

Conservation Easement Considerations

	Action	Things to Consider	Estimated Time Required
1	Draft a summary of your wishes and vision for the property.	<ul style="list-style-type: none"> • What do you want for your property? • What are the key natural features you want to protect (e.g. wetlands, rangelands, forest, archaeological or historic features etc.)? • Think as far out into the future as possible - What are the threats to your property? • What current activities do you want to maintain? • How does conservation fit with your use of your property? 	Variable
2	Get expert advice to prepare you for negotiating the conservation easement.	<ul style="list-style-type: none"> • Talk to another landowner who has done a conservation easement (CE) in your area. Ask them for advice on what conservation organization to work with and on negotiating the terms of the easement. • Get advice from your lawyer on how a conservation easement might affect your affairs. • Talk to your accountant to see how a conservation easement will influence your finances. • Determine if you want to sell or donate a conservation easement. • Determine if you want to do a conservation easement now, later in life or even through your estate. • Determine if you want to do an easement on part or all of your property. 	Variable
3	Select a conservation organization.	Based on your vision for your property and the advice you obtained from experts, select a conservation organization to contact. This decision might be based on the type of work the organization does (e.g. wetlands –	Variable

		DU; Western Heritage – SALTS, biodiversity – NCC, local values – a local Land Trust), or it may be based on which organization’s mission or easement restrictions you feel most comfortable with.	
4	Contact organization of your choice and set up a meeting.	Have a representative meet on the property with you. Ensure they walk the site with you, point out all key features, areas of concern, and current activities you would like to maintain. Understand the conservation organizations stewardship / monitoring program for once the CE is complete. Discuss any special considerations at this time (e.g. recognition signage or access)	1 -2 weeks to get meeting set up. ½ - 1 day for meeting
5	Get a copy of the conservation organization’s CE and standard restrictions	Review document thoroughly. Discuss any legal concerns with your lawyer. Discuss your wishes, highlight any points you want that do not fit their standard document; find out where flexibility is and isn’t with Conservation Organization rep.	2 – 3 weeks
6	Have an up to date legal land title. (The conservation organization may provide you with one since they will do a search anyhow)	You want to be sure of all encumbrances on your property and anything that may have an impact on the conservation easement (e.g., caveats, rights of first refusal, even mortgages)	1 day – go to any registry office to order
7	Negotiate terms of conservation easement with conservation organization rep.	Remember, this is your conservation easement. Make sure you are comfortable with the entire document before agreeing to sign. This is something you have to live with forever, and it is very difficult to change the terms of an easement once it has been signed and registered. As long as the major conservation values of the property are maintained by the terms of the easement, any other points should be negotiable.	1 – 2 weeks
8	Appraisal	Need final draft of CE for the appraisal. However, don’t sign the easement until the appraisal is complete and you are satisfied with	3 – 6 weeks

		<p>the value. Varies between organizations as to who pays for the appraisal and who selects the appraiser. If you are choosing or assisting with choosing the appraiser talk with other land owners who have CE's. Choose an appraiser who is experienced with CE's and who has had appraisals successfully reviewed by the Eco-gift appraisal review panel. Fair market values vary by appraiser. Other landowners can advise you on how various appraisers value land. If the value is important to you, make this part of your selection criteria.</p>	
9	<p>Decide whether you would like to participate in the Eco-gift program.</p>	<p>The Eco-gift program is administered by Environment Canada and is managed by Canadian Wildlife Service (CWS) in Alberta. It provides the donor of a conservation easement with greater tax benefits because it reduces the amount of taxable capital gains and it allows a landowner to utilize a greater tax benefit than a tax receipt issued outside the program. In addition, CWS will decide if the land meets their ecologically sensitive criteria from information that you or the conservation organization provides them. It can be difficult and time consuming to participate in the Eco-gift program since the conservation easement appraisal must be reviewed by a panel of experts and often requires revisions or a second opinion. Keep in mind though, that tax receipts issued outside the Eco-gift program can be questioned and rescinded within five years of being issued by the conservation organization. Tax receipts issued under the program are final.</p>	<p>Variable - should make decision around the time the appraisal is completed.</p>
10	<p>Baseline study</p>	<p>Style and content of baselines varies between organizations. This is a report that documents the current state of your property and will be used to</p>	<p>2 – 6 months</p>

		<p>defend the CE if it is ever needed. Some organizations complete baselines prior to signing a CE and some do them after. You can request your preference but keep in mind that a baseline is best done during the growing season so if you want the baseline done first then it may delay your CE being registered. Ask whether the baseline information is public information or confidential. If the information is public, you may wish to ask that sensitive information such as the presence and location of species at risk be left out of the baseline document.</p>	
11	<p>Documents other than CE that may need to be signed – Affidavit of Execution, Dower Affidavit, Mortgage Postponement, Eco-gift Certification Application</p>	<p>These will likely be signed at same time as CE. If the organization you are dealing with does not administer the Eco-gift program you will have to arrange to get these from CWS.</p>	<p>Up to 90 days (if want donation to be completed in a specific year need to submit by September of that year)</p>
12	<p>Notification to municipality and other interests on title</p>	<p>This is a notice document that is sent from the conservation organization to the municipality your land is in, informing them of the intent to register a conservation easement. Sometimes other parties with an interest registered on the title to your land will receive a notification. This notification does not require the consent of the party notified, but they are legally given 60 days to oppose the CE or ask for revisions. The conservation organization can ask for a waiver of the 60 days. Check with your conservation organization to see if they request a waiver. This process can begin as soon as the CE is signed and the appraisal is completed.</p>	<p>60 days or sooner if waiver is requested.</p>
13	<p>Mortgage Postponement</p>	<p>If you have a mortgage on your property, the conservation organization will want the CE to take priority over the mortgage. This</p>	<p>1 to 2 weeks</p>

		means that if the party holding the mortgage on your land ever forecloses, they cannot remove the CE. Therefore, you will need to ask your financial institution to provide a document called a mortgage postponement to the conservation organization so they will be able to register the CE in priority to the mortgage. Either the financial institution or the conservation organization can provide you with a postponement form.	
14	Register the CE and obtain a new land title with CE registered on title	The conservation organization will likely register the CE on your behalf. A copy of the new land title may be obtained from the conservation organization or from a provincial registries office.	1 to 2 weeks