



Planning now can help protect your land from estate tax

Stephen J. Small, Esq.

Land may have become so valuable it may have to be sold to pay the estate tax.

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A few years ago, at a national conference in Montana, a speaker made the following observation.

"There are 90 million acres of land in Montana," he said, "and over the next 15-20 years 30 million of those acres are going to change hands. That's because that's how much land we have that is owned by people who are of an average age of 59 and one half."

That is really remarkable, I thought. And then I thought, you know, that's not true only in Montana, it's true in Georgia...and Virginia...and Pennsylvania...and New York...and all over the United States. An enormous amount of private land in this country is held by people who are 55, even 65 and older. And over the next 15 to 20 years, millions of acres are going to change hands and potentially change use, depending on how landowners plan for—and don't plan for—their land's future.

With all due credit to that speaker, I don't think he realized the significance of what he had said. In New England, the average age of the woodlot owner is 65. In the Southeast, the average age of the private forestland owner is 64. I was told recently that on one particularly important stretch

of scenic road outside of Lexington, Kentucky, there are 20 landowners, and 18 of them are 70 or older.

In 1988, I wrote a little book called *Preserving Family Lands*. The message of *Preserving Family Lands* is simple: if you have a piece of land you care about, you may have a serious estate tax problem. That land may have become so valuable it may have to be sold to pay the estate tax. Given the one-two combination of demographics and the estate tax, millions of acres of open space, wildlife habitat, farmland, forestland, wildlife corridors, watershed, and ranch-land are at risk.

There was another message in *Preserving Family Lands*. If you are a landowner, and if you care about preserving the quality of life in your neighborhood and your community, you also have tools for dealing with the estate tax problem. Let me give you an example of how devastating the estate tax can be, then turn to the tools to fix the problem.

Let's say that John and Mary own Rolling Hills, a beautiful county estate. A real estate developer has just offered John and Mary \$3 million for Rolling Hills, with the idea of turning the estate into a 50-lot subdivision. Of course, John and Mary turned the fellow down.

Let's also say that John and Mary are comfortable, with a portfolio and saving worth about \$1.5 million, and that they haven't bothered to have their wills updated for some time.

Mary dies first, and she leaves the cash, the portfolio, and Rolling Hills to John. Assume there is no estate tax due at that time. John dies, and he thinks he leaves Rolling Hills, and the \$1.5 million to their three children.

The children, who had assumed all along that they would inherit their beloved Rolling hills, are in for a rude awakening, because this is what happens.

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Thoughts from the (new) President

Gordon Scott

WCLT Board of Directors President

A critically important part of the Trust's structure is the active participation of the volunteer board.

This issue of *The Steward* will highlight some of the duties the Land Trust performs to carry out land conservation in Whatcom County. Monitoring existing easements, public education of land stewardship principles, and building the strength of the Trust's organization are essential to fulfill the Land Trust's mission of conserving special places in Whatcom County.

Monitoring is important part of conservation service

Monitoring is the yearly process of visiting easement properties to insure that the terms of the easements are being upheld. Volunteers who conduct the monitoring review the terms of the easements before contacting the property owner to request permission to visit the land. On site, the monitors compare the condition of the property with photographs of the site. Monitoring is a delicate task requiring sensitivity to property owners, but firmness in protecting our easement. This is a responsibility the Land Trust takes very seriously as part of our conservation service to the community. Special thanks to Sharon Digby and Cindy Klein for organizing a successful monitoring program in 1995. (See related article on page 6.)

New Community Outreach Program

Also, this issue of *The Steward* announces the formation of the Community Outreach Committee to coordinate community education projects. Besides the book project (described in the annual meeting article on page 4), the Trust sponsored a Public Forum on Land Ethics during March, with

a film series and discussion of a variety of vexing issues concerning land use. Given the selection of films and speakers, the Forum promises to be a very interesting event.

Part-time staff provides organizational support

For the Land Trust to work smoothly, a strong organization with efficient staff and lean administration is required. The Land Trust is very fortunate to have two very dedicated, part time staff, Robyn du Pré, the Conservation Coordinator, and Shéri Emerson, our Administrative Assistant. The organizational support these folks provide gives the Land Trust Board members the time and information we need to provide responsible land conservation services.

Thanks to outgoing Board president

A critically important part of the Trust's organizational structure is the active participation of the volunteer board. In February, I was elected to succeed Chris Moench as President of the Land Trust. Thanks to Chris' commitment and dedication over the last *three* years, the Trust is on solid ground with a clear direction for the future. Chris was instrumental in developing our current organizational strength; he committed enormous amounts of time to keep the Trust operating smoothly. Chris's work with the Trust is an example of the kind of devotion our volunteer Board gives to make land conservation work for the benefit of all in Whatcom County. ♦

The Land Trust board of Directors expresses its deep appreciation for Chris Moench's work and devotion to the organization during the past three years.

In addition to progress in programs, staff and activities during that time, Chris has set an example of personal dedication. He has provided leadership and generously given time, energy and thought to the protection of our natural heritage—the qualities that voluntary organizations must have in order to flourish.

Thank you Chris, you have our admiration and gratitude for a job well done.

WCLT Board of Directors

Private property rights: Comparing attitudes with Germany

Bob Keller

WCLT Board member Bob Keller spent last Fall living in Germany. While there he observed major differences in property owner attitudes among his German neighbors and the property rights movement witnessed locally.

After walking just a few steps one morning into the Black Forest near St. Margen, we found a trail sign: *Land und Forstwirtschaft. Verkehr frei.* (Field and Forest Management. Open space.) In other words: "you are free to hike here," which in our case meant we were welcome to hike for three hours on private land.

Having moved to Germany in the midst of Washington's Proposition 48 campaign, attitudes about private property struck me more forcefully than any other contrast between Europe and America. Living a little less than four months in Buchenbach, a small village east of Freiburg between the Rhine and Danube, obviously does not make one an instant expert on Germany. There is much that I do not know about their land concepts, land management philosophy, and environmental attitudes. Nonetheless, observations and talking with people provided some initial grounds for comparison.

Germany's open spaces

Germans, despite their population density (nearly eight times as great as ours) and love of cars, have managed to avoid American sprawl. One leaves Freiburg to almost instantly enter countryside. The landscape has frequent villages and settlements, but the spaces between are green and open. Urban houses pack tightly together with small yards and few front lawns. In the open country, as in the city, one can stroll or bike just about anywhere, including private property.

Most German and Swiss land is privately owned, with few game sanctuaries and public reserves, and almost no national parks, yet it is extensively used by the public for recreation. In Germany and Switzerland one finds trails crisscrossing everywhere over private land, allowing public access - *Verkehr frei* - to woods, pastures, livestock, farms, forests, private homes, and private recreational sites. One can hike almost anywhere in the Black Forest or Swiss Alps, and 95 percent of that travel is apparently on private property where the owners either ignore the intruder, wave a greeting, or give

helpful directions. In walking nearly 150 miles through the Black Forest and in the Alps, I recall only two *Durchgang verboten* (No Trespassing/Keep Out) signs. Instead, trails were coded for route, benched, and maintained by local hiking clubs.

Public trails often cover private land

We had two routes from our Buchenbach house to the railway station, the second path being half the distance of the first. This route existed because a farmer gave everyone permission to cross his property even though using his land meant walking next to his barn, by his cattle, past his equipment storage and his house. In Switzerland, I have hiked directly below a family's front porch. By contrast, in America, I may not venture that close to a private home for fear of being shot.

Property rights controversy subdued

Although the Germans, and certainly the Swiss, are capitalists, controversy over private property and landowner rights either has never happened or is buried in the distant past. Legal issues raised in America by conversion of railroad right-of-way to public trail, such as the Chuckanut lawsuit over the Interurban route, does not exist there. This "taking" happens despite Germans being very proud and jealous of their land, and much more private in their personal lives than Americans.

It's not clear why such differences exist. Germans as a culture do not practice much American individualism, which has cost them dearly at times. Perhaps the idea of a public "taking" through limited access never occurs to Germans? Perhaps sharing one's land is an old civic virtue, part of belonging to Germany, part of an assumed trust of ownership? If so, it goes both ways. The wanderers don't trash trails; they close gates, use stiles, respect livestock, and they stay on footpaths.

Most German land is private, with very few game sanctuaries and almost no national parks, yet it is extensively used by the public for recreation.



There's a private hand-lettered plaque someone had hung beneath the official sign at St. Margen: *Wer zu fuss geht, hat mehr vomleben.* (Those who walk, get more out of life.) Germans apparently believe this, for every Sunday people of all ages head out onto their trails and through the farmlands, trespassing at will. ♦

Hiking on agricultural land in the Black Forest.

Board focuses on ecosystem conservation, creates Community Outreach Program

1995 was a year of great change and accomplishment for the Land Trust

On an ice-crust February 4, in the cozy home of Carl and Katie Batchelor, the WCLT Board held its annual meeting. The agenda was broad, reflecting on the past year and to charting the course for the coming seasons.

Starting things on a grateful note, President Chris Moench spoke of 1995 as a year of great change and accomplishment for the Trust. Moench highlighted the County's acquisition of Squire's Lake and the protection of the Kenny Creek Eagle Night Roost as the year's biggest conservation successes.

Long range planning work by the board last spring, the new office and staff, and the successful completion of the first annual fund-raising campaign were noted as signs that the Trust is taking real steps to strengthen its presence in the community and move toward the financial stability.

In his final act as president, Moench personally thanked each of the board members and other volunteers present for their contributions to the Trust.

New board officers

New Board members elected this year are: **Gordon Scott, president, Carl Batchelor, vice-president, Hilda Bajema, treasurer, and Chris Moench, secretary.**

Looking toward the coming year the board reaffirmed its commitment to these long term goals of the Land Trust:

- I. Protect, preserve and restore unique natural, recreational, agricultural and wildlife habitat lands.
- II. Build a financially strong organization.
- III. Build a diverse board representing interests from across the geographic, socioeconomic, and ethnic landscape of the county.
- IV. Build public awareness and practice of land stewardship principals.

New wildlife project targets habitat conservation

With the above goals in mind, the board decided to focus on a project to ensure the long term health of the Nooksack River Basin ecosystem through conservation of key wildlife habitat.

This project, still in its initial phases, will entail research of habitat needs for key wildlife species as well as property ownership and land use patterns for the area. Key habitat areas under particular pressure from human use will be prioritized. Armed with this information, the Land Trust will design a conservation program to meet the needs of both wildlife and people in the Nooksack River Basin.

The Board also made a commitment to continue the conservation work already under way and to respond to opportunities as they arise through the year.

New committee

A new committee, called the Community Outreach Program, was created at the suggestion of Board member Bob Keller, to undertake long term projects of stewardship education. The first of the committee's tasks will be the creation of a "coffee table" book called *Whatcom Places* that will be a document of special natural gems of the county and the work of the Land Trust. Look for it in local book stores in about two years.

Having completed the meeting's agenda in four hours of hard work, the board adjourned for a sumptuous potluck lunch and then skated its way down Carl's driveway toward a year promising new challenges and achievements. ♦

Do you have any time to contribute?

The Trust has a great deal of work to accomplish. It requires a wide variety of skills and we welcome people who have time and energy to contribute. This is a partial list of openings:

The Fund-raising committee needs people who are willing to help the Trust find funding. Interested volunteers should contact the committee chair Julie Carpenter, 647-1215.

The Monitoring committee needs Land Stewards watch over specific properties under Trust protection, maintain communication with the property owner and help the Trust with management issues as they arise for each property. Contact Sharon Digby, 592-2286, for more information.

The Board of Directors has several openings. Interested volunteers should contact Sharon Digby, 592-2286, or Chris Moench, 734-9472, to arrange an interview.

Donations are big slice of support

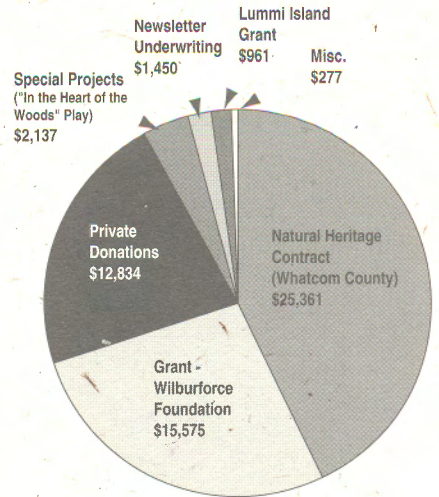
Julie Carpenter, Fund-raising Committee Chair

No brief words can adequately express our appreciation for your response to our first annual fund-raising campaign. Private donations were the Trust's third largest source of support in 1995.

Currently, the renewal of the Whatcom County Natural heritage contract is uncertain. This contract has funded the work of the Conservation Coordinator. Additionally, the generous organization development grant from the Wilburforce Foundation will expire at the end of 1996.

Your donations will be critical to the continuation of the Land Trust office, outreach, and land preservation efforts in the years to come.

Again, please accept our sincere thanks for your donations. ♦



WCLT Income - 1995

The Land Trust extends its thanks to all our 1995 contributors

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And many office equipment donors and other individuals and organizations. Thank you!

Volunteers and scientists take next steps

Classes study natural setting

Julie Carpenter

We're excited about the next phase of the Squires Lake project. There are two pieces of good news: the Land Trust has received a \$2,000.00 grant from the new **Foley Frischkorn Wildlife & Conservation Fund** for use at Squires Lake.

The Trust is also pleased to announce the volunteer cooperation of Huxley College of Environmental Studies in developing baseline data for the lake and its surroundings.

Dr. Leo Bodensteiner, Assistant Professor of Aquatic Ecology, and his graduate Limnology class visited Squires Lake in February to study the depth and contours of the lake, the water chemistry, and to take and identify biological samples.

In the Spring, Dr. Bërt Webber, Professor of Environmental Studies at Huxley College, will lead his classes in research on the wildlife habitat and native plant species surrounding the lake. Both Dr. Webber and Dr. Bodensteiner have agreed to serve as technical consultants for the project.

The data from their studies and funding from the Foley Frischkorn Fund will eventually be used to help create an interpretive sign illustrating the natural habitat of Squires Lake.

Thanks once again to the many donors and volunteers who helped make the permanent preservation of Squires Lake possible. For more information about how you can get involved as a "Friend of Squires Lake," contact the Land Trust office, 650-9470. ♦

Letters to the Land Trust Squires family pleased with county acquisition

Dear Sirs:

My wife and I have received your Summer 1995 newsletter in which you describe the negotiations and acquisition of Squires Lake and the surrounding property as a county park.

We want you to know that we are extremely happy to see this come about. And I'm sure that my mother and father, Leta and Ralph Squires, were they alive, would also be pleased to see that what was once our property is now and will forever be a park that everyone can enjoy.

If there are any questions that we can answer about the lake or its history, please let us know.

Sincerely,

Martin and Margaret Squires

New Parks Program invites community participation

The "Trails Volunteer Program," a new Whatcom County Parks Department program of community volunteers, has been meeting regularly to maintain and establish trails on Whatcom County Parks property.

Although Squires Lake is not yet open to the public, this group has spent Saturdays working to develop trails near the lake. Steve LeCocq, longtime Samish resident and Samish Park manager, organized the Trails Volunteer Program and is using community volunteers and resources to develop trails.

Anyone interested in volunteering with the Trails Volunteer Program is encouraged to contact Steve at 733-2362. The group meets on the first Saturday of each month, at 8:30 am, at Samish Park. ♦



Jerry Wiseman, Anita Wiseman, Birger Solberg, and Lang Solberg help clear trails near Squires Lake. These volunteers have been working as part of the Whatcom County Parks Department's newly organized Trails Volunteer Program. (Photo courtesy of Steve LeCocq.)

Monitoring easements is ongoing process

Sharon Digby

Monitoring Committee Chair

This was a banner year for monitoring our conservation easements. Board members and volunteers visited all of our 14 sites. Thanks to all property owners for working with us to arrange the visits. A special thanks to **Vern and Carol Renius** for the strawberries and ice cream!

When the Whatcom County Land Trust takes an easement on a property, we are entering into a commitment to maintain the terms of the easement in perpetuity. Most of our easement properties still have the original owners, however, in time, as the properties change hands, monitoring will become more important. Our yearly visits will help us keep track of changes.

Our visit to the Ruth Kelsey property this year found that off-road vehicles have been trespassing, damaging the stream. We decided to fence the property boundary, with help from the people at **Nooksack Salmon Enhancement Association**. Thanks go to **Wilson Engineering** for donating their time to survey the boundary.

Many of our easement properties have stewards who site-visit periodically. If you are interested in becoming a steward or making a yearly monitoring visit, please contact Sharon Digby at 592-2286, or call the Land Trust office, 650-9470. ♦



Tom Reed, Lake Terrell Game Range, examines the new fence on the Ruth Kelsey property. The fence was constructed to prevent trespassers from damaging the stream. (Photo courtesy of Sharon Digby.)

When (we) take an easement on a property, we are entering into a commitment to maintain the terms of the easement in perpetuity.

The Mission of the Whatcom County Land Trust is to preserve and protect unique natural, scenic, agricultural and open space land in Whatcom County through acquisition of perpetual conservation easements or other land interest that insure the protection of the resource value.

Whatcom County Land Trust is a 501(c)3 nonprofit organization working for voluntary land conservation in Whatcom County. The Steward is published three times each year by the WCLT. Your comments are welcomed. Complimentary copies are available by calling the Land Trust office, 650-9470.

Newsletter Committee Chair: Chris Moench

*Contributors Chris Moench,
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Sharon Digby, Steve LeCocq*

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County Council update Conservation Futures Levy up for advisory vote next Fall

Chris Moench

We reported in our Fall issue of *The Steward* that the County Council had voted to place a moratorium on collecting the Conservation Futures Levy in 1996, and to place the issue of continuing collection up for an advisory vote in the general election this Fall.

Subsequent to the council's vote, County Executive Shirley Van Zanten vetoed the moratorium. So, the levy will be collected in 1996. However, the advisory vote will still be on the ballot.

This vote is an opportunity for thoughtful discussion about conservation of our natural heritage in a climate of rapid population growth and economic development. It is vitally important that all supporters of conservation speak out in the upcoming debate.

In a related matter, the newly seated County Council has voted to renew a contract with the Trust though the end of April to continue the work of implementing the Natural Heritage Plan. Subsequent contracts to implement the plan will be put up for bid. As of this writing, the Trust had not yet decided whether to submit a proposal to the county for the contract. ♦

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Estate Planning

(Continued from page 1)

In most states, the combined federal and state estate tax on the \$4.5 million estate (Rolling Hills plus the other assets) is almost \$2 million. Rolling hills has to be sold to pay the estate tax, and there are two irrevocable losses. First, the family will lose Rolling Hills. Second, Rolling Hills will almost certainly be paved over, bulldozed, subdivided, and re-landscaped, and all of the open space will be lost forever.

In contrast, what if John and Mary had a successful family business worth \$3 million? Would John and Mary and their advisors have done some sophisticated tax, financial, and legal planning to get the family business through the transfer tax system to the children? Absolutely! A whole array of entirely appropriate tools would likely be used to keep that business intact and get it to the kids.

Why haven't they done the same sort of sophisticated, aggressive, creative planning for Rolling Hills? Succession planning for the business owner is an accepted tax planning and financial planning discipline; for those of us who value open space, it's time we focus on succession planning for the landowner. Even if congress changes the estate tax rules, landowners need to understand that good succession planning for family lands will still be necessary.

The principal tool in the private landowner's toolbox is the conservation easement, but it is not the only tool. A planning strategy may include the use of a family limited partnership, a "generation-

Over the next 15 to 20 years, millions of acres will change hands and potentially change use, depending on how land owners plan for—and don't plan for—their land's future.

skipping trust," and possibly annual gifts to children and grandchildren. Often, too, more sophisticated planning involves the use of other forms of tax-advantaged charitable giving, including various forms of charitable trust and family

private foundations.

The purpose of this article is not to explain these tools. The purpose here is to make three points.

First, open space is threatened because of an aging population of landowners and the impact of high federal estate taxes.

Second, this is a problem that landowners can do something about and that land trusts can do something about.

Third, this is a problem that needs attention now. It is not too late for the educational process to begin, and land trusts can play an important role in that process. Awareness of these issues should force landowners to act, to do the planning, and to protect and preserve the open space that is so important to all of us. ♦



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