Farm Bill extends the Forestry Incentives Program (FIP), which was originally authorized in 1978 to share up to 65 percent of the costs of tree planting, timber stand improvements, and related practices on nonindustrial private forest lands. FIP's forest maintenance and reforestation provide numerous natural resource benefits, including reduced wind and soil erosion and enhanced water quality and wildlife habitat as well as helping to assure a reliable future supply of timber. Improving timber stands, which help to sequester greenhouse gases, also contributes to the President's Climate Change initiative. FIP is administered by the U.S. Department of Agriculture's (USDA) Natural Resources Conservation Service (NRCS) and Forest Service,

### **Program Availability**

FIP is a nationwide program available in counties designated on the basis of a Forest Service survey of total eligible private timber acreage that is potentially suitable for production of timber products. Federal cost-share money is available-with a limit of \$ 10,000 per person per year with the stipulation that no more than 65 percent of the cost may be paid. To find out if your county participates in FIP, check with your local USDA office, State forester, conservation district, or Cooperative Extension office.

### **FIP-Preparing To Meet the Demand**

FIP is intended to assure the Nation's ability to meet future demand for sawtimber, pulpwood, and quality hardwoods by planting more trees and placing more forestland under good forest management. FIP's cost sharing for these measures helps eligible private landowners, whose small parcels represent the majority of the Nation's forestlands.

To be eligible for cost-share assistance under FIP, a landowner must:

- Own no more than 1,000 acres of eligible forestland. In the public interest, the Secretary of Agriculture can grant an exception for larger acreages;
- Be a private landowner of a nonindustrial forest. Individuals, groups, associations, or corporations whose stocks are not publicly traded may be eligible for FIP provided they are not primarily engaged in the business of manufacturing forest products or providing public utility services;
- Have land that is suitable for conversion from nonforest land into forest land (afforestation); for reforestation; or for improved forest management; and
- Have land that is capable of producing marketable timber crops and meets minimum productivity standards established for FIP. At least 10 acres of eligible forestland is required for FIP.

Available practices under FIP are:

- Tree planting;
- Improving a stand of forest trees; and
- Site preparation for natural regeneration.

The State forester provides technical advice in developing a forest management plan and helps find approved vendors, if needed, for completing the FIP work. In addition, the State forestry agency must certify that the project has been completed satisfactorily before cost-share payments can be made.

*For More Information*

Additional information is available from [NRCS Forest Service, FSA](#) the [Cooperative Extension Service](#), State forestry agencies, or your [local conservation district](#). Your local USDA Service Center is listed in the telephone book under U.S. Department of Agriculture. Information is also available [here on NRCS's World Wide Web site](#).

**[NRCS homepage](#) | [USDA homepage](#) | [NACD homepage](#) |**

# **Forestry Incentives Program (FIP)**

## **Questions and Answers**

### **What does the Forestry Incentives Program (FIP) do?**

The 1996 Farm Bill extends the Forestry Incentives Program (FIP) through the year 2002. The program was authorized in 1978 and pays up to 65 percent of the costs of tree planting, timber stand improvements, and related practices on nonindustrial private forest lands. In addition to helping assure a reliable supply of timber, FIP's forest maintenance and reforestation activities provide numerous natural resource benefits, including reduced wind and soil erosion, enhanced water quality, and improved wildlife habitat. Improving timber stands also helps sequester carbon and assists in reducing greenhouse gases.

### **Where is FIP available?**

FIP is a nationwide program available in counties designated as potentially suitable for production of timber products. This designation comes from a survey by the U.S. Department of Agriculture's (USDA) Forest Service of total eligible private timber acreage. This information is available from local USDA offices, State foresters, and local conservation districts.

### **Is Federal cost sharing available for the program?**

Yes. Federal shares can be up to 65 percent. The percentage depends upon the cost-share rate set by NRCS for States and counties. There is an annual cost-share payment limit of \$10,000 per person.

### **What is the role of the State forester?**

The State forester provides technical advice in developing a forest management plan and helps find approved vendors, if needed, for completing the FIP work. In addition, the State forestry agency must certify that the project has been completed satisfactorily before cost-share payments can be made.

### **What are the eligibility requirements?**

To be eligible for cost-share assistance under FIP, a landowner must:

- Own no more than 1,000 acres of eligible forestland. In the public interest, the Secretary of Agriculture can grant an exception for larger acreages;
- Be a private landowner of a nonindustrial forest. Individuals, groups, associations, or corporations whose stocks are not publicly traded may be eligible for FIP provided they are not primarily engaged in the business of manufacturing forest products or providing public utility services;
- Have land that is suitable for conversion from cropland into forest land (afforestation) if presently not in trees; for reforestation; or for improved forest management; and
- Have land that is capable of producing marketable timber crops and meets minimum productivity standards established for FIP. At least 10 acres of eligible forestland is required for FIP.

### **What practices are available under FIP?**

- Tree planting;
- Improving a stand of forest trees; and
- Site preparation for natural regeneration.

**How can I find out more about FIP?**

Ask NRCS, Forest Service, FSA, the Cooperative Extension Service, State forestry agencies, or your local conservation district. Your local USDA Service Center is listed in the telephone book under U.S. Department of Agriculture. Information is also available here on NRCS's World Wide Web site.

I NRCS homepage I USDA homepage I NACD homepage I

**Fact Sheet**  
**Conservation Reserve Program –**  
**Continuous Sign-Up for High Priority Conservation Practices**

**Authorization**

The Food Security Act of 1985, as amended, authorizes the Conservation Reserve Program (CRP), which is implemented through the Commodity Credit Corporation (CCC).

**Overview**

The Conservation Reserve Program (CRP) is a voluntary program that offers annual rental payments and cost-share assistance to establish long-term resource-conserving covers on eligible land. The Commodity Credit Corporation (CCC) makes annual rental payments based on the agriculture rental value of the land and provides cost share assistance in an amount equal to not more than 50 percent of the participant's costs in establishing approved practices. The durations of contracts are from 10 to 15 years.

**Start Date**

Continuous Sign-Up began September 4, 1996, and is scheduled to be available indefinitely.

**Continuous CRP Sign-Up**

Continuous sign-up provides management flexibility to farmers and ranchers to implement certain high-priority conservation practices on eligible land. Offers are automatically accepted, provided the acreage and producer meet certain eligibility requirements. The per-acre rental rate may not exceed the CCC's maximum payment amount. While acceptance is not determined by a competitive bidding process, producers may elect to receive an amount less than the maximum payment rate.

**Eligible Land and Practices**

To be eligible under continuous sign-up, land must first meet the basic CRP eligibility requirements. Acceptable land is the following:

- (1) Cropland that was planted or considered planted to an agricultural commodity 2 of the 5 most recent crop years (including field margins) which is also physically and legally capable of being planted in a normal manner to an agricultural commodity; or
- (2) Marginal pasture land that is suitable for use as a riparian buffer to be planted to trees.

The acreage must also be determined by the Natural Resources Conservation Service (NRCS) to be eligible and suitable for any of the following practices:

- Riparian buffers;
- Filter strips;
- Grass waterways;
- Shelter belts;
- Field windbreaks;
- Living snow fences;
- Contour grass strips;
- Salt tolerant vegetation; or -, Shallow water areas for wildlife.

Also eligible is acreage within an Environmental Protection Agency (EPA) designated wellhead protection area.

## **Producer Eligibility Requirements**

Land must have been owned or operated for at least 12 months prior to close of the sign-up period unless:

- The new owner acquired the land as a result of death of the previous owner;
- The only ownership change occurred due to foreclosure where the owner exercised a timely right of redemption in accordance with State law; or
- The circumstances of the acquisition present adequate assurance to CCC that the new owner did not acquire the land for the purpose of placing it in CRP.

If a tenant, the producer must be a participant with an eligible owner or operator.

## **Rental Rates**

The CCC bases rental rates on the average value of dryland cash rent or the cash rent equivalent for the past three years and adjusts rates to reflect the relative productivity of soils within each county. The maximum CRP rental rate is calculated in advance of enrollment.

In addition, CCC offers additional financial incentives of up to 20 percent of the soil rental rate for field windbreaks, grass waterways, filterstrips, and riparian buffers. An additional 10 percent may be added to the soil rental rate for land located within EPA- designated wellhead protection areas. A per acre payment rate may also be added for maintenance of eligible practices.

Offers for rents greater than the maximum rental rate are not considered, and the maximum rental rate may not be appealed.

Only determinations by USDA officials regarding soil type and related soil type acreage may be appealed.

## **Cost-Share Payments**

In addition to the payments described above, the CCC will pay up to 50 percent of the cost of establishing a permanent cover.

## **Contract Effective Date**

The effective date of the CRP contract is the first day of the month following the month of approval. In certain circumstances, producers may defer the effective date for up to six months.

If the acreage is currently under contract and is within one year of the scheduled expiration date, the effective date is the October 1st following the expiration date.

## **Length of Contracts**

Contracts are granted for no less than 10 and no more than 15 years in duration.

## **Cooperating Agencies**

CRP is administered by the Farm Service Agency in cooperation with the Natural Resources Conservation Service, Cooperative State Research, Education, and Extension Service, State forestry agencies, and local soil and water conservation districts. These are usually listed in local telephone books under "United States Government, U.S. Department of Agriculture."

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To file a complaint, write the Secretary of Agriculture, U.S. Department of Agriculture, Washington, D.C., 20250, or call 1800-245-6340 (voice) or (202) 720-1127 (TDD).

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## **Fact Sheet**

# **Conservation Reserve Program**

### **Authorization**

The Food Security Act of 1985, as amended, authorizes the CRP, which is implemented through the Commodity Credit Corporation (CCC). The program is also governed by the regulations published in 7CFR part 1410.

### **Overview**

The CRP is a voluntary program that offers annual rental payments, incentive payments for certain activities, and cost-share assistance to establish approved cover on eligible cropland.

The program encourages farmers to plant long-term resource-conserving covers to improve soil, water and wildlife resources. CCC makes available assistance in an amount equal to not more than 50 percent of the participant's costs in establishing approved practices. The durations of contracts are between 10 and 15 years.

CRP is administered by the CCC through the Farm Service Agency (FSA). The Natural Resources Conservation Service, Cooperative State Research and Education Extension Service, State forestry agencies, and local soil and water conservation districts provide program support.

### **Eligible Land**

To be eligible to be placed in CRP, land must be:

1. Cropland that is planted or considered planted to an agricultural commodity 2 of the 5 most recent crop years (including field margins) which is also physically and legally capable of being planted in a normal manner to an agricultural commodity; or
2. Marginal pasture land that is either:
  - a. Certain acreage enrolled in the Water Bank Program; or
  - b. Suitable for use as a riparian buffer to be planted to trees.

### **Additional Requirements for Cropland**

In addition to the eligible land requirements, cropland must:

1. Have an Erosion Index (EI) of 8 or higher or be considered highly erodible land according to the conservation compliance provisions (Redefined fields must have an EI of 8 or higher);
2. Be considered a cropped wetland;
3. Be devoted to any of a number of highly beneficial environmental practices, such as filter strips, riparian buffers, grass waterways, shelter belts, wellhead protection areas, and other similar practices;
4. Be subject to scour erosion;
5. Be located in a national or state CRP conservation priority area; or
6. Be cropland associated with or surrounding non-cropped wetlands

## Ranking Criteria

Offers for CRP contracts are ranked according to the Environmental Benefits Index (EBI).

The Natural Resources Conservation Service collects data for each of the EBI factors, based upon the relative environmental benefits for the land offered. Bids are then ranked in comparison to all other bids offered and selections made from that ranking.

EBI factors include:

- Wildlife habitat benefits resulting from covers on contract acreage;
- Water quality benefits from reduced erosion, runoff, and leaching;
- On-farm benefits of reduced erosion;
- Likely long-term benefits beyond the contract period from certain practices such as tree plantings;
- Air quality benefits from reduced wind erosion;
- Benefits of enrollment in conservation priority areas where enrollment would contribute to the improvement of identified adverse water quality, wildlife habitat, or air quality; and
- Cost.

## Producer Eligibility Requirements

An applicant must have owned or operated the land for at least 12 months prior to close of the sign-up period unless:

- The new owner acquired the land as a result of death of the previous owner;
- The only ownership change occurred due to foreclosure where the owner exercised a timely right of redemption in accordance with State law; or
- The circumstances of the acquisition present adequate assurance to CCC that the new owner did not acquire the land for the purpose of placing it in CRP.

## Rental Rates

The CCC bases rental rates on the relative productivity of soils within each county, and the average of the past three years of local dryland cash rent or the cash rent equivalent.

The maximum CRP rental rate for each offer is calculated in advance of enrollment. Producers may offer land at that rate or may bid a lower rental rate to increase the likelihood that their offer will be accepted.

In addition, CCC offers additional financial incentives of up to 20 percent of the annual payment for certain continuous sign-up practices.

## Other Payments

The CCC encourages restoration of wetlands by offering an incentive equal to 25 percent of the costs incurred. This is in addition to the 50-percent cost share provided to establish approved cover.

## Continuous Sign-Up

Eligible acreage devoted to certain special conservation practices such as riparian buffers, filter strips, grassed waterways, shelter belts, living snow fences, contour grass strips, salt tolerant vegetation, and shallow water-areas for wildlife may be enrolled at any time under the CCC's continuous sign-up, and are not subject to competitive bidding.

All other eligible acreage must be enrolled during a CRP sign-up period. (*See FSA Fact Sheet, Conservation Reserve Program Continuous Sign-Up for Priority Practices for further details.*)

**Fact Sheet**

**16<sup>th</sup> Sign-Up Period October 14-November 14, 1997**

The Conservation Reserve Program (CRP) is a voluntary program that offers annual rental payments and cost-share assistance to establish long-term resource-conserving covers on eligible land. The Commodity Credit Corporation (CCC) makes annual rental payments based on the agriculture rental value of the land and provides costshare assistance in an amount equal to not more than 50 percent of the participant's costs in establishing approved practices. The duration of contracts is from 10 to 15 years.

Sign-up 16 of the CRP will be held for a 5-week period between October 14 and November 14, 1997. This is the second CRP general sign-up since Federal Agricultural Improvement and Reform Act of 1996 amendments to the Food Security Act of 1985.

**Eligibility**

To be eligible to be placed in CRP, land must be:

- (1) Cropland that has been planted or considered planted to an agricultural commodity 2 of the 5 most recent crop years which is also physically and legally capable of being planted in a normal manner to an agricultural commodity; or
- (2) Marginal pasture land that is either:
  - (a) Certain acreage enrolled in the Water Bank Program; or
  - (b) Suitable for use as a riparian buffer to be planted to trees.

In addition to basic eligibility requirements, the cropland must also meet at least one of the following conditions. Land must:

- (1) Be considered highly erodible land according to the conservation compliance provision or, if a portion of a field, have a weighted average Erosion Index of 8 or higher;
- (2) Be considered a cropped wetland;
- (3) Be subject to scour erosion;
- (4) Be located in a national or State CRP conservation priority area; or,
- (5) Be cropland associated with non-cropped wetlands.

**Ranking Criteria**

Under Sign-up 16, the CCC will continue to evaluate and rank all eligible CRP offers using an Environmental Benefits Index (EBI) based on the environmental benefits that would potentially accrue if the land were enrolled in the CRP.

This ensures that only the most environmentally sensitive lands are selected.

The Natural Resources Conservation Service collects data for each of the EBI factors based upon the relative environmental benefits for the land offered. Offers are then ranked in comparison to all other offers, and selections made from that ranking.

EBI factors are:

- Wildlife habitat cover benefits;
- Water quality benefits from reduced erosion, runoff, and leaching
- On-farm benefits of reduced erosion;
- Enduring benefits;
- Air quality benefits from reduced wind erosion;
- Benefits of enrollment in conservation priority areas where enrollment would contribute to the improvement of identified adverse water quality, wildlife habitat, or air quality; and
- Cost.

## Changes to the EBI

Several changes were made in the EBI since Sign-up 15 in the spring.

- The wildlife habitat cover benefits factor was revised to recognize the improved wildlife benefits attributable to certain covers. (Wildlife species, both game and nongame, benefit most from vegetation planted specifically to address their habitat needs.)
- The air quality factor was changed to more accurately reflect wind speed, moisture conditions, particle size, organic material, volcanic and organic soils, and proximity to designated agricultural areas that contribute to the nonattainment of air quality standards or effect Class 1 pristine air quality areas such as National parks.
- An additional subfactor was added to the cost factor to further encourage the CRP's cost competitiveness.
- Other minor changes were made for clarity and to facilitate administration of the EBI.

## Payment Rates

Except under special circumstances, CRP payment will be based on the same rates as those used in Sign-up 15. Maximum CRP payments will be determined on county average dryland cash or cash rent equivalent rental rates adjusted for site-specific, soil-based productivity factors. CRP payments can include an additional amount, not to exceed \$5 an acre a year, as an incentive to perform certain maintenance obligations.

## Producer Eligibility Require

An applicant must have owned or operated the land for at least 12 months prior to close of the sign-up period unless:

- The new owner acquired the land as a result of death of the previous owner;
- The only ownership change occurred due to foreclosure where the owner exercised a timely right or redemption in accordance with State law; or
- The circumstances of the acquisition present adequate assurance to the Commodity Credit Corporation that the new owner did not acquire the land for the purpose of placing it in CRP.

Producers should contact their local FSA Service Center for more information.

## When and Where

The sign-up period begins Tuesday, October 14, 1997, and runs through Friday, November 14, 1997.

Applications are accepted only during that period at the local offices of the USDA's Farm Service Agency (FSA). These are usually listed in local telephone directories under "United States Government, U.S. Department of Agriculture."

## What will the EBI cutoff be for the 16th Sign-up ?

Decisions on-the EBI cutoff will be made after Sign-up 16 is concluded. CRP is a highly competitive program. Landowners who have met previous EBI thresholds are not guaranteed a contract under this sign-up.

NOTE: The sign-up period does not apply to participation in certain high-priority environmental practices such as filter strips, riparian buffers, etc. (For more details, see *FSA Farm Program Fact Sheet: Conservation Reserve Program - Continuous Sign-Up for High-Priority Practices.*)

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# On Saving Land

## *A Newsletter for California Land Trusts*

Volume 6, Number 3

May/June 1997

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## Land From Uncle Sam

### **Federal Program Helps Create Local Parks**

*By Elizabeth Byers*

The recent rash of military-base closures around the country has resulted in an unexpected opportunity for the land conservation community. Under the little-known National Park Service (NPS) Federal Lands-to-Parks (FLP) program surplus federal properties can be transferred -to state and local agencies for park use at no cost to the acquiring agency. Particularly in California, the site of so many closed bases and so much other surplus federal land, land trusts can work with local and state agencies to transform excess federal properties into new parks.

Through the FLP program, over 8,270 acres in California that were once owned by the federal government have become part of the state and local park system. Of the 92 properties in California that have been transferred under this program (ranging in size from less than an acre to almost 1,200 acres), 56 percent are now owned by cities, 5 percent by counties, 15 percent by social districts, and 14 percent by the state (managed by either the Department of Parks and Recreation or the Department of Fish and Game). Fifty-eight percent of these new parks are in Southern California, primarily in Los Angeles and San Diego Counties.

The NPS's California program operates out of its Pacific West office in San Francisco, where it also oversees transfers in 12 other western states. According to Joan Chaplick, who manages the program, nonprofits are not eligible to acquire federal properties, but they can work cooperatively with agencies that are eligible.

Since 1970, federal surplus lands have been transferred at no cost to the acquiring agency with the condition that the lands will be managed as parks in perpetuity. Under the original 1949 legislation that authorized these transfers (the Federal Property and Administrative Services acquiring agencies had to pay 50 percent of the land's value and were only obligated to retain the land in park use for 20 years. Because of this flexibility, some lands were subsequently sold, which led to the 1970 change in policy. It was not until 1981 that the surplus property program came under NPS jurisdiction.

The FLP program has two goals: to provide recreational opportunities for people of all ages, and to protect and provide access to natural areas. Most of the sites that have been transferred under this program are improved urban properties that include some open space with recreational potential.

The federal General Services Administration (GSA) has transferred the bulk of the sites; many of the Department of Defense property transfers (mostly from base closures) are still being finalized. Given their large acreage and often undeveloped nature, base closures should provide excellent opportunities for open space preservation.

### **How Federal Land is Transferred**

When a surplus property becomes available, the NPS notifies parks agencies on the state level and all local parks agencies in the vicinity. The GSA, which owns most federal surplus properties, also notifies state and local agencies. The notification letter gives agencies 20 days to submit a letter of intent. Interested agencies are then sent applications and given several months to respond.

If more than one agency is interested in the same property, a local planning process usually takes place to determine the most appropriate applicant and use of the property. In some cases, a joint powers authority may be formed to take on acquisition and management of a site. At McClellan Air Force Base in Sacramento, for example, several agencies recently signed a joint powers agreement to apply for and manage the park land and recreational facilities.

The NPS works with the interested agency through the application process; this assistance includes meeting on site to help identify significant recreational, natural, and historic resources and reviewing the draft application to make suggestions before the final is submitted. On the application, an agency must demonstrate its capacity to take on site ownership and management, specifically outline its proposed plan and program with a schedule for implementation, and accept the terms of the conveyance. When the NPS approves the final application, it recommends to the surplusing agency that the proposal be approved. The surplusing agency makes the final decision on whether to approve the property transfer. The property is then deeded through the NPS to the applicant for park use in perpetuity.

The agencies that assume ownership and management of these parks must submit a report to the NPS every two years for a minimum of twenty years, and the NPS makes an inspection every five years to assure that the lands are being used according to the terms of the transfer.

### **The State's Surplusing Process**

The state of California also has a process whereby it-sells surplus land, but it does not have an entity like the NPS that helps facilitate the transfer of properties for park use. According to Eldon Fillion, senior real estate officer with the state Department of General Services (DGS), most state surplus lands are improved properties that are not suitable for park use.

At the end of each year, most state agencies must submit a list of surplus properties to the DGS; eventually these properties are transferred to the DGS. Under Government Code, Section 11011, state surplus properties must be offered to other state agencies and then to local agencies before being offered for sale to the general public (nonprofit organizations are included in the general public).

Few surplus properties meet the Department of Parks and Recreation's (DPR) criteria for acquisition. The DPR looks for sites near existing state park units that have significant natural, cultural, or recreational resources. One of its largest DGS acquisitions was the Museum of Railroad Technology site in Sacramento.

After being notified of the availability of surplus property, agencies must submit written letters of intent within 60 days. Priority is given to agencies that will use the land for affordable housing, park, recreational, school, or open-space uses.

The DGS transfers properties to local agencies at fair market value. If the land is to be used for park or open space purposes, however, it may be sold for as little as 50 percent of fair market value. Only in rare instances can a public agency, acquire state surplus land at no cost: when the land has a very low appraised value, was acquired by the state at little or no cost, and when minimal state funding has been spent to manage the property. To qualify for a reduced purchase price, the agency must submit a general development plan to be implemented within ten years and agree that if within 25 years the land is not being used according to the agreement's original terms, the land will revert to the state.

For agencies that are proposing to acquire the land for park use, the DPR must review and approve their plan. After arriving at a mutually agreeable sales price, the DGS and the acquiring agency have ninety days to execute a sales or exchange agreement.

## Land Trust News

### **Farmland Threatened**

On March 20, National Agriculture Day, the American Farmland Trust released a report documenting that between 1982 and 1992, 4.3 million acres of prime farmland were destroyed nationwide-nearly 50 acres every hour of every day.

AFT identified 20 areas as the most threatened agricultural regions in the country; first on the list is the Sacramento-San Joaquin Valley. Growth in the Central Valley is occurring primarily in the Sacramento, Modesto, Fresno, Bakersfield, and Stockton urban areas. Fifteenth and seventeenth on the list are the central California coastal valleys and the Imperial Valley in Southern California.

The report encourages regions to adopt farmland protection measures, including the purchase of development right programs and agricultural zoning.

#### **Point Reyes Ag Land Legislation**

At the same time AFT released their report, Representative Lynn Woolsey introduced legislation in Congress for the protection of agricultural land adjacent to the Point Reyes National Seashore, near Tomales Bay. The Point Reyes National Seashore Farmland Protection Act aims to protect 38,000 acres of Marin and Sonoma County farmland by authorizing \$30 million in appropriations for purchasing developing rights from willing sellers. Under the legislation, the Marin Agricultural Land Trust and the Sonoma Land Trust would be authorized to negotiate, purchase, and monitor the easements.

#### **Land Trust Celebrates 30 Years**

The Anza-Borrego Foundation in San Diego County is celebrating its thirtieth anniversary this year. The foundation helps the state acquire private inholdings within the boundaries of Anza-Borrego, Desert State Park, the largest state park within the system. Since 1967, the foundation has acquired almost 23,000 acres; its current focus is the \$2 million acquisition of Sentenac Canyon, a rare wetland and riparian habitat that is the Department of Park and Recreation's number-one acquisition priority. In November, the foundation announced the Sentenac Acres for Habitat Program, a major fundraising campaign; with significant public and private grants secured, the foundation is now more than halfway toward its goal.

#### **Three Trusts Acquire Easements**

The McKinleyville Land Trust, formed in 1995 and based in Humboldt County, announced that it acquired its first conservation easement. The easement prohibits any subdivision of a forested 20-acre property, allows for one housesite, limits the amount of logging that may take place, and protects the creek zone from any development or logging. The San Benito Agricultural Land Trust, founded in 1993, announced another first time easement acquisition. In November, the trust acquired an easement protecting a 65-acre parcel of prime agricultural land in the San Juan Valley that is currently leased for row crop production. A result of a mitigation agreement between the county and developers, the easement serves as a buffer between the valley floor and a 2,000-acre golf course; it prohibits subdivision of the land into more than two parcels and limits new construction to no more than three farm-related houses.

The Land Trust for Santa Barbara County recently announced that it will acquire a unique agricultural easement using Proposition 70 funds. In a partnership with the Center for Urban Agriculture at Fairview Farms (a local nonprofit), the land trust will acquire an easement to ensure that organic farming will continue on a 12-acre property in Santa Barbara. The center has launched a \$750,000 fundraising effort to purchase the farm. Over a hundred different fruits and vegetables are produced in a year-round harvest and sold at roadside stands, farmers markets, and to shareholders of the community-supported agriculture program.

The Land Trust for Santa Barbara County also recently retained a conservation easement on a property it sold to a conservation buyer. The restrictions on this 86-acre property along the Santa Ynez River allow some agricultural use and only two single-family homes.

#### **Solano Land Trust Celebrates**

On April 19, the Solano County Farmlands and Open Space Foundation held a dedication ceremony for Lynch Canyon. The 1,039-acre watershed near Interstate 80 between Fairfield and Vallejo, will be preserved as permanent open space and agricultural land. The land trust acquired the property in June 1996 after securing over \$4 million in funds from the state legislature, DPR, California Transportation Commission city of Fairfield, Tri-Cities and County Cooperative Planning

Group, and ISTEA. The property will be open to the public later this year after a management plan has been prepared. In the interim it will continue to be leased by neighboring ranchers for grazing.

### **New Model Easements Available**

The Land Trust Affiance recently published the Model Conservation Easement and Historic Preservation Easement which updates the model easements in the 1988 Conservation Easement Handbook. The revised model easements reflect legal developments since 1988 and include new supplementary language and commentary. The 136-page supplement costs \$20 or \$13.50 for LTA sponsor members, plus shipping and handling. Call 202-638-4725.

### **Vernal Pool Protection Program**

A consortium of 13 cooperating state and federal agencies recently signed an agreement to protect one of the state's most threatened ecosystems. Vernal pools, a type of seasonal wetland occur in 17 regions throughout California in lower elevations. They are disappearing rapidly, due to their proximity to urban and agricultural development.

The Interagency Vernal Pool Stewardship Initiative, signed by the consortium, sets broad guidelines for cooperating in the conservation of vernal pools and provides a framework for the management of the fragile habitat areas. The consortium is seeking comments on how best to implement its guidelines in each region and how to increase local involvement. For a copy of the agreement, contact Tim Vendlinski at the U.S. Environmental Protection Agency, 415-744-1989 or [vendlinski.tim@epamail.epa.gov](mailto:vendlinski.tim@epamail.epa.gov).

*-By Elizabeth Byers*

## Legislative Update

### **Spring Bills Flood Sacramento**

Assemblyman Fred Keeley (D-Santa Cruz) has introduced AB 1000, the \$663 million Clean Coastal Waters and River Bond Act. The bill would place a major natural resource protection bond funding program on the 1998 ballot. The proposal includes:

- \$335 million for the Coastal Conservancy to acquire, preserve, or restore river corridors, native forests, trails, urban waterfronts, wetlands, and agricultural lands in the coastal zone.
- \$113 million for the Wildlife Conservation Board to acquire and restore coastal wildlife areas, including wetlands and riparian habitat, and to build and repair fishing piers and fishing access facilities.
- \$75 million for various state and local agencies to acquire and improve land for river parkways.
- \$70 million for various agencies, including the State Water Resources Control Board, to prevent pollution of the Santa Monica and San Francisco Bays, and for coastal and watershed pollution prevention projects such as improved sewage and storm-water treatment projects.

AB 1000 was approved by the Assembly Natural Resources Committee in mid-April.

### **Park and Wildlife Bond Advances**

The \$495.5 million Parks and Resources Improvement Bond Act, SB 2 (Thompson), has been approved by the Senate Natural Resources and Wildlife Committee and is pending in the Senate Appropriations Committee. If approved by the legislature and the Governor, SB 2 will be placed before the voters in 1998. (See January/February issue for more on this bill.)

### **Tax Credits Charge Ahead**

The Senate Natural Resources Committee unanimously approved SB 87, which would give landowners a tax credit if they donate important natural lands or easements on agricultural lands to public agencies and approved nonprofit groups. The measure goes next to the Senate Revenue and Taxation Committee.

Another bill, SB 301 (Sher), expands and extends the existing state tax credit that provides private landowners with a 10-percent credit for salmon and steelhead trout habitat restoration and improvement projects. It was approved by the Senate Revenue and Taxation Committee, and is now before the Senate Appropriations Committee.

### **Flood Bonds and River Corridors**

The January floods were a wake-up call for more environmentally sound and effective flood-control measures. Traditional flood-control approaches have focused largely on building dams, channelizing rivers and constructing levees; many of these measures failed during the winter storms.

In contrast, the floods underscored the effectiveness of wise floodplain management. The Lower American River Parkway and the Sacramento Bypass, for example, helped protect the city of Sacramento from flooding by providing a place for the flood waters to go. There is a clear need for more responsible floodplain stewardship, such as purchasing land and easements on key floodplains, sending back levees to provide rivers additional room, restoring wetland and riparian areas, and establishing flood bypasses and river parkways.

The legislature's response to reducing flood damage in the future will likely focus on two bills—SB 312 (Costa) and AB 254 (Machado) that would place a significant flood-prevention bond act on the 1998 ballot. While the measures are very short on details at this time, the discussions have largely focused on funding more progressive, effective, and environmentally sound flood-control measures. The bills might also fund upgrades of existing levees and the state share of traditional federal Army Corps of Engineers flood-control projects.

If properly shaped, the flood bonds could provide a major opportunity to fund river and stream projects that have flood control as well as open-space benefits for local communities. Land trusts can help shape this measure by contacting their local legislators to inform them how protecting river and stream corridors can help avoid flooding throughout California.

### **Habitat Plan Adopted in San Diego**

The San Diego City Council unanimously adopted the Multiple Species Conservation Plan (MSCP) on March 18. The program will establish 172,000 acres of reserves for endangered species and other wildlife including the acquisition of approximately 90,000 acres of open-space lands.

The MSCP is part of the Natural Communities Conservation Plan (NCCP) approach to resolving conflicts between development interests and those seeking to protect endangered species by planning for the protection of critical wildlife habitat areas. The MSCP was supported by conservation groups, builders, farmers, and business representatives.

### **Bills to Watch Out For**

*SB 156 (Johannessen):* Attempts to make land conservation acquisitions more difficult by requiring nonprofit groups to pay fair market value for the lands they buy, and adds additional requirements that would question the fairness of land appraisals. SB 156 was to be heard by the Senate judiciary Committee on April 15.

*SB 157 (Johannessen):* Threatens the Proposition 117 Habitat Conservation Fund, the state's largest single source of habitat acquisition funding. SB 157 was to be before the Senate Natural Resources and Wildlife Committee on April 22.

### **Other Bills**

*SB 1048 (Sher):* Establishes the San Francisco Bay Program within the Coastal Conservancy to address, the natural resource and environmental needs of the nine-county San Francisco Bay Area. Projects could include, among others, protecting and restoring natural habitat and corridors associated with the bay and creating coastal and bay trails.

*SB 72 (McPherson).* Provides funds for parks to local agencies and nonprofit groups to establish coastal access facilities. Status: approved by the Senate Natural Resources and Wildlife Committee before the Senate Appropriations Committee.

*SB 1120 (Hayden):* Requires the state to prepare a manual to govern the scientific input to natural community conservation plans and establishes additional standards. Status: before the Senate Natural Resources and Wildlife Committee.

*SB 1182 (Costa):* Establishes a new voluntary agricultural land protection program that would provide Central Valley farmers with an annual payment equal to their property tax bill if they restrict the use of their lands to agricultural purposes for 30 years.

*AB 277 (Ortiz):* Allocates \$5 million from the Petroleum Violation Escrow Account to nonprofit organizations for energy-conserving tree-planting projects. Status: Before the Assembly Transportation Committee.

*AB 765 (Oller):* Establishes a, rainbow trout specialized automobile license plate to fund fish hatchery projects. Status: before the Assembly Transportation Committee.

*AB 1188 (Lempen):* Prohibits any state agency from transferring, selling, or extinguishing a coastal access easement without legislative approval and requests the Coastal Conservancy to accept all outstanding offers to dedicate coastal access easements. Status: pending in the Assembly Natural Resources Committee.

*AB 1179 (Woods):* Requires the Department of Forestry and Fire Protection to prepare a study assessing the potential water supply, and economic and environmental benefits, that would result from watershed rehabilitation projects. Status: before the Assembly Natural Resources Committee.

*AB 1506 (Ortiz) and SB 919 (Rainey):* Clarifies and attempts to make more workable the provisions of Proposition 218, which was approved by the voters last November. Proposition 218 limited the ability of local agencies to raise revenues through fees, taxes and assessments.

-By Corey Brown

## Calendar

### May

**Northern California Land Trust Council** meeting, May 9 (Friday). Hosted by the Peninsula Open Space Trust and held in Redwood City. Agenda items include a state legislative update, a discussion of conservation easement issues, a land trust round-table, and a field trip to Bair Island. Call 415-854-7096.

**Conference**, May 15-16, "21st Century California: Anticipating and Planning for Growth and Environmental Quality." Sponsored by UCLA Extension, held in Santa Monica. Fee is \$195 for both days, \$145 for one day. Nonprofit scholarships available. Call 310-825-7885.

**Grant Deadline**, May 23, for the California Wildlife, Coastal, and Park Land Conservation Bond Act Urban Forestry Grant Program. Grants of up to \$30-1000 to cities, counties, districts, and nonprofits for projects that plant trees on public property. For information, call Eric Oldar at the California Department of forestry and Fire Protection, 909-782-4140, ext. 6125.

**Grant Deadline**, May 31, for the California Department of Education's environmental education program. Schools, agencies and nonprofits can apply for grants of up to \$10,000 to create environmental education programs, develop program facilities, and for interdisciplinary program planning. Call 916-657-5374.

### June

**National Trails Day**, June 7. Trails organizations celebrate and promote a nationwide network of trails. Sponsored by the American Hiking Society. Contact Tony Look, California State Coordinator, 415-948-1829.

**Land Trust Alliance National Rally** registration begins in June. This year's rally will be held September 27-30 in Savannah, Georgia: This is the largest conference for and about land trusts in the country. The four-day agenda includes nearly 100 workshops on land protection tools and strategies, organizational development, fundraising, public-private partnerships, land stewardship, and community organizing. One-day field trips are also offered. Contact the Land Trust Alliance at 202-638-4725.

## How Land Trusts Can Get Involved

Partnerships between a land trust and a public agency applicant can strengthen the agency's FLP proposal and provide a more effective means of managing the property. Land trusts can:

- Encourage local agencies to apply for surplus property
- Provide community support for the application
- Help prepare the application and develop the park plan
- Take on co-management or management of the site
- Operate volunteer or educational programs on the site

On Saving Land is a publication for the California land trust community. Contributions from all readers are welcomed. Reproducing and distributing material from this newsletter is encouraged, provided credit is given to the author and On Saving Land. On Saving Land is a project of The Trust for Public Land (TPL), a national land conservation organization dedicated to preserving public open space. Part of TPL's mission is to work closely with urban and rural groups and government agencies to share knowledge of nonprofit land conservation techniques.

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Serena Herr, Editor  
Elizabeth Byers, Land Trust Program Director, Western Region

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## Federal Lands Become New California Parks

*Foil Ord Dunes State Park. Monterey County:* The California Department of Parks and Recreation will soon be adding 991 acres of the Fort Ord Army Base to the state park system. This acreage includes a four-mile stretch of beach and coastal dune habitat. The new park will include hiking trails, picnic and camp sites, a hostel facility, and a campfire center for interpretive programs.

*Mather Regional Park, Sacramento County:* The Sacramento County Department of Parks and Recreation is in the process of developing a 1,400-acre regional park complex on a portion of Mather Air Force Base. This will complement the 29-acre adjacent Mather Sports Complex transferred under the NPS program to the Cordova Recreation and Park District in 1994. The complex will be the county's second largest park, half of which will be set aside as open space, with the remainder being used for active recreational uses—soccer, softball, campgrounds, an equestrian center, picnicking, trails, and an amphitheater.

In 1994, the county parks department received a \$2 million Defense Conversion Assistance Program grant through the Federal Corporation for National and Community Service to help plan for the park conversion. The grant will enable the Sacramento Local Conservation Corps to conduct a two-year training and employment program at the park for 50 young adults annually. Their work will include resource restoration and construction of park improvements.

*Galaxy Recreation Center, San Bernardino:* In 1995, the city of San Bernardino acquired 7.5 acres of the Norton Air Force Base for a major recreation center. The center includes a 20,009 square-foot community center, a 21,000 square-foot gymnasium, a pool, tennis-courts, and a running track.

### **For More Information**

To find-out more about the NPS Federal Lands-to-Parks program, contact Joan Chaplick, Acting Program Manager, National Park Service, Pacific West Field Area, 600 Harrison Street, Suite 600, San Francisco, CA 94107-1372, 415-427-1444; or explore the program's Web page: [www.cr.nps.gov/rtca/flp/flphome.html](http://www.cr.nps.gov/rtca/flp/flphome.html)

You can obtain a copy of the GSA Federal Real Estate Sales Bulletin: 800-472-1313

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### **Land Conservation Web Sites**

Check the Internet to find out more about your land conservation colleagues. As with any Website, add the prefix <http://> before the addresses listed below.

#### **California Land, Trusts:**

American River Conservancy: [www.coloma.COM/arc/index.html](http://www.coloma.COM/arc/index.html)  
Bodega Land Trust: [www.bodeganet.com/BodegaLandTrust.html](http://www.bodeganet.com/BodegaLandTrust.html)  
Bolsa Chica Land Trust: [members.aol.com/bolsachic/bolsachi.htm](http://members.aol.com/bolsachic/bolsachi.htm)  
Land Conservancy of San Luis Obispo County: [www.slonet.org/vv/land\\_con](http://www.slonet.org/vv/land_con)  
Marin Agricultural Land Trust: [pomo.nbn.com/people/malt](http://pomo.nbn.com/people/malt)  
Martinez Regional Land Trust: [silcon.com/~MRLT/0home.html](http://silcon.com/~MRLT/0home.html)  
Mendocino Land Trust: [robinsongreen.com](http://robinsongreen.com)  
Mountains Conservancy Foundation: [www.cyberjava.com/earth](http://www.cyberjava.com/earth)  
Napa County Land Trust: [www.napanet.net/~nclt/who.html](http://www.napanet.net/~nclt/who.html)  
Ojai Valley Land Conservancy: [www.ojai.org/land.html](http://www.ojai.org/land.html)  
Palos Verdes Peninsula Land Conservancy: [www.palosverdes.com/pvplc](http://www.palosverdes.com/pvplc)  
San Joaquin Parkway and Conservation Trust: [www.riverparkway.org](http://www.riverparkway.org)  
Sempervirens Fund: [reality.sgi.com/employees/ctb/sempervirens](http://reality.sgi.com/employees/ctb/sempervirens)

#### **National Land Conservation Organizations:**

American Farmland Trust: [farm.fic.niu.edu/aft/aft.home.html](http://farm.fic.niu.edu/aft/aft.home.html)  
Land Trust Alliance: [www.lta.org](http://www.lta.org)  
The Nature Conservancy: [www.tnc.org](http://www.tnc.org)  
Trust for Public Land: [www.tpl.org/tpl](http://www.tpl.org/tpl)

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### **How to Get Copies of Legislation**

You can order copies of the governor's proposed budget (SB 130 & AB 107) or any current legislation by calling the Legislative Bill Room at 916-445-2323.

You can also access the text of bills and the legislature's upcoming agenda on the Internet at [www.sen.ca.gov](http://www.sen.ca.gov).

The Trust for Public Land  
FACT SHEET

**Mission**

The Trust for Public Land (TPL) is a private, nonprofit land conservation organization that works nationwide to conserve land for people. Founded in 1972, the Trust for Public Land specializes in conservation real estate, applying its expertise in negotiation, public finance, and law to protect land for public use. Working with private landowners, communities, and government agencies, TPL has helped protect more than 1,400 special places nationwide for people to enjoy as parks, playgrounds, community gardens, recreation areas, historic landmarks and wilderness lands.

**Green Cities Initiative**

TPL is working in cities and metropolitan communities around the country, supporting local efforts to create parks and protect endangered open spaces. Through the Green Cities Initiative, TPL has initially targeted 12 cities where opportunities, leadership, and community commitment coalesce to undertake a comprehensive land acquisition and park improvement program:

Atlanta, Georgia  
Austin, Texas  
Baltimore, Maryland  
Boston, Massachusetts  
Cleveland, Ohio  
Los Angeles, California

Minneapolis/St. Paul, Minnesota  
New York, New York  
Portland, Oregon  
Providence, Rhode Island  
San Francisco Bay Area, California  
Seattle, Washington

TPL's Green Cities Initiative -aims to increase -public awareness of the vital role of parks and open space in the quality of urban life, generate funding to create, improve and maintain urban parks, and protect public open spaces that preserve and celebrate a city's unique heritage.

**TPL Services**

Working with federal, state, county and municipal governments, and business, civic, and neighborhood organizations, TPL provides:

Interim site protection

- Assistance with real estate transactions and finance
- Information and technical support on public finance campaigns, for new public land
- Independent negotiations with landowners
- Bridge financing through revolving funds, loans, and lease-purchase agreements
- Planning assistance and help identifying opportunities for parks and land protection
- Effective public education campaigns to mobilize support for parks and open space

(over)

## Land Conservation

TPL has protected over 925,000 acres of land valued at more than \$1.2 billion in 44 states and Canada. TPL has also worked with over 300 of the nation's 1, 100 land trusts . These local nonprofit organizations currently protect approximately 4.1 million acres nationwide. TPL's National Land Counselor Program offers intensive training for land trusts in conservation real estate transactions.

## Project Highlights

Denali National Park and Preserve, Alaska  
San Bruno Mountain, San Mateo, California  
Roosevelt National Forest, Colorado  
Martin Luther King, Jr. National Historic District, Atlanta, Georgia  
Kilauea Point National Wildlife Refuge, Kauai, Hawaii  
Senka Park, Chicago, Illinois  
Monroe School (site of Brown v. Board of Education decision), Topeka, Kansas  
Walden Woods, Concord, Massachusetts  
White Mountain National Forest, New Hampshire  
Barnegat Bay, New Jersey  
Lower East Side Community Gardens, New York  
Columbia River Gorge National Scenic Area, Oregon and Washington  
Southside Community Farm, Providence, Rhode Island  
Barton Springs Wilderness Park, Austin, Texas  
Mountains to Sound Greenway Program, Washington

## President

Martin J. Rosen

### National Office

San Francisco, California (415) 495-4014  
1-800-714-LAND

### TPL Regional Offices

Boston, Massachusetts (617) 367-6200  
Minneapolis, Minnesota (612) 338-8494  
New York, New York (212) 677-7171  
San Francisco, California (415) 495-5660  
Santa Fe, New Mexico (505) 988-5922  
Seattle, Washington (206) 587-2447  
Tallahassee, Florida (904) 222-7911

### Urban Forestry

Costa Mesa, California (714) 557-2575  
San Francisco, California (415) 495-5660

### TPL Field/Project Offices

Atlanta, Georgia (404) 873-7306  
Austin, Texas (512) 478-4644  
Baltimore, Maryland (410) 243-3698  
Bozeman, Montana (406) 582-8881  
Cleveland, Ohio (216) 231-1479  
Denver, Colorado (303) 837-1414  
Los Angeles, California (310) 474-4466  
Miami, Florida (305) 667-0409  
Morristown, New Jersey (201) 425-0360  
New Haven, Connecticut (203) 777-7367  
Norwich, Vermont (802) 649-3611  
Portland, Oregon (503) 228-6620  
Sacramento, California (916) 557-1673  
Washington, D.C. (202) 543-7552

# HAWAII NATURAL HERITAGE PROGRAM

Tracking Hawaii's rarest plants, animals and natural communities

Detailed, comprehensive information on Hawaii's rarest species and ecosystems for protection, research, planning and management

## Why Pay Attention To Rare Hawaiian Plants And Animals?

Hawaii's native plants, animals, and ecosystems are a unique legacy in jeopardy. About 90% of Hawaii's native plants and animals occur nowhere else in the world, and by conservative estimates, nearly 1000 different kinds of Hawaiian plants and animals are threatened by extinction. Among the rare Hawaiian species are those with great cultural, scientific, and economic value. They represent a rich natural resource worth preserving.

Many rare Hawaiian plants and animals are also protected by state and federal laws which require assessments of human impacts on endangered species. Inadequate information on these significant resources has become a major problem for planners, researchers, environmental groups, and land managers in Hawai'i. Current trends point to more species added to the endangered list, and recognition of rare Hawaiian ecosystems as well. The need for information on rare species and ecosystems will continue to grow.

## What Is The Hawai'i Natural Heritage Program?

The Hawai'i Natural Heritage Program (HINHP) is a non-profit organization which compiles and maintains detailed, comprehensive information on Hawaii's rarest biological resources. The HINHP database is the state's largest computerized inventory of endangered, threatened and rare plants, animals, and ecosystems, extracted from all available sources. It includes detailed information on more than 700 native species in nearly 10,000 locations across the state. The HINHP database is an important tool for keeping abreast of rapid environmental changes in Hawai'i. It provides users with information needed to determine whether planned projects could affect rare native species or ecosystems.

## What Services Can HINHP Provide?

HINHP can compile and provide information on the rare biological resources of any lands in the State of Hawai'i. The information is presented in the form of detailed database records accompanying U.S.G.S. topographic maps and Geographic Information System (GIS) output that depict the locations of rare species and ecosystems. This provides a synthesis of information at island, state, national, and global levels.

When information for an area is incomplete, HINHP can provide experienced field survey crews trained to identify Hawaiian plants, animals and ecosystems. HINHP can also assess interpretive potential and management needs for native species and ecosystems at specific sites, and, working with the staff of The Nature Conservancy of Hawai'i, can formulate detailed management plans designed to protect native biological resources.

## How Heritage Program Services Have Been Used:

The Hawai'i Natural Heritage Program has provided services such as biological information, field surveys, and resource management reports to federal, state, and county agencies, private land owners, and land management companies. Recent HINHP users include:

**FEDERAL AGENCIES:**

- National Park Service
- U.S. Fish and Wildlife Service
- National Biological Survey
- Department of Defense

**STATE AGENCIES:**

- Department of Land and Natural Resources: Divisions of Aquatic Resources, Forestry and Wildlife, and State Parks, and the Natural Area Reserves System
- Department of Hawaiian Home Lands
- Hawai'i Coastal Zone Management Program
- Kaho'olawe Island Conveyance Commission
- Office of State Planning

**COUNTY & PRIVATE USERS:**

- Hawai'i County Planning Office
- Amfac/JMB, Inc.
- Bishop Museum
- Estate of James Campbell
- Maul Land and Pineapple Company
- Kamehameha Schools/Bishop Estate
- The Nature Conservancy of Hawai'i

Since 1987, HINHP has produced over 50 reports for a wide variety of users, for their immediate or long-range land-use or management planning. A full publication list is available.

*"In Hawai'i, up-to-date information on the historical and current location and status of rare and endangered species is of critical importance to land owners, managers, and planners. "*

The Hawai'i Natural Heritage Program provides the needed information:

**WHAT:** Maps and data for all endangered and candidate species in Hawai'i-even rare taxa and ecosystems not yet given state or federal status.

**WHERE:** 10,000 locations throughout the Hawaiian Islands, where these species and ecosystems still exist, sometimes in unexpected areas.

**WHY:** Support of conservation planning, compliance with regulations, resource management, scientific research, and education.

**HOW:** Computerized databases and a powerful new Geographic Information System augment a professional biological staff engaged in field research and surveys.

More than one hundred person-years of effort are represented by the information in the HINHP database: a vital source for all of Hawai'i Now available at reasonable rates for private and public users. Contact us for a free estimate.

**HOW TO CONTACT THE HAWAI'I NATURAL HERITAGE PROGRAM:**

Call (808) 537-4508 or Fax (808) 545-2019 for the Heritage Program Coordinator

or write:

**Hawai'i Natural Heritage Program**

1116 Smith Street, Suite 201

Honolulu, Hawai'i 96817

# SOME THINGS SHOULD LAST FOREVER

THE BATTLE TO HALT DESTRUCTION OF HABITAT AND THE CONSEQUENT LOSS OF SPECIES ... WILL BE WON OR LOST BY THE TURN OF THE CENTURY. SAVING SPECIES FROM EXTINCTION IS ONE OF THE GREAT TASKS OF OUR AGE."

JOHN SAWHILL  
PRESIDENT  
THE NATURE CONSERVANCY

## HAWAII'S NATURAL HERITAGE: UNIQUE AND VULNERABLE

The natural environment of Hawai'i is one of our planet's most magnificent treasures. Ninety percent of Hawaii's plants and animals (more than 10,000 species) exist nowhere else on Earth. The only tropical rain forests in the United States are found here.

But Hawaii's rare beauty and diversity of life are also exceptionally fragile. More species face possible extinction in Hawai'i than anywhere in the nation. Although Hawai'i occupies only 0.2% of the land area of the United States, nearly 75% of the nation's documented plant and bird extinctions are from Hawai'i. With extinction occurring at rates thousands of times greater than normal, scientists predict that the battle to save hundreds of Hawaii's native species will be won or lost in the next decade.

## WHY DOES IT MATTER TO US?

### **Extinction is irreversible.**

There is no way to replace a species once all of its members are gone. For thousands of species, Hawai'i is their only home, and our help is their only hope for survival.

### **We need fresh water.**

Forest watersheds supply us with almost all of the fresh water we need for our families, businesses and visitor industry.

### **We need agricultural resources.**

Our agricultural industry depends on Hawaii's mild climate and water supply, and therefore depends on healthy forest watersheds. Hawaiian species have already contributed to the genetic improvement of major agricultural crops.

### **We need medicines.**

We rely on native organisms for 75% of all the pharmaceutical products and medicines we use. Penicillin, digitalis, and morphine are a few examples. Without protection of our natural lands and species, we may never know the value of what we are losing.

### **Hawai'i is a center for scientific study.**

Hawai'i is an unparalleled natural laboratory for the study of genetics and evolution. Studies of native insects have already revolutionized scientific understanding of how species evolve.

### **Hawaii's economy depends on its environment.**

Tourism is Hawaii's number one industry. Hawaii's lush green forests, vibrant coral reefs, and crystal clear waters provide scenic value beyond measure.

### **Hawaii's culture is linked to its rich natural heritage.**

Hawaiian cultural traditions reflect a close, long-standing relationship with the islands' landscape, native species, and ecological processes. Nature is celebrated in chant, song, and dance. The Hawaiian culture cannot survive without the land and natural resources from which its traditions evolved.

"THE NATURE CONSERVANCY'S HELPING US PROTECT OUR UNIQUE HAWAIIAN HERITAGE - THE BASIS OF OUR VISITOR INDUSTRY AND THE ROOT OF MANY OF OUR CULTURAL VALUES. WITHOUT OUR CARE AND SUPPORT, THIS RICH NATURAL HERITAGE COULD SLIP AWAY FROM US FOREVER."

JOHN WAIHEE  
GOVERNOR OF HAWAII

## THE ROLE OF THE NATURE CONSERVANCY

The Nature Conservancy of Hawai'i is an international nonprofit organization dedicated to the protection of Hawaii's native forests and wildlife. We protect the plants and animals that best preserve the diversity of life on Earth by protecting the places they need to survive. We are an affiliate of The Nature Conservancy, an international organization established in 1951. With programs in all 50 states, the Caribbean, Latin America, Canada and the Pacific, The Nature Conservancy manages the largest system of private nature preserves in the world, and has helped protect more than 6 million acres in the U.S. and Canada.

### **We are science driven.**

Our Hawai'i Heritage Program statewide database helps us identify areas most in need of protection. Since 1986, we have been gathering detailed information on the location and status of the plants and animals that make up Hawaii's 150 different natural communities. With this information, we can set protection priorities and help others make informed land management decisions.

### **We work with partners.**

The job of protecting Hawaii's spectacular natural environment is too great for any one group to do alone. We work together with private landowners, government, corporations, schools, and individuals like you to expand and improve land management, environmental education, research, and planning.

### **We produce tangible results.**

Every year, our success can be measured in acres and species protected. We've already helped protect tens of thousands of acres and thousands of Hawaii's native species.

"THE NATURE CONSERVANCY IS A GOOD EXAMPLE OF HOW ENVIRONMENTALISTS AND BUSINESSES CAN SUCCESSFULLY WORK TOGETHER."

FINANCIAL NEWS NETWORK

"THEY ARE ALL ACTION AND NO TALK. WHILE OTHERS HAVE BEEN PREACHING CONSERVATION, THEY HAVE BEEN PRACTICING IT."

FRANK DUNKLE FORMER  
HEAD OF U.S. FISH & WILDLIFE SERVICE.

## WITH YOUR HELP, THERE'S HOPE

Working with our partners, we have made great progress in recent years. But current efforts are not enough. This is the decade that counts and we cannot afford to wait. We ask you to act now - for yourselves, for your children, and for future generations. By the time today's children are grown, one of every five species on Earth may be gone forever unless we move quickly to protect them.

By working together now, we can make a lasting difference. Become a member and join our efforts. For a tax-deductible donation of \$25 or more, you will become a member of both the national and Hawai'i organizations. As a member, you will receive a beautiful bimonthly full-color magazine, a quarterly Hawai'i newsletter, and invitations to join us for hikes, preserve work parties, and other events. You'll also have the satisfaction of knowing that you are taking a personal role in protecting Hawaii's spectacular environment for future generations.

"WILL FUTURE GENERATIONS PRAISE US FOR FORESIGHT OR LOOK BACK IN ANGER AND DISMAY AT WHAT WE HAD, AND WHAT WE LOST FOREVER?"

NATIONAL GEOGRAPHIC

## A PROVEN TRACK RECORD

The Nature Conservancy of Hawai'i was established in 1980. Working closely with our government partners, and with the support of many individuals, corporations, and foundations, we have already protected nearly 50,000 acres: land critical to the preservation of our water supply and the survival of rare and endangered plants and animals found nowhere else on Earth. With expertise in both business and biology, we have a strong record in forging workable compromises between diverse interests in the service of nature:

"CONSERVATION'S BEST-KEPT SECRET ... A RESULTS-ORIENTED, INTERNATIONAL ORGANIZATION WITH A LONG RECORD OF SUCCESS."

TIME MAGAZINE

## **The Nature Conservancy of Hawaii**

1116 Smith Street, Honolulu, HI 96817

Telephone: 808 537-4508. Fax: 808 545-2019

National Office: 1815 North Lynn St., Arlington, VA 22209

This brochure is made possible by a grant from Aloha Airlines.

# THE PRESERVES OF THE NATURE CONSERVANCY OF HAWAII

## HONOULIULI

*O'ahu* 3,692 acres

Located on the southeast slope of the Wai'anae mountains above Makakilo, Honouliuli Preserve is home to more than 45 rare plant and animal species, and contains some of the last remaining habitat on O'ahu for native forest birds. Leased from The Estate of James C. Campbell, Honouliuli Preserve protects several Hawaiian plants that are found nowhere else on Earth, and several species of native land snails, two of which are endangered. For information on monthly guided hikes and volunteer opportunities, please call the Honolulu office at (808) 537-4508.

## 'IHI'HIHLAUAKEA

*O'ahu* 30 acres

Located in a shallow crater on the dry southeast coastline above Hanauma Bay, this preserve is a cooperative effort by the Conservancy and the City & County of Honolulu to protect a one-of-a-kind vernal pool and the rare fern *Marsilea villosa* from misuse and weed invasion. Due to the fragile nature of the area, visitation is limited. Contact the Honolulu office at (808) 537-4508 for more information.

## KAPUNAKEA

*Maui* 1,264 acres

Amfac/JMB, Inc. presented The Nature Conservancy with a gift of a conservation easement to protect the area at Kapunakea in the West Maui mountains. Located above Ka'anapali, Kapunakea Preserve protects at least 25 different types of rare Hawaiian plants, animals, and natural communities, including jewel-like snails, the native forest birds 'iwi and apane, the spectacular 'ahi hinahina (West Maui Silversword), and pristine Hawaiian montane bogs, which are home to the delicate Maui bog violet. Kapunakea is an important link in the protection of more than 13,000 acres of summit rain forests: the source of West Maui's fresh water. Monthly guided hikes are offered. Please contact the Preserves Manager, P.O. Box 1716, Makawao, Hawai'i 96768 or call (808) 572-7849 to arrange your visit.

## KALUAHONU

*Kaua'i* 213 acres

Leased to The Nature Conservancy by Grove Farm, Kaluahonu Preserve is the largest privately-owned nesting site for the Newell's Shearwater, ~io, a threatened seabird species. For the protection of the ground-nesting 'a'o, the preserve is closed to the public.

## KANEPU'U

*Lana'i* 590 acres

On the slopes of western Lana'i, Kanepu'u Preserve represents the best remaining example of native dryland forest that once covered vast areas of Hawaii's lowlands. To protect the area, which will be the site of research to guide restoration efforts throughout the tropics, Castle & Cooke Properties, Inc. gave The Nature Conservancy a conservation easement over the lands of Kanepu'u. Access to portions of the preserve may be arranged by contacting the Conservancy at (808) 537-4508.

## MAUI LAVA TUBES

*Maui*

This preserve protects one of Hawaii's finest known lava tube ecosystems and the uniquely adapted cave insects that occur only at this site. This preserve is protected through a conservation easement granted to the Conservancy by the landowner. The ecosystem is so fragile that the preserve's location cannot be publicized. Research here promises important new insights into species adaptation and evolution.

## PELEKUNU

*Moloka'i* 5,714 acres

In 1987, the Conservancy purchased 5,714 acres in Pelekunu Valley from Moloka'i Ranch to create this preserve on Molokai's rugged north coast. Accessible only on foot or by boat, the valley's remoteness has protected its lowland rain forests, verdant sea cliffs, and one of Hawaii's last remaining free-flowing streams. For safety reasons, the Conservancy does not encourage public access to the preserve.

## KAMAKOU

*Moloka'i*

2,774 acres

To protect the native rain forests and shrublands of Kamakou, The Nature Conservancy purchased a conservation easement from Moloka'i Ranch. In these remote forests live the 'apapane and other native forest birds, along with several hundred species of plants, insects, and land snails found only in Hawai'i. The lush forest is also a major source of water for Moloka'i. For information on monthly hikes, please write P.O. Box 220, Kualapu'u, Hawai'i 96757, or call (808) 553-5236.

## MO'OMOMI

*Moloka'i*

921 acres

On the northwest coast of Moloka'i, the windswept dunes of Mo'omomi shelter six globally imperiled plant species. The endangered Hawaiian green sea turtle nests here and the Conservancy hopes seabirds will recolonize the area. To protect the dunes, which also shelter important sites for Hawaiian prehistory, paleontology, and geology, the Conservancy purchased Mo'omomi from Moloka'i Ranch. For information on monthly guided hikes, please write P.O. Box 220, Kualapu'u, Hawai'i 96757, or call (808) 553-5236 to arrange your visit.

## WAIKAMOI

*Maui*

5,230 acres

This beautiful preserve's high elevation rain forest and alpine shrubland are habitat for 12 Hawaiian bird species, seven of them endangered, and hundreds of other plants and animals that exist nowhere else on Earth. The preserve was established in 1983 when The Nature Conservancy purchased a conservation easement from Haleakala Ranch Company. Waikamoi Preserve protects some of the state's best remaining forests, essential watershed for Maui. Because the area is remote and rugged private land, access is limited to guided hikes. For information on regular guided hikes, contact the Preserves Manager, P.O. Box 1716, Makawao, Hawai'i 96768, or call (808) 572-7849.

## HOW DO WE CREATE A PRESERVE?

### *Identification*

We identify key natural areas by consulting the Hawai'i Heritage Program statewide database, which contains detailed information on more than 775 different rare Hawaiian plants, animals, and natural communities. By protecting native natural communities in Hawai'i, we protect the largest possible number of native species at the same time, including many that are rare and endangered.

### *Protection*

After we have identified the areas where the best examples of the most critically imperiled natural Communities exist, we work to secure their legal protection not only for today, but for generations to come. If the targeted area is on government lands, we work to secure appropriate designation for protection and provide management recommendations. On private lands, we use a variety of protection tools, including the gift or purchase of a conservation easement, a cooperative agreement, outright purchase, or purchase and resale to a government agency. Whatever approach we take, our primary goal is always to provide a long-term legal safeguard for the preserve and for our investment in its protection.

### *Management*

Once the legal rights to an area have been secured, we begin to protect the area from threats such as wildfire and introduced plants and animals, study native species, and provide public access where possible. This final element, sometimes referred to as stewardship, is a challenging, costly, and ongoing process. It represents the real battle to save Hawaii's natural heritage.

### *Support*

Identification, protection, and management are all essential elements in the process of creating a Nature Conservancy preserve. But none of this could happen without the support of landowners, foundations, corporations, government agencies, and our members. Preserves are created through the work of many people who dedicate their time and resources to save Hawaii's important natural areas and wildlife for future generations.

## JOINT PROJECTS

The Nature Conservancy of Hawai'i has helped to protect more than 50,000 acres on six islands. The Conservancy manages 10 preserves and has helped to protect three other natural areas through joint projects.

### *Hakalau Refuge*

Located on the windward slopes of Mauna Kea, this refuge contains a portion of the state's largest remaining koa-'ohi'a forest and protects important watershed on the Big Island of Hawai'i. Six endangered bird species and the 'ope'ape'a (Hawaiian hoary bat), our only native land mammal, live here. Conservancy interests have been transferred to the U.S. Fish and Wildlife Service for management as part of the Hakalau Forest National Wildlife Refuge. The refuge, now the largest in the main Hawaiian Islands, encompasses more than 32,000 acres.

### *Kipahulu Valley*

Maui's Kipahulu Valley was the Conservancy's first project in Hawai'i. The Conservancy and the State of Hawai'i jointly purchased and gave the 9,980-acre upper valley to the nation as part of Haleakala National Park. Thousands of visitors enjoy the beauty of Kipahulu's pools at 'Ohe'o. The pristine native forest on the upper slopes of Haleakala is habitat for several endangered forest bird species and access is restricted.

### *Pu'u Kukui*

The West Maui Mountains are not only the source of fresh water for agriculture, resorts, and residents, they also shelter pristine rain forests. Pu'u Kukui is part of one of the richest biological areas in Hawai'i. More than 125 different types of rare Hawaiian plants, animals, and natural communities are found from the coastline to the summit peaks of the West Maui mountains. Here in the native forest above the pineapple fields, Maui Land & Pineapple Company of Kapalua implements its own watershed management programs with support as needed from The Nature Conservancy of Hawai'i. Pu'u Kukui is dedicated to the memory of Colin C. Cameron.

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The Nature Conservancy of Hawai'i is an affiliate of The Nature Conservancy, an international non-profit organization which, since 1951, has been the private sector leader in preserving Earth's rare plants and animals by protecting the places they need to survive.

## The Nature Conservancy of Hawaii

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*JUNE 1996/5M*

# A Landowner's Guide to Conservation Options

## The Nature Conservancy

### Land Conservation Options

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### Why Consider Protecting Your Land?

The mission of The Nature Conservancy is to preserve plants, animals and natural communities that represent the diversity of life on Earth by protecting the lands and water they need to survive. Each year, millions of acres -forest and prairie, mountain and shore, desert and wetland are irretrievably altered worldwide. Today, More than ever before, long-term protection of vital natural areas depends in part on the actions of foresighted private landowners.

Ensuring that your land is protected in its natural state can bring many benefits. Perhaps the most gratifying is the knowledge that present and future generations will cherish the natural sanctuary your actions made possible. There can also be substantial tax advantages.

This booklet will outline the benefits of working with The Nature Conservancy and present a variety of tools that may be applied to protect your property. Determining which option may be right for you will involve careful consideration, and we hope this booklet will provide some background to the issues involved.

The Nature Conservancy offers many potential options to private landowners. Many of the preserves protected by the Conservancy were either donated or acquired for less than full value.

Of course, not every property is appropriate for preservation as a natural area. The Nature Conservancy has specific goals concerning protection of ecologically important natural areas and the preservation of biological diversity. Because the organization's resources are limited, the land's ecological significance must further the Conservancy's stated conservation goals in order to be acquired a preserve. However, even if you own land without ecological value, such as developed real estate, you can donate it to the Conservancy. The Conservancy will then sell the property, and use the proceeds to acquire high-quality natural areas. Such properties are known at the Conservancy as "trade lands."

### The Role of The Nature Conservancy

Before you begin working on a plan for the future of your land, you need to define your goals and objectives for the property. You may be able to accomplish this by asking a few key questions. How important is continued ownership of the land? What are your tax concerns? Should you limit development and other potential uses of your land? Is the land important as a future revenue source?

The Nature Conservancy can help you by exploring the range of options with you, explaining the Conservancy's conservation goals, and providing general information on legal and tax issues. It is essential, however, that you also obtain your own independent professional advice.

# Protecting Land While Retaining Title

## CONSERVATION EASEMENTS

Conservation easements are restrictions landowners voluntarily place on their land to bind the actions of present and future owners of the property. Property ownership is a combination of privileges that allows a landowner to exercise certain rights. Being allowed to cut timber, explore for minerals, dig a ditch and build a house are all examples of a landowner's rights. A conservation easement restricts the landowner's ability to exercise some or all of these rights in order to preserve the natural features of the land, to protect the flora and fauna found on the land or otherwise to meet the conservation needs of the property.

The rights the owner relinquishes and those he or she retains are set forth in a legal document known as a "conservation easement." The easement is transferred to either a qualified conservation organization or a government agency. When the document is properly drawn, signed and recorded on the land records, the property's current and future owners can no longer exercise the right relinquished in the conservation easement. Each conservation easement must be a particular piece of property and its unique natural characteristics in mind. The specific rights retained by a landowner or restricted an easement will vary with each property.

This section highlights a landowner should consider before re deciding to preserve land through a conservation easement. The Nature Conservancy is primarily involved with conservation easements designed to protect the natural characteristics and features of property, and easements are discussed here from that perspective. Easements for other purposes, may have requirements not addressed in this brochure.

### WHAT RIGHTS DOES THE HOLDER OF THE CONSERVATION EASEMENT HAVE?

The conservation easement "holder" - the qualified conservation organization or government agency - has the right to enforce the restrictions placed on the land. In addition, the easement holder has a limited right of access for inspection, scientific data collection or other purposes agreed to by the landowner.

If the land requires active management to preserve or restore its natural values, some management rights may also be granted to the easement holder. But the conservation easement does not allow the holder to do anything that the landowner is prohibited from doing to the land.

Conservation easements can be used to preserve wildlife habitat, open space, agricultural land, or the historic features of a building while allowing the landowners to continue owning and using the property.

### WHAT RIGHTS AND DUTIES DOES THE LANDOWNER RETAIN?

The landowner retains all rights in the property other than the ones specifically relinquished or restricted by the conservation easement. The landowner still owns the land and can use it in any way consistent with the restrictions. For example, the landowner can sell the land, live on it or leave it by will. The landowner is obligated to pay real estate taxes on the property and ensure that the restrictions are not violated.

### WHAT RESTRICTIONS CAN A CONSERVATION EASEMENT INCLUDE?

A conservation easement can include almost any kind of restriction agreed to by the landowner and the easement holder. For example, it can provide that the land must be left completely in its natural state. In other cases, the easement may restrict subdivision or development of the land but allow activities such as forest or grazing management. Even construction of new facilities may be allowed, provided it does not destroy the ecological value of the land or interfere with the conservation purpose of the easement. The easement can be applied to the landowner's entire property or to only a portion of it, such as the land along the shore of a lake or stream.

Each conservation easement is specific to the protection needs of the particular piece of land. The terms of the easement must be precise and detailed. The condition of the property at the time the easement is finalized should be documented in a report using maps, photographs and biological inventories. This documentation can help avoid future disagreements or uncertainties that may arise after the land changes ownership.

### WHAT ARE THE LEGAL CONSIDERATIONS IN GRANTING A CONSERVATION EASEMENT?

The effectiveness, consequences and legality of a conservation easement are governed primarily by the laws of the state in which the land is located. The Nature Conservancy has experience in drafting easements that comply with the applicable laws in many states, but all prospective grantors of a conservation easement should consult their own attorneys and tax advisors as to the laws of their state and the legal and tax implications of the proposed grant.

Conservation easements must be tailored to each situation. Many states have adopted legislation that specifically recognizes conservation easements as legally valid arrangements. In other states, a conservation easement may not be perpetually enforceable unless the recipient owns adjacent lands.

Conservation easements are not easily amended or terminated. Because of these and other similar concerns, it is important that a landowner approach this topic knowledgeably and with appropriate expert advice.

## WHAT ARE THE TAX CONSIDERATIONS OF DONATING AN EASEMENT?

The federal income tax benefits of donating a conservation easement are similar to those of making other tax deductible gifts of real property but are subject to some unique requirements. As with other gifts of land, a taxpayer is entitled to take a federal income tax deduction for the value of the interest in land given to charity.

To meet the additional criteria necessary to qualify for this deduction, a conservation easement must be given in perpetuity to a qualified organization for a qualified conservation purpose. Many conservation organization - including The Nature Conservancy and government agencies meet the criteria for qualified organizations. Qualified conservation purposes include:

- The preservation of land for public outdoor recreation or education.
- The protection of natural habitats of fish, wildlife or plants.
- The preservation of open space including farm and forest land for scenic enjoyment or pursuant to an adopted governmental conservation policy.
- The preservation of historically important land or buildings.

The value of a conservation easement must be based upon an appraisal for tax purposes. Appraisals are the responsibility of the landowner and must be acceptable able to the Internal Revenue Service. Although often difficult to calculate, the value of an easement is generally the difference between the value of the land unrestricted and the value of the land with perpetual conservation restrictions in place. For example, if a tract of land is valued at \$50,000 without restrictions and at \$20,000 after the conservation easement has been given, the value of the conservation easement (and the amount of the tax deduction) is \$30,000.

**CAUTION:** Each parcel of land and each conservation easement is unique, and there can be no set or average percentage of value attributed to any rights relinquished. Each situation will be different. Real property tax assessments are based on the property's value as determined by a local assessor. State law, local practice and local tax assessors determine whether a conservation easement causes a reduction in the assessed value. If the assessed value of the property is reduced by the easement, then real property taxes may be lowered.

A gift of a conservation easement may also reduce federal estate taxes whether the gift takes place prior to death or through a will. In the first case, the value of the property in the estate may be reduced; in the second, the value of the easement is deducted as a charitable contribution from the value of the estate. Both cases may mean reduced estate taxes. Too often, heirs who have inherited family land must sell all or a portion of the property to pay the estate or inheritance taxes. Conservation easements may be an effective way to pass land on to the next generation in its natural state.

## THE EASEMENT DOCUMENT ITSELF

As this brochure has stressed, each conservation easement is unique and must be in individually crafted to address the particulars of the property involved, the natural resource being protected, and the needs of the landowner and the easement holder. Each easement should address what the landowner and the easement holder have agreed upon in as much detail as possible. Often resembling deeds or other documents used to transfer interests in land, easements will have a great deal of legal language to ensure that they are valid and that the intentions of the parties are carried out. Easements accepted by The Nature Conservancy usually include the following components:

- A discussion of the conservation purpose of the easement.
- Provisions to ensure that the easement is legally valid and enforceable, and, to the extent possible, tax-deductible.
- The specific rights that are conveyed to the easement holder, such as *the right to inspect the property to make sure the easement is being followed, and the right to enforce the provisions of the easement.*
- The specific restrictions on the landowner's use of the property. Restrictions typically contained in conservation easements usually address a number of land use issues including *disturbance of the natural habitat; introduction of non-native species; forest, grazing, or agricultural management; mining, dredging, filling, dumping, etc.; development, such as buildings, roads, bridges and other improvements; wetlands and other waterbodies.*
- The specific activities that the landowner may continue on the property, such as *the ability to sell the property, the ability to use the property for any and all purposes consistent with the conservation purpose of the easement or otherwise restricted, and the ability to build additional buildings at specified locations, hut only if the conservation values of the property will not be adversely affected.*

The easement should also contain a number of general legal provisions addressing such issues as where formal notices should be sent, who is responsible for real estate taxes, how an easement can be amended and other similar matters. The Nature Conservancy staff will work closely with landowners and their advisors to draft the easement document.

## Protecting Land While Transferring Title

Often a landowner's objective is to dispose of his or her real estate. The Nature Conservancy can acquire outright interests in real estate.

### **OUTRIGHT DONATION**

Many of The Nature Conservancy's preserves have been created by generous donations of land. Giving your land to the Conservancy (or to another qualified conservation charity) is the simplest way to protect your land. No financing or negotiations about price are necessary. You only need to obtain the approval from the organization to which the land will be given and then sign the deed. A gift insures long-term protection of the land, relieves the owner of management responsibilities and payment of property taxes, and offers income tax benefits. The owner can use the fair market value of the property as a charitable deduction when calculating income taxes. The fair market value must be established by an independent appraisal. In addition, no capital gains taxes are due upon the transfer, and the value of the property is removed from the taxable estate.

### **BARGAIN SALE**

In a bargain sale, your property is purchased for less than fair market value. If The Nature Conservancy purchases your property for less than fair market value, you can claim a charitable deduction against your income for the difference between the bargain sale price and the fair market value. This difference must be documented by an independent appraisal. The deduction can be used to offset realized capital gains from the sale portion.

When combined with other savings, including not paying a broker's commission, the landowner may achieve nearly the same after tax financial return, while providing a significant gift to the Conservancy.

### **SECTION 1031 EXCHANGES**

Under a special provision of the Internal Revenue Code, landowners may exchange real property for other "like-kind" real property without having to recognize capital gains on the transaction. These transactions often involve either two or three different landowners. These exchanges allow landowner to continue to own valuable real estate but transfer the original property to the Conservancy.

### **SALE AT FAIR MARKET VALUE**

A sale at fair market value is the sale of property for the price a knowledgeable buyer will pay for the land from a willing seller. If your land is purchased by the Conservancy for its fair market value and it has appreciated in value since originally acquired, you will be liable for income tax on the capital gain.

### **RETAINED LIFE ESTATE**

An individual may wish to donate property to ensure that it will be protected in its natural state, but desire to retain possession and use the property for his or her lifetime or perhaps the lifetimes of other members of the immediate family (retained possession may also be for a fixed number of years). To accomplish this goal, the individual may, with the consent of the recipient, donate the property to a charitable organization yet retain an interest in it - a "life estate." The interest given to the charitable organization is called a "remainder interest."

For income tax purposes, the deduction available for such a contribution is decreased by the value of the life estate retained by the donor, as determined by the actuarial tables published by the Internal Revenue Service. Reservation of more than one life estate may cause a substantial further reduction in the amount of the deductible remainder interest. In addition, the holder of the life interest continues to be responsible for real estate taxes and for insurance and maintenance costs during the period of the life estate.

A deduction for contributions of a remainder interest is permitted if the property is "qualified conservation property" or if the property is the donor's personal residence or farm.

### **GIFTS OF LAND BY WILL**

The Conservancy often receives property by will. Those who choose to leave land to the Conservancy in their will do so to ensure that the natural features of the land are protected and bring enjoyment to future generations, or to provide funds for our conservation mission through a trade land gift.

Please contact the Conservancy before you include a gift of land in your will. We can discuss with you, in confidence, language that could be used to ensure that your wishes are followed and that you will achieve the desired estate tax results.

### **TRADELANDS**

The Conservancy accepts gifts of appreciated real estate without significant natural values. These properties - residential, industrial, and commercial, developed and undeveloped - are called "trade lands" by The Nature Conservancy. They can be donated outright, by will, or through a retained life estate if the property is a personal residence or farm.

If you donate such property, you can make a vital contribution to the Conservancy's land preservation program. A trade land is not protected as a nature sanctuary. It is sold, and the proceeds are used to acquire and protect high-quality natural areas. Trade

lands can be any kind of real estate. Homes, ranches, apartment buildings, vacant land, retail centers and office buildings are all examples of the kind of real estate the Conservancy has accepted.

Identical Lax treatment is accorded to gifts of trade land and ecologically important land.

### **TAX CONSIDERATIONS OF TRANSFERRING TITLE**

The provisions of the Internal Revenue Code encourage donations of land to The Nature Conservancy and other publicly supported nonprofit organizations. Individuals and corporations may deduct the full fair-market value of their gifts of land to The Nature Conservancy on their Federal income tax returns, subject to the limitations explained below. In addition, many states allow for similar tax benefits for state income taxes.

For the individual donor, the full fair-market value of long-term capital gain property (capital assets held for more than 12 months) is deductible, subject to the limitation that it can be deducted against up to 30 percent of your adjusted gross income (AGI) for the year of the donation. You may carry over the balance of the deduction for up to five succeeding years, subject to the same 30-percent-of-AGI limitation it, each of those years.

For corporations, the deduction limit is 10 percent of the corporation's income before taxes. The same carry-over period applies.

These rules apply to all long-term capital gain property, including gifts of conservation easements and appreciated securities. It should be noted that gifts of capital assets held for 12 months or less and gifts of property that would generate ordinary income produce limited tax benefits. While these gifts can be deducted up to 50 percent of your adjusted gross income with the five-year, carry-forward benefit, you lose the benefit of any appreciation in value since the deduction is limited to the basis of the property.

In addition, stringent Internal Revenue Service rules require an appraisal before a person may take a deduction for the donation of property or interests in property other than cash or "publicly traded securities" if the amount donated is greater than \$5,000. This appraisal is the responsibility of the donor and must be performed by a qualified appraiser. Also, the donor must attach an Appraisal Summary (IRS Form 8283) to the tax return for gifts of real estate or other non-cash items (excluding "publicly traded securities") having a value of more than \$500.

This discussion of the tax considerations is necessarily general in nature and should not be considered a complete discussion on this topic. Tax matters, as well as all aspects of a donation of real estate, should be discussed with your own independent advisor.

## **To Work With The Nature Conservancy**

The Nature Conservancy has field offices in every state. For further consultation with the Conservancy, call (703) 841-5300 to find the telephone number and address of the office nearest you.

### **The Nature Conservancy**

International Headquarters – Arlington, Virginia

**Appendix C**  
**Hawaii Revised Statutes**  
**and**  
**Administrative Rules**

## Note

Section 85-32 referred to in text is repealed.

## CHAPTER 195 NATURAL AREA RESERVES SYSTEM

## SECTION

- 195-1 FINDINGS AND DECLARATION OF NECESSITY
- 195-2 DEFINITIONS
- 195-3 HAWAII NATURAL AREA RESERVES SYSTEM
- 195-4 POWERS AND DUTIES OF THE DEPARTMENT
- 195-5 RULES AND REGULATIONS
- 195-6 NATURAL AREA RESERVES SYSTEM COMMISSION
- 195-6.5 NATURAL AREA PARTNERSHIP PROGRAM
- 195-6.6 REPORTS
- 195-7 POWERS AND DUTIES
- 195-8 PENALTY
- 195-9 NATURAL AREA RESERVE FUND; HERITAGE PROGRAM; ESTABLISHED
- 195-10 ALIENATION OF NATURAL AREA RESERVES
- 195-11 RESERVES SYSTEM MANAGEMENT PLAN

## Case Notes

Claim for relief against state officials based on alleged illegality of exchange of ceded lands was barred by State's sovereign immunity. 73 H. 578, 837 P.2d 1247.

**[§195-1] Findings and declaration of necessity.** The legislature finds and declares that (1) the State of Hawaii possesses unique natural resources, such as geological and volcanological features and distinctive marine and terrestrial plants and animals, many of which occur nowhere else in the world, that are highly vulnerable to loss by the growth of population and technology; (2) these unique natural assets should be protected and preserved, both for the enjoyment of future generations, and to provide base lines against which changes which are being made in the environments of Hawaii can be measured; (3) in order to accomplish these purposes the present system of preserves, sanctuaries and refuges must be strengthened, and additional areas of land and shoreline suitable for preservation should be set aside and administered solely and specifically for the aforesaid purposes; and (4) that a statewide natural area reserves system should be established to preserve in.. perpetuity specific land and water areas which support communities, as relatively unmodified as possible, of the natural flora and fauna, as well as geological sites, of Hawaii. [L 1970, c 139, pt of §1]

**§195-2 Definitions.** As used in this chapter, unless otherwise indicated by the context:

"Board" means the board of land and natural resources.

"Commission" means the natural area reserves system commission.

"Cooperating entity" or "cooperator" means a private nonprofit land-holding organization or any other body deemed by the department as satisfactorily able to assist in the identification, acquisition, and management of natural area reserves.

"Department" means the department of land and natural resources.

"Heritage program" means a comprehensive natural resource inventory data base for public information that includes the location of rare plants, animals, and natural communities (ecosystems) in the State.

"Landowner" means any person or entity having the fee simple interest in land in the State.

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"Natural area reserve" means an area designated as a part of the Hawaii natural area reserves system, pursuant to criteria established by the commission. [L 1970, c 139, pt of §1; am L 1987, c 350, §2; am L 1991, c 326, §2]

**[§195-3] Hawaii natural area reserves system.** There shall be a Hawaii natural area reserves system, hereinafter called the "reserves system", which shall consist of areas in the State of Hawaii which are designated in the manner hereinafter provided as natural area reserves. The reserve system shall be managed by the department of land and natural resources. [L 1970, c 139, pt of §1]

**§1954 Powers and duties of the department.** (a) To preserve, manage, and protect the reserves system, the department is authorized, in addition to any other powers, to:

- (1) Designate and bring under its control and management, as part of the reserves system, any areas as follows:
  - (A) State owned land under the jurisdiction of the department may be set aside as a natural area reserve by resolution of the department, subject to the approval of the governor by executive order setting the land aside for that purpose;
  - (B) New natural area reserves may be established:
    - (i) By gift, devise, grant, reimbursement to cooperators, exchange, or purchase of land or any interest therein, including, but not limited to, conservation easements;
    - (ii) By eminent domain pursuant to chapter 101; or
    - (iii) By the setting aside of state owned land for that purpose by the governor, as provided in section 171-11;
- (2) Cooperate or contract with any federal, state, or county governmental agency, quasi-governmental agency, private organization, or individual in carrying out the purpose of this chapter;
- (3) Acquire by gift, devise, grant, or donation any personal property to be used in the acquisition or management, or both, of natural area reserves;
- (4) Implement, after consultation with the commission and based on the most comprehensive up-to-date compilation of scientific data, the acquisition, management, protection, and use of natural area reserves; and
- (5) Prepare and take the necessary steps to implement the management plan set forth in section 195-11.
- (6) The department, with at least twenty days notice, shall conduct one or more public hearings before terminating state funding for a management plan approved by the board under the natural area partnership program, requesting the governor to revoke or modify an executive order that sets aside lands for the reserves system, or prior to the designation of the following types of lands into the reserves system:
  - (1) State lands under the jurisdiction of the department;
  - (2) State lands that are removed from other uses or modified by the governor through an executive order that sets aside land for the natural area reserves system;
  - (3) Lands acquired by eminent domain pursuant to chapter 101; and
  - (4) State lands proposed by the governor for inclusion into the reserves system, as provided in section 171-11.

The notice shall be published in a newspaper of general circulation in the county where the proposed natural area reserve or natural area partnership is located and also in a newspaper of general circulation in the State. The notice shall contain, but

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not be limited to, the time and place of the hearing, the location of the land, and the proposed changes. [L 1970, c 139, pt of § 1; am L 1987, c 350, §3; am L 199 1, c 326, §3; am L 1992, c 180, §1]

**[§195-5] Rules and regulations.** (a) The department of land and natural resources may, subject to chapter 91, make, amend and repeal rules and regulations having the force and effect of law, governing the use, control and protection of the areas included within the reserves system, provided that no rule or regulation which relates to the permitted use of any area assigned to the reserves system shall be valid and no use of any such area shall be permitted unless such rule or regulation or permitted use shall have been specifically approved by the natural area reserves system commission.

b) The department may confer upon such of its employees as it deems reasonable and necessary the powers to serve and execute warrants and arrest offenders or issue citations in all matters relating to the enforcement within the reserves system of the law and rules and regulations applicable thereto. [L 1970, c 139, pt of §11]

**§195-6 Natural area reserves system commission.** There shall be a natural area reserves system commission, hereinafter called the "commission." The commission shall consist of thirteen members who shall be appointed in the manner and serve for the term set in section 26-34. Six of the members of the commission shall be persons possessing scientific qualifications as evidenced by an academic degree in wildlife or marine biology, botany, forestry, ecology, resource management, biogeography, zoology, or geology; one member shall be a person possessing membership in a hiking organization organized in the State; and one member shall be a person possessing membership in a hunting organization organized in the State. The chairperson of the board of land and natural resources, the superintendent of education, the director of the office of state planning, the chairperson of the board of agriculture and the president of the University of Hawaii, or their designated representatives, shall serve as ex officio voting members. The governor shall appoint the chairperson from one of the appointed members of the commission. The members shall receive no compensation for their services on the commission but shall be entitled to reimbursement for necessary expenses while attending meetings and while in the discharge of their duties.

The commission shall be a part of the department for administrative purposes as provided in section 26-35.

Any action taken by the commission shall be by a simple majority of its members. Seven members of the commission shall constitute a quorum to do business.

The commission may engage employees necessary to perform its duties, including administrative personnel, as provided by section 26-35.

The commission shall adopt rules guiding its conduct and shall maintain a record of its activities and actions. [L 1970, c 139, pt of § 1; am L 1987, c 336, §8 and c 350, §4; am L 1993, c 274, §1]

**§195-6.5 Natural area partnership program.** (a) There is established in the department, a natural area partnership program to provide state funds on a two-for-one basis with private funds for the management of private lands that are dedicated to conservation. Payments shall be made from the natural area reserve fund with funds specifically appropriated for this purpose.

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(b) In order to qualify under this program, an applicant shall be a landowner or a cooperating entity of private land of natural area reserve quality and shall agree to:

- (1) Dedicate the private land in perpetuity through transfer of fee title or a conservation easement to the State or a cooperating entity; provided that:
  - (A) The dedication may be revoked if state funding is terminated without the concurrence of the landowner and cooperating entity; and
  - (B) If a private landowner or cooperating entity elects to withdraw from the program, the perpetual conservation easement shall remain in effect;
- (2) Have the private land managed by the cooperating entity or qualified landowner according to a management plan prepared by the cooperating entity or landowner and approved by the board that meets the standards established by the department for the system. The management plan shall include provisions to allow public hunting wherever feasible; provided that:
  - (A) Hunting activities shall be in compliance with applicable laws; and
  - (B) Game animals shall not be introduced to any partnership area and hunting shall be conducted as a conservation purpose of this program.

In-kind services such as heavy equipment and existing sources of labor may be utilized as a portion of the private contribution in implementing the management plan;
- (3) A penalty payback provision in the event the landowner or cooperating entity ceases to implement the approved management plan, unless the board approves modifications to the plan or state funding is terminated;
- (4) Submit an annual report to the board detailing the year's management accomplishments, areas needing technical advice, proposed modifications to the plan, and objectives and budget for the coming year. To facilitate the review, the department shall have the right to make inspections of the land after notifying the landowner; and
- (5) Any other conditions the department shall require by rules adopted pursuant to chapter 91. [L 1991, c 326, pt of §1; am L 1992, c 180, §2]

**§195-6.6 Reports.** The department shall submit annually a comprehensive status report on the natural area reserves system and the natural area partnership program to include, but not be limited to:

- (1) A description of activities and accomplishments;
- (2) Compliance with chapter 42D requirements;
- (3) An analysis of the problems and issues encountered in meeting or failing to meet the objectives set forth in the management plans;
- (4) The status of public hunting opportunities;
- (5) The financial condition of the fund, including receipts and expenditures for the fund for the previous fiscal year; and
- (6) Plans and management objectives for the next fiscal year.

The report shall be submitted to the governor and the legislature no later than twenty days prior to the convening of each regular legislative session. [L 199 1, c 326, pt of §1; am L 1992, c 180, §3]

**§195-7 Powers and duties.** The commission shall:

- (1) Establish criteria to be used in determining whether an area is suitable for inclusion with the reserves system;

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- (2) Conduct studies of areas for possible inclusion within the reserves system;
- (3) Recommend to the governor and the department areas suitable for inclusion within the reserves system;
- (4) Establish policies and criteria regarding the management, protection, and permitted uses of areas which are part of the reserves system;
- (5) Advise the governor and the department on any matter relating to the preservation of Hawaii's unique natural resources;
- (6) Develop ways and means of extending and strengthening presently established preserves, sanctuaries, and refuges within the State;
- (7) Advise the department and other public agencies managing state-owned land or natural resources regarding areas under their respective jurisdictions which are or may be appropriate for designation as natural area reserves; and
- (8) In carrying out the above duties, consult the most comprehensive up-to-date compilation of scientific data on the communities of natural flora and fauna of Hawaii. [L 1970, c 139, pt of §1; am L 1987, c 350, §51]

**§195-8 Penalty.** Any person who violates any of the laws and rules applicable to the reserves system, upon conviction thereof, shall be guilty of a misdemeanor and shall be fined not more than \$1,000 or imprisoned not more than one year, or both, for each offense. [L 1970, c 139, pt of §1; am L 1981, c 74, §1]

**§195-9 Natural area reserve fund; heritage program; established.** (a) There is hereby established in the state treasury a special fund known as the natural area reserve fund to implement the purposes of this chapter, including the identification, establishment, and management of natural area reserves, the acquisition of private lands for new natural area reserves, the operation of the heritage program, and the provision of matching funds for the natural area partnership program. The fund shall be administered by the department.

(b) The fund shall consist of moneys received from any public or private sources. The fund shall be held separate and apart from all other moneys, funds, and accounts in the state treasury, except that any moneys received from the federal government or from private contributions shall be deposited and accounted for in accordance with conditions established by the agencies or persons from whom the moneys are received. Investment earnings credited to the assets of the fund shall become a part of the assets of the fund. Any balance remaining in the fund at the end of any fiscal year shall be carried forward in the fund for the next fiscal year. [L 1987, c 35 1, § 1; am L 1988, c 32, § 1; am L 199 1, c 326, §4]

### Cross References

Biological survey-, designation, see §6E-61.

**[§195-10] Alienation of natural area reserves.** Natural area reserves shall be held in trust and shall not be alienated except to another public use upon a finding by the department of an imperative and unavoidable public necessity. [L 1987, c 350, pt of §1]

**[§195-11] Reserves system management plan.** The department, after consulting the most comprehensive up-to-date compilation of scientific data on the communities of the natural flora and fauna of Hawaii, shall prepare a comprehensive

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reserves system management plan based upon such information to accomplish the purposes of this chapter. [L 1987, c 350, pt of § I]

### CHAPTER 195D CONSERVATION OF AQUATIC LIFE, WILDLIFE, AND LAND PLANTS

#### SECTION

195D-1 FINDINGS AND DECLARATION OF NECESSITY

195D-2 DEFINITIONS

195D-3 DETERMINATION BY THE DEPARTMENT RELATING TO CONSERVATION OF PARTICULAR

#### SPECIES

195D-4 ENDANGERED SPECIES AND THREATENED SPECIES

195D-5 CONSERVATION PROGRAMS

195D-5.1 PROTECTION OF HAWAII'S UNIQUE FLORA AND FAUNA

195D-6 RULES

195D-7 ENFORCEMENT

195D-8 SEARCH AND SEIZURE

195D-9 PENALTY

195D-10 SEVERABILITY

#### Note

Chapter heading amended by L 1983, c 111, §1.

#### Case Notes

Chapter does not provide basis for private right of action to stop building of highway. 538 F. Supp. 149.

**§195D-1 Findings and declaration of necessity.** Since the discovery and settlement of the Hawaiian Islands by humans, many species of aquatic life, wildlife, and land plants that occurred naturally only in Hawaii have become extinct and many are threatened with extinction, primarily because of increased human use of the land and disturbance to native ecosystems.

All indigenous species of aquatic life, wildlife, and land plants are integral parts of Hawaii's native ecosystems and comprise the living heritage of Hawaii, for they represent a natural resource of scientific, cultural, educational, environmental, and economic value to future generations of Hawaii's people.

To insure the continued perpetuation of indigenous aquatic life, wildlife, and land plants, and their habitats for human enjoyment, for scientific purposes, and as members of ecosystems, it is necessary that the State take positive actions to enhance their prospects for survival. [L 1975, c 65, pt of § 1; am L 1983, c 111, §2; gen ch 19931

#### Law Journals and Reviews

Palila v. Hawaii Department of Land and Natural Resources: State Governments Fall Prey to the Endangered Species Act of 1973, Jack R. Nelson. 10 Ecology Law Quarterly 281.

#### Case Notes

In light of this chapter and having sought to secure financial advantages under the federal Endangered Species Act, the State has impliedly consented to be sued under that Act and may be required to eradicate feral sheep and goats. 471 F. Supp. 985.

**§195D-2 Definitions.** As used in this chapter:

"Aquatic life" means any type of species of mammal, fish, amphibian, reptile, mollusk, crustacean, arthropod, invertebrate, coral, or other animals that inhabit the

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- (1) For a first conviction by a fine of not less than \$250 nor more than \$1,000 or by imprisonment of not more than one year, or both;
- (2) For a second or subsequent conviction within five years of a previous conviction by a fine of not less than \$500 nor more than \$1,000 or by imprisonment of not more than one year, or both.

In addition to the above penalties, a fine of \$500 for each specimen of a threatened species and \$ 1,000 for each specimen of an endangered species intentionally, knowingly, or recklessly killed or removed from its original growing location, shall be levied against the convicted person.

The disposition of fines collected for violations of the provisions concerning wildlife conservation shall be subject to section 183D- 10.5. [L 1975, c 65, pt of § 1; am L 1983, c 111, § 10; am L 1988, c 67, §3]

**§195D-10 Severability.** Should any section, subsection, sentence, clause, or phrase of this chapter, or any rule adopted pursuant thereto be for any reason held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of this chapter or rule adopted pursuant thereto. [L 1975, c65, pt of §1; am L 1983,c 111, §11]

**[CHAPTER 195F]  
FOREST STEWARDSHIP**

## SECTION

195F-1	FINDINGS AND PURPOSE
195F-2	DEFINITIONS
195F-3	ESTABLISHMENT OF THE FOREST STEWARDSHIP PROGRAM
195F-4	FOREST STEWARDSHIP FUND
195F-5	FOREST STEWARDSHIP MANAGEMENT PLANS; APPROVED ACTIVITIES
195F-6	QUALIFICATIONS AND CONDITIONS
195F-7	PENALTY PAYBACK PROVISIONS
195F-8	RULES

**[§195F-1] Findings and purpose.** The legislature finds that:

- (1) Much of the forest land in Hawaii is privately owned;
- (2) The capacity to protect important watersheds and native Hawaiian plants and animals and to produce renewable forest resources is significantly dependent on these privately owned forest and formerly forested lands;
- (3) The factors essential to the quality of life in Hawaii, including our water and air quality, mild climate, and habitat available for plants and animals unique to these islands, can be maintained and improved through good stewardship of private forest lands;
- (4) To accomplish these purposes, the present system of state and federal financial and technical assistance programs needs to be expanded to promote the long-term management of additional privately owned forest and formerly forested lands throughout the State; and
- (5) A forest stewardship program should be established to supplement the natural area reserves system's programs under chapter 195 by encouraging private landowners of privately owned forest and formerly forested lands that cannot qualify as potential natural area reserves to make long-term commitments to protect, maintain, and restore important watersheds, timber resources, fish and wildlife habitats, isolated populations of rare and endangered plants, native vegetation, and other lands that provide significant public benefits.

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The purpose of this chapter is to establish a program to financially assist landowners in managing, protecting, and restoring important natural resources in Hawaii's forested and formerly forested lands. [L 1991, c 327, pt of §2]

**[§195F-2] Definitions.** As used in this chapter:

"Board" means the board of land and natural resources.

"Department" means the department of land and natural resources.

"Fund" means the forest stewardship fund as established by section 195F-4.

"Landowner" means any person having an interest in or holding any encumbrance upon land in the State, including any person having a lease interest in the real property with an unexpired term of ten or more years.

"Native vegetation" means a diverse vegetation consisting mostly of plants endemic or indigenous to Hawaii.

"Potential natural area reserve" means land or water areas within the protective subzone of the conservation district established pursuant to section 183-41, intact native natural communities identified by the heritage program under chapter 195, and other lands or waters meeting criteria established by the natural area reserves system commission.

"Program" means the forest stewardship program established in section 195F-. [L 1991, c 327, pt of §2]

**[§195F-31 Establishment of the forest stewardship program.** (a) There is established a forest stewardship program to be administered by the board to assist private landowners in managing, protecting, and restoring important watersheds, native vegetation, timber resources, fish and wildlife habitats, isolated populations of rare and endangered plants, and other lands that are not recognized as potential natural area reserves.

(b) The program shall reimburse landowners for a portion of the landowners' total costs in developing and implementing approved forest stewardship management plans, as set forth in this chapter. [L 1991, c 327, pt of §2]

**[§195F-4] Forest stewardship fund.** (a) There is established a special fund within the state treasury known as the forest stewardship fund from which payments shall be made by the board pursuant to agreements entered into with qualified landowners to further the purposes of this chapter.

(b) The fund shall consist of moneys received from any public or private sources. The fund shall be held separate and apart from all other moneys, funds, and accounts in the state treasury; provided that any moneys received from the federal government or from private contributions shall be deposited and accounted for in accordance with conditions established by the agencies or persons from whom the moneys are received.

Investment earnings credited to the fund shall become a part of the assets of the fund. Any balance remaining in the fund at the end of any fiscal year shall be carried forward in the fund for the next fiscal year. [L 1991, c 327, pt of §2]

**[§195F-5] Forest stewardship management plans; approved activities.** (a) To participate in the forest stewardship program, the applicant landowner shall prepare and submit to the board a forest stewardship management plan that shall:

- (1) Identify and describe activities to be undertaken by the landowner to protect soil, water, aesthetic quality, recreation, timber, water, fish, wildlife, and native plant resources on the land in a manner that is

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compatible with the objectives of the program, is consistent with this chapter, and qualifies under the board's list of approved activities;

- (2) Be signed by all parties having an interest in or holding any encumbrance upon the property, and shall state that the parties agree to comply with the plan upon its approval; and
- (3) Be approved by the board and available for public review.

(b) The board and other cooperating natural resource management agencies shall develop a list of approved management activities and practices that shall be eligible for cost-share assistance under the program in the following areas:

- (1) Enhanced management and maintenance of vegetation on vital watershed lands;
- (2) Sustainable growth and management of forests for timber and other forest products on lands from which all or most of the native vegetation had been removed prior to January 1, 1991;
- (3) Protection, restoration, and enhancement of native plants and animals;
- (4) Management, maintenance, and restoration of forests for shelterbelts, windbreaks, aesthetic quality, and other conservation purposes on lands from which all or most of the native vegetation had been removed prior to January 1, 1991;
- (5) Agroforestry management on lands from which all or most of the native vegetation had been removed prior to January 1, 1991;
- (6) Management and maintenance of native fish and wildlife habitats;
- (7) Management of outdoor recreational opportunities; and
- (8) Other activities approved by the board, which are consistent with this chapter.

(c) The board shall encourage the use of private agencies, consultants, organizations, and firms to the extent feasible for the preparation of individual forest stewardship management plans and implementation of approved activities. [L 199 1, c 327, pt of §2]

**§195F-6 Qualifications and conditions.** (a) Payments from the forest stewardship fund shall not exceed fifty per cent of the total cost of the landowner in developing and implementing an approved management plan. Total payments to any one landowner shall be determined by the board, and the reasonable value of material, goods, and services contributed toward the plan by the landowner shall be included in determining the amount of the landowner's cost. The landowner shall be required to spend private funds before reimbursements are made. In-kind services such as heavy equipment and existing sources of labor may be utilized as a portion of the landowner's contribution in implementing the management plan that is consistent with this chapter.

(b) The board shall determine the appropriate reimbursement rate for making cost-share payments and the schedule of the payments after determining consistency with this chapter and giving appropriate consideration to:

- (1) Protecting and enhancing key watershed areas in the public interest;
- (2) Developing or adapting new forestry and conservation techniques for Hawaii;
- (3) Providing rural employment and economic diversification opportunities; and
- (4) Preserving or restoring especially valuable natural resources, including native plants, animals, and ecosystems.

(c) To receive funds under the forest stewardship program, an applicant shall:

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- (1) Be a landowner of private forest that is not managed under existing federal, state, or private sector financial and technical assistance programs and that is not recognized as a potential natural area reserve. Private forest lands managed under existing federal, state, or private sector financial and technical assistance programs may be eligible for assistance under this program if the landowner agrees to comply with the requirements of the program or if forest management activities are expanded or enhanced to meet the requirements of this chapter;
- (2) Prepare and submit a forest stewardship management plan as set forth in section 195F-5; and
- (3) Enter into an agreement with the board to do the following:
  - (A) Undertake and maintain the approved activities under the management plan for not fewer than ten years, unless the board approves modifications in the plan;
  - (B) Complete all approved activities under the management plan within the timetable agreed upon by the board and the landowner consistent with the intent of this chapter;
  - (C) Submit an annual progress report to be reviewed by the board for each year in which the landowner receives support under the program. This report shall detail accomplishments, areas requiring technical advice, and any proposed modifications of the plan; and
  - (D) Other conditions deemed necessary by the board to implement the purposes of this chapter.
- (d) The board shall review the annual progress report and shall determine whether the landowner has met the objectives of the plan. To facilitate the review, the department shall have the right to make inspections of the forest land after prior landowner notification. The board may approve alteration of the plan to\* adapt to current conditions. Amendments to the plan shall be available for public review.
- (e) The board shall submit annually a detailed report to the governor and legislature setting forth management objectives that have been completed, an analysis of problems and issues encountered in meeting or failing to meet objectives as set forth in the management plans, the financial condition of the fund, and management objectives for the next year. [L 1991, c 327, pt of §2; am L 1992, c 180, §4]

**[§195F-7] Penalty payback provisions.** The board shall establish and implement a penalty payback provision to be applied in the event that a landowner terminates any approved practice required under the forest stewardship management plan, as agreed to by the board and the landowner. [L 1991, c 327, pt of. §2]

**[§195F-8] Rules.** The department shall adopt rules pursuant to chapter 91 to carry out the purposes of this chapter. [L 199 1, c 327, pt of §2)

## CHAPTER 196 [ENERGY RESOURCES]

### SECTION

- |       |  |
|-------|--|
| 196-1 | FINDINGS AND DECLARATION OF NECESSITY                  |
| 196-2 | DEFINITIONS  |
| 196-3 | ENERGY RESOURCES COORDINATOR                           |
| 196-4 | POWERS AND DUTIES                                      |
| 196-5 | GAS APPLIANCES WITH PILOT LIGHT PROHIBITED; EXEMPTIONS |
| 196-6 | ENERGY EFFICIENT STORAGE HOT WATER HEATERS             |
| 196-7 | PLACEMENT OF SOLAR ENERGY DEVICES                      |

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information as it desires and shall communicate its findings and recommendations to the department. [L 1985, c 74, pt of § I]

**§197-5 General penalty.** Any person violating any of the provisions of this chapter, or any rule adopted pursuant to this chapter, shall be guilty of a petty misdemeanor and upon conviction thereof shall be punished as provided by law. [L 1985, c 74, pt of §11]

### [CHAPTER 1981 CONSERVATION EASEMENTS

#### SECTION

198-1	CONSERVATION EASEMENT DEFINED
198-2	NATURE
198-3	HOLDERS
198-4	RECORDATION
198-5	ENFORCEMENT OF EASEMENT
198-6	CONSTRUCTION

#### Cross References

Public access to coastal and inland recreational areas, see chapter 115.

**[198-1] Conservation easement defined.** For the purposes of this chapter, a "conservation easement" is an interest in real property created by deed, restrictions, covenants, or conditions, the purpose of which is to preserve and protect land predominantly in its natural, scenic, forested, or open-space condition. [L 1985, c 149, pt of § 1 ]

**[§198-2] Nature.** (a) A conservation easement is freely transferable in whole or in part for the purposes stated in section 198-1 by any lawful method for the transfer of interests in real property in this State.

(b) A conservation easement shall be perpetual in duration.

(c) A conservation easement shall not be deemed personal in nature and shall constitute an interest in real property notwithstanding the fact that it may be negative in character.

(d) The particular characteristics of a conservation easement shall be those granted or specified in the instrument creating or transferring the easement. [L 1985, c 149, pt of § 1 ]

**[§198-3] Holders.** Any public body and any organization which qualifies for and holds an income tax exemption under section 501(c) of the federal Internal Revenue Code of 1954, as amended, and whose organizational purposes are designed to facilitate the purposes of this chapter, may acquire and hold conservation easements by purchase, agreement, donation, devise, or bequest, but not by eminent domain. [L 1985, c 149, pt of § 1 ]

**[§1984] Recordation.** Instruments creating, assigning, or otherwise transferring conservation easements shall be recorded in the bureau of conveyances, or the land court, as the case may be, and such instruments shall be subject in all respects to the requirements of chapters 501 and 502. (L 1985, c 149, pt of §1]

**[§198-5] Enforcement of easement.** (a) All conservation easements, whether held by public bodies or qualifying private organizations, shall be considered to run with the land, whether or not such fact is stipulated in the instrument of

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conveyance or ownership, and no conservation easement shall be unenforceable on account of the lack of privity of estate or contract, or on account of such conservation easement not being an appurtenant easement, or because such easement is a general easement.

(b) Actual or threatened injury to or impairment of a conservation easement, or actual or threatened violation of its terms, may be prohibited or restrained, or the interest intended for protection by such easement may be enforced, by injunctive relief granted by any court of competent jurisdiction in a proceeding initiated by the grantor or by the holder of the easement.

(c) In addition to the remedy of injunctive relief, the holder of a conservation easement shall be entitled to recover money damages for any injury to such easement or to the interest being protected thereby or for the violation of the terms of such easement. In assessing such damages there may be taken into account, in addition to the cost of restoration, the loss of scenic, aesthetic, or environmental value to the real property subject to the easement, and other damages.

(d) The court may award to the prevailing party in any action authorized by this section the costs of litigation, including reasonable attorney's fees. [L 1985, c 149, pt of § 1]

**[§198-6] Construction.** This chapter shall not be construed to imply that any easement, covenant, condition, or restriction which does not have the benefit of this chapter shall on account of any provisions of this chapter be unenforceable. Nothing in this chapter shall diminish the powers granted by any general or special law to acquire, by purchase, gift, eminent domain, or otherwise, and to use land for public purposes. (L 1985, c 149, pt of § 1]

## CHAPTER 198D HAWAII STATEWIDE TRAIL AND ACCESS SYSTEM

### SECTION

198D-1	DEFINITIONS
198D-2	ESTABLISHMENT OF HAWAII STATEWIDE TRAIL AND ACCESS PROGRAM
198D-3	INVENTORY
198D-4	CLASSIFICATION
198D-5	IDENTIFICATION OF PROPOSED, POTENTIAL, AND NEEDED TRAILS AND ACCESSES
198D-6	REGULATION OF USE OF TRAILS AND ACCESSES
198D-7	EXAMINATION OF LEGAL ISSUES
198D-7.5	AGREEMENTS TO DEFEND AND INDEMNIFY
198D-8	REQUEST TO ACQUIRE RIGHTS FOR PUBLIC USE OF ADDITIONAL TRAILS AND ACCESSES
198D-9	OTHER POWERS AND DUTIES OF DEPARTMENT
198D-10	LIMITATION ON CHAPTER'S PROVISIONS
198D-11	RULES

### Cross References

Unencumbered public lands; penalty for violation, see §171-6.5.

### Law Journals and Reviews

Beach Access: A Public Right? 23 HBJ 65.

**[§198D-1] Definitions.** For the purpose of this chapter:

"Access" means an easement or way:

- (1) Over which the general public has the right to travel; and